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THE ROYALISM OF PETER HEYLYN; THE POLITICAL
BIOGRAPHY OF A LAUDIAN CHURCHMAN.

CITY UNIVERSITY OF NEW YORK, PH.D., 1978

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1978

THE ROYALISM OF PETER HEYLYN: THE POLITICAL
BIOGRAPHY OF A LAUDIAN CHURCHMAN

By

Rose Ethel Althaus Meza

A Dissertation Submitted To
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TABLE OF CONTENTS

ACKNOWLEDGEMENTS	ii
FOREWORD	1
Chapter	
I. AN OBSCURE YOUNG GENTLEMAN AND DIVINE	9
II. HEYLYN AND THE LAUDIAN REVOLUTION, 1630-1639 ..	25
III. CONVOCATION AND THE CONSTITUTIONAL CRISIS	70
IV. ROYAL HISTORIAN AND REFUGEE	102
V. HEYLYN'S THEORY OF ROYAL SOVEREIGNTY	128
VI. RESTORATION BUT NOT REWARD: POSTSCRIPT TO A ROYALIST CAREER	177
BIBLIOGRAPHY	195

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ABSTRACT

THE ROYALISM OF PETER HEYLYN: THE POLITICAL
BIOGRAPHY OF A LAUDIAN CHURCHMAN

by

Rose Ethel Althaus Meza

Sponsor: Professor Corinne Comstock Weston

Peter Heylyn's theory of a legal sovereignty in the king emerged from the constitutional crisis England experienced between 1630 and 1660. In 1630 Heylyn began a career in the Laudian church which embroiled him in important controversies concerning certain religious innovations and the expansion of episcopal power.

Although the Laudians believed that these innovations would return the church to its ancient roots, their program encountered a growing suspicion and hostility. A prominent Laudian cleric with polemical skills, Heylyn's connections with Archbishop Laud and the government of Charles I enabled him to play a key role in the significant Feoffees case and the two trials of William Prynne. These celebrated legal cases helped arouse a widespread anti-clericalism that culminated in the Bishop's Exclusion Bill and the Root and Branch Bill. In addition, Heylyn played a major role in the convocation of 1640 and in the passage of its canons, both of which increased opposition to Charles I's political and ecclesiastical policies.

More importantly, Heylyn made an intellectual transition during the 1640's. His earlier writings had been concerned mainly with religion and traditional defenses of royal authority. However, the ideas of the Long Parliament and the civil war period forced him to examine the origin and nature of political power, and familiar with the ideas of Jean Bodin, Sir Henry Spelman and Sir Robert Filmer, he now developed a political theory which vested legal sovereignty in the English monarchy as the direct result of the Norman conquest. In his Stumbling Block Of Disobedience (1658) he firmly substantiated his idea of legal sovereignty by historical examination of the Norman conquest, English feudalism and the origins of parliamentary power. In a period when most politically minded Englishmen were concerned with establishing either a balanced constitution or a divine right monarch, Heylyn contended with the issue of who possessed the final legislative authority. Furthermore, his historical evidence effectively countered parliamentary arguments for co-ordinate lawmaking powers with the king and an ancient or immemorial right.

Heylyn's idea of political sovereignty did not achieve popularity in royalist circles--perhaps because they were made public so late. Despite his devotion to the royalist cause, Heylyn was not rewarded at the restoration by Charles II's government. He died shortly thereafter, and his argument slipped into obscurity. His political works were not reprinted until the Exclusion Crisis of the early 1680's. By this time the high Tory historian, Dr. Robert Brady, had taken up and expanded Heylyn's original thesis and was credited with the idea of placing a legal sovereignty in the king by right of the Norman conquest. With the triumph of parliament in the revolution of 1688, Heylyn's ideas were forgotten. Only his long and detailed biography of Archbishop Laud, Cyprianicus Anglicus

(1671), remained as a record of the Laudian efforts.

The conclusion of this study is that Heylyn's career and theories are essential to a full understanding of English royalists in the seventeenth century. His ideas are more original than those of the royalists in general and presage the high Tory arguments of the 1680's. Despite its being largely ignored, Heylyn's royalist theory provided the English monarchy with one of the strongest historical and philosophical bases for a sovereign lawmaking authority offered in the seventeenth century.

"Happy the man, and happy he alone,
He, who can call to-day his own;
He who, secure within, can say:
'Tomorrow do thy worst, for I have lived today.
Be fair, or foul, or rain or shine,
The joys I have possessed, in spite of fate are mine.
Not Heaven itself upon the past has power;
But what has been, has been, and I have had my hour.'"

John Dryden, "Horace," 1685.

FOREWORD

The following work is an attempt to assess the influence of one man, Peter Heylyn, within the context of seventeenth-century English history. Such an assessment is not an easy task for in early Stuart England popular terms were not well defined and their meaning subject to frequent change. Heylyn himself illustrates this. He was a royalist, a Laudian, an Arminian and an anti-puritan. As a result, the analysis or definition of any one of these terms inevitably opens the door to others. In particular, the difficult issues confronted are: What constitutes Puritanism? What constitutes Arminianism? And what did these two concepts encompass?

To begin with it is almost impossible to describe with any exactitude how the word "Puritan" was used in the seventeenth century. Even contemporaries could not draw definite boundaries for it.¹ Modern day historians have been no more successful. As the historian Basil Hall has so succinctly stated, "Puritanism, originally a coin of some value has become over-minted and ended in headlong inflation, as a consequence of vague usage."² In addition, the task is complicated by

¹John Dykstra Eusden, Puritans, Lawyers and Politics in Early Seventeenth Century England (New York: Archon, 1968), pp. 9-19.

²Basil Hall, "Puritanism: The Problem of Definition," in C. J. Cumming (ed.), Studies in Church History (Ecclesiastical History Society, 1965), II, 287.

the fact that a goodly portion of what some have considered "Puritan" was really characteristic of nearly all seventeenth century English life.³

Yet, from the mid 1560's on one can discern a group of individuals, first known as Precisions and then as Puritans, who stressed the sovereignty of God and the paramountcy of the Bible, insisted on a preaching and teaching ministry, and required total submission to God's will.⁴ This group desired increasingly not only to abolish residual Catholic rituals in the Established Church of England but also to alleviate the problems rising out of its subservience to the political and financial expediencies of the church hierarchy, the crown and the greedy land-owning laity. To espouse these ideas, however, did not mean that an individual was a religious fanatic, a non-conformist or a supporter of Parliament in its struggles with the crown. These were all later nuances. Indeed, as a spiritual program it attracted support from large numbers of Anglicans and Anglican clerics.⁵ How large a proportion of

³Perry Miller and Thomas H. Johnson, The Puritans (New York: Harper, 1963), Introduction, p. 1. The late Perry Miller states that nine-tenths of New England's Puritanism was mere English life style in the 1600's.

⁴Paul S. Seaver, The Puritan Lectureships: The Politics of Religious Dissent, 1560-1662 (Stamford: Stamford Univ. Press, 1970), pp. 15-23.

⁵See Hall, "Puritanism: The Problem of Definition," also Charles H. and Katharine George, The Protestant Mind of the English Reformation, 1570-1640 (Princeton: Princeton Univ. Press, 1961), pp. 397-407. Since Puritans were members of the Established Church of England it is almost impossible to distinguish them from Anglicans. The Georges concluded that they could find no characteristics, doctrinal or otherwise, which distinguished Puritan from Anglican save for the amorphous attitude that Puritans considered themselves more committed Christians.

the English population could be properly labeled Puritan is difficult to say under these circumstances.

What can be stated precisely is that by the early 1620's new meanings were being attached to the term. Puritanism was being broadened so that it could be used as both a religious pejorative to imply certain Protestant ideas, in particular Calvinist ones, and as a political shibboleth to describe certain troublesome members of parliament and other critics who opposed the policies of the Stuart state. By the end of the decade the term had been so expanded that it was often used as an abusive description of any critic of the church or the monarchy.

These changes in usage did not go unnoticed by contemporaries. Puritans in particular resented such applications, which they felt branded them as disloyal subjects despite their commitment to order and authority. To the Puritan cleric, John Davenport, who migrated to New England in the 1630's, these changes were a "hypocritical" use of the word,⁶ while Lucy Hutchinson, wife of Colonel John Hutchinson, wrote that after 1630 the term described any who "grieved at the dishonor of the kingdom, or the griping of the poor, or the unjust oppression of the subject."⁷

Recent definitions only increase the complexity of the problem.

⁶Isabel M. Calder (ed.), Letters of John Davenport (New Haven: Yale Univ. Press, 1937), p. 14.

⁷Lucy Hutchinson, Memoirs of the Late Colonel Hutchinson (London: Everyman's Library, N. D.), p. 65.

While Professor Nicholas Tyacke describes Puritans around 1600 as those who refused to conform to the religious rites and ceremonies of the Church of England and as a Presbyterian rejection of episcopal church government, others have rejected such a category at all.⁸ Professors Charles and Katharine George argued that even on the essential issue of predestination, so long considered the dividing line between Puritans and Anglicans, no clear distinction can be drawn since the seventeenth article of the Thirty-Nine Articles was anti-pelagian or anti-free will.⁹ It would seem, then, that as J. P. Kenyon concluded, "there is still room for disagreement as to whether Puritan and Anglican theology differed at all."¹⁰

In this study the term "Puritan" will be defined broadly, as was the practice in Heylyn's day. It will be used with the meaning common to the period from 1625 until the Civil War; that is, as a catch-all word of abuse for the critics of both the Laudian Church and the Stuart government. This is to be somewhat imprecise, but to define the term

⁸Nicholas Tyacke, "Puritanism, Anglicanism and Counter-Reformation," in Conrad Russell(ed.), The Origins of the English Civil War (New York: Barnes & Noble, 1973), p. 120.

⁹C. H. and K. George, The Protestant Mind, p. 54. Also pp. 53-70 on predestination.

¹⁰J. P. Kenyon, The Stuart Constitution (Cambridge: The Univ. Press, 1966), p. 147, note 6. Indeed the distinct militancy described by writers like William Haller, The Rise of Puritanism (1938), Michael Walzer, The Revolution of the Saints (1965), and J. F. H. New, Anglican and Puritan: The Basis of their Opposition, 1558-1640 (1964), did not occur until 1640-1641 and even then "one cannot, of course, equate radical with revolutionary" or simply "Puritans." Paul Christianson, "Causes of the English Revolution: A Reappraisal", Journal of British Studies, Spring 1976, p. 49.

"Puritanism" in a manner different from Heylyn's would make his ideas all the more difficult to comprehend.

If the attempt to define Puritanism has been fraught with problems, the word "Arminian" is equally troublesome. Arminianism, too, was more often than not a seventeenth-century phrase of abuse in an age when both religious and political thought were less than precise.¹¹ The very word "Arminian" was a misnomer since technically an Arminian was a believer in the anti-predestinarian and latitudinarian views of the Dutch theologian Jacobus Arminius. English Arminians did not believe in Arminius' ideas at all. Rather, they were a reforming minority in the Established Church which hoped while restoring order and conformity in the church to return it to its ancient and "true" roots. In terms of spirituality, they aimed at a recreation of the medieval church of Christendom purged of its papist powers and corruption. Hence, they emphasized rituals, sacraments and the divine Peterine origins of Bishops. In fact, Richard Montague, one of the best known Arminian bishops, had not even read Arminius when his chief "Arminian" work, Apello Cesarem: A Juste Appeale From Two Unjust Informers (1626), was written.¹² In England, then, the word "Arminian" was mainly an abusive epithet, albeit an erroneous one, for what became the Laudian wing of the Church of England; that is for the elements in that church associated with William Laud, Bishop of London (1628-1634) and Archbishop

¹¹Kenyon, The Stuart Constitution, p. 147.

¹²John Cosin, The Correspondence of John Cosin (Surtees Society, 1869-1872), I, 90. Cosin was a prominent Arminian.

of Canterbury (1633-1645).¹³

What theological ideas were held by Laud? Rather surprisingly, in view of how much has been written about him, these are obscure.¹⁴ Laud was not interested in debating theological ideas. Primarily, he was a bureaucrat who emphasized uniform enforcement of his administrative policies, episcopal authority and a beautification of the church by a revival of medieval rituals and decorations. Still, the matter has been obfuscated by the practice of describing the Laudians as either high-church or Anglo-Catholic, even though the former term did not originate until the last two decades of the seventeenth-century, while the latter was not in existence until the Oxford Movement of the 1850's.¹⁵

For the purpose of this study the term "Arminian" will refer to those members of the established church who favored Laud's policies. A Laudian emphasized the iure divino origins of the episcopal office, stressed the sacramental and liturgical portions of worship, and favored particular ceremonies and ritual, such as railing off the communion table. Finally, the sine qua non of Laudianism was an emphasis on the episcopacy's duties to uphold the monarchy and maintain social as well as political and religious obedience in the church. Order, non-resistance, and obedience--these were vital words in the Laudian vocabulary.

¹³W. K. Jordan, The Development of Religious Toleration in England (Cambridge: Harvard Univ. Press, 1936), II, 115.

¹⁴Kenyon, The Stuart Constitution, p. 147.

¹⁵These terms are used by both earlier writers like W. K. Jordan as well as more recent scholars such as Perez Zagorin, The Court and Country (New York: Atheneum, 1971).

The double pronged program proved the undoing of this group. Their religious pretensions seemed to many Englishmen a revival of papal superstitions even as their political ideas appeared to favor an absolutism in church and state. When the Laudians finally consummated the marriage of their political and religious ideas in the Canons of 1640 and their all-encompassing "Etcetera" oath of loyalty--whereby all clerics and laity who refused to take the oath upholding such Laudian policies would be considered disloyal subjects--the growing civil and religious opposition was united.

It should not be assumed that the onset of Laudianism had automatically resulted in the advancement of religious and political absolutism. This occurred by accident when personal rule in the state united in the popular mind with Arminianism in the church.¹⁶ Still Arminianism, as much as personal rule, had helped foster a political crisis by 1640, for outside its narrow views it had united the opposition to the point that it seemed to Laudians that "the world is full of nothing else but Puritans."¹⁷

By forcing opposition elements into a united front the Laudians caused Englishmen to examine the nature of authority itself.¹⁸ Never

¹⁶Tyacke, "Puritanism, Anglicanism and Counter-Reformation," p. 140.

¹⁷Quoted in Perez Zagorin, The Court and Country, p. 192, from Henry Parker "A Discourse Concerning Parliament" (January 1641), pp. 10-11.

¹⁸For arguments which show that the conflict between the crown and its opponents was neither unavoidable nor inevitable see Menna Prestwich, Cranfield: Politics and Profits Under the Early Stuarts: The Career of Lionel Cranfield, Earl of Middlesex (Oxford: Clarendon Press, 1966), particularly pp. xvi, 136-141.

before had political speculation been so wide-spread or so prolific as in the period after 1640. Out of this turmoil eventually emerged ideas concerning law-making and sovereignty which helped determine the future of English history. One of the writers who formed a link between earlier religious events and the emergence of new political theories was Peter Heylyn. First as a Laudian cleric and then as a royalist theorist, Heylyn was involved in the ideological and constitutional struggles that one writer has summarized in the phrase, "you could brave the King of England, if you were obeying the order of the King of Kings."¹⁹

¹⁹Christopher Hill, The World Turned Upside Down (New York: Viking Press, 1972), p. 6.

CHAPTER ONE

AN OBSCURE YOUNG GENTLEMAN AND DIVINE

On almost any day of the year an observer can stand in Westminster Abbey and watch the visitors, hurry and scurry by in an endless search for a glimpse of history. Few, if any of these visitors give more than a cursory glance to the brass plaque adorning the aisle on the north side of the choir. Amidst the interminable monuments and elegiac plaques to the great and near-great Heylyn's memorial plaque goes unnoticed. Nor is this surprising. As a name not even familiar to most historians, why should it attract the interest of those who merely look to the past with nostalgia?

Nor would Heylyn himself have been surprised. As an historian he was surely quite aware of the anonymity that passing time brings to so many, and as an individual all too familiar with the hardships and vicissitudes of time. A man of "pregnant wit" he might well have smiled at the irony of his memorial line: "A man truly worthy of remembering." And yet, it was, all in all, a good seventeenth-century line.

In a century full of memorable men Peter Heylyn deserves much more than a passing consideration. His fulsome career as an Arminian churchman, staunch royalist, and simple gentleman combined with the

numerous works of his pen richly articulated, illuminated and even documented a whole category of religious and constitutional problems between 1620 and 1662.

In his ecclesiastical capacity Heylyn was a prominent Arminian cleric who served as Archbishop Laud's chief polemical writer in the intense ideological controversies which rent the church between 1630 and 1640. Moreover, he was a major manipulator as well as contributor to the controversial Convocation and Canons of 1640. His career was shaped by the fact that most of the Anglican clergy were unwilling to engage in the quasi-political struggles with which the church embroiled itself. Heylyn, however, unlike the majority of the clergy did not avoid religious innovation.¹ In terms of English church history he was a primary figure in a movement that inadvertently created England's greatest period of anti-clericalism.

Heylyn was also a political innovator. Although his purely political writings are few in number, he was a founding father of a school of royalist ideology which used the English feudal background to place a legal and absolute sovereignty in the king. It will be seen that his political theories were instrumental in the development of an absolutist school of royalist thought that figured prominently from the civil war through the Exclusion crisis. As a royalist writer Heylyn was a crucial figure in the political controversies of seventeenth-century

¹C. H. and K. George, The Protestant Mind, p. 177. Margaret Judson also expressed surprise at the dearth of Anglican writings in this period. The Crisis Of The Constitution: An Essay In Constitutional And Political Thought In England, 1603-1645 (New Brunswick: Rutgers Univ. Press, 1949), ch. V.

England.

In actuality, Heylyn was not quite a seventeenth-century man. Like his contemporary, Oliver Cromwell, he was born on the eve of that century, in the year 1599.² Cromwell was born in the year's rising spring while Heylyn was born in the ebbing fall, almost as if nature in her own perverse manner suited the seasons of their birth to their ultimate destinies.

At the beginning the signs seemed favorable. Being born on Thursday, November 29, 1599 between eight and nine o'clock in the morning, his birth date coincided with both Saint Andrew's eve and a positive horoscope sign in the form of a rising sun. It was a sign which at least Heylyn believed showed "signs of future good constitution of body and success of fortune."³

And the heavens were certainly right in the beginning. In a century in which the majority of infants died in their first few months, Heylyn had the advantage of being born into a middling gentry family where there was at least a viable chance for an infant to survive. Indeed, for much of the seventeenth-century so primitive were medical

²The year 1599 is given as Heylyn's birth date because this is the year given in his personal diary. It is also the date used by his seventeenth-century biographers. The Dictionary of National Biography, however, gives the date as 1600.

³Wood Manuscript E 4. This diary was written in the 1640's while Heylyn was serving as the royal historian to the king in Oxford. It was used along with personal family testimony, for all seventeenth-century biographies of Heylyn. In this work, however, all direct references to the diary will refer to the 1851 reprint, Peter Heylyn, Memorial Of Bishop Waynflete, edited by John Rouse, (London: The Caxton Society, 1851), p. x.

conditions and so socially popular were lower class wet nurses of dubious capabilities that a large number of infants failed to survive. The interval between the cradle and the coffin was all too often exceedingly brief, and in all classes only the strong survived.⁴

Heylyn's family seems to have been a fairly typical gentry family in that it possessed neither substantial wealth nor an imposing pedigree. His father, Henry Heylyn, was an attorney with a small estate and also a newcomer to the small market town of Burford in Oxfordshire where he had lived scarcely more than a year when his second son, Peter, was born. He claimed ancient descent. The Heylyns were said to be descended from the ancient family of Pentrie-Heylyn in Montgomeryshire. The family legends maintained that their ancestors had princely connections with the Princes of North Wales under the last Llewellyn and had apparently helped conclude the final peace between Wales and Edward I in 1282.⁵ On his mother's side Heylyn could make similar claims. His mother, Elizabeth Clampard, was the daughter of Francis Clampard and Marie Dodge of Wrotham, Kent. The Dodges claimed a direct descent from one Peter Dodge of Stopworth in Cheshire to whom Edward I had given the Lordship

⁴Some of the best discussions of infancy in this period are to be found in: Philippe Erlanger's The Age Of Courts and Kings: Manners And Morals, 1558-1715 (New York : 1970), Peter Laslett's The World We Have Lost (New York : 1965), the first four chapters of Maurice Ashley's The Stuarts In Love (New York : 1963) and also Lawrence Stone's The Crisis Of The Aristocracy (Oxford: Oxford Univ. Press, 1967), pp. 269-303. Stone points out that despite high mortality rates wet nurses were popular until the Countess of Lincoln published a book in 1628 urging that mothers breast feed their own infants. But even after that the custom continued. (p. 272).

⁵Heylyn, Memorial Of Bishop Waynflete, p. x.

of Pactenhugh in Scotland for his services in the Scottish wars.⁶ Whatever the validity of such claims, they were fairly typical of seventeenth-century gentry families who in looking for notable ancestors found in Wales' and Scotland's obscure and almost untraceable genealogical records a convenient hunting ground for ancient claims of gentility. In fact, it is more than probable that the Heylyns were part of the great expansion of the gentry that occurred in the sixteenth-century as a result of the general inflation of honors and increased economic opportunities. Hence, Heylyn's father and Heylyn himself fall into that category of gentlemen which Sir Thomas Smith described in his De Republica Anglorum (1583). A gentleman was one who could live without physical labor while maintaining the social appearances of a gentlemen.⁷

As the son of a gentleman, he soon had to give up boyish games to make way for an education. A learned profession was a necessity to a younger son of slender fortune. At the age of six Heylyn was entered into the free school in Burford to learn his letters and study Latin in preparation for the university. The fact that the school was "free," as opposed to both the private and grammar schools of the period, probably came as a financial relief to Heylyn's father since this would ensure sufficient funds for both his sons to have university training.

⁶In fact by the 1630's the Court of Chivalry which James I had revived would grant gentle status to any man who could prove that his father had been addressed as "mr." instead of "goodman." A coat of arms was also helpful. This too was easy to produce since the College of Arms readily accepted bribes. Perez Zagorin, The Court and The Country, pp. 24-31. Heylyn, Memorial Of Bishop Waynflete, pp. x-xi.

⁷Heylyn, Memorial Of Biship Waynflete, p. xi.

Furthermore, there was no social stigma attached to attending the one room free school provided by the local church's vestry or other private donations. These schools were the virtual monopoly of the lesser gentry since the poorer classes typically put their children to work rather than educate them even if the parish was paying.⁸ To a bright boy this education could be excellent. Under the tutelage of Thomas North and Edward Davis the young Heylyn excelled in both Greek and Latin. He even composed childish poems and histories in Latin.⁹

When Heylyn was thirteen, his teachers recommended his attendance at Oxford. In 1613 he was entered at Hart Hall Oxford by his father. However, he was apparently on a limited budget since his father had him entered at a lower rank of matriculation than his older brother. His father's caution in the matter was probably due to his older son's prodigal ways, ways to which Heylyn alluded when he recorded his own bitter disappointment at this action.¹⁰ Presumably, Heylyn learned from his brother's experience since in 1614 he was fully matriculated at Hart Hall and in the following year became a student at Magdalen College.

It was here that Heylyn had his first intellectual encounter

⁸Erlanger, The Age Of Courts And Kings, p. 147.

⁹Anthony Wood, Athenae Oxonienses, Third Edition (London, 1817), III, p. 552. Wood's collection of the lives of notable Oxford graduates was first published in 1674. Wood himself knew Heylyn personally and was given Heylyn's diary for his own use in the writing of his short sketch. He probably knew Heylyn from his teens on and liked the older man a great deal. This is easily seen in his remarks about Heylyn as Wood could be vituperative when he chose to.

¹⁰Heylyn, Memorial Of Bishop Waynflete, p. xi.

with what he described as a "zealous puritan." This was his tutor Walter Newbury. Heylyn boasted that he escaped unscathed with his own ideas the same.¹¹ However, he himself could be as humorless as any dour "Puritan." When in 1616, he was put in charge of his hall and given the responsibility of seeing that his fellow seniors dined at the proper tables and kept to the proper quarters, his rigid enforcement of the rules won for him the title of "perpetual dictator."¹² As a result he was whipped on several occasions by his angered fellows. The fact that Heylyn maintained his authority despite this abusive treatment showed he had comendable courage since he was a man of small and spare frame.

All was not gloom and glower. Heylyn indulged in writing amateurish plays and poetry. Two plays, "Theomachia" and "Spurius", were apparently of some merit since they became student productions to which the faculty was invited. Fortunately for Heylyn his verses were not given a similar display. The sole survivor of them, "Whoop Holy Day", was a juvenile effort expressing trite undergraduate glee at the thought of a holiday.¹³

In October, 1617, Heylyn received the degree of Bachelor of

¹¹Peter Heylyn, The Parable Of The Tares (London, 1659). Our information comes from the unnumbered epistle of dedication to the collected sermons. These sermons were preached before Charles I in the late thirties and early forties and were part of Heylyn's official duties as chaplain to the King. Heylyn's reference to his own "Puritan" experience is interesting in this connection since the tares parable was used to justify the persecution of dissidents.

¹²Heylyn, Memorial Of Bishop Waynflete, p. xiv.

¹³Tanner Manuscript 466

Arts and immediately proceeded to become somewhat of an academic grind, giving all of his time to reading and studying history and cosmography. His efforts were not unrewarded. By 1620 he had not only received the degree of Master of Arts from Magdalen College but had simultaneously become a fledgling author. In the previous year he had published his work on world geography, Cosmographie, dedicated to Prince Charles and personally presented to him. The Prince's court was at nearby Theobalds; and Heylyn's friend Henry Danvers (later Lord Danby), managed to obtain an introduction for him.

Immersed as Heylyn was in his academic interests, he had also begun to think seriously about a clerical career. On September 15, 1622 he received a dispensation from Dr. Langton, Bishop of Oxford, which allowed him to postpone taking his final holy orders until he was twenty-four.¹⁴ By this time he had decided to dedicate his life to the church and was ordained deacon and priest. That this was neither an easy decision on Heylyn's part nor a callously ambitious one was revealed in the text chosen for his ordination sermon. The verse was from Luke 22:23. Perhaps, it revealed some earlier doubts for it stated: "But I have prayed for thee, that thy faith fail not, and when thou art converted, strengthen thy brethren."¹⁵ Thereafter his progress was steady. In 1629 he received his Bachelor of Divinity Degree and in 1633 the Doctor of Divinity Degree.

¹⁴KEIMHAI A'EKKHEIAETIKA: The Historical And Miscellaneous Tracts (London, Charles Harper, 1680), p. iv.

¹⁵Heylyn, The Historical And Miscellaneous Tracts, p. iv.

He now came closer to court controversey. In 1623 his Cosmographie was reprinted and presented to King James; but unhappily for Heylyn, the king was displeased by a passage in which France was referred to as the greater kingdom. An angry James ordered the Lord Keeper to call in all copies of the work.¹⁶

Hearing of the recall, Heylyn sent a hasty apology. The pertinent passage referred to Edward III's reign and not to the present time when, of course, England was the greater of the two kingdoms. Apparently, James was pacified. The book was not recalled, but later editions of the work completely "blotted out" the comparison.¹⁷

This small confrontation was fairly typical of the perils that contemporary historians writing under the early Stuarts faced. Heylyn's case was a minor one involving a hurt to kingly pride; others experienced worse treatment. Historians who seemed to draw derogatory comparisons between the Stuarts and past princes often suffered a suppression of their works. Sir Walter Raleigh's history ran this risk and Sir Robert Cotton chose not to publish his history of Henry III because of such fears.¹⁸ The sensitivity of the early Stuarts in such matters was understandable. Both critics and supporters of the crown

¹⁶George Vernon, The Life Of The Learned And Reverend Dr. Peter Heylyn (London, 1682), p. 16.

¹⁷Ibid., pp. 17-24.

¹⁸Godfrey Davies, The Early Stuarts 1603-1660, 2nd ed., (Oxford: The Clarendon Press, 1959), p. 408.

used history as a political weapon.¹⁹

Perhaps this minor incident inclined Heylyn to be more careful with his historical writings. Not until the late 1650's did he engage in publishing any others without prior government sanction. Many of the later works, however, had certainly been written earlier. For example, following two journeys to France in 1625 and in 1629 Heylyn began a manuscript of historical observations on France, not published until 1656.²⁰

Undoubtedly, this caution resulted from the fact that Heylyn was now ambitiously seeking advancement in the church. He was wise to be circumspect. By the mid 1620's there were few good opportunities for those outside a narrow circle of well connected clerics.²¹

Heylyn's need for a secure clerical position was accentuated by

¹⁹W. H. Greenleaf, Order, Empiricism And Politics (London: Oxford Univ. Press, 1964), pp. 119-124, 179-180. In 1604 the government dissolved the Society of Antiquaries. See also Christopher Hill, Intellectual Origins Of The English Revolution (Oxford: Clarendon Press, 1966), p. 178.

²⁰The first of these journeys was with a friend, the second was as chaplain to Lord Danby. Though Heylyn decided not to publish the resulting manuscript he must have discussed the matter with Archbishop Laud. In the edition finally published in 1656 he noted that he felt free to publish it since Laud was dead. His hand was also forced by a pirated copy. Heylyn, A Full Relation Of Two Journeys (London: 1656), preface, p. 4. The pirated title was France Painted to the Life.

²¹Christopher Hill, The Economic Problems Of The Church From Archbishop Whitgift To The Long Parliament (Oxford: Clarendon Press, 1956), p. 339. This among other reasons may explain why so many clerics migrated to New England between 1620 and 1640. Indeed, by 1650 Massachusetts had one cleric for every 415 people. See D. B. Rutman, American Puritanism (New York: J. B. Lippincott, 1970), p. 31.

two factors. First, he had spent nearly all of the inheritance received at his father's death in 1622. And secondly, he was beginning to contemplate marriage. The prick of necessity led to a bold course. On April 24, 1627, Heylyn took a definitely "Arminian" stand in a debate in the divinity school at Oxford. That this dogmatic stand was no chance happening was revealed in his diary's entry for the previous August. Under the date August 26, 1626, Heylyn noted: "Dr. Laud Bishop of St. David was elected Bishop of Bath and Wells ... which I take notice of the rather, because in that capacitie I began my relations to him."²²

Although William Laud's authority was not fully exercised until he became Bishop of London, it became increasingly apparent after 1625 that the espousal of Arminian ideas was the way to preferment and promotion in the church.²³ It was wise of Heylyn to draw attention to his Arminian principles. Oxford was Laud's favorite university and he was the new King's favorite Arminian. He was the best patron Heylyn could desire.

In the years ahead Laud and Heylyn would show an almost identical outlook in advancing Arminian or "Laudian" ideas in the church. This intellectual affinity was essential to the historical preservation of Laud's views. The latter, an exceptionally reticent person who

²²Heylyn, The Memorial Of Bishop Waynflete, p. xviii.

²³Kenyon, The Stuart Constitution, p. 148. Also J. Rushworth (ed.), Historical Collections Of Private Passages Of State (London: 1659-1701), I, p. 633.

preferred administration to writing, was "an individual who had seemingly no private life and left so little record of his views and the influence on them that it is impossible to trace their development or to see the man himself as anything but a public figure."²⁴ Given this situation, Heylyn's observations are essential to understanding Laud as he not only wrote prolifically but was also Laud's first biographer and served as his chief assistant. This means that Heylyn's writings are well worth a close consideration not only for the light shed on him but also for the clues that they provide to Laud's reasoning at critical points in Charles I's reign. Heylyn's writings in short offer a unique insight into Laudian aspirations.²⁵

On April 24, 1627, Heylyn took the first step towards bringing himself to Laud's attention. The occasion was a volatile debate with the prominent "Puritan" Dr. Prideaux, Regius Professor of Divinity at Oxford. Maintaining the Arminian or Laudian position Heylyn traced the origins of the Church of England to the Church of Rome, not as Prideaux had done to the Waldensians, Wycliffites and Hussites. As a consequence, the church inherited neither doctrine nor government from these groups.²⁶ This thesis was essential to Heylyn's steadily asserted point--that succession in the English ecclesiastical hierarchy was based on an uninterrupted iure divino

²⁴H. R. Trevor-Roper, Archbishop Laud (New York: St. Martin's Press, 1965), pp. 34-35.

²⁵William M. Lamont, Marginal Prynne (London: Routledge & Kegan Paul, 1963), pp. 187-188.

²⁶Vernon, Life of Heylyn, pp. 26-27.

inherited from Christ's first bishop, the Apostle Peter.

Although Heylyn's arguments at this time caused him to be attacked as a papist and supporter of the Roman Catholic writer, Cardinal Bellarmine, it had the desired result. Laud, who in his own early days in the church had been involved in similar debates with arguments almost identical to Heylyn's took notice of him.

As a result Heylyn met with Laud not once but twice. Armed with a letter of introduction from his friend, Lord Danby, Heylyn paid Laud a visit on February 5, 1628, and was invited to return for another two days later. Laud found him congenial and they dined without others being present. A pleased Heylyn gave Laud a copy of his printed answers to Prideaux. At this juncture Laud "exhorted him to continue in that moderate course, telling him that God had given him more than ordinary gifts, so he would pray to God that he might employ them in such a way and manner as might make up the breaches in the walls of christendom."²⁷

Heylyn obviously impressed Laud, for as he noted in the preface to his work on France:

within a short time after he recommended me unto his majesty for a chaplain in ordinary, and by degrees employed me in the

²⁷Vernon, Life of Heylyn, pp. 29-30. Heylyn, Cyprianicus Anglicus: Or The History of the Life and Death of the Most Reverend and Renowned Prelate, William By Divine Providence, Lord Archbishop of Canterbury (London: MDCLXXI), pp. 166-168. Trevor-Roper in Archbishop Laud, pp. 82-83 states that "Laud's advice was not wasted on Heylyn if it was ever needed. He proved himself as troublesome an assertor of high church doctrines as Laud had ever been."

affairs of such weight and moment, as rendered my service not unuseful to the Church and State, however mistaken by some men²⁸

Another event which reflected Heylyn's rising hopes was his marriage on Tuesday, October 28, 1628 to one Mistress Lettice Heygate of Middlesex. Since Heylyn's older brother had already married her older sister it is fairly obvious how the eventual union began. Soon the infatuated Heylyn gave Mistress Heygate an elaborate family Bible with the following verses:

Could this outside beholden be
To cost and cunning equally;
Or were it such as might suffice
The luxury of curious eyes;
Yet would I have my dearest look
Not on the cover, but the book.

If thou art merry, here are airs;
If melancholy, here are prayers;
If studious, here are those things writ,
Which may deserve the ablest wit:
If hungry, here is food divine;
If thirsty, nectar, heavenly wine.

Read then, but first thyself prepare
To read with zeal, and mark with care;
And when thou read'st what here is writ,
Let thy best practice second it.²⁹

The marriage that soon followed was a happy union. Over the years Heylyn proved himself a loving and generous husband with a mellow acceptance of womanly extravagance. Years later he wrote that "he had

²⁸Heylyn, A Full Relation of Two Journeys, preface, p. 3.

²⁹John Barnard, Theologo-Historicus, Or The True Life Of The Most Reverend And Divine And Excellent Historian Peter Heylyn (London: 1683), pp. 117-118.

married a gentlewoman and did maintain her according to her quality." He added withal, "that this rule he always observed, for his wife to go above his estate, his children according to his estate and himself below his estate, so that at the year's end he could make all even."³⁰ For her part Lettice Heylyn was a devoted woman, who relieved her husband of an infinity of responsibilities in order that he might devote his time to writing. During the Interregnum she even managed for a time the small farm on which they lived. In addition, she was the mother of eleven children. From what little is known of Heylyn's wife, she seems to have practiced throughout her married life all of the virtues which a good seventeenth-century wife was encouraged to possess by the literature of the day.³¹

Heylyn's marriage also led to a minor dispute when he maintained his fellowship at the university in the following year. He was accused of entering a clandestine union in order to retain the fellowship. This is highly doubtful as the marriage was publicly performed in the chapel at Magdalen College.

