

William Gibson

The Limits of the Confessional State: Electoral Religion in the Reign of Charles II

Gibson, W (2008) The Limits of the Confessional State: Electoral Religion in the Reign of Charles II. *The Historical Journal*, 51 (1). pp. 27-47

DOI: 10.1017/S0018246X07006577

This version is available: <http://radar.brookes.ac.uk/radar/items/6b594e92-08f8-d3ac-9219-ba3af4dbcfab/1/>
Available in the RADAR: 31st January 2012

Copyright © and Moral Rights are retained by the author(s) and/ or other copyright owners. A copy can be downloaded for personal non-commercial research or study, without prior permission or charge. This item cannot be reproduced or quoted extensively from without first obtaining permission in writing from the copyright holder(s). The content must not be changed in any way or sold commercially in any format or medium without the formal permission of the copyright holders.

This document is the **postprint** of the journal article. Some differences between the published version and this version may remain and you are advised to consult the published version if you wish to cite from it.

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

THE LIMITS OF THE CONFESSIONAL STATE:

ELECTORAL RELIGION IN THE REIGN OF CHARLES II.*

WILLIAM GIBSON

Oxford Brookes University

Abstract

From 1670 there were sustained attempts to use excommunication as a tool to influence parliamentary elections. Excommunicants could not qualify for membership of municipal corporations under the Test and Corporation Acts. Towards the end of Charles II's reign, as fear of protestant dissent grew, excommunication was, however, used to deny voters the right to exercise their franchise. There was a concerted attempt, encouraged by the king, to ensure the election of a compliant tory parliament through the use of excommunication in elections in borough seats. The attempt, reliant on bishops and spiritual courts, represented the high water mark of the 'confessional state'. Of questionable legality, the exclusion of excommunicants from the right to vote was short-lived. The accession of James II, and his Catholicizing policies, created new alliances between Anglicans and dissenters and eroded the willingness of bishops to use excommunication as an electoral instrument. In 1689, the Toleration Act removed the principal cause of the persecution of dissent. The use of excommunication, nevertheless, represented an important attempt to unite the Church and state for electoral reasons.

Opinions about the relationship between religious dissent and parliamentary representation have not developed in step with a growing understanding of the nature of politics in the closing years of Charles II's reign. Historians have recognised that Charles II moved from conciliating to coercing dissenters after 1679, but have not grasped the degree or character of that coercion. General histories and monographs on the three elections of 1679-1681 by traditionalists and revisionists have shown how dissenters' aspirations for parliamentary representation grew in the 1670s, but have not considered the impact of widespread excommunication on dissenters' electoral fortunes.¹ This is, in part, because, as Grant Tapsell has shown, 'the prevailing historiography of the 1680s has tended to concentrate on the absolutist tendencies of

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

government' at the expense of the study of parliament.² Moreover Jonathan Clark's definition of the 'confessional state' with 'law and religion intertwined' is influenced by the *telos* of the 1720s: it is a confessional state limited by the Toleration Act and in which the Test and Corporation Acts were mitigated by Indemnity Acts. For Clark, therefore, a 'confessional state signifies monopoly not unanimity'.³ But this was far distant from what Charles II and his allies conceived in the excommunication of dissenters. It was even distant from Danby's proposal of 1675 that only those in communion with the Church of England could sit in the house of commons. What Charles and the bishops envisaged was a state in which political representation was determined by absolute conformity to the Church — the one certain loyalist institution. Given the erastian nature of the restoration Church, this meant an absolutist and monopoly confessional state wherein political unanimity and orthodoxy were guaranteed by the spiritual courts. Answering Joanna Innes, Clark asked in 1987, a

'confessional state' points to both a legal monopoly and a hegemonic intellectual position, but suggests a practical watertightness that existed neither before nor since... Did the Restoration entail, or did it distort to effect, a legal conformity?⁴

For Charles II, the answer is that the restoration established a regime in which he alone, perhaps in alliance with like-minded loyalist bishops, sought to determine the complexion of the house of commons and to exclude those who challenged the patriarchal hereditary monarchy. Parliamentary liberty would be determined as much by the loyalist Church as by the voters and the monarch would have the right to exclude voters of whom he disapproved through the new-found mechanism of excommunication. This was a watertight mechanism that later monarchs and ministers might have envied. The excommunication of dissenters with the intent of denying them a vote at elections was perhaps the furthest extent of England's *ancien regime* under Charles II and the most absolutist expression of the idea of the 'confessional

'Electoral religion in the reign of Charles I and the limits of the confessional state?' in *The Historical Journal*, 2008.

