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Penal Laws in Gloucestershire

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PENAL LAWS IN GLOUCESTERSHIRE

King James the Second's Proposed Repeal of the Penal Laws and the Test Act in 1688: his questions to the Deputy-Lieutenants and Magistrates of Gloucestershire, with their Answers thereto.

Transcribed from Rawlinson MS. A 139a, Bodleian Library, Oxford, by the Rev. A. L. Browne, M.A.

INTRODUCTION

AFTER issuing a 'Declaration of Toleration and Liberty of Conscience', the King instructed his Council to present certain questions to all Deputy-Lieutenants and Magistrates through the medium of the Lord-Lieutenants of the several counties of England and Wales, in order to ascertain their attitude towards a projected repeal of the Penal Laws and the Test Act passed by the Cavalier Parliament. The response, however, apart from the counties of Cumberland, Westmorland and Lancaster, proved unfavourable. The comment on the questions by Sir John Reresby,¹ a contemporary, is illuminating. He stated that Lord-Lieutenants who refused to execute the order were turned out, and Papists were put in their places, and the deputy-lieutenants and magistrates that did not give a satisfactory answer were generally displaced. This was indeed putting the thing too far, and the wonder of all men to what purpose it was done. For what answer could any man give that was to be a member of parliament, till he heard the reasons and debates in the House? If men had a mind to deceive the king, how easy, nay how likely was it for them to pretend to be of one judgment now, and of another when they were of the House. Besides it

¹ *Reresby's Memoirs*, ed. Browning, (Glasgow, 1936), p. 478.

struck at the very foundation of parliaments to pre-engage men, before they came there, where they were allowed the freedom both of speech and judgments.

The general answer that was given by Protestants was this, that they would give their votes so, in the House, as the reasons of the debate directed them; that they would vote for such as they thought would do so; and that they would live quietly with all men as good christians and loyal subjects.

THE KING'S INSTRUCTIONS

THAT the Lord-Lieutenant of the County of Gloucester, doe call before him all Deputy-Lieutenants and Justices of the Peace within his Lieutenancy, either jointly or separately, as he shall think best, and ask them, one by one, the following Questions:—

1. If in case he shall be chosen Knight of the Shire, or Burgesse of a Towne, when the King shall think fitt to call a parliament, whether he will be for taking of the Penall Lawes and the Tests.

2. Whether he will assist and contribute to the Election of such members as shall be for taking of the Penall Lawes and Tests.

3. Whether he will support the King's Declaration for Liberty of Conscience, by living ffriendly with those of all perswasions, as subjects of the same Prince, and good Christians ought to doe.

As he shall ask these Questions of all Deputy-Lieutenants and Justices of the Peace; soe he shall particularly write downe what every one answers, whether he Consents, Refuseth, or is Doubtful.

THAT he likewise doe bring the King as good an account as he can of all the severall Corporations within his Lieutenancy, what persons of such are willing to comply with these measures, have credit enough of their owne, to be chosen Parliament men, or may be chosen if assisted by their friends; and lastly, what

Catholicks, and what Dissenters are fitt to be added either to the List of the Deputy-Lieutenants, or to the Commission of the Peace throughout the said Lieutenancy.

Assuming that the Duke of Beaufort, at the time Lord Lieutenant of Gloucestershire, carried out the instructions on the same lines as those obtaining in other counties, he would despatch copies of the Questions to each person concerned, and at the same time indicate the day and place (presumably the county town) for the replies to be delivered personally in writing. In this instance, the Duke or his deputy, instead of remitting the replies exactly as received, he, for the most part, contented himself by embodying their substance in his return. The absence, apart from Bristol, of answers from the municipal corporations in the County, will be noted, for which omission a partial explanation will be found in a covering letter from the Duke.

THE ANSWERS (Folio 144 &c.)

A List of all the Deputy Lieutenants and Justices of the Peace within the severale Counties of the Duke of Beaufort's Lieutenancy. . . .

Together with the answers of such of them as Appeared on the Generall Summons To ye Questions Proposed to them by his Maties Comand.

Bristoll. Deputy Lieutenants

Richard Lane, Mayor	}	Refuse ye two first. Consent to ye last.
Sir Richard Crump, Knt.		
Sr William Clutterbuck, Knt.	}	Consents to all.
John Hickes, Alderman		
Sr William Poole, Knt.		Consents to all.
John Fitzherbert, Esq.		Absent.
John Romsey, Esq.		

Gloucestershire. Deputy Lieutenants

Sr Thomas Arden Price	Lives in Staffordshire.
Sr John Ashfeild	Refuses ye 2 first ; Consents to ye 3d.
Sr William Juxon	Absent.
Sr Gabriell Lowe	Refuses ye 2 first ; consents to ye 3d.
Sr John Newton	Refuses ye 2 first ; consents to ye 3d.
Sr Robert Atkyns	Refuses the 2 first ; consents to ye 3d.
Sr Thomas Cutler	Absent.
Sr Charles Wintour	Consents to all.
John Wintour, Esq.	Not able to come to mee, But alwayes very loyall.
Robert Codrington, Esq.	Refuses ye 2 first ; consents to ye 3d.
William Wintour, Esq.	With ye Regiment.
Robert Pleydell, Esq.	Refuses ye 2 first ; consents to ye 3d.
John Smyth, Esq.	Superanuated being at least fourscore.
Thomas Masters, Esq.	Refuses ye 2 first ; consents to ye third.
John Chamberlaine, Esq.	Not for persecution and therefore if chosen thinks hee should bee for Repeal is for choosing such as would be soe if otherwise qualified to his minde.
Henry Norwood, Esq.	Absent.
William Cope, Esq.	Superanuated, being at least fourscore.
Charles Hancock, Esq.	Refuses ye 2 first ; consents to ye 3d.