A highly productive yet perilous relationship had begun between Heylyn and Laud. Laud had now found his chief disciple, major defender and first biographer. Years later when the Laudian system was in ruins and Heylyn was on the verge of being censured by Parliament, a tall

³⁰Heylyn, The Historical And Miscellaneous Tracts, p. xxi.

³¹See C. H. and K. George, The Protestant Mind, Chapter Seven. Also, Thomas Gataker's, A Good Wife, God's Gift (1637) and A Marriage Prayer (1637).

gentleman thrust him up against a wall and said "geography is better than divinity." A curt and rude statement, but one which Heylyn admitted he had since thought of frequently.³² At the time, however, he seems to have had few or no doubts. Clearly in 1630 a clerical career seemed to promise him the future needed to support the new household that had just been formed, and he could hardly have anticipated what Charles I's personal rule would bring.

³²Heylyn, Cosmographie In Four Books (London: 1665), preface.

CHAPTER TWO

HEYLYN AND THE LAUDIAN REVOLUTION: 1630-1640

Though born a gentleman, Peter Heylyn made his way by mental agility. In the tumultuous years of Charles I's Personal Rule his combative and prolific writings combined with his close connections to the Laudian hierarchy of the church led him to play an influential role in many critical religious events.

By 1630, when Heylyn was becoming an influential Laudian, the Laudian party had already irritated Englishmen for many reasons. From theological and ceremonial viewpoints the Laudian ideas were opposed to the established doctrines of the church as stated in the Thirty-Nine Articles, the Lambeth articles of 1595, the Canons of 1604 and even the resolutions of the Synod of Dort to which Anglican divines had given support. In fact it was becoming increasingly obvious that those whom the Laudians denounced as "Puritans" were often the champions of traditional Anglican orthodoxies.¹ Since James' death no influential church position had gone to any man who was not either Laudian or neutral. More than that, Charles I had agreed to such a rapid reshuffling of bishops since his accession that most of the wealthy and influential sees of the church were occupied by Laud's closest lieutenants. The

¹George, The Protestant Mind, p. 201.

only exceptions were Lincoln, Salisbury, Worcester, and until 1633, Canterbury.² Still according to the Victorian historian S. R. Gardiner, "it required many years of misgovernment to convert dissatisfaction with particular acts of the King and Bishops into the torrent of revolutionary abhorrence which was to sweep away King and Bishop together."³

At this juncture Heylyn's clerical career becomes vital to understanding the Laudians and the opposition they provoked. His first prominent action in the Laudian movement came when he attacked the London-based Society of the Feoffees for Improvements. His was the first public denunciation of the Feoffees, and soon after he preached Laud "took the matter up warmly."⁴ In initiating action against the Feoffees Heylyn placed the Laudians into direct conflict with some of their major opponents. As Christopher Hill has stated, "the Feoffees were taking upon themselves the political and economic reconstruction of the Church not only without authorization from the Government but in a way which conflicted with its policies."⁵ With this conclusion Heylyn would have agreed, and historical investigations on the whole sustain this judgment. Here was one of the organized groups that contributed to the coming of the Civil War.

Not that the society did not look harmless. On the surface the

²Russell, The Crisis of Parliaments, p. 313.

³Gardiner, The History of England, VII, 152.

⁴Ibid., VII, 258.

⁵Hill, The Economic Problems of the Church, p. 262.

Feoffees were a group of twelve Londoners (four lawyers, four merchants and four clerics) who in 1625 had established a society to raise funds with which to buy and maintain various lectureships.⁶ This idea had first been suggested around 1612 by the "Puritan" John Preston as a means by which a truly preaching ministry might be placed within the church. The Feoffees were thus attempting by a piecemeal attack from the laity to solve the problems of low clerical standards because of low clerical salaries.⁷

At the same time, "if these impropriations--as ecclesiastical revenues in lay hands were called--could be acquired by the laity, retained in their possession, and doled out to ministers and schoolmasters who had their approval, in time the Puritan faction would have great influence in the Anglican Church."⁸ Substantiation for the idea that the Feoffees may have been trying to establish a power base for their ideas both within the church and in the country at large is given by the evidence that several members, contributors and just interested friends of

⁶The best accounts of Feoffees are as follows: Isabel M. Calder, Activities of the Puritan Faction of the Church of England, 1625-1633 (London: S.P.C.K., 1957); Carl Bridenbaugh, Vexed and Troubled Englishmen (New York: MacMillan, 1967), pp. 299-305; Paul Seaver, The Puritan Lectureships: The Politics of Religious Dissent, 1560-1662 (Stamford: Stamford Univ. Press, 1970), ch. 4; Christopher Hill, The Economic Problems of the Church from Archbishop Whitgift to the Long Parliament (Oxford: Clarendon Press, 1956), pp. 245-247; Valerie Pearl, London and the Outbreak of the Puritan Revolution (Oxford: University Press, 1961), and Isabel M. Calder "The Saint Antholin Lectures," The Church Quarterly Review, CIX, 1959, pp. 49-79.

⁷Hill, The Economic Problems of the Church, p. 252.

⁸Isabel Calder, Activities of the Puritan Faction of the Church of England (London: S.P.C.K., 1957), p. xi.

the society were also active movers in such joint stock companies as the Massachusetts Bay Company, the Providence Island Company and the Dorchester Company of the 1620's and 1630's.⁹ These were established in order to create refuges in New England for those unhappy with the Laudian control of the church. Indeed, several of the men associated with the Feoffees had direct connections with those noble and gentry critics of the Stuart state who were beginning to be called the "Country" party.¹⁰ That these linkages were to prove vital sources of opposition became apparent in those critical years from 1640-1642 of the Long Parliament when among those men who launched a take-over of the Royalist London city government were several associates of the former Feoffees.¹¹

Thus, there was validity to Heylyn's charge that among the Feoffees "there was not one man..., that wished well to the present government."¹² Additional corroborating evidence for the clergyman's charge also existed in the fact that among sixteen corporations where the Feoffees exercised ecclesiastical patronage there were the fifteen Parliamentary boroughs of Boston, Ipswich, Lincoln, Northampton, Coventry, Warwick, Bedford, St. Albans, Gloucester, Newcastle, Norwich,

⁹Isabel Calder, "The St. Antholin Lectures" in The Church Quarterly Review, (S.P.C.K. 1959) CIX, p. 50. See also, Calder, Activities Of The Puritan Faction Of The Church Of England, p. 31; Zagorin, The Court and the Country, p. 141 and Valerie Pearl, London and the Outbreak of the Puritan Revolution, p. 163.

¹⁰Zagorin, The Court and the Country, p. 142. Seaver, The Puritan Lectureships, p. 65. Professor Seaver points out that by the 1620's the Puritans were said to hold "Country" views.

¹¹Pearl, London and the Outbreak of the Puritan Revolution, p. 162.

¹²Peter Heylyn, Examen Historicum (London: 1659), pp. 208-209.

Kings Lynn, Yarmouth, Shrewsbury and Plymouth.¹³

Heylyn had pinpointed this side of the Feoffees when he stated that they "set up stipendry lectures in all or most market-towns, where the people had commonly less to do and consequently were more apt to faction and innovations than in other places; and of all market-towns to choose such as were privileged for sending burgesses to the High Court of Parliament."¹⁴ Moreover, even though the "Puritan" members of the English Church had stressed a preaching ministry since the 1550's, Heylyn was correct in thinking that the aims of the Feoffees were to appoint clerics of their own political and religious persuasion only.

By the 1630's there was no lack of educated divines. Oxford and Cambridge were churning out divinity graduates far faster than positions were becoming available.¹⁵ No matter how well qualified these individuals were their Laudian views made them all too often unacceptable to the Feoffees.

Lectureships were not a new idea. As early as 1559 a group of English protestants "more protestant than their supreme head" had instituted an individual private lectureship at St. Antholin's Church in Budge Row in London where the tolling of the bells at 5:00 a.m. each morning in order to call people to the daily lecture understand-

¹³Seaver, The Puritan Lectureships, p. 89. Hill, The Economic Problems of the Church, pp. 246-274.

¹⁴Heylyn, Cyprianicus Anglicus, p. 198.

¹⁵Seaver, The Puritan Lectureships, p. 255.

ably caused considerable neighborhood complaints.¹⁶ In setting up their Society the Feoffees were only expanding an already established format. Indeed, eventually, although reluctantly, they undertook the management of the St. Antholin's lecture in 1627. Ironically, it was this lectureship alone that survived the society's dissolution.¹⁷

In the six years of the Society's existence the Feoffees had acquired over £6,000 in donations, purchased well over twenty lectureships, and managed to acquire pledges and bequests in hundreds of people's wills.¹⁸ Such an expanding movement offered considerable threat to the episcopal hierarchy since the privately controlled Feoffees appointments were beyond the control of the Laudian bishops. The Feoffees were building a substantial foundation for a ministry whose views were not to be subject to episcopal control. As Heylyn acidly noted, to encourage loyalty amongst its lecturers the Feoffees promised pensions to any deceased minister's wife and children.¹⁹

Heylyn began the political controversy over the Feoffees on July 11th, 1630, when he preached the university sermon at St. Mary's Church in Oxford. The chosen text was Matthew 13:25: "But while men slept, his enemy came and sowed tares among the wheat and went his

¹⁶Carl Bridenbaugh, Vexed And Troubled Englishmen, 1590-1640, p. 300.

¹⁷Calder, "The St. Antholin Lectures," pp. 53-66. The St. Antholin lectureship is still in existence today.

¹⁸Calder, Activities Of The Puritan Faction Of The Church Of England, p. xiii.

¹⁹Heylyn, Cyprianicus Anglicus, p. 200.

way." The text was one that was traditionally used as a foundation for persecution and Heylyn's selection had this purpose. Using this verse as a springboard he attacked the Feoffees as a subversive cult which sought to undermine all church and Episcopal authority. He became specific as he stated that the society's intent was

to cry down the standing clergy of this kingdom, to undermine the publick litany by law established, to forment faction in the state, schisms in the church and to have ready strikers in every place for the advancement of some dangerous and deep design.²⁰

Heylyn's familiarity with the Feoffees seems to have been due to the clergyman's own cousin. From January 1627 until his death in February 1632, Rowland Heylyn, a wealthy ironmonger, alderman and sheriff of London, was one of the Society's members. As a cousin of Heylyn, he may have discussed his activities with the younger man. It is even conceivable that Heylyn had used this relationship to attend one of the weekly meetings to which outsiders could come if invited by a member. At any rate, the personal connection goes far to explain why the clergyman was the first to denounce the Feoffees and be so well acquainted with their work.

By 1632 the case had been turned over to the Attorney General, William Noy. The Crown prosecuted the Feoffees for illegally forming themselves into a corporate property holding body without a royal charter. Noy pursued the case diligently, which was not surprising.

²⁰Vernon, Life of Heylyn, p. 55.

As an avid supporter and creator of the period of personal rule, Noy would be responsible for the royal revival of such medieval financial methods as constraint of knighthood, the forest fines and ship money. Indeed, so zealous was he in opposing all critics of Charles I's government that he even suggested in the first case involving William Prynne (in 1634) that he be barred from divine services--an idea which shocked even Laud.²¹

A year later, the Feoffees were dissolved by the Court of Exchequer and their patronage placed at the King's disposal.²² Laud laconically recorded in his diary, on February 13th, that "the Feoffees ...were dissolved in the Chequer chamber. They were the main instruments for the Puritan faction to undo the church."²³ It was a bitter defeat for the opposition to Laud and a personal triumph for Heylyn, who received rewards from both Laud and the king. He became a prosperous pluralist. Heylyn was made rector of Hemingford in Huntingshire at £400 per year on October 17, 1631 and less than three weeks later

²¹See The Dictionary Of National Biography for Noy's career.

²²The Feoffees were defended in court by two prominent "Puritans:" William Lenthall, the Speaker of the House in the Long Parliament, and Robert Holbourne, the lawyer who defended John Hampden in the ship money case. See Calder, Activities of the Puritan Faction of the Church of England. Ironically, Holbourne supported Charles I in the civil wars.

²³William Laud, The Works of the Most Reverend Father in God William Laud (Oxford: John Henry Parker, 1853), III, 216-217.

he received a prebendship in the Church of St. Peter Westminster.²⁴ Having demonstrated his usefulness to the Laudian cause, he would certainly be called on again for other things. The victory over private lectureships was short-lived, however. By 1640 there were more private lectureships in London than in any year before 1626.²⁵

On January 27, 1633 Heylyn received another important task when called by the king to the royal council table and given William Prynne's Histrionastix to read. The latter was a gentleman lawyer and scholar from Somerset, whose education at Oxford and Lincoln's Inn had stimulated his interest in both theology and the Law. He was narrow minded, eccentric, and prolific in his writings, but his works were so arduous to tackle that without notoriety he might well have remained unread and therefore harmless. Furthermore, although some of Prynne's criticism could be dangerous, some was almost embarrassingly harmless. The misanthropic writer was even able to disconcert the rather imperturbable diarist Samuel Pepys, when in 1662 he pulled "out of his pocket, records of the immoral lives of nuns at a public dance."²⁶ His large

²⁴Barnard, Life of Heylyn, p. 142. See also Calendar of State Papers Domestic, 1631-33. Both the close proximity and plurality of these appointments is important to note as they offer abundant proof of Heylyn's rewards. Other detailed evidence is lacking. In 1645, however, it did exist. Prynne in his Canterburies Doome (1645) attributed them to Laud and based his information on the Royal Docquet Book. This type of ledger listed all such appointments and by whose interest they were given. The book for the 1630's is now missing although the P.R.O. has earlier and later books. Prynne did have this book in his possession at Laud's trial. To add to the confusion Laud denied favoring Heylyn at his trial, probably to protect him, as he did not do so in the case of other clerics who were condemned at the time.

²⁵Seaver, The Puritan Lectureships, p. 266.

²⁶Lamont, Marginal Prynne, p. 2.

and almost unreadable book, Histrionastix Or The Players Scourge, was very much in this vein. Still, Prynne was to become a "symbol of opposition to the crown--but haltingly and accidentally" as he was always the loyal subject.²⁷ Even when he attacked Laud's powers, he acted to defend the Crown's powers in religion, or so he considered.

However, Laud seized on Histrionastix as a means of persecuting his critic. In essence, Prynne's book epitomized his dismal views of life's pleasures. Begun in 1624, it stretched to well over a thousand pages and attacked plays, rouge, long hair, dancing, female acting and all sorts of amusements even including the medieval maypole. Unfortunately for Prynne his book was published on the same day, January 11th, 1633, that the Queen presented and performed in Sir Walter Montagu's play The Shepherd's Paradise.²⁸ Although the publication date was sheer coincidence, critics could obviously interpret Histrionastix as an attack on previous court activities. In some ways, the book was a gross enlargement of Prynne's The Unloveliness of Lovelocks (1628). This work had attacked as unmanly the men who had long hair and as unfeminine women with short hair. Although on the surface the pamphlet appears petty, still it illustrates the growing separation between the court and the country gentry, particularly as "the cost of the court, and the burden of paying for the expensive establishment fell more heavily on the lesser gentry, the richer peasants and

²⁷Ibid., p. 28.

²⁸Quentin Bone, Henrietta Maria: Queen Of The Cavaliers, (Urbana: Univ. of Illinois Press, 1972), pp. 83-84.

tradesmen than on the aristocracy and greater gentry."²⁹

That Charles was undoubtedly sensitive to financial attacks, let alone attacks on his much-slandered wife, is not surprising. When the equally inflamed Laud showed how Prynne's book attacked both church and state, Charles was willing to move. It was a mistake to do so, for if left alone the book would certainly have been read by few. Heylyn inadvertently revealed this when he noted that the Lords of the Council had found it too tedious and had committed the reading of the book to him.³⁰

Heylyn quickly rose to the occasion. He was given two weeks to examine the work but speedily concluded his survey in four days. Still, despite this swiftness he managed to include along with his conclusions a small tract to the Attorney General concerning the specific punishments due by law to such offenders as Prynne. Heylyn obviously relished his work. As far as the clergyman was concerned Histrionastic seemed to "breathe nothing but disgrace to the nation,

²⁹Brian Manning, "The Aristocracy And The Downfall Of Charles I" in Politics, Religion And The English Civil War, Brian Manning, ed., (New York: St. Martin's Press, 1973), p. 37. Three other important articles which show the isolation of the court from the rest of the country are P. W. Thomas's "Two Cultures? Court And Country Under Charles I" in The Origins Of The English Civil War, Conrad Russell, ed., (New York: Barnes & Noble, 1973), pp. 168-197 and C. V. Wedgwood's "The Last Masque" and "Social Comedy In The Reign Of Charles I" in C. V. Wedgwood's The Sense Of The Past (New York: Collier Books, 1967), pp. 139-157, 191-222. Although the opposition was annoyed by more than extravagance, the fact still remains that in literature, art, and manners, the court had a different, isolated, and ethnocentric culture of its own.

³⁰Heylyn, Cyprianicus Anglicus, p. 218.

infamy to the church, reproaches to the court, dishonour to the Queen and some things which were thought to be tending to the destruction of His Majesty's person."³¹

In actuality, though Prynne was abusive with regard to the court's amusements and critical of the bishops he was not in favor of rebellion. Indeed, his effusive praise of the Tudors reveals that he was a conservative who longed for the Stuarts to do as well.³² But Heylyn, like most polemical writers, was quite willing to lift materials completely out of their context. Be that as it may, the Star Chamber sentenced Prynne most harshly. He was fined £5,000, expelled from both Oxford University and Lincoln's Inn, barred from practicing law, sentenced to the pillories at Westminster and Cheapside for three days each, and condemned to losing his ears while Histrionastix was burned before him.³³ Most of this sentence was duly carried out although Prynne's ears were clipped at the lobes rather than being sliced off.³⁴ The scourge of those with long hair was now forced to wear his own this way in order to hide his deformity. He was not silenced though. From his room in the tower Prynne poured forth the first of many writings in the form of a letter to Archbishop

³¹Heylyn, Cyprianicus Anglicus, p. 217.

³²Samuel Ralinson Gardiner, The History Of The Great Civil War (London: The Camden Society, 1901), VII, p. 33.

³³Heylyn, Cyprianicus Anglicus, p. 250.

³⁴Samuel Rawlinson Gardiner, ed., Documents Relating To The Proceedings Against William Prynne In 1634 and 1637 (London: The Camden Society, 1877), p. 57.

Laud. This letter of July 11, 1634, clearly laid the responsibility for his position on both Laud and Heylyn. Prynne wrote:

...nor yeat to recount those selected scattered fragments or desimilated sentences which Dr. Heylyn, and others of your Lordship's charitable agents have consarcenated into one entire informacion out of several pages of my book in the method they were prosecuted at the hearing, annexing such horrid, seditious, disloyal, false glasses, applicacions, constructions and inferences of theyre owne forging to them & countrary to the very letter, scope and meaning of the passages themselves...³⁵

Prynne then attacked Heylyn more directly. He wrote in one of his habitual "Marginal" notes that:

Indeed, Dr. Heylyn, employed by your Lordship to persue my book, reported to diverse that he had found high treason in it.... And his learned judgement perchance directed your Lordship's verdict to finde and stile these passages treason.³⁶

Prynne had pinpointed the weakness of the government's case. He had not been condemned for his own specific words but for the opinions others read into them. Ironically, in 1644, Laud too pleaded that the interpretation of his acts as treason was a mistaken interpretation.

Prynne was quick witted, however, and saved himself from any prosecution concerning the letter. Called before Attorney General Noy on June 17th to account for it, Prynne said he could not tell if it was his own writing unless he took it to the light to read. He then seized the letter and tore it into small pieces which he proceeded

³⁵Ibid., pp. 32-33.

³⁶Ibid., p. 43.

to dump out of an adjoining window while saying "that it should never rise in judgement against him."³⁷ Deprived of his evidence Laud dropped the case. Heylyn bitterly recorded this event with the comment that Laud's decision was a "noble" one given the circumstances.³⁸

Heylyn's reward for his activities in the case was generous although probably not so substantial as he had hoped. The King gave him the parsonage of Houghton in Durham. This was another rich living with a yearly income of £470.³⁹ But Heylyn had proved such a useful servant that Charles had second thoughts on the matter. He ordered Laud to ask Heylyn to exchange his post for a nearer one as "his majesty... might have frequent occasion to make use of his services and therefore was unwilling that he should have any presentment that was so far distant from his court."⁴⁰ Heylyn obeyed this request and exchanged his appointment at Houghton for the equally rich parsonage of Alresford in Hampshire.⁴¹ Since these appointments gave Heylyn an income of around £1000 per year, he was now an affluent if not wealthy man. After all, the average peer in this period only had an income of £5000 per year.⁴² That Heylyn had hoped for a more prestigious position though is

³⁷Laud, Works, II, 221.

³⁸Heylyn, Cyprianicus Anglicus, p. 250.

³⁹Vernon, Life of Heylyn, p. 51.

⁴⁰Ibid., pp. 51-52. Barnard, Life of Heylyn, pp. 142-143.

⁴¹Barnard, Life of Heylyn, p. 142.

⁴²Stone, The Crisis Of The Aristocracy, p. 63. In 1641 the average peer's income was £5,040 per year whereas the average laborer made £10 per year.

apparent from a reference in his diary dated August 25, 1633, in which he noted that he had been passed over for a prebendship at Windsor. The coveted office had gone to a fellow Laudian, Dr. Potter, for his theological book Charitie Mistaken. Aware of the keen competition among Laud's followers for lucrative positions, Heylyn philosophically wrote:

When Windsor prebend late disposed was, one asked me sadly how it came to pass Potter was chose, and Heylyn was forsaken? I answered 'twas by Charitie Mistaken.⁴³

Still, in 1634 Brynne's punishment evoked little sympathy from any class. His own Inn of Court put on a play for the Queen to show that they were not in sympathy with their fellow lawyer's book.

In a very real way then 1634 may be seen as a dividing line between a passive and a contentious England. This rapid change in affairs was obvious to many contemporaries and so was its cause. The Earl of Clarendon succinctly summarised the situation when he wrote that in 1633:

Though the nation generally, as was said before, was without any ill talent to the church.... Yet they were not without a jealousy that popery was not enough discountenanced, and were very averse from admitting any thing they had not been used to, which they called innovation...⁴⁴

The reasons for this change are simple. Prior to 1634 Laud's authority

⁴³Heylyn, Memorial Of Bishop Waynflete, p. xxi.

⁴⁴Edward Hyde, Earl Of Clarendon, The History Of The Rebellion And Civil Wars In England, Begun In The Year 1641 (Oxford: The Clarendon Press, 1958), I, 123.

was confined to the environs of his London see and his influential position on the Privy Council. But in 1633 the old and unwanted Archbishop of Canterbury, George Abbot, finally died. With his death all of England lay within the control of the Laudians since now with Laud at Canterbury they possessed all of the wealthiest and most influential church offices. Having captured the church's hierarchy Laud would now conduct a relentless campaign for a uniform church. But if his aim was uniformity his results were schismatical as he attempted to reverse doctrines, ceremonies and ideas that had been accepted since Elizabethan days. Thus, Laud and his followers tried to root out all calvinist predestinarian theology even though it had previously been regarded as orthodox.⁴⁵ As a result, under Laud the ambiguously phrased Thirty-Nine Articles replaced later, more specific, doctrinal declarations while John Fox's Book of Martyrs and Archbishop Jewel's An Apology of the Church Of England were refused printing licenses.⁴⁶ In addition, the Laudians stressed a revival of ceremonies and an idea of episcopal authority which was alien to almost all Englishmen save the Catholics.⁴⁷ The Laudian cult of the altar, the revival of ritualism, the emphasis on sacraments, the expansion of tithes, the increased powers of church courts, all these elements which had for so long distinguished the protestant Church of England from the Catholic Church of Rome seemed to be vanishing. As Viscount Falkland said in 1641, the Laudians "did

⁴⁵Russell, The Crisis Of Parliaments, p. 314. Tyacke, "Puritanism, Anglicanism And Counter Reformation," p. 143.

⁴⁶Ibid., p. 314.

⁴⁷Jordan, The Development Of Religious Toleration In England, II, 139.

try how much of a Papist might be brought in without Popery."⁴⁸

The Laudians were not Roman Catholics but to the majority of theologically unsophisticated Englishmen they appeared as a return to papal traditions. Moreover, the average Englishman's fear of a Roman Catholic revival in the English Monarchy were only stimulated by the fact that the government tolerated domestic papists while diplomatically siding with Catholic forces on the continent. As a noted scholar summarized these fears: "A suspicious population was thus ready to believe the worst when Charles and Laud encouraged Arminianism, and when the King began to restore relations with the Papacy, hoping to end an inherited and obsolete quarrel which offended his sense of religious decency."⁴⁹ All in all, as Professor Hill has concluded, "Protestanism, patriotism, parliamentarism, and property all worked together against Laud's attempt to revive history: and they all found expression in the cry of 'non popery,' just as the bishops saw republicanism and democracy in the opponents of hierarchy and a persecuting state church."⁵⁰

All of these elements had appeared and were to appear in Heylyn's own Laudian career. There was, first of all the case of the Feoffees,

⁴⁸J. Rushworth, ed., The Rushworth Historical Collections Of Private Passages Of State (London: 1659-1701), I, pp. 184-185. Falkland stated this in the fall of 1641 during the Long Parliament attack on the Laudian church.

⁴⁹Robin Clifton, "The Fear Of Popery" in Conrad Russell (ed.), The Origins Of The English Civil War, p. 166.

⁵⁰Hill, The Economic Problems Of The Church, p. 343.

followed by Prynne's case. Now, Heylyn was to embroil himself in a struggle concerning the role of episcopacy within the state. Heylyn like all Laudians agreed with the Swiss writer Erastus that "the calvinistic conception of the church, reduced the state to the role of its servant and that unless this claim to a prescriptive, coercive power was checked, both the church and the state would suffer grievously."⁵¹ By comparison, the Laudians founded their church authority on "the twin pillars of the Royal Prerogative and the divine commission of the episcopacy."⁵² As a result, Laud believed that his "Tudor predecessors had placed too much emphasis upon the powers which they derived from the Crown, iure humano, and not enough upon those which they derived from God., iure divino."⁵³ Many Englishmen, however, viewed the Laudian emphasis on a iure divino as dangerous since it either diminished or eliminated the role of parliament and the king in parliament in determining religious matters, a role which had existed in some form or other ever since the Reformation. At issue then was a matter which concerned not only the autonomy of the church within the state but also the autonomy of the hierarchy within the church.

It was this matter which Heylyn himself chose to tackle when in 1633 he presented his disputation for the degree of doctor of divinity. Heylyn's opponent in this debate was the same Regius Professor of Divinity at Oxford, Dr. Prideaux, with whom he had debated six years

⁵¹Jordan, The Development Of Religious Toleration In England, II, 454.

⁵²Ibid., II, 130.

⁵³Lamont, Marginal Prynne, p. 3.

earlier. In that debate as in the present one Heylyn had defended the iure divino rights of episcopacy. The earlier debate had first brought Heylyn to Laud's attention. Now Heylyn's and Prideaux's differences were to continue on a level which revealed not only personal animosity but more importantly the hostilities dividing the church.

The debate centered on the three issues of whether or not the church had the right to determine controversial matters of faith, rites, and ceremonies and definitions of scripture. To all of these questions Heylyn's answer was affirmative, while citing as precedents the actions and canons of the Convocation of 1562.⁵⁴ According to Heylyn, matters concerning the church were to be determined by the church's own representative body, convocation, in conjunction with the King alone. It was the King who in accordance with his own wishes determined whether or not these acts would be corroborated by letters patent, proclamation, injunction or at times by acts of parliament.⁵⁵ Heylyn saw this method of procedure as dating from the Reformation itself since he believed that the main issues at that time had been settled by means of the royal prerogative powers in conjunction with the bishops' decisions. According to Heylyn, parliament had only confirmed religious decisions at the invitation of the King. It was thus a mere guest on such occasions and not an active participant.

By completely excluding parliament from any role or control in

⁵⁴Vernon, Life of Heylyn, pp. 58-61, and Wood, Athenae Oxoniensis, III, 555.

⁵⁵Heylyn, Ecclesia Vindicata: Or, The Church Of England Justified (London: 1657), p. 34.

religious questions, Heylyn returned answers unacceptable to Dr. Prideaux and most Englishmen. It was claimed that the audience even hissed when the clergyman "excluded King and parliament from being parts of the church."⁵⁶ Prideaux retorted that the Established Church was a chimerical composite of ignorance that determined nothing and that controversial issues of faith were best left to the determination of learned university men rather than bishops.⁵⁷ At Prideaux's utterances the assembled audience, which included some of the Court's friends like the Queen's almoner, James Du Perron, were amazed. Such awe was not surprising as Prideaux went on to maintain that he would have mentioned more about the final determinants of such issues if his mouth was not closed by authority.⁵⁸ These words brought a distinct "humming" from the country ministers present as they were well aware of Laud's increasing control over the universities.⁵⁹ Prideaux then added that in the opinion of the noted common lawyer, Sir Edward Coke, only parliament had the power to make laws of religion. Prideaux had pinpointed the nucleus of the controversy; namely, whether the convocation or the high court of parliament determined canons, ritual and doctrine. In its essence the argument concerned not only the question of secular versus religious control but the whole issue of parliament's attempt to provide some limits and scope to the King's powers.

⁵⁶William Sanderson, Peter Pursued Or Dr. Heylyn Overtaken, Arrested, And Arraigned Upon His Three Appendixes (London: 1658), p. 10.

⁵⁷Ibid., p. 6.

⁵⁸Wood, Athenae Oxonienses, III, 555.

⁵⁹Ibid.

Neither Heylyn nor Prideaux was satisfied with the debate, however, as each wanted to establish his own opinion. Prideaux circulated a paper denouncing Heylyn's views. But he was no match for the assertive Heylyn with his important court connections and association with Laud. The latter saw to it that Prideaux's manuscript was brought to the attention of the King's Council and Prideaux was summoned before that body and publicly rebuked for allegedly misrepresenting Heylyn.⁶⁰

Another matter soon caused Heylyn the opportunity to concern himself again with Prideaux. It concerned sabbath activities. In 1633 Charles had reissued the 1618 Declaration Of Sports, which listed the sports and games that were lawful play on Sundays. It was now to be read from the churches' pulpits each Sunday morning. In reissuing the declaration the Laudians were striking at the so-called Puritan habit of devoting the sabbath to worship alone, a habit which Laud feared only allowed opportunities for the discontented to assemble. Heylyn noted that Laud had been warned of such use of the sabbath by Bishop Pierce of Somerset.⁶¹ Into this controversial issue Heylyn now plunged. He discovered and translated a Latin treatise, The Doctrine Of The Sabbath, which Prideaux had written in 1622. As this work supported the idea of sabbath games and sports Heylyn was cleverly using Prideaux's own words against him and the reprinting of this work

⁶⁰Heylyn, Examen Historicum, pp. 211-218. Vernon, Life of Heylyn, p. 63. Sanderson, pp. 5-6.

⁶¹Heylyn, Cyprianicus Anglicus, p. 241.

hardly helped the latter's reputation with his Puritan friends.⁶² In addition, Heylyn wrote his own history of the sabbath in 1636. Although written at the King's command, it merely expanded Prideaux's original idea that there was no historical basis for treating the Sabbath as a unique religious day.

The sabbath issue proved disputatious because like most minor rules it was easy to enforce. Similarly ceremonial issues were also to prove contentious because though they too were easy to enforce, they provided an obvious and irritating focus for differing theological opinions.⁶³ Still, the disputes had such an innocuous beginning. In 1634, as part of Laud's drive for church order the church's vicar general, Sir Nathaniel Brent, was sent on a three year visitation and inspection of churches. He found the conditions of many churches appalling, with windows broken, walls cracked and doors missing. Other problems ran the gamut from missing communion ware to the presence of hogs in the church graveyard. Frequently these buildings served not only as churches but also as social and commercial gathering places. In St. Paul's book peddlers and other sellers of small-wares filled the church aisles with selling booths until Laud cleared them out.

Moreover, the clergy itself was not devoid of abuses. If few were like the sporting vicar Lord Stamford encountered on his land "with greyhound in leash and hawk on wrist and a hunting dress of a most

⁶²Vernon, Life of Heylyn, p. 63.

⁶³Russell, The Crises Of Parliaments, p. 314.

uncanonical colour,"⁶⁴ still, abuses were prolific. Many clerics were ignorant, drunk or even lewd.⁶⁵ Yet, these abuses were not controversial matters. As the Victorian historian S. R. Gardiner has said: "if Laud had confined himself to taking care that the outward fabrics and property of the churches were treated with respect and that both clergy and laity abstained from embezzling money entrusted to them for definite purposes, he would have met with no opposition of which he need have been afraid."⁶⁶ Rather, it was Laud's plans for the beautification of the churches and the disposition of the communion table which upset Englishmen most. Laud's hope was to make the sacrament of Communion more solemn, but to many Englishmen such actions seemed the first step towards an eventual reconciliation with Rome. Indeed, Englishmen were not alone in these thoughts. Heylyn noted that Rome itself offered Laud a cardinal's hat.⁶⁷ Laud refused for he was no Roman Catholic, but to the public it looked otherwise. Moreover, as Heylyn indicated, Laud's ideas contrasted unfavorably with other popular protestant ideas. Heylyn tells us that by 1636, as a result of the Elector of the Palatinate's book, A Declaration Of The Faith And Ceremonies Of The Palatinate Churches, people were able to read how much the English churches "wanted of the purity and simplicity of the

⁶⁴Wedgwood, The King's Peace, p. 53.

⁶⁵Gardiner, The History Of England, VII, 110-113. See also volume nine, pp. 224-225, for a list of names and offenses of removed clerics among which are such charges as attempted rape.

⁶⁶Gardiner, The History Of England, VII, 111.

⁶⁷Heylyn, Cyprianicus Anglicus, pp. 203 and 310.

Palatinate churches."⁶⁸ Since the Elector's wife was the sister of Charles I and immensely popular within England, the circulation and effects of this book would be large.

Given such popular feelings, it was sheer folly for the Laudians to seize upon the one symbol of the church, which by its positioning indicated a catholic or protestant definition of doctrine. This symbol was the communion table.

Although by the seventeenth century this was a rather abused piece of church paraphernalia, its theological implications were profound. Queen Elizabeth had chosen a middle ground. While catholicism preferred a table at the end of the church fenced off from the worshippers by rails and extreme protestants, particularly Zwinglians, placed it in the middle of the church aisle amongst the pews, the Elizabethan canons had only provided for a decently covered table to be present in the church. The canons of 1604 had obfuscated the matter further by requiring that communion be served to laymen in a kneeling position. This ruled out the possibility that the table could be kept in the aisle for this service as there would not be sufficient space for the congregation to kneel. In addition, while these canons did not specifically rule out communion in the aisles they did state that at other times the communion table should be against the wall leaving it to the individual congregation to decide whether it should be placed in the aisle for communion. As a result of these canons many churches

⁶⁸Heylyn, Cyprianicus Anglicus, pp. 289-290.

not only moved the table into the aisle for communion but also left it there out of apathy. A table so near the pews was very tempting in this period of two to four-hour sermons. People leaned on it, wrote on it, and put clothes on it and even their feet. Sometimes even worst things happened to it. Heylyn's description of his own communion table at Alresford was common enough. He wrote that there had been "sitting on it, scribbling and thrusting hats on it in sermon time...and which was worst of all, dogs pissing against it and sometimes snatching away the bread that was provided for the use of the Blessed Sacrament."⁶⁹ Sometimes disputes over the positioning of the communion table became ludicrous. In Grantham parish, in 1627, a pulling and shoving match ensued between the cleric who wished it against the wall and members of the parish who wanted it in the middle of the aisle. In this case, however, a moderate path was chosen by Bishop Williams of Lincoln, who suggested keeping it against the wall but moving it for communion. Williams instructed the good vicar, saying "you shall find no such ceremony equal to that of christian charity."⁷⁰

Such mild words, however, were not to prevail. Instead, the Laudians pressed for the table to be fixed against the east wall and railed about, the traditionally Catholic position.⁷¹

Heylyn was brought into the dispute when Laud ordered him to

⁶⁹Vernon, Life of Heylyn, pp. 52-53.