state'. It was also a considerable expansion of the interpretation of the law. For a brief time between 1678 and 1683, however, some bishops and churchmen sought to use sentences of excommunication as a way of opening a new front in the eradication of dissenters from parliament. While this feature has been noted by historians, its scale and significance has not been investigated. Indeed, the most recent account of persecution and toleration in the late seventeenth century observed 'the moves by the crown in 1681-3 to remove dissenters from juries and from the franchise', but did not further consider the subject.⁵ Gary de Krey's account of politics in this period suggests that the period 1678-83 witnessed the start of popular politics and politics 'out of doors', and that this took Charles II aback, but did not touch on this issue.⁶ Elsewhere D. R. Lacey has previously claimed that 'there was no general use of this means [excommunication] to deprive dissenters of the vote' until after the Oxford parliament of 1681.⁷ In fact, it is clear that the use of excommunication to exclude dissenters from voting had begun before 1681.

By the late 1670s, it was becoming clear that the Clarendon code had failed to force the dissenters of 1662 back to the Church of England. The penalties in the Quaker Act of 1662 and the Conventicle Act of 1664, which made it illegal to lead or attend worship in private homes or not conducted according to the Book of Common Prayer, were severe but ineffective. In 1665, the government passed the Five Mile Act, which exerted even greater rigours on these ejected ministers who refused to swear an oath undertaking not to seek a change in the form of government in Church or state, by requiring them to remain at least five miles away from the town or place in which they had formerly preached or had been an incumbent. Neither these measures, however, nor the Test and Corporations Acts, significantly reduced the numbers of dissenters in public office, or the commitment of dissenting clergy to the

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

exercise of their ministry. In the case of an ejected clergyman like Joseph Alleine, imprisonment and clandestine ministry promoted the ideal of a suffering, martyred ministry, which fuelled, rather than dampened, commitment to the cause of dissent.⁸ After the Williamite revolution, the solution was to recognise the continuing separation of the dissenters in the Toleration Act, but in the two decades before the revolution the refusal of dissenters to conform left Anglicans and Tories in Church and state with a problem, since they were unwilling to concede that dissent had become a permanent fixture in English religious and political life.

The Tory Anglicans sought a means to eradicate dissenters and, in particular, to prevent them gaining further control of parliamentary representation. By the October 1679 election, there were concerns about the growing number of dissenting MPs.⁹ Indeed the numbers of Presbyterian and Congregational MPs returned in the two 1679 elections more than doubled.¹⁰ Such figures caused considerable anxiety, since religious and political heterodoxy were assumed to be coterminous. Before the Church of England's Compton census of dissenters in 1676, wilder estimates claimed that up to two thirds of the population of England dissented from the Church.¹¹ More threatening was a proposal by John Humphrey, a Presbyterian, to manipulate the franchise, to include more dissenters, by converting their copyhold land to freehold.¹² Whereas dissent was, for the most part, an urban parliamentary threat affecting borough seats, Humphrey's proposal would also have jeopardised county seats. In Norfolk, there were worrying signs that dissenters had hopes to take one of the county seats.¹³ If such voices had their way, Anglicans might be swamped and the Clarendon code, including the Test and Corporations Acts, repealed. Moreover, the exclusionists' threat to the succession of James, Duke of York, convinced the king that dissenters were, by definition, seditious. Certainly there were examples of dissenters

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

who sought election to parliament to pursue the exclusionist agenda.¹⁴ At the height of the exclusion crisis ministers warned Charles of dissenters' plots and the danger of rebellion. However imaginary such fears, they threw Charles back into the hands of his 'old friends', the tory Anglicans, and in electoral terms stiffened Charles's determination not to face a parliament dominated by whigs and dissenters. Charles saw the key to the eradication of whigs and dissenters from parliament as lying in the boroughs; it was here that their influence had to be crushed.¹⁵ Consequently it was on the boroughs that royal intelligence and intervention were focused.

In the years after 1673, Charles II undoubtedly took a personal interest in acting against dissenters in boroughs. He repeatedly issued orders to prosecute dissenters to mayors and magistrates in general, and frequently also to individual towns.¹⁶ This was a dramatic change in Charles's attitude to dissent; his short-lived declaration of indulgence of 1672 had given dissenters an indication of what life might be like under a more tolerant regime. Across the country, dissenting congregations applied for 1,434 licenses for meeting houses.¹⁷ Parliament's decision to suppress the king's declaration, however, dashed the moment of toleration, and the Test Act of 1673 confirmed parliament's unwillingness to consider dissenters as legitimately qualified to exercise public office. Moreover Charles became increasingly convinced of the danger that dissenters represented. The dissenters realised that, in the absence of toleration, they had to seek parliamentary influence and it is clear that Quakers, in particular, sought parliamentary representation after the failure of the indulgence.¹⁸