- Theophilus Leigh, Esq. Refuses as to ye Test ;
but for taking away all
the sanguinary laws and
some others and some
others of ye Penall
Laws.
- William George, Esq. Refuses having promised
his Vote to young Sir
Robert Atkyns and Mr
Masters.
- John Gytthens } civit.
Ben : Hyett } Gloucest. } Against persecution and
for those yt are so
except Mr Powell and
Mr Wagstaff whom hee
cannot be for.
- The same only more
Doubtfull as to ye First.

Justices of the Peace not Dep: Leiuts.

- Sr William Keyte Lives in Worcestershr.
Sr Robert Southwell As formerly wch ye King
knows.
- Sr Fleetwood Dormer Refuses ye 2 first ;
consents to ye 3d.
- Sr Samuell Astrey Consents to all.
Thomas Rawlins, sergt-at-law (Blank).
Henry Hall, Esq. A Catholick, now sherriffe.
John Hill, Esq. A Catholick, now Mayor of
Gloucestr ; consents to
all.
- Robert Brent, Esq. A Catholick.
Nicholas Veale, Esq. Refuses ye 2 first ;
consents to ye 3d.
- John Ashton of Ashton, Esq. A Catholick ; consents to
all.
- Philip Draycott, Esq. A Catholick ; Sheriff of
Staffordsh.

Henry Powle, Esq.	Absent.
John Vaughan, Esq.	A Catholick ; consents to all.
Philip Sheppard, Esq.	Refuses ye 2 first ; consents to ye 3d.
Charles Trinder, Esq.	A Catholick.
William Rogers, Esq.	A Catholick.
Thomas Harris, Esq.	Lives in Wiltshire.
Robert Price, Esq.	As formerly to ye King.
Giles Parsons, Esq.	Absent.
Anthony Sambach	} Esqrs. Not sworn.
John Parsons, junr.	
Benedict Wakeman, Esq.	A Catholick ; consents to all.
Thomas Bartlett, Esq.	A Catholick.
Francis Creswick, Esq.	Consents to all.
George Raymond, Esq.	Refuses ye 2 first ; consents to ye 3d.
Christopher Cole, Esq.	Lame in his shoulder and not able to come.
Henry Benedict Hall, Esq.	A Catholick.
John Wagstaffe, Esq.	Consents to all.
David Warren, Esq.	Refuses ye 2 first ; consents to ye 3d.
Richard Parsons, Leg : Baccalorum	Refuses ye 2 first ; consents to ye 3d.
William Player, Esq.	Lives in Dorsetshire.
John Dowell, Esq.	Doubtfull ; but inclined to doe all in conscience hee can ; and to vote for such as desired if otherwise qualified.
William Wall, Esq.	Absent.
Joseph Knight, Esq.	Absent.
Tracy Catchmaid, Esq.	Doubtfull ; but well inclined.
William Wolseley, Esq.	Consents to all.

John Fitzherbert, Esq.	Consents to all as formerly
Thomas James, Esq.	Consents to all.
Christopher Woodward, Esq.	Doubtfull, but inclined to doe as desired.
Henry Chivers, Esq.	With the Regiment.

Copy of an undated, unsigned and unaddressed covering letter from the Duke of Beaufort. (Folio 175).

As to the Corporations within my Leivtenancey; I know not at present any Persons (of such as have declared themselves willing to comply with ye measures mentioned in the Instructions) That either have credit enough of theire owne, Or are in any probabillity to bee chosen Parliament men by assistance of theire Friends, Except Mr Powell and Mr Wagstaffe in Gloucester, Mr Geers at Hereford, Mr Thomas Herbert at Monmouth and Mr William Barlow at Haverfordwest and no one of these without difficulty even when the Corporations are new modelled and Purged. For in all except Tewxbury, The Election having bin by prescription could not bee regulated by the new Charters and placed in the Magistrates, But continues still in the Freemen, wch are very numerous and not subject to bee put in or out at the King's pleasure; and generally averse to the taking away of ye Test, but in Malmsbury and Ludlow (Two Corporations, tho' not within my Leiuatenancy) where I was instrumentale in procuring the new Charters, I might possibly prevaile to have such chosen.

I have in this accompt kept myself strictly to ye words of ye Instructions, wch directed I should write downe particularly of every individual Deputy Leiut and Justice of ye Peace (whom I tooke singly one-by-one) whither hee consented, Refused, or was Doubtfull, wch I at last reduced all theire severall discourses to; Butt I cannot but in Justice say this in generall of those I have put down Refusing or Doubtfull, That there were very few of them that did not shew to bee much troubled that they could not comply with what ye King desired. . . .