⁷⁰The Holy Table, Name and Thing (Lincoln: 1637), p. 9. Though printed anonymously it was well known as Bishop Williams' work.

⁷¹Gardiner, The History Of England, VIII, 115.

write a rebuttal to Bishop Williams' pamphlet, A letter to the Vicar of Grantham, criticizing Laud's decision at Grantham.

Heylyn's work, A Coale From The Altar, quickly appeared in May 1636.⁷² The basic argument was that there was no injunction within the Elizabethan canons which prohibited the positioning of the altar in the east end as this was the position it had held in the early Christian church. His conclusion was biting. The "Puritans" objected to all ideas save their own and though they presented their objections as being for the best interests of the commonwealth, they had in fact selfish interests that made them unsound subjects.⁷³

As Heylyn, himself, noted his pamphlet did not go unnoticed since "though it cooled the hearts of some, so it inflamed the hearts of others...."⁷⁴ One of the hearts inflamed was Bishop Williams'. In answer to Heylyn he expanded his ideas into a book, The Holy Table, Name & Thing, 1636, which was published anonymously in his diocese of Lincoln. Williams' had little to lose from such an action. By 1636 his hopes of a pardon in the case against him for betraying secrets of the Privy Council to members of parliament were dashed as his bribe of £8,000 and his offer to surrender the deanery of Westminster had been

⁷²This was not Heylyn's first encounter with Williams. In July, 1632, he had informed the government of critical remarks concerning the King's government which Williams had made during a dinner. Williams was a controversial cleric who adamantly opposed the expansion of the royal prerogative as hostile to parliament's power. Calendar Of State Papers Domestic, July 26, 1632, p. 391.

⁷³Heylyn, A Coale From The Altar (London: 1636), pp. 14, 31, 42.

⁷⁴Heylyn, Cyprianicus Anglicus, p. 296.

refused. Since his political career was now shattered and his religious career had stagnated after Laud became Archbishop of Canterbury, why not run the risk of making public his anti-Laudian views?

Though a moderate by nature, Williams stated several ideas bound to anger the Laudians. He wanted to eliminate the independent interpretative powers of the church which had allowed Laud to "erect an altar where the canons admit only a communion table."⁷⁵ Williams also chose to subordinate the authority of the church to the King in parliament. That is the church was required to obey, enforce and uphold only those canons and laws which parliament accepted.⁷⁶ He then went on to attack Heylyn's argument that the church in convocation was the independent creator of religious law with parliament's assent only a formality. Williams maintained that parliament played a vital role in creating religious laws. This right could not be denied since, as Sir Edward Coke had shown, the crown was bound in its religious jurisdiction as in its other jurisdictions by the ancient laws and customs of the land as confirmed by parliament.⁷⁷

Williams concluded that the religious guidance for placing the holy table should come from the established laws and not the customs of the royal chapel or the chapel at Lambeth palace.⁷⁸ Williams was

⁷⁵[Williams], The Holy Table, Name & Thing (N.P.N.D.), p. 20.

⁷⁶Ibid.

⁷⁷Ibid., p. 25, 31-32.

⁷⁸Ibid., pp. 33-35.

using the same theoretical argument which parliamentary leaders had used to try and define the growth of the government's power; namely, that the final authority lay within the established laws and customs.⁷⁹

One of Williams' most biting criticisms of the Laudians, one which went in some ways right to the spiritual heart of the matter, came when he concluded that there were "too many that carry no fatherly affection but a domineering spirit towards the flock committed to their charge, and like bladders blown up with the winds of arrogancy, conceived their people to be owned by them, and not by Christ."⁸⁰

At the King's request Heylyn answered Williams in a book entitled Antidotum Lincolnense.⁸¹ He attacked Williams for limiting the King's power.⁸² Heylyn said that Williams equated the King's power in religious matters with that of parliament's as if to imply that the King had no more power than the people. In Heylyn's opinion if Williams limited the King's power it meant that no matter how great a royalist or loyal subject he pretended to be he still "loved the King well but the Puritans better."⁸³ Heylyn had made the Laudian's position vividly clear: if you did not submit totally to royal and episcopal

⁷⁹Eusden, Puritans, Lawyers And Politics In Early Seventeenth Century England, p. 155.

⁸⁰The Holy Table, Name & Thing, p. 202.

⁸¹Heylyn, Cyprianicus Anglicus, pp. 297-298.

⁸²Peter Heylyn, Antidotum Lincolnense (London: 1637), p. 30.

⁸³Ibid., pp. 35-36.

authority you could not be a loyal subject. But in the religious as well as political field this insistence on a one sided and unquestioning loyalty to the crown's interpretation of the law meant that increasingly loyal and peace loving subjects were beginning to suspect that what the crown claimed as law was not law but an enduring wrong. Clarendon clearly illustrated this when commenting on the Laudian attacks on Williams' book he wrote that these rebuttals were from:

men whose names were not much revered by many men, and who were taken notice of with great insolence and asperity to undertake the defence of all things which the people generally were displeas'd with, and who did not affect to be much cared for by those of their own order.⁸⁴

Still, Heylyn was well rewarded by the King for his work as he was assigned the rich parsonage of Islip. The clergyman then proceeded to exchange this for South Warnborough as the latter was only eight miles from his main holding of Alresford. The new seat added an additional ~~£200~~ per annum to his already substantial pluralist holdings. Indeed, one sign that Heylyn had lucrative resources at his disposal is the ~~£200~~ security which he left at the library of Sir Robert Cotton so he could carry away books for his own research.⁸⁵

Heylyn had little leisure to enjoy his rewards though for he was soon embroiled in the case of William Brynne, Henry Burton and John Bastwick. Though Laud saw these men only as "incendaries" in

⁸⁴Clarendon, The History of the Rebellion and Civil Wars In England, p. 129.

⁸⁵Vernon, Life of Heylyn, p. 79. It was at Laud's recommendation that Heylyn received privileges here.

church and state, the case had wider ramifications.⁸⁶ Their trial and punishment only emphasized the point that it was becoming more difficult to reconcile conscientious support of the government with the subjection of one's conscience to the king's policies. It was a painful dilemma. As one writer has pointed out, by these practices "the good man was the bad citizen who followed his private truth and went his own way."⁸⁷

The trial of this trio was the most famous and controversial legal case of the 1630's next to the ship money case of John Hampden. This trial revealed growing hostility to both the Laudian domination of the church and suspected Laudian influence in other crown matters. Being the cause célèbre that it was it amply reveals the influence that Heylyn had within both Laudian and governmental circles.

Yet the team of Prynne, Burton and Bastwick was an odd grouping. Each differed markedly from the other in background, personality and ideology. The only connection was a weak legal charge which could not be proved. It was charged that the trio had collaborated on the seditious writing of The Newes From Ipswich, 1636. This pamphlet contained a running attack on the Laudian Church and its bishops, especially Bishop Wren of Norwich. That the evidence for their authorship was sparse appeared when Laud was reduced to selecting snippets

⁸⁶Laud, Works, VI, Part I, p. 42.

⁸⁷Irene Coltman, Private Men And Public Causes: Philosophy And Politics In The English Civil War (London: Farber & Farber, 1962), p. 23. This is a fascinating study of the inherent conflicts between the individual man and the state.

from the group's various other works to prove his case.⁸⁸ Indeed, all three men later denied writing it, and it has been suggested that the work may not represent the sole effort of any one of them but rather "the product of collusion between them, or even the work of a fourth person, either acting upon their instructions or more indirectly inspired by their works."⁸⁹

Of the three, Prynne was viewed as the most dangerous although he still considered himself a moderate.⁹⁰ He was not easily silenced. Even his punishment of 1634 had not deterred him from smuggling his writings out of the tower again and again. Though these actions defied Laud's ability to control the press, they were mild attacks as only one of them criticized the crown directly and then only on the controversial matter of collecting ship money.⁹¹ Prynne's chief crime, however, was not that he flaunted the censorship of the press but that he disavowed the royalism professed by the Laudians and particularly Heylyn.

Prynne was a devout admirer of the Elizabethan church not only for its Calvinism but also for the way in which the royal supremacy had been managed. At the time of the Reformation and after, writes

⁸⁸Clarendon, The History of the Rebellion and Civil Wars In England, II, 38.

⁸⁹Lamont, Marginal Prynne, pp. 38-39 and Newes from Ipswich: Discovering Certain Late Detestable Practices Of Some Domineering Prelates to Undermine the Establsihed Doctrine and Discipline Of Our Church (Ipswich: 1636).

⁹⁰Lamont, Marginal Prynne, p. 47. Lamont contends that even the knife did not destroy Prynne's hopes of moderation before 1641.

⁹¹Ibid., p. 23.

W. H. Greenleaf, "there was a certain ambiguity whether the papal power over the church had been assumed by the King alone or the King in parliament."⁹² Elizabeth, insistent upon her own rights in religious matters, had nonetheless been very careful to have all of her measures concerning the church confirmed in parliament. Writers like Heylyn, however, by maintaining the iure divino of bishops and kings in religious matters were setting up a theory of a religious authority that had descended to the king and bishops directly from Christ. As a result no popular or parliamentary approval was required. By refusing to parliament any power in making religious laws the Laudians sought to change the previously established or traditional way in which the royal supremacy had been exercised in church issues.⁹³ Since Henry VIII, English monarchs had always carefully confirmed their religious actions with laws confirmed by parliament. Now Heylyn was suggesting that since the King and the Bishops were direct and co-equal vicars of Christ, they owed no responsibility to a popular assembly for their acts, nor did they need its confirmation or approval. Indeed, the only assembled representative body they should consult with at all was the church's parliament or convocation; an easily manipulated group with a vested self-interest. Heylyn believed that the Tudor monarchs "had placed too much emphasis upon the powers which they derived from the crown, iure humano, and not enough upon the powers which they derived from God,

⁹²Greenleaf, Order, Empiricism And Politics: Two Traditions Of English Political Thought, p. 39.

⁹³G. R. Elton, The Tudor Constitution (Cambridge: The Univ. Press, 1962), pp. 17-18, 20-23, 329-336. The Elizabethan Settlement weakened the royal prerogative in religious questions by giving Parliament a legal right to settle religious matters. Such precedents supported Prynne's views.

iure divino."⁹⁴ All in all, Heylyn's ideas concerning an iure divino in religious matters shared the same goal as that of the revival of ancient royal prerogative rights, namely the avoidance of any interference from parliament. In religious affairs as in civil ones, Professor Elton concluded, "only the Stuarts came to overwork a necessary prerogative and attempt its exploitation against the law rather than in aid of it."⁹⁵

Heylyn's theories were not new. Landians, like Mainwaring, had stated them in the 1620's and Heylyn himself had been vociferous on the subject ever since his debates with Dr. Priccaux. Still, never had he expressed them so boldly as he did in his Briefe And Moderate Answer, 1637, to the defendant Henry Burton. Heylyn wrote that Kings owed all their powers to God and thus had no superiors on earth who could limit them.⁹⁶ Even parliament and the people had no rights save those given to them by the particular generosity of the English Kings.⁹⁷ English kings voluntarily weakened their powers, wrote Heylyn, as the Kings of England have parted with their native royalties for the peoples good; which being by their own consent, established for a positive law, are now become the greatest part of the subjects' liberties. So that liberties, possessions and estates of the King's liege people, are, if you will, confirmed by the Laws of the land, not the King's

⁹⁴Lamont, Marginal Prynne, p. 3.

⁹⁵Elton, The Tudor Constitution, p. 21.

⁹⁶Heylyn, A Briefe And Moderate Answer (London: 1637), p. 32.

⁹⁷Ibid., p. 36.

authority.⁹⁸ Even so, he contended, this voluntary surrendering had not weakened the King's original powers and, therefore, the King and the church had "the power to decree rites and ceremonies and abolish those made only by man's law."⁹⁹ Moreover, said the clergyman, he "knew no remedy either in law or conscience but that one must submit unto them."¹⁰⁰ Such remarks were absolutist in nature. Prynne understood this and that was why he was considered dangerous. Unlike other critics, he did not stop with an attack on the more obvious Laudian ceremonial innovations but was perspicacious enough to defend also the Royal Supremacy from new constitutional innovations.¹⁰¹ Prynne observed that the spread of royal authority in the secular field by means of the royal prerogative was being paralleled by a similar extension in the religious field by the use of the Royal Supremacy. As parliament was being by-passed in the secular sphere, the same process was going on in the religious sphere. This explains why the Laudians were so tenacious about persecuting Prynne. If listened to, he could be an influential critic.

Of the other two, John Bastwick was by far the more radical. Born in Essex and educated at the "Puritan" stronghold of Cambridge, Emmanuel College, he had first sought his fortune abroad.¹⁰² After

⁹⁸Ibid., pp. 36-37.

⁹⁹Ibid., p. 141.

¹⁰⁰Ibid., p. 143.

¹⁰¹Lamont, Marginal Prynne, p. 14.

¹⁰²Gardiner, The History Of England, VIII, 227.

serving as a Dutch soldier against Spain and taking a medical degree at the University of Padua, he had returned to England where he became a successful physician in Colchester. Still his earlier interests in religion did not flag, and so despite Laud's censorship Bastwick continued to write and publish by having his works smuggled out to Holland. These early works were in Latin, but did not escape the high commission's notice for in 1635 Bastwick was fined 11,000 and imprisoned in the Gatehouse until he retracted his errors. Not only did he not retract, in 1637 he abandoned Latin to print what one writer calls the most "savage book ever printed."¹⁰³

This was his Litany Of John Bastwick, (1637), where a bitter attack was launched against the whole church which he regarded as the enemy of both God and the King. Bastwick continued this attack in his Answer of John Bastwick, Doctor of Phsicke, To The Exceptions Made Against His Litany, (1637), where he called for deliverance from the churches' minions. The Bishops, priests and deacons were the "Anti-Christ's little toes."¹⁰⁴ His main argument, however, was that the Laudian church sought to turn the King's heart against many of his loyal subjects by alluding to them as "Puritans." According to Bastwick, Laudian clerics preached war against the King's subjects by equating the term Puritan with disloyalty.¹⁰⁵ More than that, he

¹⁰³Jordan, The Development Of Religious Toleration In England, II, 159.

¹⁰⁴John Bastwick, The Answer Of John Bastwick, Doctor Of Phsicke, To The Exceptions Made Against His Litany, (1637), p. 5.

¹⁰⁵Ibid., p. 4.

said the King was kept from seeking the truth as he was surrounded at court with lying sermons. Bastwick declared:

I have heard many sermons at court, yet never did I heare any, wherein I saw not the puritan brought up with one scorne or other, and some notorious lyes told of them... no wonder...the King's Majesty and nobles of the kingdom, have prejudiced opinion of them they call puritans.¹⁰⁶

Clerics who preached thus were enemies of both the King and the people, so Bastwick considered for they persuaded the King to act unlawfully against the commonwealth.¹⁰⁷ Bastwick appears to be groping towards the idea of a responsible government with accountable councillors for the King as opposed to the irresponsible and uncontrolled government of personal rule.¹⁰⁸

The remaining defendant, Henry Burton, echoed John Bastwick's criticism. Born in the East Riding of Yorkshire and educated at St. John's College in Cambridge, Burton had spent his early years in the King's service as a clerk in Prince Henry's household and, after Prince Henry's death, as a clerk to Prince Charles. The death of King James, however, spelled the end of royal favor since Burton openly opposed Laud. After his dismissal from court, Burton entered the ministry

¹⁰⁶Ibid., p. 5.

¹⁰⁷Ibid., p. 26.

¹⁰⁸For an extensive argument concerning the growth of responsible royal government see Clayton Roberts, The Growth of Responsible Government In Stuart England (Cambridge: 1966). The accountability of the King's advisors came up at Laud's trial. Laud pleaded that he was innocent of any responsibility since he was only obeying the King's commands for all his actions. Once again, however, the idea was to limit or draw limits to the King's power. Eusden, Puritans, Lawyers And Politics In Early Seventeenth Century England, p. 155.

where he was presented to St. Matthew's Church on Friday Street in London. Since his lectureship here was a private one that once been partly financed by the Feoffees, Burton believed it a safe sinecure from which to attack innovations and bishops. Finally, in 1636, after several earlier and minor encounters with the High Commission, he was imprisoned for his writings, and Laud ordered Heylyn to answer his various attacks. The result was Heylyn's A Briefe And Moderate Answer.

Burton was convinced that the Laudians were simply papists in disguise who should be removed.¹⁰⁹ Although these attacks were offensive to the Laudians, Burton's real threat lay in his setting up the individual conscience against the state. Like John Calvin and Martin Marprelate, Burton believed in a spiritual loyalty to God which no mere earthly loyalty could outweigh. Thus the worst bondage to the individual man from both the Church and the King was that imposed upon the private conscience. Burton carefully outlined this to his followers when he stated that

the first is the bondage of conscience in poynt of liturgy, devised by men, and imposed upon the conscience of the Godly. The second, is the bondage of the conscience under ceremonies. The third, is the bondage of conscience under discipline, and the fourth, is the bondage of the conscience under government.¹¹⁰

In his own blunt way Burton was related intellectually to Viscount Falkland and the whole circle of free consciences at Great Tew. Men

¹⁰⁹Henry Burton, England's Bondage And Hope Of Deliverance, (June 20, 1641), a sermon preached at Westminster, p. 32.

¹¹⁰Ibid., p. 21.

who believed like this were potentially dangerous because they owed no irrevocable ties to any government. They were attacked not only by Heylyn but eventually by Thomas Hobbes. Hobbes, like Heylyn, suggested that their devotion to good causes was a cloak for possible rebellion. Their search for truth and purity was a primary step towards disobedience since by this search they rejected all other loyalties and made themselves the sole judge of their own and others actions. This independence of thought was capable of destroying the whole fabric of orderly civilized life with its interacting loyalties and authorities.¹¹¹

Heylyn seized upon this theme in his own answer to Burton when he accused the latter of making his own cause and God's so alike that they became indistinguishable.¹¹² In doing so, said Heylyn, Burton and his kind preached sedition no matter what they might claim. Heylyn wrote:

In all which passages, however, you pretend the word of God, the fundamental lawes of State and conscience: yet clearly you express your disaffection with the sovereignty of Princes, and in effect leave them no greater power then every private man should thinke fit to give them. Besides there is a tacit implication also that the King exercises an unlimited power, which cannot possibly conflict with the subject's conscience, the fundamental lawes of the kingdom or the word of God.¹¹³

The dangers presented by the trio were thus multitudinous. Prynne

¹¹¹Coltman, Private Men And Public Causes, pp. 147-149.

¹¹²Heylyn, A Briefe And Moderate Answer, p. 10.

¹¹³Ibid., p. 28.

claimed to attack absolutist innovation of the Royal Supremacy. Bastwick attacked the pejorative usage of the term Puritan in order to estrange the King from the country at large. And Burton created a rebellious escape for the tender conscience. Though these were specific problems for the Laudian establishment, it was still difficult for the Court of High Commission to prove its case. Regardless of Heylyn's carefully selected excerpts, there was no direct evidence that they were dedicated to the abolition of the Episcopacy since The Newes from Ipswich had not been traced to them.¹¹⁴

Yet a sentence of guilty was almost a foregone conclusion. Heylyn had done his work carefully and there seemed enough evidence of a secondary order to imply a collective guilt of libel. On June 14, 1637, the trio were sentenced. Frynne was to be fined £5,000 to lose the remaining portion of his ears, to be branded with the letters S. L. for schmatical libeller, and to be imprisoned for life without ink, pen or paper in Carnarvan Castle. Burton and Bastwick's sentences were identical save for the fact that Bastwick was sentenced to Lancaster Castle and Burton, after being defrocked, to Lancaster Castle.¹¹⁵

When the dreaded sentences were carried out, on June 30, 1637, the crowd surrounding the trio was large and sympathetic; a far cry from that present at the dissident Alexander Leighton's punishment in

¹¹⁴Newes from Ipswich: Discovering Certain Late Detestable Practices of Some Domineering Prelates to Undermine the Established Doctrine and Discipline of Our Church (Ipswich: 1636).

¹¹⁵Heylyn, Cyprianicus Anglicus, p. 315.

1630 or Prynne's earlier mutilation. Moreover, if hostile public opinion was clearly aroused, the execution of the sentences was badly bungled by the government authorities who allowed the occasion to become a circus.

Sweet herbs like marjoram and rosemary along with wine and flowers were brought for the prisoners by the crowd. Indeed, the three men stood in the pillories for two hours freely talking to their friends, relatives and the crowd. During this time both Prynne and Bastwick publicly attacked Heylyn for his manipulation of their writings. The outspoken Bastwick stated that

he, Heylyn, railes against us three at his pleasure... but were the press as open to us as they are to them, [The word "them" means polemical Laudian writers such as Heylyn.] wee should pay them, and their great master Laud that upholds them...¹¹⁶

Following this speech Bastwick's wife kissed him while Burton's wife provided him with a pair of embroidered wedding gloves signifying that his "martydom" was as important as his wedding day.¹¹⁷

The sentences were carried out. Of the three, Prynne was the most cruelly treated. The first time he had been punished in 1634 his ears had only been clipped at the lobes but now the executioner cut off

¹¹⁶A Briefe Relation Of Certaine Speciall, And Most Materiall Passages And Speeches In The Star Chamber, Anonymous Pamphlet, (1638), p. 21.

¹¹⁷A Briefe Relation, pp. 16 and 21. This was a rather striking present since many Puritans frowned at all wedding finery including the simple wedding band claiming that they were mere pagan holdovers from primitive times.

one ear so close that he took a piece of Prynne's cheek off as well. Moreover, he branded one of Prynne's cheeks twice on the ground that the first time the letters were applied upside down.¹¹⁸ It was rumored that the reason why Prynne's treatment was so gruesome stemmed from the fact that in 1634 Prynne had tipped the executioner less than he promised him. He had told the man that he would give him five or six coins if he were gentle. This would have added up to the traditional tip of one guinea, but Prynne gave him five smaller coins which only added up to half a crown.¹¹⁹ The executioner who had a long memory and a reputation to maintain obviously acted accordingly.

Despite the gruesome treatment Prynne kept his happy spirits. He coined a pun for branded letters saying they were Stigmata Laudis. After that he composed a couplet for the occasion:

Triumphant I return, my face discries,
Laud's scorching scars, God's grateful sacrifice.¹²⁰

When the executioner was finally finished, the crowd surged around the three so closely that the sixty year old Burton fainted from lack of air. Even the surgeon could not get near the trio for some time so their blood ran freely longer than planned.¹²¹ This event did not bother the crowd which dipped their handkerchiefs into the blood.¹²²

¹¹⁸A Briefe Relation, p. 21.

¹¹⁹Gardiner, Documents Relating To The Proceedings Against William Prynne In 1634 & 1637, p. 87.

¹²⁰A Briefe Relation, p. 22.

¹²¹Ibid., p. 30.

¹²²Ibid., p. 28.

The crowd cheered when one woman said to Bastwick that "there are many hundreds which by God's assistance would willingly suffer for the cause you suffer for this day."¹²³

Years later Heylyn concluded that the crowd had been upset to see the three most eminent professions in the world so dishonored.¹²⁴ Heylyn's view was a serious misjudgment. The King and the Church were misled about the crowd's true feelings. They were upset at the treatment which critics of the church and state were receiving. As the Earl of Clarendon observed, Laud "did not consider enough what men said or were like to **say** of him."¹²⁵

Still, both Laud and Heylyn should have been more cognizant of the approaching public furor for public demonstrations continued unabated. Indeed, distant as their imprisonments were crowds still gathered and it was found necessary to remove them to more distant imprisonments. As a result, Prynne was sent to the Castle of Mont Argeuil on the Isle of Jersey, Burton to Castle Carnet in Guernsey, and Bastwick to Saint Maries on the Isle of Silly.¹²⁶

Laud was militant about such popular demonstrations. Supporters of Prynne at Chester, who had dined him and arranged to have his portrait painted as he went north to imprisonment, were summoned before the High Commission at York because of Laud's insistence. The results

¹²³Ibid., p. 27

¹²⁴Heylyn, Cyprianicus Anglicus, pp. 314-315.

¹²⁵Clarendon, The History Of The Rebellion And Civil Wars, I, 125.

¹²⁶Heylyn, Cyprianicus Anglicus, p. 315.

were that one Calvin Bruen was fined £500, Peter Ince £200, Richard Golborn £300, Peter Leigh £200, William Trafford £150, Thomas Hunt £100 and Pulford the painter had his portraits of Prynne publicly burnt.¹²⁷ These were small to middling people but their willingness to suffer revealed much about the change in public opinion since 1634 when the Inns of Court had put a play on for the Queen in order to express their disapproval of Prynne's ideas in Histriomastix.

In the meantime new licensing measures were taken by Laud to stop the outpourings of a critical press. On July 1st, 1637, the Star Chamber issued a decree which reduced the number of approved master printers and forbade the printing of anything that was not licensed by the Bishop of London or the Archbishop of Canterbury. By this decree the number of licensed printers in London was reduced to twenty, formerly licensed books required new licenses and illegal printers were subjected to the punishment of the pillory and whip if caught.¹²⁸

It was a hopeless fight, Laud could not control the clandestine presses, the smuggled works from the continent or any one of a hundred street court preachers. Indeed, "by its very smallness and mobility

¹²⁷R. C. Richardson, "Puritanism And The Ecclesiastical Authorities: The Case Of The Diocese Of Chester" in Brian Manning, ed., Politics, Religion And The English Civil War (New York: St. Martin's Press, 1973), p. 25.

¹²⁸Heylyn, Cyprianicus Anglicus, pp. 340-342, Bridenbaugh, Vexed And Troubled Englishmen, p. 345 and F. S. Siebert, The Freedom Of The Press In England 1476-1776 (Urbana: Univ. Of Indiana Press, 1952), chs. 5-7.

the press was actually if not legally free."¹²⁹ The comment that Barnaby Rich had made in 1610 was still applicable in 1637; namely that "one of the diseases of the age is the multitude of books that doth so overcharge the world that it is not able to digest the abundance of idle matter that is everyday hatched and brought into this world."¹³⁰

Heylyn was no less militant than Laud. Between 1637 and 1639, as part of his capacity as chaplain to the king Heylyn was engaged in writing sermons full of aspersions on the Puritans.¹³¹ They were the very type of sermon, which Bastwick claimed, was doing so much to divide the King from his people.

In retrospect, though, Heylyn's actions involved only a small part of the Laudian activities and policies within England. Stretching out from his actions was a whole series of other entanglements and irritations, varying from innovations in ritual to plans for restoring church lands that had been lost in the Reformation. The Laudian undertakings in effect represented an almost medieval desire to restore the church to the all encompassing authority that the Laudians believed it had once possessed. This program would have faced considerable

¹²⁹Bridenbaugh, Vexed And Troubled Englishmen, p. 346. Both Judson, The Crisis Of The Constitution, pp. 175 and 311, and Davies, The Early Stuarts, pp. 17-19, refute the idea that Laud's censorship was ineffective. Heylyn, however, found its ineffectiveness a serious problem.

¹³⁰Barnaby Rich, A New Description Of Ireland, (1610), "To The Reader Preface," no pagination.

¹³¹Peter Heylyn, The Parable Of The Tares (London: 1659), passim. This parable was traditionally used as a justification for persecution.

opposition even if it hadn't been pushed by an unpopular minority.

When the two were combined, the results were disastrous.¹³²

¹³²Hill, The Economic Problems Of The Church, ch. 3. Interesting insights are given into the average man's irritations with the church in Rowland Parker's The Common Stream (New York: Holt, Rinehart & Winston, 1975), ch. 7, especially pp. 172-175. Parker notes how by 1640 the Laudian Bishop Wren of Ely had aroused such anger that a public petition asking for his removal was signed by over 2,000 laymen or "pretty well all the laymen in the county who could write." (p. 175).

CHAPTER THREE

CONVOCAATION AND THE CONSTITUTIONAL CRISIS

During Charles I's personal rule overt opposition to the Laudian church was non-existent. The church made no concessions, considered no retreat and merely expanded its program for church and state. The climax of Laudianism was revealed in the Convocation of 1640 and the canons which it produced. These canons are "as much a manifestation of thoroughness as the 'Grand Remonstrance' was to be of the opposition to that policy."¹ As Clarendon concluded, given the temper² of the times, the calling and dissolving of a Parliament, the invasion from Scotland, and the past ill feeling it was not surprising that "the matter of those canons and the manner of making them was insisted on as a pregnant testimony of a malignant spirit in the very functions of the Bishops."²

The calling of a Convocation in 1640 was necessitated by the summoning of a parliament since the two had traditionally and generally met at the same time and were usually dissolved simultaneously. The very calling of parliament after so many years aroused much surprise but proved unavoidable because of the grave need for money in regard

¹Davies, The Early Stuarts, p. 94.

²Clarendon, The History of the Rebellion and Civil Wars, III, 273.

to Scotland. Furthermore, the Earl of Strafford was convinced that he could control parliament if it were called, a conclusion which was no doubt reinforced by his success with the parliament in Ireland. Others, however, were less sanguine. Indeed, both Heylyn and Laud, the two key movers with regard to Convocation and the canons, had serious doubts.

Heylyn forwarded a letter to Laud which he had received from one John Allibond warning of the danger of a strong "Puritan" opposition in the lower house of the new parliament.³ Heylyn's informant was not mistaken. When what came to be known as the Short Parliament assembled on April 13, 1640, most of the old leaders from 1629 had been reelected. Only about one quarter of its members were new men who had never sat in parliament before.⁴ These new men were probably the most favorably disposed towards the government of personal rule.⁵ But

³C.S.P.D. 1640, pp. 580-582. Zagorin, The Court and Country, pp. 99, 226-240. Zagorin states that by 1640 such prominent gentry had defied the crown to defend subjects' rights. Also helpful for assessing court opposition towards the church is Brian Manning's "The Aristocracy and the Downfall of Charles I" in his book Politics, Religion and the English Civil War, pp. 30-36.

⁴Clarendon, The History of the Rebellion and Civil Wars, II, 68. John K. Gruenfelder, "The Election to the Short Parliament of 1640" in Howard S. Reinmuth, Early Stuart Studies (Minneapolis: Univ. of Minn. Press., 1970), p. 231.

⁵See D. Brunton & D. H. Pennington, Members of the Long Parliament (London: 1954). They concluded that one of the major differences between the King's supporters was one of age. The King's party having come to political maturity in years from 1629-40 had apparently absorbed more royalist views. This was also probably true of the younger members of the Short Parliament. In support of this view Conrad Russell states (The Crisis Of Parliaments, p. 341), that "both in Parliament and the civil service; royalists were on an average ten years younger than parliamentarians."

despite the fact that patronage, kinship and manipulation had returned friends of the court to Parliament, these spring elections had shown that religious and constitutional issues could not be avoided.⁶ Hence, the elections to the Short Parliament had been very "political."⁷ Indeed, in London where the city government refrained from taking any political stand at all because of its support of the court, the parliamentary elections had gone against the court.⁸

From the first the Short Parliament had an inauspicious beginning. Because of Charles' speech impediment the task of presenting the government's speech was given to the Lord Chief Justice, John Finch. This was a poor choice as Finch was a subservient servant to and abettor of personal rule. Moreover, his "ten years of uninterrupted authority, during which his every petty ambition had been gratified, had swelled his self-conceit."⁹ Finch's speech arrogantly stated the government's position without striking any conciliatory tone of any kind and ended with a demand for immediate supply. Parliament, however, was factious and led by John Pym placed the redress of grievances before supply. They hoped to destroy the whole governmental super-structure erected upon the prerogative by the acquiescence of both Bishops and judges as well as regulate the Laudian religious innovations. The anger which

⁶John K. Gruenfelder, "The Election To The Short Parliament, 1640", p. 231.

⁷Gruenfelder, "The Election To The Short Parliament, 1640", p. 229.

⁸Zagorin, The Court And The Country, p. 143.

⁹Wedgwood, The King's Peace, p. 322.

was brewing against both church and state was even stronger in the House of Lords than in the House of Commons. In the Lords there was talk of the idea that the three estates of the realm consisted not of the traditional order of Lords Spiritual, Lords Temporal and Commons but of King, Lords and Commons.¹⁰ This idea contained not only the exclusion of the church but also a demotion for the King since it suggested that the King was not above but on a par with the other two estates in the law making process.¹¹ This emphasis on the role played by the estates in making laws was undoubtedly the result of a recent legal publication, namely William Lambard's Archeion Or A Discourse Upon The High Court Of Justice In England (1635). Coming after three decades of legalistic contentions between the Crown and Parliament, it summarized for many Englishmen the view of the law making process. Again and again, Lambard had illustrated, declared and emphasized the opinion that the King could not make law without the assent of the estates.¹² In particular, he had stressed the importance of the House of Commons in the process of making law by his declaration that no act could become law without the Commons agreement.¹³ Since his definition of the estates consisted of King,

¹⁰Gardiner, The History Of England, IX, 106.

¹¹The importance of the idea of the King being one of the three estates will be discussed in chapter five. The fullest discussion of the ideas of a mixture of the estates or a mixed monarchy is in C. C. Weston's English Constitutional Theory And The House of Lords (New York: 1965). It is also one of the best books on the constitutional royalists.

¹²William Lambard, Archeion Or A Discourse Upon The High Courts Of Justice In England, (1635), p. 269.

¹³Ibid., p. 272.

Nobility and Commons it is obvious that his ideas were familiar to members of both houses of the Short Parliament.¹⁴

As Parliament's grievances became more and more aggressive, the majority of the King's advisors were convinced that the best course lay in dissolving the intractable body. On May 5th, 1640 this majority won despite Strafford's desire for some attempt at appeasement.¹⁵ Public attention now turned to Convocation which contrary to regular custom not only continued to sit after the dissolution of the Short Parliament but seemed on the verge of having its legislative powers revived at the same time that Parliament's appeared to be on the decline, despite legal opinions to the contrary. For the first time since 1606 Convocation had met to consider not merely taxation but new church laws or canons.¹⁶

To be specific, within the Church of England there are two convocations or provincial synods: one in each of the arch dioceses of Canterbury and York. Both of these are composed of the respective archbishop, his suffragan bishops and the representatives of the lower

¹⁴Ibid., p. 271.

¹⁵Wedgwood, The King's Peace, p. 326.