In some towns, dissenters were a dominant influence, and often played an important role in trade and commerce which they felt justified a voice in elections. In boroughs with a high concentration of dissenters, this could guarantee control of a

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

seat, especially in boroughs with wide franchises such as 'potwalloper' or 'scot and lot' boroughs.¹⁹ Even in boroughs where the franchise was based on the corporation, dissenters could exercise a strong influence if the Test and Corporation Acts were not observed. In Norwich, for example, the dissenters' strength meant that they virtually nominated one of the two MPs; in the 1670s, Dr John Collings, a presbyterian minister, acted as election agent for Sir John Hobart, the whig MP, and organised transport and hospitality for Hobart's supporters. Nevertheless, such dominance did not go unchallenged and in the first election in 1679, both Lord Yarmouth and the bishop of Norwich, Anthony Sparrow, circulated public letters. Yarmouth indicated his irritation that people other than his chosen candidates, who were 'persons of undoubted loyalty', were being canvassed. Bishop Sparrow was equally forthright, circulating his letter to all the clergy of his diocese, urging them to choose 'such men as by God's blessing are like to help ... the healing of those Divisions in Church and State which at present make the kingdom shake'. While Sparrow claimed that he would not 'prescribe unto [them] what particular persons they should vote for', he named Yarmouth's candidates as his own.²⁰ Similarly in Harwick in 1685, Ezekiel Everest, the Customs officer, wrote to Sunderland that 'the great interest the Dissenting party are making' could swing the vote for their candidate, although there remained thirty-five poor freeholders who, if they could be paid to vote, could decide the vote against the dissenters' man.²¹ As late as 1689, the vicar of Harwich complained that dissenters insisted on having their votes recorded, despite the mayor's intention to exclude them.²²

Notwithstanding the reassurance of the Compton census, which calculated that dissenters comprised only three or four per cent of the population, by the late 1670s, political attitudes had polarized along religious lines and the whig-dissent

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

exclusionists were drawn up in opposition to the tory-Anglican-yorkists.²³ Moreover, in the late 1670s, a series of high-profile dissenters stood for parliament, principally in borough seats, including Thomas Vane in Durham, John Rushworth in Berwick, Richard Huntington in Yarmouth, Sir John Hewly in York, Phillip Foley in Bewdley, Sir Walter Yonge in Newport (Cornwall), Sir William Ellis in Grantham and Thomas Reynell in Ashburton.²⁴ This seemed to confirm the king's fears that whilst dissent may not have been numerically significant, the dissenters' desire to exercise political power threatened the regime in parliament.²⁵

Outside parliament, the more determined loyalist Anglican bishops, such as Peter Mews of Bath and Wells, became exasperated by dissent. In 1676, Mews's visitation articles sought detailed information as to whether the clergy were episcopally ordained; whether they were licensed by their bishop; whether they preached 'false heretical, seditious or schismatical doctrine'; whether they prayed for the royal family; whether parishioners refused to attend public worship; and whether any were unbaptised or refused burial according to the rites of the Church? In effect Mews, and some other bishops, assiduously used visitations to search out clergy sympathetic to dissent.²⁶ Like Sparrow, Mews also made no secret of his support for the tory cause, exhorting the clergy of Bath and Wells to turn out in favour of the king's candidates at elections.²⁷ Mews regarded dissenters as dangerous enemies within the state: in 1677, for example, he claimed that 'the Peace not only of this country but all ye West of England' depended on the suppression of conventicles.²⁸ On occasion, Mews drew on Bridgwater constables to try to suppress the large dissenters' meeting in Taunton. In 1677, he tried to break up the meeting three times, even drafting in two deputy lieutenants and the county militia to do so. On one occasion, the militia found the dissenters singing psalms and, when arrested, they

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

knocked down a militia officer and threatened members of the Anglican corporation.²⁹ In leading the opposition to the dissenters, Bishop Mews was regarded as having 'done good service to king and Church in this country by giving considerable check to the readiness of the discontented people'.³⁰ Sparrow and Mews were not alone, Bishops Thomas Barlow of Lincoln, Nathaniel Crewe of Durham and John Dolben of Rochester also urged towns and cities to surrender their charters, in order that more restricted charters could be issued excluding dissenters from the franchise. Other bishops made careful choices of incumbents in boroughs to ensure that the clergy bolstered the tory interest.³¹

The intolerance of Bishop Mews did not go unnoticed. On 21 March 1681, the 'young men' of the borough of Taunton addressed a petition to their whig members of parliament, John Trenchard and Edmund Prideaux, who were both nonconformists. The address asked 'that you take cognisance of the illegal and arbitrary proceedings of the courts, as well ecclesiastical as civil' and

that you would speedily think of some good expedient for the regulating of elections, as also for removing those oaths and tests which have proved no small hindrance for diverse worthy Protestants from being useful instruments in serving their king and Country in Church and State.³²

This address represented concern at an escalation of the action by Bishop Mews, from using the militia and constables, to pursuing nonconformists in the ecclesiastical courts and seeking to use sentences of excommunication as a means to deny them the right to vote in parliamentary elections.