¹⁶Esther S.Cope, "The Short Parliament Of 1640 And Convocation", Journal Of Ecclesiastical History (Vol. xxv, 2, April 1974), pp. 168-169, 183-184. As Professor Cope points out, neither James nor Charles had always granted a writ to the clergy which included the right to draw up canons. Also Esther S.Cope, "Compromise in Early Stuart Parliaments: The Case of the Short Parliament of 1640," Albion, IX, 2 Summer 1977, pp. 135-145. This article discusses the impossibility of mediating a compromise given the grievances over taxation and church affairs when combined with the hostility of certain M.P.s and the desperate, often impolitic demands of the crown for supply before other matters could be discussed.

clergy. In the seventeenth-century all of the members of the Convocation of York still sat as one body while those of Canterbury had been divided for centuries into an upper and lower house. The upper house contained the archbishop and his twenty suffragan bishops, while the lower house contained fifty-three archdeacons, twenty-two deans of the province, twenty-four proctors representing the cathedral clergy and forty-four other proctors chosen by the parochial clergy. With very rare exceptions the Archbishop of Canterbury presided in the upper house and was also considered the president of the whole convocation. The lower house chose one of its own members to preside and this person or prolocutor not only presided there but served as an intermediary between the two houses.¹⁷

The seat of power was located in the upper house since the privileges and rights of the lower house were not only few but poorly defined. In essence, they received direction from the upper house concerning what business they might transact. They could only present complaints and suggestions to the bishops by written petition. Their meetings were concluded as soon as the Archbishop prorogued Convocation. Even the prolocutor, although elected by the lower house, received his authority from the confirmation of his election by the Archbishop. The main powers of the lower clergy consisted of a final veto on all matters and, until 1664, the right of voting for aids and

¹⁷Richard Burn, Ecclesiastical Law (London: Strahan & Woodfall, 1788), II, 24-25.

subsidies.¹⁸

Until 1664 the Convocation usually met with and sat as long as Parliament. In 1664, however, as the result of a private agreement between Archbishop Sheldon and Lord Chancellor Clarendon, the clergy surrendered their right of taxing themselves in Convocation in return for the beneficed clergy having the right to vote for members of the House of Commons. The result of this was that there was no longer any need for holding regular Convocations. For the next twenty-five years the Convocation met only formally at the beginning of each Parliament and was then immediately prorogued.¹⁹ After 1664 nothing is heard of a sitting and acting Convocation in the reigns of Charles II and James II.²⁰

This eclipse of Convocation was foreseen and dreaded by Heylyn as early as 1660 when he urged Sheldon to hold Convocation as soon as possible since otherwise "some busy members of the House of Commons will thrust themselves into concernements of religion, when they shall find no convocation sitting."²¹ Heylyn's advice, however, was

¹⁸Edmund Gibson, Synodus Anglicana (Oxford: The Univ. Press, 1854), preface by Edward Cardwell, pp. v-vi. To contemporaries the term Convocation principally meant the convocation of Canterbury.

¹⁹Burn, Ecclesiastical Law, II, 27-28.

²⁰Ibid., I, 407.

²¹Tanner Manuscript, Vol. 49 f 146. No Convocation was called with the Convention Parliament and thus Heylyn felt that the habit of calling it should be restored as soon as possible in the Restoration.

disregarded and Convocation became a non-entity for a quarter of a century. Of course, "the principal beneficiary from the demise of Convocation was Parliament, which assumed the function of an ecclesiastical legislature, and this at a time when its proper powers and authority were being notably enhanced, so that Convocation lost any hope of maintaining even a relative degree of independence of its formidable rival."²²

In 1640 the privileges of both Convocations though limited were still obviously stronger than after 1664. Under the Act of Submission of the clergy, 25 Henry VIII Cap. 19, Convocation, although formally convened by the Archbishop's mandate, could not meet without royal assent. They could neither discuss nor enact any new canons without royal approval. Once assembled, it could not "attempt, allege, claim, or put into ure, enact, promulgate, or execute any new canons, constitutions, ordinances provincial, or other, or by whatsoever name they shall be alluded...unless the King's most royal assent or license may to them be had."²³

As usual, therefore, the Convocation of 1640 had met at the same time as the Short Parliament. On Tuesday, April 14, 1640, Convocation had assembled at the chapter house of St. Paul's to hear their opening sermon. The text which was chosen for this event was significant. Undoubtedly, the Parliament's insistence that grievances and the

²²Norman Sykes, From Sheldon To Secker: Aspects Of English Church History, 1660-1763 (Cambridge: The Univ. Press, 1959), p. 67.

²³Burn, Ecclesiastical Law, II, 23.

safety of religion must precede supply had already warned the church's hierarchy that they had before them a difficult if not ominous future. Perhaps because of this they selected Matthew 10:16 for this opening text so that all the assembled clergy would be forewarned. The text read "Behold I send you forth as sheep in the midst of wolves: be ye therefore wise as serpents and harmless as doves."²⁴

After this they began their proceedings. These proceedings were to produce certain actions and canons which would have been unacceptable to even the most submissive Parliament of Henry VIII and were certainly unacceptable to the majority of laymen by 1640.²⁵

At this Convocation Heylyn was present in the lower house in his capacity of Clerk for the Convocation for the College of Westminster.²⁶ Heylyn supplies much insight into the major happenings of this body. He also appears to have been one of its prime movers through his ready access to Laud. He was active from the very beginning of Convocation. Heylyn shrewdly suggested to Laud that an offer for a mutual conference by select committees be made between the lower house of Convocation and the House of Commons. The ostensible reason for the conference would be to give satisfaction to the latter body concerning the questions of ceremonies and other items. This was

²⁴Heylyn, Cyprianicus Anglicus, pp. 395-396.

²⁵John Neville Figgis, The Divine Right of Kings (New York: Harper Torch Books, 1965), p. 142.

²⁶Vernon, Life of Heylyn, p. 96. Heylyn's position was equivalent to that of an M.P. in parliament.

important as parliament seemed agitated by the ability of Convocation to make canons. Moreover, in the Short Parliament, unlike in the Long Parliament, there appears to have been no one who was willing to take on the defense of the church and the powers of Convocation.²⁷ The underlying motive behind Heylyn's plan was to enhance subtly the church's standing by such an offer since even if parliament refused, the church's actions would appear conciliatory.²⁸

The meager lifespan of the Short Parliament though prevented any such action occurring. Still, events outside Convocation revealed a great deal about popular feelings towards the church and the King's actions in regard to Parliament. On May 11, apprentices, mariners, dockers and others assembled on the south bank across from Southwark and Blackfriars. This crowd of five-hundred then followed the ringing drum beats of a young sailor named John Archer to an attack on Lambeth Palace where they tried to break down the door with a crowbar. Though besieged for some two hours, Lambeth remained safe.²⁹ The crowd then resolved to attack the Convocation but fortunately the King had already sent over train bands from the county of Middlesex for its protection.³⁰

²⁷Cope, "The Short Parliament of 1640 And Convocation," pp. 180-181.

²⁸See Heylyn, Cyprianicus Anglicus, p. 396. Also Vernon, Life of Heylyn, p. 97. Vernon directly attributes this and other actions to Heylyn, Heylyn was more careful in his biography of Laud. He usually states that a "knowing cleric" or some such person suggested so & so. This reticence is hardly surprising since Heylyn was writing in the midst of the war and Interregnum, periods in which he would draw no favor upon himself by revealing his part in such actions.

²⁹Laud, Works, III, 235.

³⁰Ibid, III, 235.

The decision to use "Middlesex" train bands was interesting at this point, especially since their leader, Endymion Porter, was not only a favorite groom from the King's bedchamber but also a staunch friend of the Laudian church.³¹ Probably Charles considered the London bands too hostile to both the Laudian church and the government to be a very effective defense.

The riot of May 11th had been partially sparked by an unprecedented action by Convocation. On May 5th Parliament had been adjourned by the King. If the usual and previous proceedings were followed, this would mean that Convocation would have expired on the next day since its terms were generally regarded as running for the same period. This time, however, Convocation was continued by a new Royal Commission from the King.³² At this point though some confusion arises as to at whose initiation this step was taken. Heylyn maintains that it was at the suggestion of one of the clergy to Laud that they continue with their subsidies and canons since there was a precedent for this in Elizabeth's reign.³³ This reference is written in the obscure language that Heylyn typically employs in referring to his personal activity. In addition, his biographer attributed this idea to him and as he was intimately acquainted with all of Heylyn's family and as we know Heylyn never

³¹Ibid., p. 403.

³²Charles of course was desperate for money since Parliament had granted none. Moreover, even his family expenses had increased since his mother-in-law, Marie de Medici, and her retinue were over for a visit and were living at his expense.

³³Heylyn, Cyprianicus Anglicus, p. 402.

referred to himself directly but always obliquely, even in regard to books he had written, the evidence points to Heylyn as the author of this suggestion.

His suggestion was based on an earlier action during the Convocation of 1587 when Elizabeth had been granted in addition to her subsidy a special benevolence from the clergy to meet expenses. This was to be taxed and levied without Parliament's help since it was a special gift and not really a tax.³⁴ Heylyn proceeded to show that given this past event, the difference between a writ for calling Parliament and a writ for assembling Convocation was distinct. By proving they were different forms he claimed that though the Commission had expired with the parliament, yet the writ by which Convocation was called remained in force until dissolved by another writ.³⁵ Moreover, since benevolences and canons only required the King's assent, though custom had often included parliament, the Convocation might continue in any business other than taxation.³⁶ Heylyn added that Convocation could even change those taxes of £20,000 per year into a benevolence and thereby make it a gift instead of a tax. Furthermore, as canons

³⁴Vernon, Life of Heylyn, p. 98.

³⁵Professor Cope is mistaken in her assumption that this was not Heylyn's idea. Cope, "The Short Parliament of 1640 and Convocation," p. 178, note 1.

³⁶Vernon, Life of Heylyn, p. 99. J. E. Neale, Elizabeth I and Her Parliaments, I, 181-183. Neale says this was a bribe to influence the Queen's foreign policy. Although the parliament of 1586-1587 was still sitting when the money was granted, for Heylyn's argument this was immaterial. Gardiner, The History of England, IX, 143, note 2. Gardiner believed the argument of a precedent was invalid.

did not require the confirmation of parliament and as the new commission directed them to continue making canons, they should do so.³⁷ On May 5 Heylyn presented this doctrine to Laud; Convocation was then adjourned until May 13.

Although Heylyn's suggestions to Laud in this matter may appear devious, in actuality they reflected his dualistic ideas concerning lawmaking in the state. He divided the power of making laws into two spheres, secular and religious. As a result, he viewed Convocation's power to make canons as equivalent to parliament's role in legislation. Only after several years of civil war did Heylyn change his opinion to an absolutist one which ascribed the sovereign lawmaking power to the king.

At this juncture, the King once again fell back upon the courts of law to support his actions as he had done so often before. Clarendon comments that this request for a legal opinion on the matter was at the behest of the chief of the clergy or Laud and that upon debate the judges of England asserted the right of the clergy to make canons without Parliament.³⁸ The judges upheld Heylyn's contention that the Convocation being called by the King's writ, then notwithstanding a dissolution of Parliament, it continued until dissolved by another King's writ.³⁹ The chief movers in this decision were the Lord Keeper,

³⁷SP 16/453/15 and Clarendon, The History of the Rebellion and Civil Wars, III, 272.

³⁸Clarendon, The History of the Rebellion and Civil Wars, III, 272-273.

³⁹Vernon, Life of Heylyn, p. 100.

John Finch, The Lord Chief Justice Of Common Pleas, Edward Littleton, and the Attorney General, John Banks.

Laud's remembrance of the affair while he was confined in the Tower was slightly different. Surprised by the turn of events, he said he had asked for a writ to dissolve Convocation when he heard of the Council's decision to dissolve Parliament. He claimed that he was then ordered by the King to continue, much to his consternation and described himself as troubled by the King's policy because of the difficult times. He said that he was also upset by the fact that before coming to him the King had consulted with the judges. Laud said that he had then asked for a definite legal decision on the matter.⁴⁰ These words of Laud are interesting and confusing. Laud assigns the initiative for this action to the King. By the time he wrote this, however, the civil war was raging and Laud's days were numbered. Since he was then an elderly man of over seventy, he may have forgotten the sequence of events especially as he added that he did not remember the exact particulars of what he said to the King.⁴¹

Besides, Laud may have thought it best for his own safety and the church's protection to deny such an unpopular action. It is also essential to remember that throughout his subsequent trial in 1644 "Laud not only pleaded the King's commands, but sought to shelter

⁴⁰Laud, Works, III, 285.

⁴¹Ibid., III, 285.

himself under his authority and to shift blame on to his shoulders."⁴² Laud was steadfast throughout his trial in refusing to accept responsibility for the actions of subordinates, the King's commands, the Council's actions or the decisions of the church courts.⁴³

The controversy surrounding the continuation of the Convocation long remained a bone of contention in the church as did the canons which it created. Although the Restoration saw the complete triumph of much of the Episcopal side of the Laudian tradition, the canons of 1640 themselves were not only disallowed by an act of parliament, 13 Charles II, Cap. 12, but even their "non-offensive parts" were never revised by the Convocation of 1661 which simply tabled the matter.⁴⁴

The noted late church historian, Norman Sykes, has concluded that this decision was not only because of the equivocal authority under which they were made, but more importantly because they contained

⁴²Clayton Roberts, The Growth Of Responsible Government In Stuart England (Cambridge: The Univ. Press, 1966), p. 127.

⁴³Laud's diary does not enlighten one on this matter either. This is not surprising since his diary is sparse on all events. It is interesting to note that Laud's attempt to shift the blame to other authorities and thus create what Clayton Roberts calls "a collective responsibility" was also the argument used by Heylyn in the defense of his own actions. In his Theologia Veterum: Or The Summe Of Christian Theology (London: 1654), Heylyn stated "But the truth is, I never voluntarily engaged myself in any of these publick quarrels by which the unity and order of the church of England hath been so miserably distracted in these latter times. Nor have I ever loved to run before, or against authority, but always took the just counsels and commands thereof for my ground and warrant..." p. 2 of an unnumbered preface to the reader.

⁴⁴Norman Sykes, Church And State In England In The Eighteenth Century (Hamden: Archon Books, 1962), p. 11.

grounds for offense after the Restoration.⁴⁵ He agreed with Heylyn's opinion "that there can be no question of the legality of the Royal Commission authorizing the Convocation to continue its sessions after the dissolution of Parliament; since the coincidence of the summons and dissolving of the two assemblies was simply a matter of custom. Nor can it be doubted that the assertion by the House of Commons of the necessity of Parliamentary (as distinct from Royal) assent to any canons passed by Convocation was a revolutionary innovation."⁴⁶

Even among the opposition leaders of the time, however, there had existed differing opinions concerning the ability of the Convocation of 1640 to make canons without parliamentary assent because of the scope of those canons. Although before 1640 parliamentary consent had never been required in regard to canons, this question became a prominent one in 1640 as soon as the Short Parliament met.⁴⁷ After a decade of hostility toward Laudian innovations the parliamentary leaders feared that the commission which granted Convocation the power to create new canon law might be so extended that these new laws would give extensive power in secular political matters.⁴⁸ As a result men like John Pym, Oliver St. John and John Hampden believed that "the

⁴⁵Sykes, From Sheldon To Secker, p. 38.

⁴⁶Edmund Gibson, Codex Juris Ecclesiasici Anglicani (London: 1732), II, 995. See also Clarendon, The History Of The Rebellion And Civil Wars In England, III, 273-274. For quote see Sykes, From Sheldon To Secker, p. 38.

⁴⁷Cope, "The Short Parliament of 1640 And Convocation", p. 173.

⁴⁸Ibid., p. 174.

assent of Parliament was necessary if Acts of Convocation applied to laymen as well as clergy."⁴⁹ Therefore on April 21st, 1640 Sir Walter Erle's suggestion of a Commons committee to investigate the commission given to Convocation aroused much support.⁵⁰ Still, Robert Holbourne, the lawyer known for his defense of John Hampden in the ship money case, believed that the commission was in accordance with the law.⁵¹ Despite Holbourne's views, however, the Short Parliament remained intent on preventing Convocation from engaging in any extensive expansion of its legal or law making powers and therefore authorized the investigation of Convocation's powers to continue.⁵² In the midst of this activity, the Short Parliament was then dissolved while Convocation continued. This event meant that there would now be no question of parliamentary confirmation of the canons and no force capable of limiting their potential scope.⁵³

Public reaction to this state of affairs was immediate, profuse and hostile. From May until November of 1640 pamphlets, petitions, and broadsheets circulated attacking the Convocation.⁵⁴ Even the

⁴⁹Ibid., p. 175.

⁵⁰Ibid., pp. 173-174.

⁵¹Cope, "The Short Parliament of 1640 And Convocation", p. 174 and Wallace Notestein, Journal of Sir Simonds D'Ewes (New Haven: Yale Univ. Press, 1923), pp. 152-153.

⁵²Cope, "The Short Parliament of 1640 And Convocation", pp. 175-176.

⁵³Ibid, p. 177.

⁵⁴See Rushworth Historical Collections (London: MDCCVI), III, 306-330. Also, England's Complaint To Jesus Christ Against The Bishops Canons (1640), anonymous pamphlet.

Long Parliament, however, was unable to totally disprove legal precedents which showed that Parliamentary consent had never been required in regard to canons.⁵⁵ Still, the Long Parliament did push through resolutions (December 15-16, 1640) which declared that the canons were contrary to law and that Convocation had no authority to make canons which bound the clergy or laity without parliamentary assent.⁵⁶ Never again then would the King be able to do what he wished with his Royal Supremacy. This became very apparent after 1660 when Convocation was deliberately allowed to decline.

If the continuation of the Convocation was legal, if unusual, what offensive issues did these canons contain and what potential authority did they claim for the church? How much was Laud with Heylyn's help attempting to increase church authority? Clarendon tells us that the House of Commons believed "that these canons contained in them matters of sedition, reproach to the regal power, [and were] prejudicial to the liberty and property of the subject and to the privilege of parliament."⁵⁷ Sir Simonds D'Ewes reiterated Clarendon's conclusion when he discussed the attempted impeachment in November of 1641 of twelve of the Bishops considered responsible for these canons.⁵⁸

⁵⁵Cope, "The Short Parliament of 1640 And Convocation," p. 179.

⁵⁶Commons Journal, 1641, II, 51-52. Lords Journal, 1641, IV, 273. Rushworth Historical Collections, III, 300-340.

⁵⁷Clarendon, The History of the Rebellion and Civil Wars, III, 274.

⁵⁸Sir Simonds D'Ewes, edited by William Havelock Coates, The Journal of Sir Simonds D'Ewes, From The First Recess Of The Long Parliament To The Withdrawal Of King Charles From London (New Haven: Yale Univ. Press, 1942), p. 136.

Another sign of the controversial nature of the canons is the fact that a certain Warmistre, one of the clerks of the diocese of Worcester, suggested that a new convocation should meet with the Long Parliament "to cover the pit" which they had opened, and to prevent their opponents' intervention condemning such offensive canons as were made in the spring of 1640.⁵⁹ Warmistre was ignored but his opinion is interesting.

What made the canons so controversial? Essentially, this was due to their proclaiming that henceforth the acceptance of ideas concerning the divine right of authority and Laudian innovations would be the watchword and the requisite test of the loyalty of any subject to the King. In addition, they provided a method of enforcing this ideology that completely by-passed Parliament. And finally, they implied indirectly that parliament was neither essential nor even necessary to the King's conducting of the government.⁶⁰

⁵⁹Heylyn, Cyprianicus Anglicus, p. 430.

⁶⁰For the following discussion in this chapter in addition to specific references one should also refer to the manuscript minutes of both The Proceedings Of The Upper House Of Convocation and The Proceedings Of The Lower House Of Convocation, Lambeth Palace Manuscript Collection. These records do not record the debates but only the actions taken. The final book of canons for 1640 is in SP/16/455/47. Heylyn also records the canons in Cyprianicus Anglicus, pp. 429-433. There is an interesting discussion of the pre-civil war royalist clergy, in Margaret Judson, The Crisis Of The Constitution, ch. 5. See also George, The Protestant Mind Of The English Reformation, pp. 170-190, where the point is made that the clergy had always been servile to the powers over them and Hill, The Economic Problems Of The Church, ch. x. Hill claims that one reason the church was so helpless an institution was its subservience to the state. He also feels that this is very apparent or at least reflected in church writings of the period.

It is time now to consider their content.

Although the first canon is generally taken as the most important, it merely manifests the theme of this Convocation and though important is not really more so than the rest nor indeed than some of the proposals which never became canons. In actuality, all of the ideas and canons of this meeting become increasingly meaningful when considered as a whole.

The first canon concerned the nature of regal or royal authority. It stated:

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 Testament. A supreme power is given to this most excellent order by God himself in the scripture, which is that Kings should rule, and command in their several dominions, all persons of what rank or estate whatsoever, whether ecclesiastical or civil, and that they should restrain and punish with the temperol sword all subborn and wicked doers.⁶¹

This was to be read aloud at morning prayer once every quarter and ministers were encouraged to inculcate their congregation with these ideas. Furthermore, any cleric who held any contrary doctrine was subject to suspension, deprivation and excommunication. Still, though this was obviously an extreme statement of supreme royal authority it contained no new ideas. All of these ideas had roots in the medieval and Tudor past and all of them had been stated in a weaker form by James I and more or less accepted by his subjects. Even the idea of natural law

⁶¹Edward Cardwell, ed., Synoldalia: A Collection Of Articles Of Religion, Canons, And Proceedings Of Convocation In The Province Of Canterbury From The Year 1547 To The Year 1717 (Oxford: The Univ. Press, 1842), I, 389.

as the foundation of monarchy was not new. Heylyn had written in his A Briefe And Moderate Answer in 1637 that "the law of monarchie is founded on the law of nature, not on positive laws: and positive lawes...are of no such efficacie, as to annihilate anything which hath its being and originall in the law of nature."⁶² The insistence on compulsion was new but grew out of more than twenty years in which church teachings on the passive acceptance of authority had met with only mixed success. Moreover, the almost total and passive acceptance of these ideas by the clerics does not necessarily mean that they believed the King was either absolute or totally sovereign in his own right. Few writers in this period even grasped the idea of sovereignty, although Sir Edward Coke came near to it in his descriptions of the legal power resideing within the high court of parliament. Certainly, large portions of the royalist clergy "seemed surprisingly unconcerned with the great constitutional and political controversy of the day."⁶³ In agreeing to the first canon, then, probably a large majority felt that they were agreeing to an old and accepted view of the divine nature of kingship.⁶⁴ Very few of the clergy saw that this statement was far closer to Mainwaring's idea of a divine authority placed directly in the King rather than a divine right determined by natural law.⁶⁵

⁶²Heylyn, A Briefe And Moderate Answer, pp. 32-33.

⁶³Judson, The Crisis Of The Constitution, p. 197.

⁶⁴George, The Protestant Mind Of The English Reformation, pp. 179.

⁶⁵Francis D. Wormuth, The Royal Prerogative 1603-1649: A Study In English Political And Constitutional Ideas (New York: Cornell Univ. Press, 1939), p. 46.

Viewed from this perspective, three other canons seem far more important than the first. This is particularly so of the fourth canon whereby all power was clearly lodged in the kingship alone. This canon stated that:

For any person or persons to set up, maintain or avow in any the said realms, or territories respectively, under any pretext whatsoever, any independent co-active power, either papal or popular (whether directly or indirectly) is to undermine the Great Royal Office and cunningly to overthrow the most sacred ordinance which God himself has established and so is treasonable against God as well as the King.⁶⁶

This canon is significant because it showed an early response to counter-act one parliamentary idea that the popular element of government was as fundamental to the commonwealth as the King's. It was a cogent argument against John Pym's claim that parliament as much as the King had the right to declare and provide law where it was doubtful, unclear or needed interpretation.⁶⁷ As such, this article was a forerunner of certain royalist arguments in the civil war. Article five encouraged the subject in this passive obedience to all Royal authority by reminding him that disobedience would only result in personal damnation.

Far more important was article six, however, because it concerned the property of the subject and the question of tribute after a decade in which many men were beginning to wonder if the subject's property had any safeguard against the extension of the king's prerogative backed up by the courts of law, particularly after the ship money case. Article six stated:

⁶⁶Cardwell, Synoldalia, I, 389.

⁶⁷D'Ewes, The Journal Of Sir Simonds D'Ewes, p. 11.

Although tribute and custom, and aid, and subsidies and all manner of necessary support and supply, be respectively due to the King from their subjects by the law of God, nature and nations for the publick defense, care and protection of them, yet nevertheless subjects had not only possession of, but a true and just right, title and property, by and in, all their goods, and estates and ought for to have : and the first are so far from crossing one another, that they mutually go together for honourable and comfortable support of both. For as it is the duty of his subjects to supply their king; so is it part of the kingly office to support his subjects, in the prosperity and freedom of their estates.⁶⁸

Coming after the assertion of a supreme royal authority and the insistence on passive obedience in the subject, this statement appeared as a most lukewarm defense of property rights. Moreover, by concentrating on the duty of the subject to pay subsidies to the king it completely avoided the question which had become increasingly irksome to Englishmen of property, namely how that money was to be paid to the king. Article six made no mention of parliamentary consent to taxation, while article five had associated claims to popular power with treason. In talking thus of a tribute due by right to the king this article reflected the ideas of such earlier ultra-royalists as Bishops Mainwaring and Sibthorpe.⁶⁹

The pretensions of these various canons do not seem unusual but when put together they amount to a claim for a royal authority which is independent not only of parliamentary control over religion but indeed of any worldly control save God's. These ideas, maintained Heylyn, and he did so rightly were the true source of the Long Parliament's

⁶⁸Cardwell, Synoldalia, I, 389.

⁶⁹See Judson, The Crisis Of The Constitution, pp. 207-208. Wormuth, The Royal Prerogative, pp. 46-47.

discontent with the 1640 Convocation.⁷⁰ Next to this their levying of an enormous benevolence was a pallid item indeed. It was these canons and not the benevolence which was the challenge to the "popular" or parliamentary party. To them this would appear to give the King an inherent absolute right to do what he would with subjects rights and property. Certainly, contemporaries believed this. The anonymous author of England's Complaint to Jesus Christ Against the Bishops Canons (1640), declared that "none can be sure that his goods are his owne, when all, and more then all are taken from him at one censure, that at the will and pleasure of the Bishops without any and against all law."⁷¹ Moreover, when the Long Parliament assembled, attacks were launched against the canons for being against liberty and property.⁷²

The idea that these canons favored an absolutist kingship was clearly seen in canon fifteen. This canon provided for an oath which soon became known as the "et cetera" oath. This oath was to be imposed

⁷⁰Heylyn, Cyprianicus Anglicus, p. 417.

⁷¹England's Complaint To Jesus Christ Against The Bishops Canons, (1640), B2.

⁷²See D'Ewes, The Journal Of Sir Simonds D'Ewes, p. 136 for Sir Thomas Barrington's speech on the canons, Rushworth, III, 306-330. Thus, Sir Nathaniel Fiennes said in the Long Parliament that the canons should be abolished because according to them taxes and subsidies "are due without any act of Parliament." (Rushworth, III, 316.) Given all this contemporary evidence of a furor against the canons for their views of property one must disagree with George, The Protestant Mind Of The English Reformation, p. 223, note 2, where George contends that the canons protected the property rights of the subject and were thus a limitation on divine right. Certainly, contemporaries did not view them that way.

on all bachelors of law, divinity, or physick, all masters of arts save noblemen's sons, all licensed physicians, all doctors of divinity, law or medicine, all proctors, registrars, schoolmasters and church dignatariea and all those who had anything whatsoever to do with the universities. It was an attempt on the church's part to provide the King by the Church with a complete control over education, church personnel, the professions and the universities in order to eliminate any and all elements of potential social and political criticism. Anyone who refused to take the oath would be punished in the following manner at intervals of a month apart: first he would be suspended from office, then lose the benefice of that office and finally be totally deprived of the office in question. The oath to be used was as follows:

I A.B. do swear that I do approve the doctrine and discipline or government established in the Church of England; as containing all things necessary to salvation. And that I will not endeavor by myself or by any other, directly or indirectly, to bring in any popish doctrine, contrary to that which is so established. Nor will I ever give any consnt to alter the government of this church by Archbishops, Bishops, Deans and Archdeacons, etc. As it stands now establishef and as by right it ought to stand, nor yet ever to subject it usurpations and superstitions of the see of Rome. And all these things to do plainly and seriously, I acknowledge and swear; according to the plain and commonsense and understanding of the same words, without any equivocation, or mental evasion, or secret reservation whatsoever and this I do heartily and willingly and trully swear upon the faith of a christian, so help me God in Jesus Christ.⁷³

⁷³Heylyn, Cyprianicus Anglicus, p. 406. Although the use of the term "popish" in this oath may seem surprising in view of the fact that contemporaries accused the Laudians of desiring to bring back "popish" superstitions, the Laudians considered themselves strongly anti-Catholic and believed their revivals of ancient custom were a return to the original church of the Apostles.

This oath was asking for a blanket acceptance of all of the Laudian church which at its best appealed to only a minority of the nation. Such an oath would be unacceptable not only to any "Puritan" but any Englishman with a twinge of doubt about the church. Yet to refuse the oath would immediately label one as disloyal to both church and state so that once again the label "Puritan" was being made synonymous or equal to the king's enemies. And as one modern historian has concluded, "probably nothing did more to convert puritans into parliamentarians than the assumption of the King's supporters that the puritans were the King's enemies."⁷⁴

Still, the Laudians certainly had a valid point in this final attempt to separate the sheep from the goats, particularly in the universities. It had been the infiltration of the universities by more militant Puritans since the days of the Earl of Leicester in the 1570's which had "turned puritanism from the sectional eccentricity of a few great households in the countryside and groups of artisans and small traders in the towns into a nation-wide movement affecting all classes of society."⁷⁵ It is not surprising that one of the avid interests of the restored Charles II was to maintain a close watch over both Oxford and Cambridge in order to keep them well stocked with a loyal and complaisant religious faculty. As Heylyn shrewdly pointed out the finding of an et cetera in the oath only increased the storm

⁷⁴Brian Manning, "Religion And Politics: The Godly People" in Politics, Religion And The English Civil War, p. 91.

⁷⁵Stone, The Crisis Of The Aristocracy, p. 344.

against it since the opposition believed that this left a dangerously discretionary or expansionary power in it.⁷⁶

The fact that this Convocation represented the zenith of Laudian ritualistic views should also be noted. New canons ordered that the communion table be put at the east end of all churches and railed about thus ending all discussion of the issue. Moreover, the fact that Heylyn himself was placed on the grand committee for the canon of uniformity in order that he would be able to summarize it shows that any ideas of finding a moderate solution were not even to be considered.⁷⁷

Equally important in a discussion of the Convocation of 1640 is an analysis of its unfinished work. If the published canons equated an attack on the church with an attack on divinely appointed authorities, the uncompleted activities only expanded on this and other ideas. This uncompleted matter concentrated on an emphasis of both Laudian ceremonies and the ceremonies surrounding the divine rights of kings. Hence a proposal was made for an English pontifical or Bishops Book of Orders to contain the form and manner of the coronation ceremonies as were used first at the coronation of Charles I. These were to serve as a subsequent rule for all future coronations.⁷⁸ This aimed at a maintenance of the ceremonial pomp of the coronation which emphasized the divinity of kingship and also its splendor. The Stuarts may have been concerned about this issue for two reasons. First, as ideas of

⁷⁶Heylyn, Cyprianicus Anglicus, p. 414.

⁷⁷Vernon, Life of Heylyn, p. 101.

⁷⁸Ibid., pp. 102-103. Heylyn, Cyprianicus Anglicus, p. 414.

and reliance on royalist theories grew there was a corresponding need to hedge the person of the king round with physical symbols of his exalted office, symbols which would impress the people. Secondly, if James' coronation had not been so haphazard and if Edward VI and Elizabeth I had established their own ceremony instead of making do with the old catholic ritual there may have been no need for coronation rules. But neither Elizabeth nor Edward had bothered and James' had been a hasty affair with little ceremony because of the presence of the plague in London at the time.⁷⁹

Charles was the first King of England whose coronation was according to Anglican ritual but its emphasis was definitely Laudian. Contrary to custom the coronation was not conducted by the Dean of Westminster, who was out of favor with the King, but by the Bishop of Bath and Wells who at this time was Laud.⁸⁰ The significance of Laud's presence could be seen in the changes which he had made in the coronation oath. Laud had struck out the phrase "that the King should consent to such laws as the people should choose" and substituted the words "saving the King's prerogative Royal." That this change was seen not only as unusual but also as connoting the development of a more royalist outlook can be seen in subsequent events. Though Laud's Convocation of 1640 established this change as the precedent for all future coronation oaths the Long Parliament objected to it and asserted that changes could take place in the coronation oath only by

⁷⁹Willson, James VI & I, p. 165. Heylyn, Cyprianicus Anglicus, pp. 145-148.

⁸⁰Heylyn, Cyprianicus Anglicus, p. 148.

parliamentary act. This opinion was finally established when parliament won legislative sovereignty in 1688. Before then the earlier phrase, "that the king should consent to such laws as the people should choose," appeared to have a "revolutionary countenance."⁸¹

In addition, to these changes there were ideas suggested which definitely sounded like an attempt to establish some sort of pseudo-anglo-catholicism in England what with suggested rites of penance and confession. Men like Laud and Heylyn would have adamantly denied this because they could not foresee the ultimate conclusion that such a revival of ancient usages would lead to.⁸² Neither of the two men were anything like papists since they were theologically protestant despite their liking for old rituals. Indeed, Laud had refused a cardinal's hat as a most repugnant proposal. Heylyn took obvious pleasure in including in Laud's biography the following anecdote:

I have heard from a person of nobility, that at his being in at Rome with a father of the English College, one of the novices came in and told them both with a great deal of joy, that the English were upon returning to the Church of Rome, that they began to set up altars, to officiate in their copes, to adorn their churches and to paint the pictures of saints in the church windows, to which the faterh made reply with some indignation that he talked like an ignorant novice, that these proceedings rather tended to the ruin than the advancement of the

⁸¹Corinne Comstock Weston, "Legal Sovereignty In The Brady Controversy," The Historical Journal, XV, 3, (1972), pp. 428-429.

⁸²One might say that the Laudians presaged the high court movement controversy of the eighteenth century and had both its political and religious conclusions in such groups as the high flyers, the non-juring Bishops of 1688 and ultimately the Oxford movement. The latter was deeply interested in Laud as he was their most obvious link to the past though Laud would have been horrified at Newman's ultimate conversion and acceptance of a cardinal's hat.

catholic cause, that by this means the Church of England coming nearer to the ancient usages the Catholics there would sooner be drawn off from them.⁸³

Unfortunately for Laud and Heylyn most Englishmen were far closer to the young novice in their outlook than to the old priest. Such proposed plans as the issuance of a new printing of the Book of Common Prayer in Latin, plans for the consecration of churches, church-yards and chapels, and ceremonies for returning penitents would only seem "papist" innovations to the majority of Englishmen outside of Convocation.⁸⁴

All in all the Convocation as a whole had emphasized the differences between not only the laity and the clergy but also the differences between the Crown and Parliament.⁸⁵

The canons were almost unanimously approved. Only one voice spoke out against them, that of Godfrey Goodman, Bishop of Gloucester, who objected to canon urging proceedings against the papists. Goodman had hopes for a universal church based on ancient usages and disliked the secular nature of the canons which tied church and state together closer than ever. Although he was probably not a true Roman Catholic in belief, he had toyed with the idea of conversion and did not want a persecuting canon which would only widen the breach with Rome while

⁸³Heylyn, Cyprianicus Anglicus, pp. 391-392.

⁸⁴Ibid., pp. 414-415.

⁸⁵At this point there were no moderate or constitutional royalists as they were only created after Charles had agreed to the early reforms of the Long Parliament as before that they had no case.

it failed to dispel public opinion that the Laudians seemed very close to papists.⁸⁶ In many ways he seems an old and confused man seeking a universal and non-secular church which had never existed. Still he held out, the only member of Convocation to do so. He told Laud that "he would be torn with wild horses before he would subscribe to that canon."⁸⁷

At the voting on the canons he tried desperately to avoid committing himself by pleading that since the days of Henry VIII the church had had no power to make canons without parliament's approval. His echo of the Short Parliament's attack did little good. Laud wanted unanimous approval of the canons and so he pointedly pressured Goodman. He told him that he was hiding behind an excuse he did not believe since he knew they had the king's authority to proceed. Finally, Goodman surrendered but after Convocation Laud had him imprisoned in the Gatehouse of Lambeth Palace in order to squash rumours of papism in the church.⁸⁸ It was a pathetic scene, for Goodman was harmless and his humiliation accomplished nothing for the Laudians.

Meanwhile the growing opposition to the continued sitting of the Convocation was mounting. This pressure and the fact that those Middlesex train bands were required for the constant protection of the body urged them to settle their business. Convocation was adjourned

⁸⁶Gardiner, The History Of England, IX, 147. Gardiner believed Goodman was a papist.

⁸⁷Laud, Works, III, 287.

⁸⁸Ibid., III, 287-289.

and on June 13th the canons were published. Heylyn criticized this hasty conclusion. He said the King's weakness in the face of opposition pushed him into dissolving Convocation once he had obtained his much needed financial gift. The result of this claimed Heylyn was that the oath was submitted to the printers with the et cetera still in it and that because of this small mistake popular furor was brought down on the Convocation's work.⁸⁹ This was really avoiding the basic issues.

One of the judges in the ship money case, Justice Crook, might thank the Almighty for so good a Convocation but far more significant was the fact that from this point on the Court of High Commission needed constant protection for itself from the violent crowds of London.⁹⁰

When the Long Parliament met in November of 1640 it continued the work begun by the Short Parliament on Convocation and attacked the canons, regardless of the et cetera. As Sir Nathaniel Fiennes concluded in his speech on the Convocation and its canons, these laws were damnable because they were "contrary to the Laws of England, destructive to the rights of Parliament and otherwise of very dangerous consequence."⁹¹

⁸⁹Heylyn, Cyprianicus Anglicus, p. 416.

⁹⁰Ibid., p. 418.

⁹¹Rushworth Historical Collections, III, 320.

CHAPTER FOUR

ROYAL HISTORIAN AND REFUGEE

The Convocation of 1640 marked the high tide of Laudian Arminianism, but it was a tide that ebbed rapidly if not all at once. The ink on the printed canons was hardly dry before they were being attacked by critics of both church and state as a plot to subvert religious and political rights.¹ Attempts to enforce them and the "Et Cetera Oath" proved disastrous. When the chancellor of the Bishop of London undertook to enforce the oath in one London church he was met by the verger and his angry congregation at the door. Barring the chancellor's way, he waved away the chancellor's huge mace with the derisive cry, "'I care nothing for you, nor for your artichoke.'"² Meanwhile, the Court of High Commission, moved from Lambeth to St. Paul's for better protection from the mob, was attacked on October 22nd, 1640, by some two thousand "Brownists, Anabaptists and Puritans" with the cry of "no Bishop or no High Commission."³ This crowd tore apart the Court's seats and the benches of consistory, an action that forced the King to put in a guard to prevent

¹Heylyn, Cyprianicus Anglicus, p. 417. See also Rushworth Historical Collections, III, 300-315 for the various county petitions against the convocation and its work.

²Wedgwood, The King's Peace, p. 332.

³Laud, Works, III, 237.

further attack.⁴

Amidst the tumultuous events London prepared for the new parliament that was to open on November 3rd. The date had ominous connotations for the church. Heylyn, himself, was upset by an anonymous letter to Laud warning that the date was the same as the opening date of the Reformation Parliament of 1529. It encouraged Laud to seek at least a day's delay in the opening lest the present Parliament, like the earlier one, pull down the church and its leaders.⁵ Heylyn long remembered this letter since by November, 1640, he was beginning to think that not only the safety of the church but his own personal future was at stake. He confided to his diary that his "turne was harde at hand."⁶ A major reason for his doubts, of course, was the new Parliament. On November 22nd, 1640, in a sermon at St. Mary's Church, Cambridge, Heylyn vividly revealed his suspicions about parliament. He warned both the King and the public to watch it carefully because, its presentation, though it appeared to be one of reforming innocence, was merely a thin guise for the rebellion in some member's hearts.⁷ According to Heylyn, the rebel leaders hoped that by inducing deviously submissive means of reform to win over the public and other members to more radical ideas. He warned that though the rebel leaders sought their own private ambitions and power at heart, the danger was the greater because their claims were

⁴Heylyn, Cyprianicus Anglicus, p. 425.

⁵Heylyn, Ibid., p. 429.

⁶Wood Manuscript E 4 or Heylyn, Memorial Of Bishop Waynflete, p. xvii.

⁷Heylyn, A Sermon Pointing Equally Forward And Backward (London: 1647), pp. 17-18.

cloaked under the name of the people's liberties.⁸ This guise made it difficult to oppose and criticize them.⁹ Heylyn's apprehension was well-founded. Within a few short weeks his previous activities in the church were to bring him into such conflict with Parliament that he became a royalist refugee.

On November 16th, 1640, his old enemy, Bishop Williams of Lincoln, was released from the Tower to become the idol for a time of both houses of Parliament.¹⁰ Williams release was immediately followed by the freeing of the three "martyrs" of 1637, Frynne, Bastwick and Burton. This event assumed emotional overtones when Frynne and Burton travelled to London together and were met at Brainford by several thousand people, who welcomed them with sprigs of rosemary and bay and conducted them to London. Affronted by this demonstration in defiance of the King's authority, Heylyn bitterly criticized Charles' government for its inaction. Such weakness in the face of opposition, so it seemed to him, only increased the boldness and delinquency of unruly subjects.¹¹

⁸Heylyn, A Sermon Pointing Equally Forward And Backward, pp. 22-25.

⁹See D. H. Pennington, "The Rebels Of 1642" in The English Civil War And After, 1642-1658, edited by R. H. Parry, (Berkeley: The Univ. of Calif. Press, 1970), p. 27. This article contends that the real revolution of the Long Parliament was that unlike previous parliaments it considered itself a continuous part of the governing process and a continuing opposition. This idea was summed up in the demand that the king surrender the right to dissolve this parliament. Pennington also argues that the parliament developed its governing and opposition ideas simultaneously from its first days. Ibid., pp. 28-29. This thesis supports the argument in Heylyn's sermon that the parliament was a "rebellious opposition" from the very start.

¹⁰Wood Manuscript E 4 or Heylyn, The Memorial Of Bishop Waynfflete, p. xxii.

¹¹Heylyn, Cyprianicus Anglicus, p. 436.

Heylyn might well have been concerned that the release of the "Martyrs" would lead to more organized attacks on the church and on church supporters like himself. By early December, 1640, Prynne was conferring with the Bishop of Lincoln and Edward Bagshaw in secret conferences aimed at pulling down "Laud, Archbishop of Canterbury, Wentworth, Earl of Strafford, Heylyn of Westminster and other royalists."¹² These secret meetings frightened Heylyn for excellent reasons. The Bishop and Prynne were his old enemies while Bagshaw was no friend of the church or the King, at least at this time.

A word about Bagshaw is helpful. He was a member of the Middle Temple and member of Parliament from Southwark in London. A man of popular influence Bagshaw was potentially a formidable opponent. This had been demonstrated in the spring of 1640 when, looking forward to a new parliament in the fall, he had suggested that according to a law of 25 Edward III cap. 7 the clergy were not entitled to a voice in civil or religious matters.¹³ Although Lord Keeper Finch persuaded Bagshaw that this was no moment to raise an intricate point of law, the suggestion presaged a successful attempt in Parliament to exclude the Bishops from all temporal affairs.

Heylyn's cause received a further set back when on December 15 the House of Commons condemned the canons of 1640 as "against the King's prerogative, the fundamental laws of the realm, the liberty and property

¹²Anthony Wood, Athenae Oxonienses (London: 1691), I, 804.

¹³C.S.P.D., 1639-1640, pp. 522-524.

of the subject, and containing diverse other things tending to sedition; and of dangerous consequence."¹⁴ In addition, Laud was condemned for being the chief mover of the canons of 1640. Parliament then appointed two committees: the first, called the Committee on Affairs For Religion, was empowered to investigate the lives and actions of the clergy. The other was a special committee of clergymen to be chaired by Bishop Williams. The latter group was to meet in the Dean of Westminster's lodgings and deal with questions of doctrine. After this, events moved rapidly, and on December 18th, Laud was impeached in the names of the Commons of England for high treason.¹⁵ At the same time, opposition arose to the continued presence of the Bishops in the House of Lords, crystallizing in their removal from Parliament in March, 1641, the introduction of Root and Branch as a cure-all for Arminianism, and the execution of Laud in January, 1645.

Despite his personal fears for his own safety after the fall of the Laudian regime, Heylyn wrote on his own initiative a small defense of the bishops entitled De Jure Paritatis Episcoparium. The manuscript was intended only for the bishops and was privately circulated among them. The main theme was that the bishops were in Parliament not merely because of their religious office but also as peers of the realm. They had been peers since the Norman Conquest when they held their estates by virtue of military service only and not clerical appointment. The fact

¹⁴Laud, Works, III, 238. See also Commons Journal, 1640, II, 50-70.

¹⁵Heylyn, Cyprianicus Anglicus, pp. 436, 442 and 443.

that this feudal military tenure gave them the same rights as any lay peer could be demonstrated in the fact that the Bishops of the Isle of Man did not sit in Parliament because they did not hold their land by such an ancient tenure.¹⁶

Heylyn's reasons for writing the work were partly due to his own interest in historiography, but he was also concerned to defend the bishops. He feared that on this issue, as on others, the King would give way to opposition. It is to be noted that Heylyn criticized Charles for allowing himself to be drawn "by degrees to such condescensions as finally left the church without any authority, and the crown with little more prerogative than a titular and precarious empire."¹⁷

Heylyn, too, was on the defensive. On December 13, 1640, while preaching at Westminster he was interrupted when Bishop Williams walked down the aisle and proceeded to pound upon the pulpit with his staff, shouting "no more of that point, Peter, no more of that point."¹⁸ The undaunted Heylyn finished his sermon on the theme that some would risk tumult rather than conform to the lawful government placed over them by

¹⁶See pp. 738-747 in De Jure Paritatis Episcoparum: Or A Briefe Discourse Asserting The Bishops Rights Of Peerage, Which Either By Law Or Ancient Custom Doth Belong Unto Them, printed in ΚΕΙΜΗΑΙΑ ΕΚΚΛΗΣΙΑΕΤΙΚΑ: The Historical And Miscellaneous Tracts (London: 1681). This book contains a print of Heylyn in his thirties, probably the only surviving one. It reveals him as a man with strong but delicate features and a thin frame, a frame which illness and misfortune were said to have reduced to skeletal features by the 1650's.

¹⁷Heylyn, Cyprianicus Anglicus, p. 452.

¹⁸Heylyn, Memorial Of Bishop Waynfflete, p. xxii, and Barnard, Life Of Heylyn, p. 193.

God. He then went to his house in Westminster with his close friend, neighbor, and fellow royalist, Sir Robert Filmer. Once there he had sealed up his sermon in the presence of several other friends and neighbors so that no changes could be made, and had then sent copies to friends at court and in Parliament.¹⁹ These actions led to the Council's censoring of Williams.²⁰

There was good reason for taking careful precautions. Only a few days earlier Heylyn had been called before the parliamentary Committee On Religion upon Prynne's complaint that as Laud's subservient instrument he was responsible for Prynne's sufferings. Starting on December 9th, and for three subsequent days, Heylyn was questioned about his activities in the period after 1630. The committee was diligent. In the case of Heylyn's role in the Feoffees case they even cross-checked his sermon as a reference both for his participation in the case and as the possible beginning of the Feoffees suppression.²¹ The committee's work was also helped by Prynne when he not only brought in copies of all of Heylyn's writings but also induced a company of butchers to testify against one of his sermons.²²

The major goal of the committee, although probably not of Prynne (who had his own personal grievances), was to secure from Heylyn a confession that his activity was due to Laud's orders. Such an admission

¹⁹Barnard, Life of Heylyn, pp. 195-196.

²⁰Heylyn, Memorial Of Bishop Waynflete, p. xxii.

²¹C.S.P.D., 1640, p. 330

²²Vernon, Life of Heylyn, pp. 118-119.

would give the committee vital evidence against Laud in any impeachment trial since it would have provided them a witness to corroborate their charge that Laud had been "personally" responsible for the actions of his various officials. Heylyn, however, was adamant in his defense that all of his actions were taken under royal authority.²³ Unable to elicit anything from him to personally implicate Laud, the committee decided to dismiss him. Heylyn's actions before the committee had distinct parallels with Laud's own behavior later, at his trial in 1645, when Laud also pleaded his innocence with the claim that he was only obeying royal authority. More than that, Laud repeatedly refused to admit any connection with Heylyn's earlier activities and preferments, despite considerable evidence to the contrary. This was in order to protect him since Laud did not defend other Arminian clerics in this way.²⁴

²³Ibid., p. 108.

²⁴For trial materials relating to Heylyn see Laud, Works, IV, 85-86, 107, 110, 289, 294, 363 and 386; William Prynne, A Breviate Of The Life Of William Laud Archbishop Of Canterbury, (1644), Hidden Works Of Darkness, (1645) and Canterburies Doome, (1646), pp. 173, 177, 186, 198, 227, 249, 317, 356-357 and 360; C.S.P.D., 1639-1640, pp. 580-582; Peter Heylyn, A Briefe Relation Of The Death And Sufferings Of The Most Reverend And Renowned Prelate The Lord Archbishop Of Canterbury, William Laud (Oxford: 1644). In particular, Laud denied having advanced Heylyn in the church even though the C.S.P.D., 1643, p. 536-537, states that "when Laud became Archbishop of Canterbury, amongst others are the preferment of Peter Heylyn to the rectory of Hemingford and to Prebend in Westminster according to a list of warrants, grants, etc." These were the appointments which Laud at his trial attributed to Lord Danby among others. Still the evidence from the C.S.P.D. only confirms that they were under Laud's seal. What then of the Royal Docquet Book which according to Prynne showed the appointments were from Laud. Canterburies Doome, p. 360. Although the Public Record Office has earlier and later editions of the Docquet Book the one covering 1629-1640 is missing. It was suggested by one of the librarians that the book in question was either destroyed in the Great Fire of London in 1666 or else since it is last mentioned in Prynne's possession, that the latter may never have

By 1640, then, the Laudian church was, as one modern historian has said, on the path whereby it "came perilously near to dying for Charles."²⁵ As Clarendon stated more bluntly "none were persecuted with more rigor than the clergy."²⁶ Moreover, this persecution, which began with the activities of the Long Parliament and did not abate until the Cromwellian Interregnum, had a considerable and decisive impact on Laudian clerics like Heylyn.

These results are not surprising when one looks at the attitudes of the clergy within the church at the beginning of the constitutional crisis. Indeed, not only do these attitudes and actions have a direct bearing on Heylyn's own activities during this period, but they also give us a clearer picture of the clergyman in relation to his contemporaries. It has been estimated that at the beginning of the civil war there were approximately 8,000 benefices within England and Wales. Furthermore, of the occupants of these 8,000 positions, about 4,000 were "High" church like Heylyn, 1,000 were genuine Puritans, and the balance formed a middle group.²⁷ Given these figures, it is not surprising that

returned it after he signed it out for Laud's trial. Despite Laud's desperate subterfuges it is highly unlikely that these preferments came from anybody but Laud particularly as Heylyn himself stated that they had. (Heylyn, A Full Relation Of Two Journeys To France (London, 1656), page 3 of the preface.

²⁵Robert S. Bosher, Anglicanism In Exile, p. 4. An unpublished master's thesis, New York, 1947. General Theological Seminary Library.

²⁶Clarendon, The History of the Rebellion And Civil Wars, V, 73.

²⁷Paul Hardacre, The Royalists During The Puritan Revolution (The Hague: 1956), p. 7. The term "High" is used here somewhat prematurely since "High Flyer" was not used until the 1680's. High, however, can be applied to the Laudians since they are the direct ancestors of the high church

the number of English clergymen migrating abroad to continental exile in the civil war years was comparable to that of the French ruling class during the French Revolution.²⁸ They left for many reasons: to escape punishment or imprisonment, to avoid harassment because of close ties to the Royal family, and to have the opportunity to practice their beliefs freely. Often they left everything behind in order to escape: friends, wives, children, dependent relatives. In fact, so little care did some exiles give to their families and so numerous were the numbers of wives and children left deserted and destitute that in 1643 Parliament ordered that the new holders of benefices were to pay one-fifth of their annual revenue to the wives and children of such ejected ministers.²⁹

These exiles performed one momentous task. They converted the King's chief minister, Sir Edward Hyde, to the principle that the Church of England must be restored with the monarchy and without concessions. That is, a restoration should bring back a church, totally Laudian in

party. Probably the best description of a high-flyer was given by Henry Sacheverell, certainly the most vociferous high-flyer of his day. He described the principles of a high churchman as follows: "He is high for the Divine Right of episcopacy, high for the uninterrupted succession, high for the liturgies against extemporary prayers, high for the primitive doctrines and disciplines of the ancient church... He believes separating from the church of England to be a damning schism...and he is always bowed very low before the altar and the name of Jesus." See Henry Sacheverell, The Character Of A Low Churchman: Drawn In Answer To The True Character Of A Churchman: Showing The False Pretences In That Name (London: 1702), p. 18. The descent of these high-flyers from the Laudians is obvious.

²⁸Bosher, Anglicanism In Exile, p. 3.

²⁹Hardacre, The Royalists During The Puritan Revolution, p. 43.

regard to the doctrine, ceremony, and inner church discipline.³⁰ Their hopes were fully realized at the Restoration. But what of clergymen like Heylyn, who remained behind in England?

One of the major points to remember about Laudians in England like Heylyn is "that they were not conscious of being one party among several; they thought of themselves rather as the faithful remnant of a persecuted church, from which all others had fallen away."³¹ They formed a strong minded if individualistic group, which worked in every way possible to advance the cause of the church and the monarchy. In the beginning such opposition was costly and difficult since many lost their homes and property, as ecclesiastical sequestration corresponded almost directly with the success of the parliamentary armies. Yet, some exiled clergy in the 1650's were being allowed to resume their benefices. Despite personal vicissitudes, then, the Laudian remnant assisted the King's party in numerous ways after 1642. In particular, they devoted themselves to publishing royalist ideas and exhorting the King's subjects to stand fast to the royal cause and the

³⁰Norman Sykes' introduction to Robert S. Bosher's The Making Of The Restoration Settlement: The Influence Of The Laudians, 1649-1662 (New York: Oxford Univ. Press, 1951), pp. ix-x. Bosher argues that a Laudian revival was the corner stone of the exiles policy and that they achieved it when they converted Hyde, now Earl of Clarendon during the years of exile. The church restored in 1660 was essentially Laud's church with no concessions to Puritan, let alone Presbyterian elements. See also B. H. G. Wormald, Clarendon, (Cambridge: The Univ. Press, 1951), p. 322. Wormald writes that Clarendon was convinced by 1660 that "the interests of true religion and those of the state were intrinsically woven together." This had been a basic idea of Laud and Heylyn.

³¹Sykes, Introduction, The Making Of The Restoration Settlement, p. xv.

church.³² Given Heylyn's past career as a polemicist, it is not surprising to find him a major contributor to this literary output.

Although Heylyn's difficulties began with the onset of the Long Parliament, he managed to elude censure by the Parliamentary Committee on Religion and even persuaded the King's council to censure the actions of the Bishop of Lincoln in rudely interrupting his Westminster sermon.³³ These victories were short-lived. By January 29th, 1640, Heylyn was petitioning the King for protection for previous activities, expressing the hope that the King would be interested in "preserving the meanest creature belonging to him."³⁴

He had good cause to seek protection. By 1641, not only was Laud imprisoned; but Heylyn himself was also being publicly attacked by the monarchy's opponents as were other prominent Laudians. In A New Discovery Of The Prelates Tyranny (1641) John Bastwick repeatedly criticized Heylyn for his earlier participation in the case against Burton, Bastwick and Prynne in 1637. And although this work did not go so far as some later pamphlets would, still Heylyn was convinced that his best course was to leave London. He had come to see in London the chief seedbed of revolt against the crown and the church, and thus he longed for the

³²Walker Revised: Being A Revision Of John Walker's Sufferings Of The Clergy During The Grand Rebellion 1642-60, edited by A. G. Matthews (Oxford: The Clarendon Press, 1948), p. 13. Hardacre, p. 43 and Bosher, p. 11.

³³Wood Manuscript E 4 or Heylyn, A Memorial Of Bishop Waynflete, pp. xxii-xxiii.

³⁴C.S.P.D., 1640-1641, p. 446.

peace of his favorite parish of Alresford.³⁵

He was not wrong in his assumption that it would enable him to find some tranquility for he was well liked in this small town, where he had always been the most conscientious of clerics with his friendly care for all and his generous support of poor relief. That he was popular here was shown by the incident that when a minority of four tried to draw up articles against him later that year, nothing came of it.³⁶ Indeed, much later in the war the same parishioners at Alresford would not only purchase some of the clergyman's confiscated goods but also actually save them for him until he was settled again.³⁷

In the meantime, Heylyn was engaged in raising funds for the King's cause. At the beginning of the war in 1642 he raised the sum of £1,348, 2s, 4d in Hampshire while from his own resources he contributed money and plate to the value of one hundred pounds.³⁸

³⁵Pearl, London And The Outbreak Of The Puritan Revolution, p. 7, J. H. Hexter, The Reign Of King Pym (Cambridge: Harvard Univ. Press, 1968), Appendix A, pp. 211-213 and Peter Heylyn, The Black Cross: Showing That The Londoners Were The Cause Of The Present Rebellion, (1643). Heylyn believed that because the well organized Puritan party in London had eventually taken over the city government and had surrounded the Long Parliament with a protective wall that allowed it to push the country over the brink of war before anyone could interfere.

³⁶Vernon, Life of Heylyn, p. 119. Two of the four were illiterate as they could only make their mark.

³⁷Barnard, Life of Heylyn, p. 274. Fund raising was not a new activity for Heylyn as in 1639 he had raised £50 for the war against the scots. His loyalty to the royalist cause, however, must have aroused some displeasure in his family as John Barnard, who was both the cleric's biographer and son-in-law, said that the donation of £100 was "more than his estate could bear having so many children." (Barnard, p. 274.) Heylyn had eleven children.

³⁸Vernon, Life of Heylyn, p. 123.

Tranquility proved an illusive commodity. At the outbreak of the war Parliament ordered Sir William Waller to arrest Heylyn in Alresford and transport him to Portsmouth for imprisonment. Waller could not have relished his instructions or else he was naive. Heylyn managed to persuade him to allow a few days leave so he could put his affairs in order and Waller's hesitation allowed Heylyn to flee to Oxford, where he joined the King's forces.

Once there he became a militant royalist and was soon appointed royal historian. Although Heylyn accepted the appointment he did not enjoy the position after discovering that it involved the arduous, uncomfortable, and often displeasing chore of being a polemical journalist. Nor did he find the company in Oxford congenial. Clarendon has described Oxford at this time as being wracked by "discomposures, jealousies and disgusts"³⁹...a place where in "every man thought himself neglected and slighted in that another was better esteemed. And this poison of envy wrought upon many natures which had skill enough not to confess it."⁴⁰ Within this fetid atmosphere many of the King's followers behaved like a flock of vultures fighting over the honors of war as scavengers of the sky quarrel over carrion.⁴¹ Nor was the squabbling confined to lay supporters of the King. Numerous notations in Heylyn's own diary attest to his disgruntlement over the way clerical rewards were distributed, particularly after the sequestration of his estate in April, 1643,

³⁹Clarendon, The History Of The Great Rebellion, III, 222.

⁴⁰Ibid, III, 223.

⁴¹Ibid, III, 230.

made him eager for some sort of relief.⁴²

In addition, Heylyn found little congeniality with many of the King's supporters in the ideological sense. As an ultra-royalist with ideas of legal absolutism, he had little sympathy for influential constitutional royalists like Clarendon who he believed had given away far too much in the early days of the Long Parliament in order to gain a party for the crown. Heylyn agreed with Thomas Hobbes that the limitations imposed upon the King's sovereignty by the constitutional royalists with their theories of mixed monarchy was a disaster as mixarchy soon became anarchy.⁴³

In particular, Heylyn disliked the tender consciences from the circle of Great Tew with their doubts about the King's trustworthiness after victory. That Heylyn had antipathy for men with such fragile consciences and such equivocal loyalty was shown in his remark at the death of their leader Lord Falkland. Heylyn wrote that "the church lost no great Friend" at his death.⁴⁴ Falkland was a troubled soul, upset by the results of personal rule and the Laudian Revolution, who had attacked the

⁴²Heylyn, Memorial Of Bishop Waynflete, pp. xxiii-xxiv. He was refused both the Deanery of York and also financial reparation.

⁴³Coltman, Private Men And Public Causes, p. 163.

⁴⁴Wood Manuscript E 4 or Heylyn, Memorial Of Bishop Waynflete, p. xxiii. Also Anthony Wood, The Life And Times Of Anthony Wood, Antiquary Of Oxford, 1632-1695, Described By Himself (Oxford: The Clarendon Press, 1891), III, 338. Wood was well acquainted with the older Heylyn and recorded in his diary how Heylyn had told him Falkland was no loss to the Church of England and King, as he had been their enemy.

bishops in the Long Parliament but, frightened by Root and Branch, supported Strafford's attainder. Finally, terrified that established law might be over-thrown, he supported the royal cause in the war although he did not side with the king's ideas. Even in death Falkland had not found peace since his death at the Battle of Newbury in September of 1643 was as much a suicide as anything else. Before the battle he had declared his intellectual helplessness and added that he hoped "'to be out of it before evening.'"⁴⁵ Undoubtedly, Falkland seemed to Heylyn much like his earlier opponent, Henry Burton, as both possessed consciences and independent, uncommitted, and inquiring attitudes that opened the way to anarchy by disavowing the traditional hierarchy of obligatory obedience.

A lack of kindred souls, however, was not the clergyman's only reason for disgruntlement, nor was his lack of reward. Rather, his unhappiness stemmed from the fact that he considered his work as a royal historian beneath his dignity as a cleric. Obviously the King had thought that given Heylyn's previous activities as a successful polemical and propagandist writer for Laud, he would find the writing of the weekly chronicle, Mercurius Aulicus, a suitable employment. But such was not the case. Heylyn not only found his task an undignified one he also feared the notoriety which it gave to his family and property. His forebodings concerning Parliament's potential malice, although unheeded by the King, proved correct.⁴⁶ Within six months Heylyn was voted a

⁴⁵Coltman, Private Men And Public Causes, p. 104.

⁴⁶Vernon, Life of Heylyn, pp. 123-124.

delinquent by the House of Commons and his estate was sequestered. He was also attacked in the press. An anonymous pamphlet of 1643 described Heylyn in these terms:

An Oxford incendiary is the excrement of ill-governed monarchy; the vast volume of treason wrapped up in one epitome, one that feeds the vulture prerogative with the carcass of the commonwealth, that it may disgorge into its own coffers; and make a mule to say the worse of majesty, to carry him through all of his private designs against the publick.⁴⁷

At Alresford parliamentary troops stripped and defaced his house while confiscating his personal library.⁴⁸ As a scholar Heylyn must have found the loss of his books painful. In addition to a loss of convenience, his library had also been a valuable possession. It was estimated that he had owned nearly £1,000 worth of books and documents.⁴⁹ Bereft of his books and beset by personal ruin, Heylyn faced the humiliating realization that his loyalty had reduced his wife and children to the charity of friends in London.

It was with reluctance, then, that he had begun and continued his work on Mercurius Aulicus. Fortunately, he was soon aided on a part-time basis by one of Laud's former secretaries, John Birkenhead. This was a fortuitous happenstance, but a happy one, as Birkenhead proved to be an

⁴⁷"The Career of an Oxford Incendiary," The Harleian Miscellany (London: Robert Dutton, 1810), V, 340. Since Heylyn had been out of all public matters since 1640 save for the newsletter such a vicious attack was probably aroused by this activity.

⁴⁸Vernon, Life of Heylyn, pp. 126-127.

⁴⁹Barnard, Life of Heylyn, p. 203. Barnard may have overestimated the precise financial loss but the fact that his books were put into a public library at Portsmouth indicates that they had considerable value to those who confiscated them. Heylyn, Memorial Of Bishop Waynflete, p. xxiii, Matthews, Walker Revised, p. 185.

enthusiastic journalist, more than willing to accept eventually the total authorship of the newsletter. Personal worries aside, the major differences in their attitudes were soon revealed in their styles. Although Heylyn was a proven polemicist, as a scholar he lacked the colorful phrasing, love of scandal mongering, spicy humor, racy style and flair for invention if not actual prevarication that a born journalist like Birkenhead possessed.⁵⁰ Week after week, Heylyn complained of a lack of accurate information,⁵¹ since he was unwilling to either invent news or use colorful trivia. Still, he ground out his editions, until on September 27, 1643, he finally was able to relinquish his task to the younger, and more eager man. Heylyn was now released from his hated task except for four weeks in June, 1644, when he substituted for Birkenhead who had accompanied the King to Worcester.

Meanwhile Heylyn's newsletter "did much to encourage scandal mongering as a national pastime;"⁵² an activity which only expanded after the lively Birkenhead assumed sole authorship. Working together they contributed much towards the creation of a heroic cavalier image where royal leaders were always "Brave, noble and sensitive men conquering

⁵⁰P. W. Thomas, Sir John Birkenhead: A Royalist Career in Politics and Polemics (Oxford: The Clarendon Press, 1969), pp. 26, 33-36.

⁵¹Hexter, The Reign of King Pym, Appendix A, p. 213. Hexter points out that although Mercurius Aulicus was often "a conscientious liar of the same magnitude as Marchmont Needham on the Parliamentary side" still all his writings were not mere rumour as some are repeated in unimpeachable sources elsewhere. Hexter did not know that the newsletter was the work of two different men, one of whom had a careful eye for truth and good London connections.

⁵²Thomas, Sir John Birkenhead, p. 104.

by genius' right."⁵³ In the newsletter Heylyn often minimized royalist losses in battle and emphasized this side's quick victories.⁵⁴ In addition, he carried over the heroic tradition to include praise for Queen Henrietta Maria. She was commended not only for her bravery but also for her excellent services as an agent in obtaining much needed supplies from the Prince of Orange.⁵⁵

Another approach was to denigrate the opposition. And so Heylyn attacked the Parliamentary troops for cowardly acts, blasphemous behavior, rape and pillage, insinuating that this was their idea of doing God's work.⁵⁶ He also depicted London as the nucleus of the rebellion which must be captured. "Our friends of London" he wrote, were "the beginners

⁵³Ibid., p. 102. Also, Mercurius Aulicus, A Diurnall, Communicating The Intelligence And Affairs Of The Court To The Rest Of The Kingdom (Oxford: MDCXLIII - MDCXLIII).

⁵⁴The following pamphlets in this chapter were all written for Mercurius Aulicus although they were published with specific titles unlike the majority of the newsletters. The Wood Manuscript is available at the Bodeian library, Oxford. The other pamphlets are in the possession of the library at Lambeth Palace, London. Wood Manuscript 375 "The Bataille Of Hopton Heath." Also Wood Manuscript 375, A True And Briefe Relation Of The Great Victory Obtained By Sir Ralph Hopton, Neare Badmin, and Wood Manuscript 375, A Particular Relation Of The Action Before Cirencester In Gloucester.

⁵⁵Wood Manuscript 375, A Briefe Relation Of The Remarkable Occurences In The Northern Parks. It is not surprising that royalists like Heylyn were anxious to defend the Queen. As H. R. Trevor-Roper, "Fast Sermons In The Long Parliament" in Essays In British History (London: Macmillan & Co., 1964), pp. 104-105. See also Quentin Bone, Henrietta Maria: Queen Of The Cavaliers (Urbana: Univ. of Illinois Press, 1972), p. 160. Quentin states that she "appeared to be the greatest obstruction to an understanding between the King and his people" to the two Houses.

⁵⁶Wood Manuscript 376, The Round-Heads Remembrancer.

and maintainers of the present war."⁵⁷

Although Heylyn was only one of a group of royalists writers and pamphleteers who rooted the outbreak of war in London, he, at least, had valid reasons for doing so. He was well known for close city connections and was undoubtedly aware that the election of a hostile or anti-crown council in December, 1641, had led the King to leave Whitehall in the following January.⁵⁸ Moreover, that he himself was rumoured to have been in the city for a brief time in 1643 may mean that he had access to new information.⁵⁹

Heylyn also defended the King and the Royalist armies against the charge of being papists.⁶⁰ Here he stressed the point that the King's rights were a barrier to anarchy and that parliament's rising demands for more power could end in disaster for all.⁶¹ Heylyn followed up this point by hammering away at the idea that taxation was illegal unless it had the King's consent.⁶² The latter was a sensitive issue:

⁵⁷Wood Manuscript 376, Lord Have Mercie Upon Us Or A Plaine Discourse Declaring That The Plague Of Warre Which Now Wrests This Nation, Takes Its Beginning In And From The City Of London, p. 33.

⁵⁸Pearl, London And The Outbreak Of The Puritan Revolution, pp. 7, 132-133.

⁵⁹Ibid., p. 133. By then Heylyn's family was staying in London with friends.

⁶⁰Peter Heylyn, A Letter From An Officer In His Majesties Army To A Gentleman In Gloucester, (1643).

⁶¹Ibid., pp. 14-15.

⁶²Peter Heylyn, Theeves, Theeves: Or A Relation Upon Sir John Gell's Proceedings In Darbyshire, In Gathering Up The Rents Of The Lords And Gentlemen Of That County, (MDCXLIII).

he knew full well that while the king lacked funds for his needs, Parliament collected abundant monies through taxation and sequestrations of royalist property. After all, he had lost his estates.

Emphasizing the illegal and arbitrary nature of the power that Parliament was claiming in order to show how right the King had been in 1642 to refuse to surrender his rights, he maintained that Parliament had hoped to divest Charles of the royal power whereby he was able to protect his subjects.⁶³ As the war advanced, said Heylyn, Parliament had proved to be the true political tyrant. Without the King's authority it had not only made unnatural war upon fellow subjects but had imprisoned, slain, plundered and impoverished those subjects who would not comply with their despotic acts.⁶⁴ He also traced this rising aggression to the growing ascendancy of the Parliamentary army in political affairs.

Despite his industry and incisive arguments, Heylyn was glad to relinquish his task to Birkenhead in September, 1643. Still, he did not leave Oxford, instead staying on to continue his writings, particularly his defense of the Laudian Church and the legality of the controversial Convocation of 1640. Earlier he had published works in this vein, but now he chose to follow up his definitive two volume History Of Episcopacy with a timely pamphlet entitled Parliament's Power In Laws For

⁶³Peter Heylyn, A Letter To A Gentleman In Leicestershire Shewing Out Of The Publick Writings Which Have Passed Betwixt His Majestie And His Two Houses Of Parliament That All The Overtures Which Have Beene Made For Peace And Accomodation Have Proceeded From His Majestie Only (Oxon: MCCXLIII), p. 22.

⁶⁴Ibid., p. 28.

Religion.⁶⁵ This was his answer to Parliament's Root and Branch cure-all for Laudian Arminianism. In this work he described the Reformation as dominated neither by the king nor by parliament. It had been accomplished by Convocation.⁶⁶ This being the past history of the Church of England, there was no precedent, as Prynne claimed, for Parliament to establish a true religion by its own authority since the assent of the clergy in Convocation must be a prerequisite for change.⁶⁷ In a way, it was Heylyn's last if roundabout way of defending the Convocation of 1640 and the validity of its canons. It was followed by a more sorrowful task as Heylyn composed a small pamphlet on Laud's demise, A Briefe Relation Of The Death Of Laud, (1644). This was probably the first stepping stone towards the massive Cyprianicus Anglicus (1671).⁶⁸

Engrossed as Heylyn must have been in his theological writings, he still found time to write the two most important political works of his life. These did much to establish not only a royalist school of historiography but, even more importantly, an absolutist ideology of royal

⁶⁵This two volume study was published in 1642 and consisted of a defense of Laud's revival or ancient customs and an examination of the ancient proof for the divine right of episcopacy. It was partly reprinted in 1657 in Heylyn's Ecclesia Vindicia since the second volume of both the 1642 work and the 1657 one are identical although the first differs.

⁶⁶Peter Heylyn, Parliament's Powers In Lawes For Religion, Or An Answere To That Old And Groundless Calumny Of The Papists, Nick Naming The Religion Of The Church Of England By The Name Of A Parliamentary Religion (Oxford: 1645), p. 31.

⁶⁷Ibid., p. 19.

⁶⁸Cyprianicus Anglicus is not only the fullest study of Laud's life but until the middle of the nineteenth century it was the only one and without it we would know much less of Laud than we do.

sovereignty. Ironically, the first work, The Rebels Catechisme, was not written on his own initiative but at Birkenhead's request as a final publication for Mercurius Aulicus.⁶⁹ Undoubtedly, the suggested subject appealed to Heylyn because he had long discussed such ideas with friends like Sir Robert Filmer. This small pamphlet spurred him on to the more ambitious and extensive The Stumbling Block Of Disobedience (1658). The political ideas expressed in these two works were intended to serve as an effective rejoinder to nearly all the parliamentary arguments of the period and were to be of great importance to royalist ideology.⁷⁰

It will be necessary to return to these two works, but for the moment it is to be noted here that Heylyn left Oxford in 1645 and was soon overwhelmed by problems which are familiar to every political refugee. He was financially destitute, feared arrest, and was forced into disguises for his safety. During these wanderings Heylyn dressed himself as a poor parson, a yeoman or a decayed gentleman and used names familiar to his friends like Barker and Harding.⁷¹ His travels as a refugee were not uneventful. At one time he was robbed by parliamentary soldiers who were disappointed that he had no gold in his boots.⁷² On another occasion while hiding in Oxfordshire, he was forced to flee down the garden steps of the house in the middle of the night out of fear that

⁶⁹Heylyn, Memorial Of Bishop Waynflete, p. xxvi.

⁷⁰These works will be discussed in chapter six.

⁷¹Heylyn, KEIMHAI'A'EKK'AHEIAETIKA: The Historical And Miscellaneous Tracts, pp. xvii-xviii.

⁷²Ibid., pp. xviii-xvix.

one of his protector's sisters would betray him.⁷³

Finally, he was able to find some solace with his wife and family at Winchester since that resourceful woman had raised some funds.⁷⁴ This proved to be only a brief respite. After parliamentary troops captured the city in 1646, Heylyn resumed his flight in disguise; but his wife and family shared the fate of many clerical families. They were forced to sue the new minister at Alresford for the one-fifth stipend to which they were entitled as the dependents of an ejected minister. Despite a great deal of wrangling, Mrs. Heylyn eventually collected her fees.⁷⁵

With the ending of the first civil war Heylyn compounded on the Oxford Articles on December 6, 1646 at Goldsmith's Hall. He was fined at a tenth of his property and had to pay £112. Also, all personal estate was taken from him except for a small property in Gloucester which, leased from the chapter at Westminster, gave him a return of £26 per year.⁷⁶

The sum for which Heylyn compounded provides an insight into his finances after the vicissitudes of war. By 1646 he was still worth some £1,120 despite sequestration. This puts him into the middle range of compounding clerics as all clergy who had estates of under £200 were

⁷³Ibid., p. xvii.

⁷⁴Vernon, Life of Heylyn, p. 131.

⁷⁵Matthews, Walker Revised, p. 185.

⁷⁶Ibid., p. 185.

excused from compounding, while the average of the sums assigned those who compounded between 1643 and 1646 shows that their capital value averaged about ~~£~~1,150.⁷⁷ Of course, if he had compounded earlier, he would have been liable for much more. In terms of finances, then, Heylyn had been a substantial cleric in the Laudian church.

In 1648 he was able to relocate his family in Oxfordshire, at Minster-lovel, on the estate of an elder brother where he farmed for nearly six years for a nephew, Colonel Heylyn. By then, if his health and eyesight were failing, still his spirit was undaunted. While his loyal, loving, and capable wife managed the household and farm, Heylyn devoted himself to scholarly work.⁷⁸

In 1653 his resources were restored to the point where he could purchase a small house called Lacies Court. This must have been a happy move for Heylyn as his new home was in Abdingham, close to Oxford. He could now easily obtain books from the booksellers' shops, the Bodleian Library and other college libraries. By such convenient proximity the loss of his library would be mitigated and scholarly work made easier.⁷⁹

Heylyn, like many of the Laudian clerics who had chosen to remain in England, now devoted his labors to royalist writings which would

⁷⁷Hardacre, The Royalists During The Puritan Revolution, p. 109.

⁷⁸Heylyn, KEIMHATA'EKKAHETIAETIKA: The Historical And Miscellaneous Tracts, pp. xix-xx.

⁷⁹Vernon, Life of Heylyn, p. 145. Heylyn, KEIMHATA'EKKAHETIAETIKA: The Historical And Miscellaneous Tracts, pp. xx-xxi. Heylyn was wise to buy when he did for the levies of the Major Generals in 1653 almost decimated his fortunes again.

show that the words EXIT TYRANNUS, REGNUM ULTIMUS on the plaque which the Rump Parliament had put up in place of the statue of Charles I at the exchange in London were by no means the last words on the monarchy.⁸⁰

⁸⁰David Underdown, Royalist Conspiracy In England, 1649-1660 (New Haven: Yale Univ. Press, 1960), p. 17. This inscription was a source of much anger to royalists.

CHAPTER FIVE

HEYLYN'S THEORY OF ROYAL SOVEREIGNTY

A major source of difficulty in interpreting seventeenth-century royalist political thought has been the tendency to regard the widespread acceptance of parliamentary theories as a foregone conclusion and to dismiss royalist theories as irrelevant. This practice is unfortunate. Royalist theories cannot and should not be dismissed as unimportant, simplistic, unpopular or unhistorical. They were none of these. Indeed, the chief limitation of royalist theories is to be found not in the theories themselves but in the decline of reputation that the royalists suffered. This means that a considerable body of royalist thought has been over-looked and forgotten; and although present day scholars have done much to redress the balance, there is still much to be revealed about royalist ideologies of the Stuart period.

One important source of royalist political thought which demands examination is Peter Heylyn. His massive biography of Archbishop Laud, Cyprianicus Anglicus, has been widely used by nearly every scholar writing on this period, but his other works are usually ignored. All too often, he has been airily dismissed as a polemicist who left little mark on the political and constitutional controversies of his age. Hence, the willingness of the church historian, Robert Bosher, to refer

to Heylyn as more of the "haigographer than...historian."¹

Part of the difficulty of understanding Heylyn as a royalist theorist stems from the dimensions of his own numerous works. He seemingly excluded much if not all political reflection from many of his writings, particularly those of a propagandist or polemical nature. Moreover, his religious books and pamphlets, though prolific, were neither original in their scholarship or doctrinally significant. Whether because of circumstances or direct advice, he did not write any completely political works until the civil war period and then he wrote only two. These were his short pamphlet, The Rebels Catechism, (1643), and his long involved political treatise, The Stumbling Block of Disobedience, (1658).

But if Heylyn's output as a royalist theorist was small, it was nevertheless significant. He seems to have been more astute than his better known friend, Sir Robert Filmer, who may well have obtained a goodly portion of his ideas from their close personal association. Heylyn's approach to political problems was also somewhat individualistic, setting him apart from the mainstream of contemporary pamphleteers. He was one of the few royalist writers to expound a conquest theory of government and he also seems to have been unique in his understanding at this time of the important part played by political feudalism in

¹Bosher, The Making Of The Restoration Settlement, p. 1. Bosher like other users of Heylyn's biography of Laud knows next to nothing about the clergyman. He actually believed that Heylyn wrote his biography of Laud in 1668 (pp. 1-2). By then Heylyn had been dead for six years.

early English history. Sir Henry Spelman's scholarly findings about feudalism and Norman institutions generally supplied Heylyn with the major foundation for his political arguments when the royalists set out to vest an absolute sovereignty in the king alone.²

In his defense of the king Heylyn was equally shrewd with his analysis of the opposition; particularly the principle of coordinate power, which had resulted from the king being described as one of the three estates. He was also familiar with the right of rebellion as implied in John Calvin's Institutes of the Christian Religion and made avid use of all sorts of writers from Bracton through Camden to Bodin and Spelman. In terms then of the major problem facing England after 1642, namely that of "where was the final legal authority in government?" Heylyn was an important contributor to royalist and absolutist conclusions on the matter.³

Heylyn's first completely political work grew out of his authorship of the royalist paper Mercurius Aulicus. This was a pamphlet, The Rebels Catechisme, written at the special request of the paper's new editor, John Birkenhead. Although Birkenhead undoubtedly envisioned this as Heylyn's final salvo for the paper, he may have had an underlying secondary motive. It was becoming increasingly apparent by 1643 that although

²It is interesting that J. G. A. Pocock, The Ancient Constitution And The Feudal Law (New York: Norton, 1967), contains no mention of any of Heylyn's writings in its bibliography of seventeenth century works used. This may account for Pocock's conclusion that scarcely any royalists attached much importance to the discovery of feudalism (pp. 54-55). Contemporary historians, however, were well aware of Heylyn and it is to be noted that the famous royalist writer of the 1680's, Dr. Robert Brady, recommended Heylyn's Stumbling Block Of Disobedience in his Introduction To The Old English History, (1684).

³Judson, The Crisis Of The Constitution, p. 7. Judson views this as England's major dilemma after 1642.

the king had "won the constitutional and legal debate of 1642,"⁴ if by nothing else than accurately forecasting how the encroachment of parliament on his conduct of the government would lead to anarchy, tyranny and disorder. Still, he had also seriously weakened his own cause in the same breath. Charles I had accomplished all this by means of his answer to the nineteen propositions of the Long Parliament in 1642. The significant act or mistake had been the inclusion in the royal declaration of a concept of estates whereby the king was demoted to being but one of the three estates of parliament.⁵

The reaction came at once and was immediately detrimental to the king's position. As Professor Corrine Weston has succinctly concluded, "the royal concept of estates, imparted a distinctive stamp to Stuart political thought by giving rise directly to a new, provocative principle of a co-ordination in the Parliament that was said to be displayed whenever King, Lords and Commons jointly made law."⁶ As a result the king

⁴Kenyon, The Stuart Constitution, p. 197.

⁵The fact that this was an error is claimed by Edward Hyde, Earl of Clarendon. The actual document was written by Sir John Culpepper and Lucius Cary, Viscount Falkland. Hyde said the rush to get it to the printer prevented the error from being discovered but the theory is that it was not an error but reflected Falkland's and Culpepper's anti-church views. This idea will be developed later in the chapter. The fullest interpretation of the significance of the king's answer can be found in Corinne Comstock Weston, English Constitutional Theory And The House Of Lords, 1556-1832 (New York: Columbia Univ. Press, 1965).

⁶C. C. Weston, "Concepts of Estates In Stuart Political Thought," Representative Institutions In Theory And Practice: Historical Papers Read At Bryn Mawr College - April 1968, Studies Presented To The International Commission For The History Of Representative And Parliamentary Institutions XXXIX Les Editions de la Librarie Encyclopedique 40 (Bruselles, 1970). Also Kantorwicz, The King's Two Bodies. He notes that as a result of this theory coins were minted depicting all three estates as being on the same level.

was now accounted merely one of three equals and the rise of a theory of parliamentary sovereignty was greatly enhanced.⁷ How harmful this theory of equal or co-ordinate "estates" could be to the king's cause was shown by the printing of a pamphlet by the parliamentary writer and theorist Henry Parker in 1643. This work was entitled A Political Catechism, or Certain Questions Concerning the Government of this Land, Answered in His Majesties Own Words Taken out of His Answer to the 19 Propositions. Parker argued in favor of the theory that two estates suffice in time of crisis with an uncooperative third partner since all three were co-ordinate equals in making law. The impact of this thesis was made all the more serious by the fact that as in any catechism this pamphlet was in question and answer form and the answers in support of Parker's theories came in the form of direct quotes from the King's own answer to the nineteen propositions. Thus, the stamp of royal approval seemed to be given to parliament's rebellion.

The influence of this pamphlet is immense. Professor Weston claims that this work, along with the king's answer, was one of the chief sources of the co-ordination theory in England.⁸

As such this pamphlet would have been well known to both Heylyn and Birkenhead. Moreover, Heylyn had already attacked the estates theory

⁷Weston, "Concepts of Estates In Stuart Political Thought," p. 90.

⁸Weston, English Constitutional Theory And The House Of Lords, pp. 37-43. Professor Weston has also told me that A Political Catechism was in all probability written not by Parker but by the parliamentarian John White. Interestingly White was one of the original twelve Feoffees of 1625.

in editions of Mercurius Aulicus in late 1642 and early 1643. This may have been one of the reasons why he disliked Falkland and found him no friend to monarchy. Falkland was at Oxford and Heylyn knew that he and Culpepper were responsible for the king's answer. Indeed, through Edward Hyde suggested that Culpepper and Falkland had mistakenly identified the three estates, it is more probable that they were faced with a specific dilemma. Both men had been avidly opposed to the Laudian church. They had pushed for the Bishop's Exclusion Bills and had pressured Charles into reluctantly accepting their support out of the desire to protect his Catholic Queen Henrietta Maria from attack. Now with the exclusion of one of the traditional estates from parliament, the Lords Spiritual, they were faced with supplying a "new" third estate. The answer to them was the king. Probably neither of them realized the effect that this demotion would have. Heylyn, however, picked this up in both his political works and undoubtedly part of his reason for stressing the inclusion of the bishops in parliament was to restore the king to his original position.

Be this as it may, Birkenhead knew Heylyn's familiarity with and criticism of the co-ordination theory and probably asked him to answer Parker in his final work for Mercurius Aulicus. This seems to be indicated by Heylyn's title and the fact that like Parker's work The Rebels Catechisme is constructed in question and answer form.

The concise structure of this form undoubtedly simplified Heylyn's organization of a rebuttal. Parker had begun his work by discussing the strengths and weaknesses of three types of government, monarchy, aris-

tocracy and democracy. After analysing each form he had argued that England's government was best because it combined a mixture of all three. Although England had its weaknesses, parliament provided a shield against royal abuse.⁹ The force of authority was given to Parker's argument by the fact that all of the answers to his carefully worded questions came in the form of direct quotations from the King's answer to the nineteen propositions.

This style made Parker's argument difficult to refute. Heylyn did so by also employing the form of a catechism. He began his pamphlet by stating that there were three types of rebellion: that of the heart, the tongue and the hand. As Parker had done with governmental forms, he then went on to analyze each type of rebellion. Rebellion of the heart consisted mainly in harboring resistance within oneself against lawful authority. That of the tongue included verbal defamation and malicious criticism of the persons and actions of people in government. Finally, Heylyn said, rebellion of the hand was of two types. One of course was overt physical resistance to authority, rebellion as condemned by the statute of 25 Edward III.¹⁰ The other consisted of seditious writings aimed at alienating the King's subjects from their true allegiance to him and toward violent action.¹¹ According to Heylyn, all of these forms of rebellion were to be condemned as equally heinous.

In countering the right to rebel Heylyn offered the idea that

⁹Henry Parker, A Political Catechism, 1642. Unpaginated.

¹⁰Heylyn, The Rebels Catechisme (Oxford, 1642), p. 6.

¹¹*Ibid.*, p. 6.

in government as in all earthly life there was a divinely ordained order. He wrote "there is a golden chain in politics and every linke thereof hath some relation and dependence upon that before."¹² This was not a new royalist argument. Indeed, this "golden chain" of order and correspondencies, stretching from God to the king and through innumerable entities to the smallest form of life, was an old idea of order which had first appeared in Elizabethan literature. It found fulsome expression in the works of Spencer, Sidney, Shakespeare and even Hooker. In fact Richard Hooker's Ecclesiastical Polity with its plentitudes and examples of the expression of such an order within the universe served as a constant royalist influence and source for this theory.¹³

The fundamental conclusion of this rigidly preconceived conception of hierarchical order was that as God had ordained and delegated His power to a "supreme prince the subject is obliged to submit unto them, without any manner of resistance."¹⁴ This was a secondary argument since it did not require the organization of any type of philosophical or fundamental proof. It was a fact of nature. Hence, most royalist writers using the theory of order maintained that obedience was a virtue under all circumstances. This was easy to substantiate since there were

¹²Ibid., pp. 15-16.

¹³For more modern interpretations of this theory see A. O. Lovejoy, The Great Chain Of Being, 1936. Lovejoy's work has been expanded in the field of literature by E. M. W. Tillyard, The Elizabethan World Picture, 1942 and in political thought by W. H. Greenleaf, Order, Empiricism And Politics: Two Traditions Of English Political Thought. The longevity of this concept is shown by its extensive use in Alexander Pope's Essay On Man.

¹⁴Heylyn, The Rebels Catechisme, pp. 15-16.

numerous Biblical quotations which could be used as proof of God's orders to man. Moreover, many of these substantiating statements were found in the Church of England's Book of Homilies which contained a detailed index. Heylyn himself quoted from the homilies "that God had thereby shewed that he alloweth neither any person, nor the multitude of any people, nor the right of any cause, as sufficient for which the subjects may move rebellion against their princes."¹⁵

Heylyn, however, was not satisfied with leaving the argument here for Parker had contended that the two houses of parliament were the protectors of the people's rights and had the right to defensive rebellion. Heylyn attacked this idea in an analysis of Calvin, Bracton and Prynne.

Heylyn found all rebellion to be forbidden, no matter what provocation might be offered by the king. It made no difference if he acted unlawfully. Nor could it be said that there was such a thing as defensive rebellion as it too would only overthrow God's established order.¹⁶ No private individual had any recourse therefore against the king. The validity of this idea, wrote Heylyn, had even been acknowledged by such an enemy of monarchy as John Calvin who had written that any private person who engaged in rebellion, even against a tyrant, was condemned by God.¹⁷ Still, it was true that though Calvin had condemned private persons who rebelled, his Institutes of the Christian Religion had opened the door to rebellion by placing the guardianship of the people's rights in the hands of inferior magistrates who could resist. They could resist because according to Calvin the king was only God's trustee for

¹⁵Ibid., p. 10. ¹⁶Ibid., p. 8. ¹⁷Ibid., p. 15.

governmental authority, the real source lay with the people. Heylyn challenged this argument for popular sovereignty by showing that although magistrates are public persons in regard to those below them, they are still private persons in regard to those over them and as such obedience is still required of them.¹⁸ Only kings are accountable to no one save God, an argument which was accepted by English law. Even the famous lawyer Bracton recognized this, according to Heylyn, for he said there was "no legal remedy" against the king.¹⁹ Furthermore, Heylyn insisted, Prynne's convoluted interpretation of the treason law of Edward III was nothing more than a deception. Prynne had argued that the treason law referred "to the singular number" and thus the houses of parliament consisting of numerous and public men escaped being included in such a definition. Heylyn pointed out that Prynne was in fact begging the issue with a sarcastic question. Had Prynne ever heard of a war or rebellion against any sovereign that was "plotted and executed by only one man in the singular number."²⁰

Parker's arguments had been basically simplistic and undeveloped since he had gone no further than to quote from the king's answer. Nor had he directly referred to Prynne. Other parliamentary writers, however, had developed far more sophisticated and dangerous theories concerning the three estates. It was to these that Heylyn now turned. In doing so he revealed himself as an astute and incisive critic who was able to carry his ideas far beyond the more minor royalist criticisms he had so far presented.

¹⁸Ibid., p. 17. ¹⁹Ibid., p. 18. ²⁰Ibid., p. 19.

One of the shrewder and more difficult arguments of parliament was the idea that there was a separation between the person of the king and his power or office. This was known as the theory of the king's two bodies. It was used by the houses of parliament to claim that while they were waging war against the person of the king in the form of Charles Stuart, they were doing so in order to protect the kingly office from being ruined. In sum, they were fighting the man to protect the office.²¹ This frightening theory said Heylyn had originated in the political writings of one of James I's tutors, George Buchanan. Buchanan had broached the idea in his De Juris Regni of 1579 which stressed the fact that all power had originally come from the people who entrusted it to the king. Therefore, since kings merely existed to carry out the will of the people, the king himself could be called to answer for any offense that he had committed.²² Heylyn viewed this separation of the man from his role as a strange and impossible division" which could only lead to ludicrous and lugubrious conclusions.

By this strange division of the King from himselfe, or of his person from his power, a traitor may kill Charles and not hurt the king, destroy the man and save the magistrate, the power of the king in one of the armies may fight against his person

²¹The fullest examination of the origins and development of this theory is in Ernest H. Kantorowicz, The King's Two Bodies: A Study In Medieval Political Theory (Princeton: University Press, 1957). The concept of separating the king's natural body from his political one dated from the middle ages when it had been used as an argument for establishing regencies during periods of infancy or incapacity. During the civil war it was used to deal with a royal person whom parliament believed to be in rebellion. Indeed, in 1642 parliamentary medallions replaced the representation of the king with a picture of the ship of state. Kantorowicz, p. 22.

²²G. P. Gooch, English Democratic Ideas (New York: Harper Torch Books, 1959), pp. 39-40.

in the other army, his own authority may be used to his own destruction, and one may lawfully set upon him, beat, assault and wound him in order for his preservation.²³

This division appeared to Heylyn an insane and dangerous theory, but he found the parliamentary ideas of co-ordination and supply equally dangerous.

These latter concepts had also sprung from the king's answer to the Nineteen Propositions. It was an almost realistic derivation. If the king was merely one of three estates, then the three must be equal and two could outweigh one. Likewise if two outweighed one, would it not be possible in time of crisis for them to supply or supplement what was lacking by the absence of the third. So at least argued parliamentary theorists and their views had widespread influence since "the new concept of estates encouraged the parliament to dream of a co-ordination within the parliament that immeasurably strengthened the position of the two houses in relationship with the king."²⁴

Heylyn recognized the origin of this concept for next to the question on co-ordinate power he placed in the margin the reference Observations on His Majesties Answer.²⁵ This illustrated that he knew both of the pamphlet's influence in spreading the idea and its origins in the king's answer. His response to the theory of co-ordination showed that Heylyn, unlike many of his contemporaries, not only conceived

²³Heylyn, The Rebells Catechisme, p. 20.

²⁴Weston, "Concepts of Estates In Stuart Political Thought," p. 97.

²⁵Heylyn, The Rebells Catechisme, p. 21.

of the necessity of a sovereign authority in the state to resolve this dilemma of equals but admitted that by its very nature or definition such sovereignty was indivisible. As proof for his claim that sovereignty lay within the king alone and not the king in parliament he used both the Act of Appeals of 1533 and the Act of Supremacy of 1534. In these acts, wrote Heylyn, England declared herself an empire with one supreme head or king in whom all temporal and spiritual power lay through his imperial crown.²⁶ Surely, speculated Heylyn, had parliament then seen or owned any co-ordinate power with the king it would not have weakened its position by agreeing to such a declaration.²⁷ Besides, the very nature of sovereignty precluded any such sharing since "if this co-ordination... could be once admitted, it must needs follow thereupon that though the King have no superior, he hath many equals, and where there is equality there is no subjection."²⁸ The great legal authority Bracton had illustrated this basic situation when he concluded that the king had no superior or equal on earth "because he could not have an equal but with the loss of his authority and regall dignity considering that one equal hath no power to command another."²⁹ According to Heylyn then any claim to a co-ordinate sovereignty with the king by the two houses of parliament was invalidated by the nature of sovereignty itself.

²⁶Ibid., p. 21. Modern scholars would say and quite rightly so that this Act refers to only the "spiritual authority" of the crown, but to Heylyn and most of his contemporaries there was no such division between the secular and spiritual orbit for the crown. All were part of the general commonwealth. For a modern analysis of the Act see G. R. Elton, The Tudor Constitution (Cambridge: University Press, 1962), pp. 329-336. Elton stresses the importance of the word empire.

²⁷Heylyn, The Rebells Catechisme, p. 21.

²⁸Ibid., p. 21

²⁹Ibid., p. 22.

Furthermore, Heylyn objected that parliament itself had reduced its argument to the absurd by claiming, at the same time that it was aiming for sovereignty, that it was both subject and equal to the king. Here again was another contradiction in definitions or meanings for if one is subject one is subordinate and not co-ordinate.³⁰ This was a decisive rebuttal on Heylyn's part and showed a shrewd grasp of the importance which the idea of sovereignty was coming to play in politics. It was a concept that he would discuss even more fully and in a more historical fashion in his Stumbling Block Of Disobedience. In that work he would argue the case for a sole legal sovereignty in the king via his power of the sword since the days of the Norman Conquest. Heylyn avoided bringing in a feudal argument at this point because he was more concerned to dispute Parker's assertion to the effect that the war was defensive in character and not a war to destroy the king. Heylyn's rejection of this assertion was emphatic. His case was made, in his view, by the aggressive nature of the war being waged by the parliamentary forces.³¹

Though this might seem like a mere tangential argument after raising the issue of sovereignty, it would not be so if Heylyn was writing to dispute Parker. Parker had maintained at length, via his omnipresent quotes from the king's answer, that the two houses did indeed have the power to levy war against the king.³²

Even if the two houses had been correct in their claims for parliament, what was left sitting at Westminster certainly could not be

³⁰Ibid., p. 23.

³¹Ibid., pp. 23-26.

³²Parker, A Political Catechism, unpaginated.

taken as a body that was really representative of the houses as it seldom consisted of more than three lords and one hundred commons.³³ Under such circumstances, said Heylyn, the king could as well call the expelled members of the two houses more of a parliament, especially since the writ which convened parliament did not limit its meetings to Westminster. A parliament could be called anywhere. Heylyn concluded his pamphlet with the opinion that the war was an unlawful rebellion and that the rebels deserved to be condemned and punished for treason.³⁴ This conclusion was a good counter-thrust to Parker who had concluded in the opposite vein that the two houses would be careful in all their activities to act according to the law.

Though this was an interesting pamphlet and far different from Heylyn's previous writings, it still provides only faint glimmerings of his royalist ideology. To understand the significance and uniqueness of Heylyn as both royalist theorist and historian one must turn to an examination of his major political work, The Stumbling Block Of Disobedience And Rebellion. This work contains a detailed expansion of many of the issues Heylyn only touched upon in his more polemical pamphlet.

One necessary dimension in considering this work is the question of when it was written. Though it was not published until 1658, a careful examination of it would indicate that it was written much earlier. There are three significant reasons for this conclusion. First, any perusal of this book in comparison with Heylyn's pamphlet reveals a

³³Heylyn, The Rebells Catechisme, p. 27.

³⁴Ibid., p. 27.

striking similarity between many of the arguments and issues discussed in each. This would tend to indicate that Heylyn, inspired by the earlier writing, with his interest fully aroused in his subject, decided to expand and develop his views. Furthermore, he tells us that the writing predates the publication by many years in two statements in the preface. First is the statement that it was "written in the times of monarchy," which would imply that he had composed it sometime after 1643 and before the execution of the king in 1649.³⁵ Moreover, Heylyn continued that he had done so in part "to preserve the Dignity of the Supreme power, in what person soever it be placed, and fix his person in his own power orb, the premium mobile of government brought down of late, to be but one of three estates, and move in the same planetary sphere with the other two."³⁶ This statement narrows the date of writing even more closely. It could only have been written after the king's answer in 1642 and at the height of the popularity of the theory of co-ordinate power in the mid 1640's since Heylyn distinctly states "brought down of late." One final reason for restricting the authorship of the book to this period comes from the sources and writers which Heylyn referred to in it. Though he made ample use of Jean Bodin, Sir Edward Coke, John Calvin and Sir Henry Spelman, he makes no direct mention to a work which had a direct bearing on his ideas concerning the lawfulness or rebellion, The Vindiciae Contra Tyrannos of Junius Brutus.

³⁵Heylyn, The Stumbling Block Of Disobedience And Rebellion, Cunningly Laid By Calvin In The Subjects Way, Discovered, Censured And Removed (London: 1658), preface, p. 1.

³⁶Ibid., p. 2.

This major, if not the major, tract of the sixteenth-century French religious wars deals directly and radically with ideas which played an important role in Heylyn's own work, namely the ideal of popular sovereignty and the right of magistrates to rebel. Indeed, The Vindiciae is the fullest literary expansion of the right of rebellion mentioned briefly by Calvin in his Institutes. As such, this work would have a direct bearing on part of Heylyn's thesis, particularly as he went to such pains to refute not only Calvin but his lesser exponent George Buchanan. Why then did Heylyn ignore the Vindiciae totally, not even referring to it in his marginal notations? The answer is that if The Stumbling Block Of Disobedience And Rebellion was written between 1643 and 1648, Heylyn did not have access to a copy of the Vindiciae. Although the work itself was published either in part or entirety eight times between 1581 and 1689, it was more probable that at Oxford he could not obtain a copy of any of the editions that circulated before 1648. The 1581, 1588 and 1589 editions were not complete and the fragments that were published in 1622 and 1631 were entitled the Vindiciae Religionis. Furthermore, the number of these versions was limited since most if not all of them were smuggled from presses in the Netherlands. Between 1631 and 1648 no editions of this work were readily available to Heylyn. In 1648 a new and complete edition of the Vindiciae did appear. Its publication date and Heylyn's disregard of it seem to add to the evidence that The Stumbling Block was composed prior to 1648.³⁷ He certainly knew of the Vindiciae's existence as in his

³⁷For a full discussion of the publication of the Vindiciae see Harold Laski, A Defence Of Liberty Against Tyrants (Gloucester, Mass: Peter Smith, 1963), pp. 59-60. The translation of 1648 which is in the

Aerius Redivivus he mentioned its influence in helping to spread the Calvinist rebellion in France.³⁸

Why Heylyn did not update his earlier work in 1658 to include a mention of this tract is easy to explain. By then his eyesight had become so poor that he required the services of a secretary for all writing and many reading activities. In addition, by that date he was at least partially dependent upon the income from publication to support himself and his family and may have wanted to publish his book as quickly and cheaply as possible.

In some ways Heylyn gave an insight into the major theme of his book with the two Biblical texts which he included on the frontispiece, Romans: 14:13 and I Samuel: 24:6. They read as follows:

Let us not therefore judge one another any more: but judge this rather, that no man put a stumbling block or an occasion to fall in his brothers way

and

And he said unto his men; the Lord forbid that I should do this thing unto my master; the Lord's annointed, to stretch forth mine hand against him seeing he is annointed of the Lord.

British Museum attributes the authorship to William Walker of Sheffield who supposedly cut off Charles I's head.

³⁸Heylyn, Aerius Redivivus (Oxford: 1670), p. 77. This book traces the history of Calvinist rebellion from 1630 to 1647. Moreover, in The Stumbling Block Heylyn intimated that the rebels were using earlier French examples and theories. Note too its complete title, The Stumbling Block Of Disobedience And Rebellion, Cunningly Laid By Calvin In The Subjects Way, Discovered, Censured And Removed. For a full discussion of the influence of the French Wars see J. H. M. Salmon, The French Religious Wars In English Political Thought (Oxford: Clarendon Press, 1959).

These two quotations clearly indicate his theme. Any theory which contested the idea that the king possessed an absolute legal sovereignty would be considered a stumbling block against true obedience. In addition, since the king was absolute and divinely appointed any action against him was heinous.

From this point on, however, Heylyn avoided almost any use of traditional biblical foundations for substantiating royal authority, even though he had previously used them repeatedly. Moreover, unlike his friend Sir Robert Filmer, he would not try to establish an argument for divine right based on the king's appointment by God in Biblical times. Instead he was to break ground and rest his claims for absolute legal sovereignty in the king solely on the ground of historical argument. It would not be the traditional historical arguments which he had used earlier, but one based on a new and untried theory concerning English feudalism. Thus Heylyn was not only introducing new ideas in regard to political theory but was also helping to create a new royalist historiography.

Heylyn, like his close friend Filmer, had become very concerned with the question of "this historical origins and moral basis of political power since the 1630's when again and again the question of who possessed the supreme authority in the state had arisen."³⁹ However, unlike Filmer, he was to base his claim for the existence of a sole

³⁹Peter Laslett, (ed.), Patriarcha And Other Political Writings Of Sir Robert Filmer (Oxford: Basil Blackwell, 1949), Introduction, p. 3.

legal sovereignty in the king within the unique framework of English historical experience.

Still, Filmer has traditionally been credited with being the only royalist historian prior to the 1680's to ascribe a legal sovereignty to the king. Thus, Perez Zagorin maintained that Filmer was the only royalist before the 1680's who managed to avoid the royalist *cul de sac* that the king was merely supreme without ascribing to him the sole ability to legislate.⁴⁰ By tackling the royalist predicament from an offensive rather than a defensive position Filmer contributed great moral support to their cause. For, if the king was absolute in every power, particularly legislative, then obedience became the subject's only political right, unless others were granted by the king. Filmer's argument had been worked out long before the civil war, although on different grounds from that of Heylyn.⁴¹ Indeed, almost all of Filmer's ideas on sovereignty were taken almost verbatim from Jean Bodin.⁴²

The ideas which Filmer did not borrow merely based royal sovereignty on the more religious grounds of the patriarchial power that had descended to kings from the first man, Adam.⁴³ Indeed, even when Filmer

⁴⁰Perez Zagorin, A History Of English Political Thought In The English Revolution (London: Routledge & Kegan Paul, 1954), p. 195.

⁴¹Laslett, Patariarcha And Other Works Of Filmer, p. 128.

⁴²Ibid., p. 316. Zagorin, A History Of English Political Thought, p. 196. Kenneth Douglas McRae, (ed.), The Six Bookes Of A Commonweale (Cambridge: Harvard Univ. Press, 1962), p. 64. Filmer's pamphlet, The Power Of Kings (1648) consisted almost entirely of passages from Bodin's Republique without reference to Bodin.

⁴³Laslett, Patariarcha And Other Works Of Filmer, p. 71.

did deal directly with the English situation as in The Anarchy Of A Limited Or Mixed Monarchy (1648) and The Freeholder's Grand Inquest (1648) he reiterated Bodinian arguments concerning the indivisible nature of sovereign power, adding only weak precedents from English history.⁴⁴ He stated that Bracton, Lambard and Spelman had all attributed justice to the king and more specifically that only the king could make law because he alone possessed the positive or negative voice of assent. However his only historical support for these claims came from ancient charters such as Magna Carta which parliament, lawyers and judges had repeatedly shown were subject to numerous interpretations. Moreover, Filmer admitted that parliament in some form had existed in Anglo-Saxon times and continued after the Norman Conquest.⁴⁵ Although he limited the body to Earls and Barons, he avoided any usage of a strong historical argument based on the peculiarities of English feudalism to counter parliamentary claims of ancient rights. Filmer thus totally eschewed the very basis of Heylyn's claim that the conquest had established a kingly sovereignty which predated parliament. Unlike Heylyn, he did not understand that English feudalism could be used to develop a royalist school of historiography which totally invalidated parliament's claims to ancient powers.⁴⁶

⁴⁴Laslett attributes The Freeholder's Grand Inquest to Filmer, Patriarcha And Other Works Of Filmer. However, Prof. C. C. Weston and Zagorin, A History Of English Political Thought, p. 197, note 6, attribute it to Sir Robert Holbourne, a royalist who served as one of the defense attorneys in the Feoffees case.

⁴⁵Laslett, (ed.), Patriarcha And Other Works Of Filmer, The Freeholder's Grand Inquest, pp. 173-174, 156-158.

⁴⁶Ibid., Patriarcha, pp. 115-118. It should be noted that Zagorin is wrong in his assumption that Heylyn did not ascribe lawmaking power to the king. A History Of English Political Thought, p. 190.

In establishing his argument for an absolute legal sovereignty based on feudalism Heylyn hoped to combat forever any idea that the two houses of parliament shared a co-ordinate lawmaking power with the king. Thus he aided at dispelling any ideas of a mixed or parliamentary sovereignty as represented by the inclusion of the king as one of three estates.⁴⁷

Heylyn's stated purpose was "to preserve the dignity of the supreme power."⁴⁸ For this reason he was obligated to provide sufficient proof that the three estates within England were composed of Lords Temporal, Lords Spiritual and Commons and not as parliament had claimed of king, lords, and commons. Under parliament's definition the clergy could no longer be considered a separate spiritual estate. Consequently, Heylyn's second goal was to "keep a foot the claim and title of the clergy unto the reputation, rights, and privileges of the third estate, which both of right belong unto them, and which the clergy have anciently enjoyed."⁴⁹ His third purpose was to show how John Calvin had created the "gap" of resistance for a popular rule or sovereignty. This he would do in two ways. Since Calvin had stated that the power of restraining the king lay with the magistrates of the three estates in every kingdom, he

⁴⁷That this was the major goal of Heylyn's book is not readily apparent from the title of the first edition which contains an attack on Calvin. In 1681 at the height of the exclusion controversy it was reprinted under the title, The Stumbling Block Of Disobedience Proving The Kingly Power To Be Neither Co-ordinate With Nor Subordinate To Any Other Upon Earth. C. C. Weston, "Legal Sovereignty In The Brady Controversy," The Historical Journal, XV, 3, (1972, p. 415, note 12.)

⁴⁸Heylyn, The Stumbling Block, p. 1.

⁴⁹Ibid., p. 1.

had opened the way to potential rebellion from below, particularly as he had repeated this idea through the many editions of the Institutes.⁵⁰ Now, this political Pandora's box of rebellion was being given full form by what Heylyn called "the deadly doctrine of these times."⁵¹ This was the doctrine whereby the king was defined as one of the three estates. As a result "there is a mixture in the government, and that the three estates convened in Parliament (or by what other name we do call this meeting) are not subordinate to the King but co-ordinate with him; and have not only a supplemental power to supply what is defective in him, but a coercive also to restrain his actions, and a corrective to reform his errors."⁵²

The first wave of attack which Heylyn launched against this theory was to show the inherent error of including the king as one of the three estates. In kingdom after kingdom he examined the composition of the three estates showing that in each instance they consisted of clergy, nobility and commons. Finally when he reached England he adopted a strictly historical argument substantiated by a thorough understanding of early English or Norman feudalism.

By clearly distinguishing between the Anglo-Saxon and Norman periods of England's history, Heylyn contended that there had been a decisive break in 1066 which eliminated all ancient customs by establishing the total sovereignty of the king. He succinctly stated that

⁵⁰Ibid., pp. 32-34.

⁵¹Ibid., p. 32.

⁵²Ibid., pp. 32-34. Also p. 27 where Heylyn shows that this doctrine of the three estates is English since Calvin did not include the king among the estates.

when the Norman Conqueror first came in, as he wonne the kingdom by the sword, do did he govern it by his power: his sword was then the scepter and his will the law. There was no need on his part, of an Act of Parliament, much less of calling all the estates together, to know of them after what form and by what laws they would be governed. It might as well be said of him, as in the first and best times of the Roman Emperors...that whatsoever the king willed did pass for law.⁵³

Moreover, Heylyn contended that the differences between the two periods was very obvious from the changes regarding the role of the clergy in government. Under the Anglo-Saxons he said the bishops and prelates sat in the Saxon council or parliament "in no other capacity than as spiritual persons merely, who by their extraordinary knowledge in the word of God, and in such other arts of learning, as the world then knew, were thought best able to direct and advise their princes in points of judgement."⁵⁴ All of this had changed, however, at the Norman conquest when the bishops' and prelates' right to participate in parliament became the result

⁵³Ibid., p. 267. Heylyn probably owed a lot of his knowledge concerning feudalism to Sir Henry Spelman's Archaeologus published in 1626. This was the first serious discussion of English feudalism. Spelman's views were based on an examination of various documents, records and the historical derivation of certain legal terms. Heylyn may also have drawn some of his ideas from the statutes and documents in Sir Robert Cotton's library which he used in the 1630's. Also as a prebend of Westminster he must have been familiar with the ancient records in the Chapter House of Westminster. These were catalogued in 1631 by Thomas Powell in his The Repertorie Of Records. There was also an anonymous catalogue of records in Powell's Direction For Search Of Records (1622). That such records could be used both for and against royalist ideas was shown by an earlier action of the crown. In 1604 the government dissolved the Society of Antiquaries, which had included Spelman, and in 1629 it restricted access to Cotton's library. Greenleaf, Order, Empiricism And Politics, pp. 179-180 discusses the crown's fears in this regard. Heylyn may also have used some of William Camden's works and historical writings on the Anglo-Saxons since he cites him frequently.

⁵⁴Heylyn, The Stumbling Block, p. 176.

of "sub militari servitute."⁵⁵ While some saw this as a disenfranchisement, said Heylyn, in reality this change strengthened their position as they were regarded "not as bishops only, but as peers and barons of the realm also."⁵⁶ In sum he realized that at the Norman conquest the real importance of the bishops and prelates lay not in their religious but in their feudal relationship to the conqueror. He then went on to distinguish between the feudal tenure of the prelates and the rights of the lower clergy. In doing so he made use of various medieval charters, Magna Carta and also the controversial fourteenth century description of parliament, The Modus Tendendi Parliamentum, the first and only account of a medieval parliament.⁵⁷

With these documents Heylyn proved to his own satisfaction, at least, that the prelates participated as the spiritual lords or estate of parliament by virtue of their position as feudal earls and barons.⁵⁸ The lesser clergy, however, who held no such tenure were included in the early parliaments as part of the commons. Like lay commoners, they were called at the king's desire merely for consultation about taxation. That this was their only function is illustrated by the fact that early in the fourteenth century they withdrew from the commons to vote taxes

⁵⁵Ibid., p. 117

⁵⁶Ibid., p. 177

⁵⁷For a short analysis of the Modus Tendendi Parliamentum see Geoffrey Templeman, "The History Of Parliament To 1400 In the Light Of Modern Research," R. L. Schuyler & H. Ausubel, The Making Of English History (New York: Holt, Rinehart & Winston, 1952), pp. 109-128.

⁵⁸Heylyn, The Stumbling Block, pp. 178-179.

and subsidies in their own representative body, convocation.⁵⁹ Finally, Heylyn concluded that all of the "fundamental laws of the English government confirmed the feudal tenure of the prelates" role in Parliament.⁶⁰

Heylyn had thus accepted Spelman's description of early Norman society, that

feudal brunders were first introduced into Britain by William I, known as the conqueror; who, bringing the law with him from Normandy, divided up all England among his companions. This is indicated to say nothing of the Chronicles by his agarian survey which is called Doomesday Book.... From that time we hear constantly of all the obligations of feudal tenure, which are unknown in the Saxon epoch.⁶¹

Heylyn's acceptance of the feudal tenure of the lords spiritual as the sui generis reason for their being called as one of the three estates to parliament was, however, only a small facet of his argument. He had used this to prove that they had traditionally been one of the three estates and therefore could not be constitutionally deprived of their position in parliament on "religious" grounds as had happened in the "Bishop's Exclusion Bill of 1641," since their tenure was confirmed by the law as being identical to that of the other peers.

Heylyn contended that this legal sovereignty by conquest had not been diminished in the centuries following 1066. Until the reign of Henry V, by which time laws were receiving parliamentary assent, the king "did use to cross out and obliterate as much or as little of it the law as he pleased, to leave out what he liked not, and confirmed

⁵⁹Ibid., pp. 178-207.

⁶⁰Ibid., pp. 207-208.

⁶¹Henry Spelman, Archaeologus (London: 1628), p. 258.

the rest; that only which the King confirmed being held for law."⁶²

Heylyn's view of sovereignty was similar to the succinct definition that Thomas Hobbes gave it in the Leviathan, that in regard to the sovereign:

His power cannot, without his consent be transferred to another: He cannot forfeit it: He cannot be accused by any of his subjects of injury: He cannot be punished by them: He is the judge of what is necessary for peace, and judge of doctrines: he is sole legislator; and supreme judge of controversies; and of the times and occasions of warre, and peace: to him belongeth to choose magistrates counsellors, commanders, and all other officers, and ministers; and to determine of rewards, punishments, honours, and order.⁶³

By substantiating a royal claim to absolute sovereignty on the historical grounds of the Norman conquest and the total power of the conquering sword, he put himself in a unique position among royalists.

The emergence of co-ordination had pushed Heylyn into confronting a theoretical necessity which few royalists wished to face, namely that supremacy without legislative sovereignty was meaningless. As Professor Zagorin has suggested;

The royalist argument after 1640 was imprisoned in a cul-de-sac. It asserted that the king was supreme and that parliament had, therefore, no right to rebel against him. But it would not recognize that, since parliament opposed the king, the latter's supremacy, his right to determine public policy, were of no avail, indeed were meaningless without legislative power.⁶⁴

⁶²Heylyn, The Stumbling Block, p. 281.

⁶³Thomas Hobbes, The Leviathan, Francis Randall, (ed.), (New York: Washington Square Press, 1964), pp. 139-140.

⁶⁴Zagorin, A History Of English Political Thought, p. 195. Zagorin is mistaken in his belief, however, that only Filmer accepted the doctrine of an absolute lawmaking sovereign. On p. 196 he contends that this was a major difference between Heylyn and Filmer.

Only a small number of men other than Heylyn were to ascribe absolute sovereignty to the king before the 1680's. Indeed, Professor Gough has even suggested that even parliamentary sovereignty emerged as an accident, since save for the civil war writings of Prynne, parliamentary supporters too seemed unaware that the settling of sovereign power in one entity was the sine qua non to maintaining political stability in the state.⁶⁵

With the notable exception of Heylyn, the majority of those concerned with the establishment of sovereignty by the idea of conquest were not royalists. Filmer, for example, never even mentioned the conquest in this context. Still throughout the 1650's a number of men whom the historian Quentin Skinner has called "Engagers" did use the example of the Norman conquest as a cornerstone for their varied arguments concerning sovereignty. Many of these, like Hobbes, were individuals who were anxiously trying to establish a permanent peace by suggesting that Cromwell's victory gave him the same sovereign power of the sword that William of Normandy had possessed earlier. They were thus attempting to engage support for the interregnum government.⁶⁶

Although Professor Skinner is mistaken in his belief that Heylyn numbers among these Engagers, still even the suggestion dramatically points to the contrast between him and other royalist theorists before

⁶⁵J. W. Gough, Fundamental Law In English Constitutional History (Oxford: Clarendon Press, 1955), pp. 55, 80 and 98.

⁶⁶Quentin Skinner, "History And Ideology In The English Revolution," The Historical Journal, 1965, VIII, no 2, 166-171.

the 1680's.⁶⁷ The large majority of royalists were firm believers in the fundamental liberties and laws of England. They feared that by admitting a conquest they eliminated any middle or reasonable ground for authority since such an admission would invalidate any type of ancient or time immemorial constitution guaranteeing such rights. Most of the royalist theorists were not well acquainted with Spelman's works on feudalism since many of them were not published before the 1680's. Thus, deprived of historical knowledge concerning the conquest one finds almost nobody writing about absolute authority vested in the king until Sir Robert Brady in the 1680's.⁶⁸

Why Heylyn accepted the conquest theory so totally is uncertain. One reason may well be that he was far more familiar with Spelman's discoveries concerning feudalism than his fellow royalists. His late mentor, Archbishop Laud, had in his possession at various times unpublished manuscripts of Spelman's works, including his later writing on The Concilia and his Codex. Since Laud, like Archbishop Abbot, had encouraged Spelman's scholarship he may have shown some of these papers to Heylyn, particularly as by the 1630's Laud thought these writings

⁶⁷Ibid., p. 169.

⁶⁸For an understanding of the importance which the issue of legal sovereignty began to play in the 1680's see C. C. Weston, "Legal Sovereignty In The Brady Case." During the 1680's there were also reprints of several of Heylyn's works, The Historical And Miscellaneous Tracts and The Stumbling Block. In addition, two biographies were commissioned by his family. One, Theologia-Historicus, was by his son-in-law and the other by a hired writer, John Barnard. Perhaps Heylyn's family felt that his moment of recognition had finally come. Be that as it may neither of these two biographies appreciated the significance of his political thought.

might be too controversial for such troubled times.⁶⁹

With access to Spelman's works Heylyn's logical, realistic and blunt intellect may have concluded that he had found the most irrefutable foundation possible for establishing a royal legal sovereignty, particularly as unlike constitutional royalists such as Sir Edward Hyde, he did not feel the necessity for a moderate argument.⁷⁰ The constitutional royalists had their conclusions and theories complicated by the fact that many of them simply did not trust either Charles I or his heir.

How then did Heylyn account for the creation of any English liberties or parliamentary rights? These were a royal gift, given out of the king's desire to please and protect his subjects. Therefore, "when some years after the conquest his subjects did ask the King to

⁶⁹Powick, "Sir Henry Spelman And His Concilia," pp. 204-237 in Lucy S. Sutherland, (ed.), (London: Oxford Univ. Press, 1966), pp. 213-214, 219-220 and Appendix II. Interestingly enough Laud did not accept the conquest theory as the basis for royal sovereignty. He contended that by the time of Magna Carta the Normans had been so absorbed into the English way of thinking that they accepted the ancient laws of Edward the Confessor and insisted on their confirmation, (Laud, Works, VII, 626-629) Spelman was the source of Laud's ideas. In his Codex he argued that the conquest was not total since, while introducing feudal tenure, the Normans also endorsed English liberties. Spelman, Codex Legum Veterum, David Wilkins, (ed.), Leges Anglo-Saxonicae (London: 1721), pp. 284-285. Heylyn of course rejected such qualifications concerning the conquest.

⁷⁰There is some controversy as to how many royalists accepted ideas similar to Heylyn's. Pocock, The Ancient Constitution And The Feudal Law, pp. 54-55 and 149-150 insists that few did before the 1680's. However, Christopher Hill has argued that despite the scarcity of writings accepting the conquest theory it must have been widespread since parliamentary writers were so anxious to destroy it. "The Norman Yoke." Puritanism And Revolution (New York: Schocken Books, 1964), pp. 50-123.

accept of the easier laws of King Edward the Confessor's time he agreed to do so for their benefit and to protect their estates."⁷¹ Still said Heylyn, the King did not view such confirmations as a weakening or giving away of the total sovereignty which he derived from the conquest. This was the position of parliamentary supporters, common-law lawyers, like Coke and even the antiquarian Spelman. Rather he insisted that when the kings "were pleased to call their Estates together, it was not out of an opinion that they could not give away their power, or dispense their favours, or abate anything of the severity of their former government, without the approbation and consent of the people: But out of just fear lest any one of the three estates (I mean the clergy, the nobility and the commons) should insist on anything that might be prejudicial to the other two."⁷² Heylyn thus put the onus for social injustice on the petty jealousies and demands of the estates amidst which the king stood as the citizen's protective buffer and dispenser of liberties. However, whatever rights the king might grant he still retained his legal sovereignty, which by its very nature must be indivisible. "If kings have partners in sovereignty, they are no King; such being the nature and law of monarchy, that...if it be once divided and its authority thereof imparted, it is soon destroyed."⁷³ As a result the kings of England are still the sole possessors of sovereignty and the power to make laws, their sovereignty having never been divided. Law making power resides in the king with the two houses of parliament

⁷¹Heylyn, The Stumbling Block, p. 268.

⁷²Ibid., p. 268

⁷³Ibid., p. 232.

merely advising him. Wrote Heylyn:

The legislative power...is wholly and solely in the King; although restrained in the exercise thereof by constant custom, unto the counsel and consent of the Lords and Commons. Le Roy Veut or the King will have it so, is the imperative phrase by which the propositions of the Lords and Commons are made acts of Parliament.⁷⁴

Furthermore, that the king alone makes law, despite parliamentary claims to the contrary is seen in that "nothing but that which the King pleaseth to allow of, is to pass for law: the laws not taking their coercive forces...from the quality of such as devise them but from the power which giveth them strength of law."⁷⁵ According to Heylyn, the power which gives force to the law is of course the power of the sword as descended from the conqueror.

In sum, Heylyn presented a view of the historical development of English liberties and parliaments legislative role which in no way allowed parliament to claim any share of the sovereign power or diminish the inherent authority of the crown. In so doing he denied the contentions of common-law lawyers like Coke who had argued that by accepting and confirming the laws and customs of Edward the Confessor the Normans had agreed to a preconquest body of immemorial law which denied any breach in the continuity of English history and precluded the establishment of a sovereign law making power.⁷⁶ Thus Heylyn fully accepted the

⁷⁴Ibid., p. 273.

⁷⁵Ibid., p. 274.

⁷⁶Pocock, The Ancient Constitution And The Feudal Law, p. 42 and ch. 2. According to Pocock for common-law lawyers the argument against the claim that the conquest had given the king absolute law making sovereignty was conclusively proved by the coronation oath. "The edifice had been completed by the inclusion in the coronation oath iteself, where it remained until 1688, of a promise to observe the laws of Saint

power and its consequences established by the naked sword at the time of the Norman conquest.

His concept of legal sovereignty was essential to his theoretical refutation of the parliamentary claims of co-ordinate power with the king. Earlier in The Rebells Catechisme he had refuted the idea that the king was one of the three estates on two grounds, historical and theoretical. First, nowhere in history had the king been regarded as one of the estates and secondly that sovereignty could not be divided. He also recognized that this theory had a pernicious effect on the king's legislative power. The theory of co-ordination regarded law making as the most essential form of power in the kingdom and insisted that parliament shared this authority. Thus for Heylyn the need to squash this idea of parliamentary sovereignty was paramount.

In The Stumbling Block Heylyn again attacked the theory of co-ordination, which he regarded as the greatest ideological danger to royal power produced by the entire civil war. He wrote that "this senseless doctrine is become so dangerous, because so universally admired and hearkened to, that the beginning and continuance of our long

Edward." (p. 43) Heylyn's theory of course eliminated any such triumphant conclusion for the parliamentary side. Earlier royalists had seen that this phrase in the oath might weaken royal prerogative power. Thus at the coronation of Charles I, Laud, in charge of the ceremonies, altered the oath in regard to the phrase adding "that the King should consent to such laws as the poeple should choose short of the King's Prerogative Royal." Heylyn, Cyprianicus Anglicus, pp. 145-148. Moreover, the Convocation of 1640 had sought to perpetuate that form of the oath. Heylyn, Cyprianicus Anglicus, p. 414. As Heylyn was an instrumental member of this Convocation, he must have seen the need for maintaining the new form of the coronation oath. As late as 1693 the Lord Chief Baron of the Exchequer and the Speaker of the House of Lords noted these changes while swearing in a new Lord Mayor of London. C. C. Weston, "Legal Sovereignty In The Brady Case," p. 428.

disturbances may chiefly be ascribed unto the opinion to which they reduced the poor ignorant people."⁷⁷ Moderate or constitutional royalists who accepted and talked about the unique mixture of the English constitution stemming from its combination of king, lords and commons only added support to this theory. Therefore, Heylyn reiterated much if not all of his earlier argument in The Rebells Catechisme in greater detail. He again established the bishops as one of the estates by means of their feudal tenure, thereby excluding the king from the estates. Once more he insisted that parliament could not be subject and sovereign simultaneously, that all rights were a gift from the king and argued that the Norman conquest had destroyed any ancient pre-conquest parliament or body of law.

Up to this point Heylyn's arguments had been essentially defensive. He had erected a legal sovereignty in the king to combat the concept of parliamentary sovereignty. Now he took the offensive, attacking not only the right of rebellion, but the idea inherent within it of popular sovereignty originating from the people. These ideas, which could be traced in part to Calvin's Institutes, had been more fully developed during the French civil wars. Their prevalence during the English civil war clearly indicates the influence of French ideas in England in this period.⁷⁸

In refuting these ideas Heylyn returned to a more theological

⁷⁷Heylyn, The Stumbling Block, pp. 263-264.

⁷⁸Gooch, English Democratic Ideas Of The Seventeenth Century, p. 5.

argument, although one that was still partially grounded in history. In so doing his manner of discussion and sources became very similar to those of the French writer, Jean Bodin. Like Bodin he developed the idea of a natural political order and sovereignty, substantiated by empirical evidence, particularly in ancient history and the law of God as presented in the Bible. This was reminiscent of his earlier use of the Elizabethan theory of order or chain of correspondencies in The Rebels Catechisme.

This approach shows how essential the political theories of Jean Bodin were to the development of Heylyn's concept of legal sovereignty.⁷⁹ Indeed many parallels can be drawn between the two men. Bodin was driven by the St. Bartholomew's Day Massacre of 1572 to accept the idea of absolute sovereignty in France. Heylyn developed his idea of absolute legal sovereignty in the English crown in response to the civil war and the parliamentary theory of co-ordination.⁸⁰

⁷⁹J. H. M. Salmon, The French Religious Wars In English Political Thought (Oxford: Clarendon Press, 1969), p. 94. Salmon claims that Heylyn was so influenced by Bodin that he reproduced French absolutist ideas as his own.

⁸⁰It should be noted that historical scholarship concerning Bodin has been deeply influenced by the question of whether his Method (1566) actually favored a limited monarchy or expressed the idea of absolute sovereignty found in The Republique in less explicit terms. Beatrice Reynolds (trans.) Method For The Easy Comprehension Of History (New York: Octagon, 1966), Introduction. John L. Brown, The Methodus Facilen Historiarum Cognitionem Of Jean Bodin: A Critical Study (Washington, D.C.: Catholic Univ. Press, 1939). Julian H. Franklin, Jean Bodin And The Rise Of Absolutist Theory (Cambridge: University Press, 1973). Kenneth Douglas McRae, (ed.), The Six Bookes Of The Commonwealth: Being The Text Of Bodin's Republique Done Into English By Richard Knolles And Published In 1606 (Cambridge: Harvard Univ. Press, 1962). Preston King, The Ideology Of Order: A Comparative Analysis Of Jean Bodin And Thomas Hobbes (New York: Barnes & Noble, 1974). Professor

Heylyn's adoption of a concept of absolute sovereignty was not unique. His closest friend Filmer had advocated similar ideas, but unlike him, Filmer's argument came almost verbatim from Bodin and lacked the historical basis of the conquest theory.⁸¹ This fundamental difference in the two theories, although partly attributable to Heylyn's avid desire to maintain the bishops as one of the three estates, was still most significant. It was Heylyn's familiarity with the historical discoveries of Sir Henry Spelman which allowed him alone of all the royalist theorists of the civil war period to establish an argument for absolute royal legislative power on a strong historical basis. This was unlike the weaker, almost purely theoretical and unsubstantiated ideas of Filmer.

As the closest of friends, Heylyn and Filmer belonged to a small royalist circle for whom the ethical basis, the historical origins, and the scope of political power had become an ever increasing issue in the 1630's.⁸² As a result, they had become very familiar with the political theories of the French wars of religion since they found within contemporary events many close similarities to the French wars.⁸³ With the

McRae maintains that the Method represents distinctly moderate political theories of kingship, that the monarch is limited in his powers, particularly by such items as his coronation oath. This contrasts with the king in The Republique who is circumscribed by no earthly limits. On the other hand, Professor King maintains that no such ideological break exists and that Bodin was always evasive and contradictory in his descriptions. (pp. 84, 145 and appendix 3).

⁸¹Filmer, The Power Of Kings, 1648. This work consists entirely of quotations from Bodin with no mention of him whatsoever.

⁸²Laslett, Patriarcha And Other Political Works, Introduction, p. 3.

⁸³Salmon, The French Religious Wars In English Political Thought, p. 3.

outbreak of the English civil war these influences increased as the wars provided an opportunity for an almost unlimited and unending examination of the nature of political power. But for the majority of writers sovereignty never proved to be the issue as most royalists and all parliamentarians were chiefly concerned with the need to check misgovernment. Consequently, as Professor Gough has stated, any ideas concerning sovereignty were slow to find acceptance.⁸⁴ Be that as it may, astute observers in the royalist camp were quick to attack any argument which attempted to limit the king's powers by appeal to ancient fundamental law giving parliament the right to check misgovernment because it represented the nation's immemorial rights.⁸⁵

However, while most parliamentary claims of this nature were widely attacked, the majority of royalists did so by invoking the weak counter-thrust that in actuality it was the king who protected the ancient fundamental liberties of England and not the rebelling parliament. As early as January, 1643, therefore, both sides were trapped in a theoretical cul-de-sac of defending a fundamental law which neither could define.⁸⁶ Because this argument stagnated in most cases by dwelling on the very issue of laws and the law making process it encouraged both Heylyn and Filmer to examine its very nature and parliament's role in it. Both ultimately concluded that only the king possessed sovereign power

⁸⁴Gough, Fundamental Law In English Constitutional History, pp. 3, 55.

⁸⁵Ibid., p. 78.

⁸⁶Ibid., pp. 78-79, also p. 2 where Gough states that it is impossible to find any seventeenth century writer who actually defined fundamental law.

and that his sovereignty was best illustrated by his absolute legislative authority. In developing their arguments they both borrowed heavily from Jean Bodin's Republique.

Heylyn was very explicit about his debt to Bodin. Throughout The Stumbling Block there are numerous marginal references to him, and Heylyn often invoked his name within the text of the work. He wrote for example that "Bodin as great a politick as any of his time in the realm of France, hath ranked our kings amongst the absolute monarchs of the western parts."⁸⁷ Also like Bodin, he argued that sovereignty was an indivisible quality which was neither encroached upon nor lessened by the delegation of power to magistrates, consultation with parliament or by coronation oaths. All of these were voluntary grants of the king which did not involve the chief aspect of his sovereignty, the power to make laws. This power remained solely with the king. "The power of making laws," said Heylyn, is...properly and legally in the King alone.⁸⁸ During the middle ages the king had rejected portions of law which he did not like-- "that only which the king confirmed being held for law."⁸⁹

In resorting to specific historical evidence, Heylyn's argument diverged sharply from Filmer. He again turned to the thesis that since the Norman conquest the English king had possessed the sovereign power to make law. "The Sword then was his Sceptre, and his will the law."⁹⁰

⁸⁷Heylyn, The Stumbling Block, p. 249.

⁸⁸Ibid., p. 267.

⁸⁹Ibid., p. 281.

⁹⁰Salmon, The French Religious Wars In English Political Thought, p. 94. Thus, Heylyn did not simply reproduce French ideas as his own as Salmon has charged.

He was now connecting Bodin's theoretical sovereignty to the English situation with his argument that the conquest had implanted such law-making authority in the English monarchy. Spelman's investigations had revealed to him the existence of a new set of laws, customs and rules which took precedence after 1066.

Heylyn's apparent familiarity with Spelman's findings and English feudalism is vital to an understanding of why his theory of sovereignty diverged from Filmer's. Up to the point where Heylyn had begun to examine the conquest their ideas showed great similarity. Both had borrowed heavily from Bodin, taking as the cornerstone for establishing English royal sovereignty, his statement "that the first and chiefest marke of sovereignty, to be of power to give laws and command to all in general, and to euerie one in particular..."⁹¹ In addition, each agreed with Bodin's idea that the English king's power was "in nothing altered or diminished by the calling together or presence of the states but...thereby to bee much the greater, and the more honourable; seeing all his people to acknowledge him for their sovereign."⁹²

The very fact that Heylyn was part of Filmer's close circle of friends meant that he had undoubtedly had ample opportunity to read and

⁹¹McRae, (ed.), The Six Books Of The Commonweale, p. 182.

⁹²Ibid., p. 98. Heylyn admitted Filmer's influence on his works in a letter to Filmer's son in 1659. Heylyn, Certamen Epistolare: Or, The Letter-Combate (London: 1659), p. 208 (incorrectly numbered p. 387). This letter was reprinted in the 1680 and 1685 editions of Patriarcha. Curiously the letter was edited so that while Heylyn's fulsome praise of Filmer remained, the section in which he noted Filmer's influence was omitted. Gordon J. Schochet, Patriarchalism In Political Thought (Oxford: Blackwell, 1975), pp. 175-178.

discuss the unpublished version of Filmer's Patriarcha in the late 1630's. Having accessibility to both Filmer's and Spelman's works may have convinced Heylyn of the need for a more sophisticated justification of sovereignty with an historical as well as a philosophical basis. Filmer after all, had led the life of a religious, scholarly recluse. As a deeply religious individual he not only believed that the Bible was the major source of God's will but that it also ordained monarchy as the best form of government, placing its origins in the first patriarchal family of Adam.⁹³ Moreover, as one of eighteen children Filmer must have been quite familiar with the advantages that a sovereign father possessed. In addition, despite the tenor of the times, his life was devoid of political involvements as he took no active part in the civil wars. His arguments, therefore, lack the pragmatic strength of Heylyn's who was a seasoned veteran of the pamphlet battles of the war period.

The lack of sophistication in Filmer's arguments, however, proved to be an asset. As Professor Laslett concluded, his "great advantage as a thinker was the ability to combine the subtleties of the doctrine of sovereignty with the crude assumptions of conventional patriarchalism, and he might have been indeed less effective had he been less naive."⁹⁴ Patriarchalism after all found easy acceptance in a society which believed in an eternal unchanging order of hierarchies or a great chain of being. In contrast, ideas of a sovereignty established by military conquest would prove quite unsettling after two civil wars, one royal

⁹³Laslett, (ed.), Patriarcha And Other Political Works, pp. 11 and 14.

⁹⁴Ibid., p. 31.

execution and the rule of a new conqueror, Oliver Cromwell.⁹⁵ After all it could be argued that this new conquest took precedence over the one of 1066.

Filmer developed his theories concerning sovereignty in three works: The Necessity Of The Absolute Power In All Kings; And In Particular Of The King Of England (1648), The Freeholder's Grand Inquest (1648) and Patriarcha (1681).⁹⁶ The first need no real discussion for it consists entirely of selections from Bodin's Republique. Although it reveals his dependence on Bodin it offers no original ideas.⁹⁷

In contrast, Patriarcha is a smoothly written treatise in which Filmer manages to combine his ideas with those of the Bible and Bodin in a most convincing manner. He carefully develops the theme that royal power is directly descended from Adam and that the private dominance of

⁹⁵Greenleaf, Order And Empiricism, p. 87. Greenleaf states that "Filmer's discussion of society and political organization...can be shown to conform in all essentials to the political theory of order," or to the accepted ideas of his contemporaries.

⁹⁶Once again it should be noted that Filmer's authorship of The Freeholder's Grand Inquest has been disputed. Laslett attributes it to Filmer (Patriarcha And Other Political Works, p. 128) but other historians have suggested that it may have been written by the royalist Sir Robert Holbourne. Certainly, its argument for a legislative sovereignty in the king is completely different from the divinely ordained sovereignty described by Filmer in The Anarchy Of A Limited Or Mixed Monarchy also printed in 1648. The disparities in these two works is inexplicable if both were written by Filmer.

⁹⁷Laslett, Patriarcha And Other Political Works, p. 316. McRae states that not only does the pamphlet show Filmer's debt to Bodin but "what is more, many of the passages reoccur in Filmer's other writings ...and here they are often presented without acknowledgement. The Six Books Of The Commonweale, p. 64.

this first man is the foundation of all governmental power.⁹⁸ It is obvious, therefore, to Filmer that not only does kingly patriarchal power predate the existence of any laws, oaths or parliaments but in actuality is their source.⁹⁹ Consequently the king must have legislative authority, "that which giveth the very being to a king is the power to give laws."¹⁰⁰ In contrast to Heylyn, Filmer does admit that parliament originated in Anglo-Saxon England but insists that it was not the seventeenth-century body since the commons did not attend until the reigns of Henry I and Henry III.¹⁰¹ With this admission, his attempt to destroy parliamentary claims to an ancient existence and role as public protector becomes clumsy. It is in sharp contrast to Heylyn whose acceptance of the Norman conquest completely eliminated any possibility of ancient parliamentary rights.

Filmer's arguments in The Freeholder's Grand Inquest are similar. Here too he avoids any mention of the conquest or Norman feudalism. Professor Laslett contends that this work should be regarded as the major source of his constitutional theories because it is an expansion of the absolutist ideas worked out earlier in Patriarcha.¹⁰² Given this it is undoubtedly his most important work to compare with Heylyn's Stumbling Block.

⁹⁸Laslett, (ed.), Patriarcha And Other Political Works, p. 71.

⁹⁹Ibid., pp. 96, 104-105.

¹⁰⁰Ibid., pp. 105-106.

¹⁰¹Ibid., pp. 115-118.

¹⁰²Ibid., p. 128. Laslett contends that this work shows that the royal absolutist argument was worked out prior to the civil war and not in response to it.

Filmer prefaced the work with a summary of his arguments and sources.

He maintained that all statutes, records and other precedents show:

I. That the Commons, by their writ, are only to preform and consent to the Ordinance of Parliament.

II. That the Lords or Common Council by their writ are only to treat and give counsel in Parliament.

III. That the King Himself only ordains and makes laws and is supreme judge in Parliament.¹⁰³

In sum, Filmer was planning to argue that the King of England was sovereign by virtue of his sole authority to make laws, ideas which Heylyn had repeatedly examined and discussed in his own works.¹⁰⁴ Both maintained that the king could originally make law without the consent of parliament. They used similar sources, making reference to Bracton, Coke, Raleigh, Robert Cotton, Glanvil, Lambard, Camden, Selden and Spelman.¹⁰⁵

In referring to Spelman, however, Filmer must have meant Archaeologus (1626), and not his Codex Legum Verterum which remained unpublished until 1721. This difference is essential. Archaeologus is a glossary of ancient legal and ecclesiastical terms and their philological origins. Unlike the Codex, it does not discuss the new terminology brought in by the feudal tenures resulting from the Norman conquest. Thus, although both works have the conqueror accepting the laws of Edward the Confessor, only the discussion of feudalism and feudal terms in the

¹⁰³Ibid., p. 129.

¹⁰⁴Heylyn, The Stumbling Block, chs. VI and VII.

¹⁰⁵Laslett, (ed.), Patriarcha And Other Political Works, p. 129.

Codex shows a complete sweeping away of all Anglo-Saxon legal precedents.¹⁰⁶

The unavailability of the Codex to Filmer is important, for while he examined in detail various legal minutia from Magna Carta on in support of his argument for a law making sovereign, he never mentioned the conquest or feudalism. Consequently, for Filmer, Spelman's philological research, although interesting if not essential to an examination of law, provided no foundation for a theory of royal sovereignty. This is the vital point at which Heylyn's and Filmer's arguments differ. Because Heylyn did have access to Spelman's unpublished work by way of Laud, he did conclude that the conquest and Norman feudalism introduced something new, different and sovereign into the law making process, an all powerful lawmaking conqueror and king.¹⁰⁷

Filmer's discussion, therefore, although it relied on historical evidence to prove that the king was the sovereign lawmaking power and final legislative judge answerable only to God, lacked the sophisticated understanding of English feudalism which Heylyn's work possessed.¹⁰⁸ In The Freeholder's Grand Inquest Filmer had examined various grants, laws, charters, etc. from Magna Carta on to prove that the king alone possessed the power to make laws and that all parliamentary honors, rights and privileges, even those of peers were voluntary gifts from the king.¹⁰⁹

¹⁰⁶David Wilkins, (ed.), "Codex Legum Veterumin," Leges Anglo-Saxonicæ (London: 1721).

¹⁰⁷Bodin like Spelman was interested in philology. Indeed Professor Brown states that the major themes of the Methodus are those of a philological index of social institutions (The Methodus Ad Facilem, Historiarum Cognitionem Of Jean Bodin), p. 105.

¹⁰⁸Laslett, (ed.), Patriarcha And Other Political Works, p. 158.

¹⁰⁹Ibid., pp. 156, 158.

He further contended that all the noted legal authorities such as Bracton, Lambard and Spelman agreed that "all justice of the kingdom is only the king's." Finally he dismissed as absurd the idea that only a combination of king, lords and commons could make law since the commons were not represented in parliament before the reign of Henry I.¹¹⁰

Detailed as Filmer's writing was, it lacked the finality for the parliamentary contentions which Heylyn's conquest theory possessed. His argument still allowed the possibility of further debate since the material he used could and had been analyzed by parliamentary writers to substantiate quite different conclusions. But by combining his legal and historical evidence with the idea that royal power had descended from Adam down to the Stuarts, Filmer had developed a very compelling argument. He had not been so naive as to attempt to trace the Stuarts directly to Adam, but had merely insisted on the existence of a continuous divinely ordained royal sovereignty since the creation.¹¹¹ His emphasis on legitimacy and continuity by means of a patriarchal monarchy not only squashed ideas of mixed monarchy and popular sovereignty, but was easy for many royalists to accept since these were familiar and accepted concepts with which they could readily concur.

On the other hand, Heylyn's conquest views presented a totally new interpretation of medieval English history which raised the embarrassing possibility, that if God had ordained William's conquest and rule of 1066, it might also be possible that he had done so for Oliver

¹¹⁰Ibid., pp. 173-174.

¹¹¹Greenleaf, Order And Empiricism, p. 83.

Cromwell. Once Heylyn had founded his argument for a sovereign law-making monarch on the power of the naked sword it was difficult to refute the claim for another conqueror. Therefore, although in retrospect his theories were more historically accurate than Filmer's, for contemporaries Filmer had more appeal because his claims were based on familiar and widely accepted ideas.

Heylyn also differed from Filmer in another way, which may well have been due to the fact that he wrote during the civil war while Filmer's works were composed largely if not completely before it. For Heylyn, like Bodin, an essential part of the need to establish the sovereignty to the king was to show the danger and futility of rebellion.

Like Bodin, Heylyn was intent on using his acute ideological grasp to maintain the monarch on the throne in his full sovereignty. In attempting to do this Heylyn attacked the whole theory of popular sovereignty. This was a concept which he first attributed to John Calvin, with the concession that the latter's disciples had carried it much farther than their mentor.¹¹² He was judicious, therefore, in his attack on Calvin, conceding that he did admit that all power came from God.¹¹³ Calvin was seen, however, as being the source of other dangerous ideas; namely that the people had inherited power from God which they later entrusted to the king and his magistrates by way of some sort of original compact or contract. More than this, Heylyn accused Calvin of opening the gap to rebellion by placing a power in the magistrate's

¹¹²Heylyn, The Stumbling Block, p. 3.

¹¹³Ibid., pp. 3, 26, 227-228.

hand to restrain the king should he use his authority against the people.¹¹⁴ It was Calvin, then, he concluded, who believed that "the three estates convened in Parliament, or any other popular magistrate; whom Calvin dreams of, be ordained by the word of God as guardians of the people's liberties; and therefore authorized to moderate and restrain the Kings as often as they shall invade or infringe those liberties."¹¹⁵

Heylyn then proceeded to a predominantly biblical argument which, beginning with Moses, tried to show that God designated only one supreme lawgiver and that though that law giver might ease his burden by delegating some authority to others, nevertheless this did not diminish it.¹¹⁶ "Certainly," he reasoned, "no King did ever will or grant any commission whereby his under-officers and inferior magistrates, may challenge any power above him or exercise any jurisdiction or authority over him."¹¹⁷ Besides, said Heylyn, the entire Bible as well as the ancient church fathers preached that no man could lawfully acquit himself of subjection to the authorities put over him, a subjection which applied to magistrates as well, who while above the people were still under the king.¹¹⁸

If men did not receive any religious justification for rebellion from the Bible, where were such ideas as Calvin's inspired? According to Heylyn, if these ideas came from personal inspiration then men had best beware since they could not assure themselves "whether such inspiration come from God or the Devil; the Devil many times ensnaring proud,

¹¹⁴Ibid., pp. 289-290.

¹¹⁵Ibid., pp. 289-290.

¹¹⁶Ibid., pp. 290-291.

¹¹⁷Ibid., p. 298.

¹¹⁸Ibid., p. 297.

ambitious and vain-glorious men by such strange delusions."¹¹⁹

In concluding The Stumbling Block on this note Heylyn had traversed the course from a royal sovereignty originating from the conqueror's sword to the religious doctrine of passive obedience to a divinely ordained political order. In the end he had managed to find some meeting ground for these two very different ideas since even the conquest could be viewed as part of God's divine order. This combination was not surprising. All of his writings had sought to place the king in a position of absolute authority, whether by prerogative, legal sovereignty, or divine ordinance.

To say this, however, is not to discount Heylyn's substantial contribution to royalist historiography and the development of the concept of legal sovereignty. That this idea did not triumph at the Restoration in 1660 and was for the most part unappreciated until the 1680's is not surprising. After well over a decade of the naked authority of the Army's rule Englishmen sought a government which they felt would best guarantee their liberties. The idea of a total legal sovereignty invested in one person was too tinged with the possibility of a capricious limitation or assault on rights to find much support. Thus, in 1660 the constitutional monarchists triumphed with their warped historical notions of an immemorial monarchy as the best protector of the ancient constitution.¹²⁰ The problem of who held the sovereign authority, the political problem of 1642, would be left in abeyance until 1688.

¹¹⁹Ibid., pp. 302-303.

¹²⁰Pocock, The Ancient Constitution And Feudal Law, p. 156.

The Restoration showed, as much as anything else that the English were never eager to put their faith solely in princes. After 1660 it was not writers like Heylyn who found popularity with the more conservative royalists but rather writers like Filmer. Filmer, too, had argued for an absolute law-maker; but his argument, couched in Biblical, naturalistic and legal foundations, had far more appeal than the violent one of conquest. In the end, then, legal minded Englishmen on both sides of the constitutional fence retreated from too naked a foundation for authority.

For the royalists it was undoubtedly a mistake. The best historical argument they could have possibly mustered was that of Heylyn. As such his work is important in itself. It does much to dispel the notion that it was not until the 1680's that royalists first understood feudal institutions as well as the major constitutional problem of the era, namely the need to establish a single and final sovereign authority in the state if peace was to be maintained.¹²¹

¹²¹It is interesting to wonder whether Heylyn, had he lived to see the Revolution of 1688, would have accepted the divine right of providence theory of some royalists or would have become a non-juror. In all probability he would have become a non-juror since he was too attached to the Stuart monarchy to accept a new conquest.

CHAPTER SIX

RESTORATION BUT NOT REWARD: POSTSCRIPT

TO A ROYALIST CAREER

The publication of Peter Heylyn's major political treatise, The Stumbling Block Of Disobedience And Rebellion, in 1658 really marked the end of Heylyn's career as an important royalist figure. Less than four years of life remained to him, and these were to be years not of triumph but of bitter resignation. The majority of his remaining actions were concerned with minor though contentious literary efforts and arguments. Activities that indeed were epitomized in the comments of one contemporary Englishman about the irascible John Lilburne. It was said of him that "if John Lilburne were the last man in the world, John would fight with Lilburne and Lilburne with John."¹ Much the same idea was expressed when Heylyn's contemporary opponent, William Sanderson, wrote in reference to his relationship with Heylyn, "Indeed I had warning heretofore not to meddle with him."²

¹Richard Harris, "Annals Of Law: Taking The Fifth Amendment Part II," The New Yorker (April 12, 1976), p. 43. Mr. Harris does not footnote his source.

²William Sanderson, Peter Pursued Or Dr. Heylyn Overtaken Arrested And Arraigned Upon His Three Appendixes (London: 1658), p. 5. Sanderson was a minor moderate royalist supporter and a writer of various histories of mediocre quality. Anthony Wood considered his works valueless as "they are mostly taken from printed authors and lying pamphlets." Wood, Athenae Oxonienses, III, 505.

In these last years Heylyn occupied himself with churning out numerous though minor royalist and Laudian writings which embroiled him in various, albeit petty, partisan squabbles. Yet even if these works are of little interest or importance, they are still remarkable in that Heylyn was by this time practically an invalid. His small and sparse frame was now skeletal in appearance and his sight was impaired almost to the point of blindness.³ Still he persevered with his own "tenacious memory."⁴ Probably all of this output stemmed more from his loyalty to the royalist cause than from any desire for personal accomplishment. On Christmas Eve, 1658, he wrote, "the windows of my shop being almost shut and almost all my wares plundered with the loss of my library, it is high time for me to give over this trade, leaving to nimble pens the managing of these political discourses, wherewith mine hath been already dulled."⁵

These outpourings also reflected the growing tolerance of the Interregnum's last years for controversial discussions of all types. Heylyn's works from this period were but part of a flood of propagandist material of both royalist and Laudian views. All of these were works which briefly aroused interest and then slipped into obscurity, leaving few signs of their influence one way or another. At this time Heylyn revised and enlarged his Cosmographie, analyzed the origin and meaning

³Vernon, Life of Heylyn, p. 266.

⁴Wood, Athenae Oxonienses, III, 557. From Wood's description one might assume that Heylyn had a photographic memory.

⁵Heylyn, Certamen Epistolare Or The Letter-Combate (London: 1659), p. 310.

of the Apostle's Creed according to Laudian tenets in his Theologia Veterum: The Sum Of Christian Theology Contained In The Creed (1673) and published two accounts of his journeys of 1629 and 1630 to France and the Channel Islands. In addition, he defended the Laudian view on church doctrine, the divine right of episcopacy and the parliamentary position of bishops, as well as the English Reformation in such works as Ecclesia Vindicata (1657), The History Of Episcopacy (1657), The Way And Manner Of The Reformation Of The Church Of England (1657), Historia Quinqu-Articularis (1660), and Ecclesia Restavrata: Or The History Of The Church Of England (1661).⁶

Heylyn also published his Bibliotheca Regia Or The Royal Library in 1659. This two volume edition of the various papers of Charles I between 1640 and 1649 was far less famous than Eikon Basilike: The Sacred Pourtraicture Of His Sacred Majestie In His Solitudes And Sufferings (1649). It attempted to do what that earlier work had done a decade before, that is, present the memory and words of the late king to the public in the most favorable manner possible.⁷

⁶These works were all blatant defenses of the Laudian church and would eventually become part of the "high church" ideology. Cosmographie, published in 1651 was said to be the last work actually written in Heylyn's own hand. Theologia Veterum was published in 1653 and Ecclesia Vindicata in 1657. The History Of Episcopacy was merely a reprint of part II of Ecclesia Vindicata. Publication dates of the others are as follows: The Way And Meaning Of The Reformation Of The Church Of England, 1657; Historia Quinqu-Articulatis, 1660; Ecclesia Restavrata, 1661; and the two books on France and the Islands, 1656.

⁷The Bibliotheca Regia was printed in 1659 but was a partial reprint of an earlier collection published in 1649 at the Hague entitled Reliquie Carolinae. Eikon Basilike was probably written by a divine named John Gauden, later Bishop of Exeter and then Worcester, or at least Charles II and James II thought so. H. R. Trevor-Roper "Eikon-Basilike: The Problem Of The Kings Books," Historical Essays (New York: Harper, 1966), pp. 211-221.

All of these works, obscure or not, involved Heylyn in personal difficulties. During this period his estate, or at least what remained of it, was decimated by the Major Generals for his expression of royalist sympathies. Yet, Heylyn did not seem capable of totally avoiding controversy. Earlier in his life his appetite for writing seemed to have been whetted by partisan debates, and his last years were no different. Consequently, Heylyn also published criticisms of those books which he believed to contain passages hostile to the old monarchy and the Laudian clergy before 1640. As a result, he embroiled himself in squabbles with such minor writers or history as Hamon L'Estrange, William Sanderson, George Hickman, Dr. Nicholas Bernard and Richard Baxter in works such as Observations On The Historie Of The Reign Of King Charles (1656), Extraneus Vapulans (1656), Respondet Petrus (1658) and Certamen Epistolare (1659).⁸

The production of these books elicited a new wave of answers. The anonymous work Plus Ultra contested Heylyn's opinion that the Anglican church established at the Reformation was so pure and so consonant with the ancient Christian church that it needed no new purification. William Sanderson, on the other hand, attacked Heylyn's historical veracity and what he saw as creeping ambition in Peter Pursued Or Dr. Heylyn Overtaken, Arrested And Arraigned (1658). Yet another anonymous author published A Review Of The Certamen Epistolare, which attempted to establish in a

⁸Observations On The Historie Of The Reign Of King Charles attacked L'Estrange's history. Heylyn was probably also responsible for the anonymous pamphlet, Observations Upon Some Particular Persons And Passages, In A Book Lately Made Publick, Entitled A Compleat History Of The Lives And Reignes Of Mary Queen Of Scotland And Her Son James (1655) which attacked Sanderson's history.

verbose, nit-picking, and very tangential way that Heylyn's Laudian ideas had no historical or biblical foundations. Finally, the author of Erastus Senior (1662) attempted to destroy Heylyn's argument that the English episcopacy had maintained its divine origins intact and uninterrupted from Saint Peter on, despite the hiatus of the Reformation.⁹

Heylyn's critical writings aroused such notoriety in one case that some observers thought they deserved to be burnt. Dr. Nicholas Bernard attempted to get the London City government to burn Heylyn's book Respondet Petrus on the ground that its views were hostile to the Puritan observance of the sabbath. Bernard charged that these ideas were not in keeping with a city ordinance of 1644. Heylyn was so concerned apparently that, despite his friends' advice to ignore the proposed burning, he inquired about it while visiting London in 1658.¹⁰ Heylyn questioned the Lord Mayor and was told that nothing hasty would be done as the book had been turned over to the learned divines of the city for consideration.¹¹ When Heylyn asked another city council member, however, he was told that no such order had been given and so Heylyn dropped the issue.¹² What had probably happened was that Bernard could exert enough

⁹Plus Ultra was published in 1661 and was probably the work of George Hickman. Peter Pursued was published in 1658. The book A Review Of The Certamen Epistolare was published under the pseudonym of Theophilus Churchman. Erastus Senior was published in 1662 and though long attributed to the Archbishop of Dublin, Peter Talbot, is now assumed to have been the work of an anonymous author in the Netherlands or Belgium. Sanderson also published a small and vicious pamphlet called The Arraignment of Peter Heylyn's Advertisement On The Three Histories.

¹⁰Heylyn, Certamen Epistolare, p. 100.

¹¹Ibid., p. 107.

¹²Ibid., p. 108.

influence within the city council to have the matter considered but not acted upon.

Of all of these involved and petty arguments only one ended amicably, the one that Heylyn had with his fellow Anglican divine and moderate royalist, Thomas Fuller. In 1659 Heylyn published his book, Examen Historicum.¹³ This attacked Fuller's church history among others. Fuller, a mild mannered man, saw no reason to pursue a quarrel with a fellow supporter of both the monarchy and the Anglican church, particularly as they had both suffered for the cause of Charles I. He kindly concluded in his pamphlet "that it is impossible for the pens of any historians writing in [as ours] a divided age, to please all parties, and how easy it is to cavail at any author."¹⁴ Surprisingly, Fuller's peaceful answer, accompanied by an offer of friendship, mollified the usually irascible Heylyn, and the two men soon ended their differences. They even became friends although neither really changed his opinions. This small episode illustrates that while Heylyn could still be a biting polemicist in his latter years, on the personal level he was highly

¹³This book was published in London by Henry Seile and Richard Royston. Seile had published many of Heylyn's works but the appearance of Royston's name is more interesting. Royston was a royalist publisher and had circulated Eikon Basilike. The connection between Heylyn and Royston reveals that Heylyn had good connections with royalist publishers of the period, an obvious asset for him.

¹⁴Thomas Fuller, "The Appeal Of Inured Innocence" in The History Of The University Of Cambridge And Of Waltham Abbey, James Nicholas, ed. (London: Thomas Tegg, 1840), p. 284. Nicholas was wrong in stating that Heylyn never answered Fuller's offer of friendship (p. 672.) For Heylyn's written answer see Certamen Epistolare, pp. 315-316.

approachable and essentially kind-hearted.¹⁵

Such minor activities as these, however, were ended by the Restoration of Charles II. The reaction to Puritainism which set in the moment the headsman's axe fell upon Charles I had now reached its final culmination.¹⁶ Racked by increasing division the revolutionary side now realized that the monarchy did not really need to be sacred, lovable or even powerful; it was simply necessary if domestic peace and tranquility were to be maintained.

May, 1660, was a joyous month for all royalists. Bishop Brian Duppa of Winchester summarized their happy feelings when he wrote to his friend Justinian Isham on May 8, 1660, that "the month hath produced happy things and this is a day of joy for the King so long laid aside, is now proclaimed the headstone of the cornice."¹⁷ On May 29, his thirtieth birthday, Charles II entered London. The same city whose tumults had helped destroy his father's rule, now gave the returned exile a tumultuous welcome. As Heylyn said a year later in his text for the anniversary sermon preached before Charles II, "blessed be the Lord,

¹⁵It is important to note that their friendship grew out of Fuller's insistence on seeing Heylyn in person.

¹⁶Though this statement may seem dramatic it should be remembered that the execution of Charles I ended his weakness and canonized his virtues. Moreover, the act was never popular. Cromwell, the army and the Rump Parliament were all worried about the reaction which is why they chose an area for the execution where few people could attend. The reaction of the crowd was recorded by a seventeen year old Londoner, Philip Henry, who wrote that when the axe fell the crowd uttered "such a groan as I never heard before." Philip Henry, The Diaries And Letters Of Philip Henry, 1631-1696, Matthew Henry, ed. (London: 1882), p. 12.

¹⁷Sir Giles Isham, ed., The Correspondence Of Bishop Brian Duppa And Sir Justinian Isham (Northhamshire Royal Society, XVII, 1956), p. 180.

for he hath shewed me his marvelous kindness in a strong city."¹⁸

Amidst all this triumph, pertinent issues remained unsolved. On the political level the question of who possessed the final legal sovereignty in the state was left in abeyance. Not until 1688 would this issue be solved.¹⁹ Nor was the religious issue anymore settled. Though Professor Boshier argued that "the chief success of the exiled clergy...lay in their conversion of Edward Hyde to their principle that Ecclesia Anglicana must be restored with the monarchy and without compromising concessions," the religious restoration of the Anglican clergy was not an unqualified victory.²⁰ Certainly, Laud's political and economic aims were to be totally neglected.

In terms of the clerical triumph, moreover, though it marked a Laudian victory, it was at best a limited one since it was almost to a

¹⁸Heylyn, A Sermon Preached In The Collegiate Church Of St. Peter In Westminster On Wednesday, May 29, 1661 (London: 1661), p. i. The quote is from II Samuel: 19, 14.

¹⁹With the Revolution of 1688 parliamentary sovereignty finally triumphed. That this victory needed some years to be solidified is the subject of an interesting book, J. H. Plumb, The Growth Of Political Stability In England, 1675-1725 (Baltimore: Penguin Books, 1967).

²⁰Boshier, The Making Of The Restoration Settlement, The Influence Of The Laudians, p. x. Professor Boshier claims that the church settlement was a vindication of Laud's program but this is highly debatable. H. R. Trevor-Roper in Archbishop Laud stated that there was no real Laudian victory (p. 460). Moreover, this latter idea is substantiated by two other prominent historians. J. P. Kenyon concluded that on the constitutional level "the restoration settlement could not help but damage the church. For the first time it was admitted that she did not command a monopoly of all Protestant believers in England." The Stuart Constitution, p. 364. In addition, Norman Sykes concluded that the ecclesiastical aspect of the restoration was essentially a failure. From Sheldon To Secker: Aspects Of English Church History, 1660-1768, p. 36.

man the triumph of the exiled Laudian clergy. Those who had remained behind and actively kept their ideas alive all too often went unrewarded, even by their own formerly exiled fellow Laudians. In June, 1660, the Laudian party was given control of appointments to crown controlled benefices; benefices which since the days of Edward II had been vested in the hands of the Lord Chancellor.²¹ It was true, of course, that all sequestered Laudian clergy still alive were restored to their livings but few of the clergy who had remained behind in England were advanced or rewarded beyond these original holdings. Furthermore, those who were advanced were not from the ranks of those who had worked to keep the Anglican church alive between 1649 and 1660. This was particularly true of the appointments to bishoprics. Apart from the advancement of Juxton to Canterbury, Frewen to York, Duppa to Winchester and the nomination of Sheldon to London, the chief promotions went to the returned clerical exiles.²² Indeed, some of those rewarded had hardly served the Anglican cause during the Interregnum. Archbishop Juxton, for example, was best remembered in those years because he possessed the finest pack of hounds in the west country, a rather dubious clerical contribution to the royalist cause. As in the days of Elizabeth, the bench was now replenished from the ranks of exiles.²³

Nor did this passing over go unnoticed. Both Bishop John Warner of Rochester and Bishop Robert Skinner of Oxford, both of whom had been

²¹Bosher, The Restoration Settlement, p. 159. The church owed this act to Edward Hyde.

²²Sykes, From Sheldon To Secker, p. 6.

²³Ibid., p. 8.

very active, complained of being neglected and left in thir old bis-hoprics.²⁴ It was perhaps not surprising, then, that Heylyn, who had not possessed a bishop's seat before 1660, was not advanced to one now. Heylyn received only the restitution of his former appointments, all of which the law allowed him.

This neglect did not go unnoticed. After all, as one of Laud's chief assistants in the period before 1640, Heylyn had been a prominent figure. He had also loyally supported the king throughout the war and served as royal historian, to his own financial detriment. Indeed, when the Interregnum came, the nearly blind Heylyn still produced an immense number of religious and political writings. To be sure, much of this output was polemical in nature with little innate value, but his Stumbling Block Of Disobedience And Rebellion was one of the few historical and constitutional contributions to the argument for a legal sovereignty vested in the king. On October 8, 1660, Bishop Thomas Smith of Carlisle in a letter to his friend Joseph Williamson wondered why Heylyn had not received a bishopric, "he being such a champion of the church."²⁵

Very probably, Heylyn was left unrewarded for his activities, not because of his advanced age or physical frality, but because of his ultra royalist sentiments. He would be in disfavor with Hyde and the other moderate royalists around Charles II.²⁶

²⁴See their letters of 1660 and 1662 to Sheldon. Tanner MS, 49, f. 23 and Tanner MS, 45, f. 116.

²⁵C.S.P.D. 1660, p. 308.

²⁶Sykes, From Sheldon To Secker, pp. 6-9. It was Hyde, for example, who prevented the advancement of Warner and Skinner.

All in all, one must agree with Heylyn's biographer, George Vernon, that Heylyn was overlooked because "men of those days ranked the Doctor with the old cavaliers, of whose principles there could be no fear, and of whose services there could be no more need."²⁷ As for Heylyn himself, his comment on the lack of reward was biting and pragmatic when he declared: "much good it may do unto the new bishops, I do not envy them, but wish they may do more than I have done."²⁸

Though disappointed, Heylyn acted as he had always acted, he continued to be a loyal subject and cleric. He participated in the Royal Benevolence to the returned Charles II by giving £50 for his patronage of Alresford besides his share of the £1,000 given by St. Peter's of Westminster, where he was prebend.²⁹ In addition, he earnestly worked for maintaining the power of Convocation in religious matters against the usurpation of that power by Parliament. This effort was indeed his last active service to the church.

As one of the prime movers within the controversial Convocation of 1640, it was not surprising that Heylyn was upset by the fact that it seemed possible that the calling of the Cavalier Parliament would be unaccompanied by a meeting of Convocation. It was true that the Convention

²⁷Vernon, Life of Heylyn, p. 263.

²⁸Heylyn, KEIMHAI'A'EKK'HEIAETIKA: The Historical And Miscellaneous Tracts, p. xxvi. The D.N.B. is wrong when it states that Heylyn was passed over for health reasons. After all Juxon was made Archbishop of Canterbury despite his advanced age and poor health. Indeed Juxon was so frail that he was barely able to officiate at Charles II's coronation and had to give over nearly all of his activities in the service to others.

²⁹Vernon, Life of Heylyn, p. 278.

Parliament had been unattended by a similar meeting of Convocation, but given the circumstances, such a lack was understandable. Still, Heylyn feared what would happen if such a situation was allowed to continue and on April 12, 1660 he wrote to Bishop Sheldon of London. He warned Sheldon that such a possibility could result in dire consequences:

For questionless, some busy members of the House of Commons will thrust themselves into concernments of religion, when they shall find no Convocation sitting to take care thereof; and when it was replied that the intimating of a Convocation might prevent that mischief, I answered that I thought it would rather hasten it, and make them the more earnest to make use of their time before the prey would be taken out of their mouths by the actual coming together of so many divines, from whom they could not honestly pretend to extort the cognisance of those matters which belong properly to their calling. The like care must be taken to prevent the laity from bringing the clergy into taxes and payments with them, constantly practised since the beginning of the late Long Parliament, and not otherwise to be prevented than by having a bill of subsidy ready to be presented to the King in the name of the clergy, and by the King to be delivered unto such of his learned council as shall be members of that house, before the Commons enter upon that consideration.³⁰

Church officials, however, were apparently waiting to see the results of the elections for the Cavalier Parliament before issuing their own call for a meeting. And thus, when the elections returned a royalist majority a Convocation was also called for 1661. At this Convocation Heylyn, though not a member, was still consulted by the various members including the prominent and influential Dr. John Cosin, Bishop of Durham, for

³⁰Tanner MS, 49, f. 146 & 147. Professor Boshier curtly points out that the church hierarchy did not need Heylyn's encouragement to take action. Boshier, however, seems totally unaware of the significance of Heylyn's warning concerning Convocation in terms of the events of 1664. He also does not know apparently that Heylyn was present at the Convocation of 1640. Boshier, The Restoration Settlement, p. 214, footnote 1.

advice and opinions.³¹ After all he probably knew more than anyone what had transpired at the last Convocation.

Heylyn's fears of Convocation being eclipsed proved justified. In 1664 Convocation surrendered the right to tax the clergy and as a result sitting Convocations ceased to exist for the next twenty-five years. As the late Professor Sykes concluded, "The principal beneficiary from the demise of Convocation was Parliament, which assumed the function of an ecclesiastical legislature; and this at a time when its proper powers and authority were being notably enhanced, so that Convocation lost any hope of maintaining even a relative degree of independence of its formidable rival."³²

Heylyn, however, did not live to see his fears realized. In the first week of May 1662 he dreamed that he found himself in a peaceful and beautiful place wherein he saw the late Charles I. The martyred king then said to him, "Peter, I will have you buried under your seat at church, for you are rarely seen but there, or in your study."³³ So impressed was Heylyn by this occurrence that he believed it to be a premonition of death. Therefore, he purchased a house in the Almony near the abbey where he would be buried. Heylyn's forebodings proved true. Within a few days he contracted some form of violent fever and

³¹Heylyn, KEIMHAI'A'EKKAHETIAETIKA: The Historical And Miscellaneous Tracts, p. xxvi.

³²Sykes, From Sheldon To Secker, p. 67.

³³Vernon, Life of Heylyn, p. 279, Barnard, Life of Heylyn, pp. 290-291, Heylyn, KEIMHAI'A'EKKAHETIAETIKA: The Historical And Miscellaneous Tracts, p. xxvii.

was dead. He died on Ascension Day, May 8, 1662 at the age of sixty-two. His last words were to one of Westminster's vergers. Said Heylyn, "I know it is church time with you, and this is Ascension Day. I am ascending to the church triumphant, I go to my God and Saviour, unto joys celestial and hallejuhs eternal."³⁴

To the frontispiece of the diary he had composed in 1645 he had attached among other biblical verses the following from the thirty-ninth Psalm: "Lord make me to know mine end and the measure of my days, what it is; that I may know how frail I am."³⁵ In the end, Heylyn had not proved too frail. Throughout victories and vicissitudes he had remained loyal and supportive towards his family, his church and his king. It was not an immodest achievement.

As a royalist ideologist Heylyn was forgotten within the half century following his death. The triumph of parliamentary sovereignty as a result of the Revolution of 1688 guaranteed the supremacy of the Whig interpretation of English history. Although prior to 1688, the Whig interpretation was, as Quentin Skinner concluded, "one among several conflicting ideologies which had relied on identical background to prove their claims," it now effectively buried all opposing views.³⁶ Entranced with the immemorial law ideas of the parliamentary and legal

³⁴Heylyn, KEIMHAI'A'EKKAKHEIAETIKA: The Historical And Miscellaneous Tracts, p. xxvii.

³⁵Heylyn, A Memorial Of Bishop Waynflote, unpaginated frontispiece.

³⁶Quentin Skinner, "History And Ideology In The English Revolution," p. 151.

writers of the Civil War period Whig historians imagined in the words of Herbert Butterfield "the British constitution as coming down to us safely at last, inspite of so many vicissitudes; when in reality it is the result of those very vicissitudes."³⁷ Despite the substantive reports of the chroniclers to the contrary the seventeenth century Whigs soon effectively effaced the influence and even the memory of those royalist historians who had established an absolute legal sovereignty in the crown by means of the Norman conquest.³⁸ As a consequence, even many modern English historians have been puzzled at the seeming lack of any uniquely royalist ideology until the 1680's.³⁹ Thus Professor Zagorin maintains that after 1640 only one royalist thinker, Sir Robert Filmer, claimed a legislative sovereignty for the king.⁴⁰ While Professor Pocock asserted that the "conquest struck few roots in royalist thought, though from the writings of its opponents one would think it the most dreaded and ever -

³⁷Herbert Butterfield, The Whig Interpretation Of History (New York: Norton, 1963), p. 41.

³⁸Skinner, "History And Ideology In The English Revolution," p. 160.

³⁹Even Skinner writes that "no royalist until very late in the century made use of English history to argue the rights of a conquest." He then goes on to discuss what he calls an "Interregnum school of conquest" which he entitles "engagers." This group he believes wanted to end the strife of Civil War by convincing men that Cromwell's conquest paralleled the earlier Norman conquest and should therefore be accepted since Cromwell like William before now possessed the sovereign power. However, Skinner erroneously lists Heylyn among these writers because of his ideas in The Stumbling Block Of Disobedience. Quentin Skinner, "History And Ideology In The English Revolution," pp. 153, 160-170.

⁴⁰Perez Zagorin, A History Of Political Thought In The English Revolution (London: Routledge & Kegan Paul, 1954), pp. 189 & 195. Particularly the latter where he states that "though the revolution royalists failed to resolve the contradiction that the king though supreme was not legally sovereign."

present of dialectical menaces."⁴¹

In actuality, however, Heylyn had historically demonstrated his claims of the sole legal sovereignty of the king. Familiar with Sir Henry Spelman's ideas of feudalism, he believed that the Norman conquest had swept away any earlier English legal institutions since for William his "sword was the sceptre and his will the law."⁴² According to Heylyn, then, the king was legally sovereign because not only did he predate parliament but he had originally possessed sole power. All that remained for Heylyn after this was to expand his argument with Bodinian ideas concerning the role of the law giver. Moreover, since his best friend, Sir Robert Filmer, also relied heavily on Bodin, the result was that both Filmer and Heylyn sound very similar at times.

The royalist ideas of an absolute sovereignty which these two proposed, however, was not popular within England even when, as with Heylyn, it was placed on a substantial legal and historical base. Not until the exclusion crisis of the 1680's did royalists seem to be drawn to the argument that Heylyn and Filmer had first introduced. Even then they aroused only brief interest. Still in 1680 Filmer's The Necessity Of The Absolute Power Of All Kings: And In Particular Of The King Of England was reprinted followed a year later by Patriarcha.⁴³ In 1681 Heylyn's chief political works were also republished, The Stumbling

⁴¹W. N. Pocock, The Ancient Constitution And The Feudal Law, p. 149.

⁴²Heylyn, The Stumbling Block Of Disobedience, p. 267.

⁴³The first of these works had been extrapolated almost word for word from the 1606 English edition of the Republique.

Block Of Disobedience and a collection of his other political writings under the title KEIMHAI'A'EKKAHETIAETIKA: The Historical And Miscellaneous Tracts Of Peter Heylyn.

The interest aroused in royalist circles by the posthumous re-issue of his works must have been considerable for not only did his relatives commission two biographies of Heylyn, one in 1682 and the other a year later, but his ideas were used by the major royal absolutist ideologist of that period, Dr. Robert Brady.

The importance of Heylyn's theories of legal sovereignty to these crucial years is well illustrated in Brady's high Tory ideas. Ironically, Brady, and not Heylyn, is often credited with being the first royalist historian to consider the English kingship in a legally sovereign Bodinian framework, while invalidating parliamentary claims of sovereignty on the ground that parliament did not exist until the thirteenth century. Brady's interpretation of English history was not as Professor Pocock believed, "a radically new departure."⁴⁴ Rather Brady's writings were an expansion and reiteration of the historical ideas which Heylyn and to a lesser degree Filmer had first discussed in the 1640's. As such Brady's ideas do not represent a new school of royalist historiography but the ideas of Heylyn.⁴⁵ Like Heylyn before

⁴⁴Pocock, The Ancient Constitution And The Feudal Law, p. 196.

⁴⁵For parallels between Heylyn's ideas on feudalism, parliament and sovereignty with those of Brady see Dr. Robert Brady, A True And Exact History Of The Succession To The Crown Of England (London: 1681), pp. 1-40 and Brady, An Introduction To The Old English History (London: 1684), pp. 1-20. The importance of conquest ideas from 1688 to 1693 is discussed by M. P. Thompson, "The Idea Of Conquest In Controversies Over The 1688 Revolution," Journal Of The History Of Ideas, XXXVII, 1,

him, Brady took as his major theme the placing of a legal sovereignty in the Stuart monarchy by skillful use of the history of English feudalism.⁴⁶ Unlike Brady, however, Heylyn's brief, if posthumous, prominence was soon eclipsed by the events of 1688 and the triumph of the Whig view of history. Yet, without an understanding of Heylyn's political ideas and their development, it is difficult to achieve either a true perspective of royalist historical thought since 1640 or indeed the development of English historiography.

January - March, 1977, pp. 33-46. Although Thompson does not mention writers before 1688, his survey of writers from 1688-1693 shows that all agreed with Heylyn that conquest implied the right of the conqueror to govern.

⁴⁶For an extended discussion of the controversy concerning Brady's ideas of legal sovereignty see C. C. Weston, "Legal Sovereignty In The Brady Controversy," The Historical Journal, VX, 3, 1972, pp. 409-431 and Pocock, The Ancient Constitution And The Feudal Law, pp. 182-229. Unlike Pocock, Weston is aware of the earlier works of Heylyn. Pocock does not seem to realize that they existed for there is no mention of them in his Bibliography.

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