Before Mews's attempts in the late 1670s and 1680s, there had been some occasional attempts to exclude dissenters from voting, or to lessen the impact of their votes by various means. In the Chester election of 1660, for example, mass creations of freemen among those 'who pay duty to the king and the Church' swamped the dissenters' votes. The Corporation Act of 1661 was also widely used in boroughs

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

where the parliamentary franchise rested with the corporation in order to exclude dissenters who could not qualify for a place on the corporation, except by taking the sacrament in the Church of England as required by law. By not doing so, dissenters were denied membership of the corporation, and therefore also exercise of the franchise. Usually such exclusions were on a small scale, but when there was a by-election in Bristol in 1677 — during which the bishop was forced out of the city by the insolence of 'the fanatic interest' — it was suggested that oaths of allegiance and supremacy be administered 'unto the whole city' the refusal to swear which, in 1660, Lord Chief Justice Foster ruled, was grounds for denial of the vote.³³ In the campaign for the first election of 1679, the privy council held inquiries into whether corporations had complied with the Corporations Act. The inquiry found that, for example, at Liskeard in Cornwall the corporation had complied with the act, but at Hereford, no oaths had been administered to the corporation since 1663 and when the situation was rectified, only thirteen out of thirty one members had been properly qualified. In 1681, at Rye six of eleven members of the corporation were excluded and at Sandwich it was revealed that none of the members of the corporation had taken the sacrament.³⁴ In boroughs where the franchise was vested in the corporation this was particularly effective. Strict enforcement of the Test Acts was not confined to corporations. In the London livery company elections of 1682-3, the attorney-general advised the companies that they could exclude dissenters from voting through systematic administration of the oaths of allegiance and supremacy.³⁵

Insisting on the proper observance of the Test and Corporations Acts was a legal means of excluding dissenters from corporations and thereby influencing elections. There were also more questionable tactics: in the Aylesbury election of 1685, for example, the tory candidates, Sir William Egerton and Richard Anderson,

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

were only elected after almsmen in a dissenters' charity were excluded from the right to vote. Attempts to exclude pensioners and almsmen, however, continued for more than a century. The Church of England also used its moral authority: in 1681, for instance, Dean Granville of Durham exhorted his congregation in the cathedral to vote only for 'sound churchmen', at which the dissenters' leaders made loud protests.³⁶ Despite these electoral stratagems, excommunication —simply on grounds of religious conscience and failure to attend Church or attendance at a conventicle— was a novel means to exclude dissenters' votes.

The earliest suggestion of excommunication for electoral purposes seems to have occurred in 1669 in Bridgwater, Somerset, which was a borough dominated by dissenters. A house of commons committee considered the evidence from a contested parliamentary by-election in December 1669. The franchise in Bridgwater was vested in the corporation, which numbered twenty-four. Eleven members of the corporation had voted for Sir Francis Rolle and twelve for a Mr Palmer. The mayor then voted for Rolle and, citing convention, also gave his casting vote for Rolle. Palmer appealed to the house of commons that this had effectively given two votes to the mayor. When the issue came before the commons committee, however, it was claimed that some of the burgesses voting for Rolle had been disqualified because:

being all persons holding Conventicles in their Houses and resorting to them, in others; and refusing to conform or resort to the services of the Church, or receive the sacrament, as the Act does enjoin; and one of them being, at the time of his being elected burgess, actually excommunicated, and not absolved till after the Election of the burgess to serve in Parliament.³⁷

The committee agreed that Rolle had not been duly elected and Palmer was returned in his place. This seemed to imply acceptance of the principle that an excommunicant could not be a corporation burgess and therefore could not vote in elections. The committee also, however, considered whether or not excommunication was generally an issue in voiding votes. The Corporation Act required all burgesses to

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

receive the sacrament in the Church of England annually, which excommunicants could not, and in this case debarred the burgess from the corporation. In the committee one MP, Robert Swynfin, argued: 'Excommunication takes away no man's voice in elections. In a writ, it may abate the writ, if pleaded; but it is not void *ipso facto*, only voidable'. The commons' ruling suggested that excommunication could prevent a burgess casting his vote in a corporation-suffrage borough; but Swynfin's principle seemed to contradict this ruling.³⁸ Thus the picture remained occluded. A few months later, in October 1670, the clerk of the passage in Dover, who was responsible for permission to travel overseas, wrote to the secretary of state, Sir Joseph Williamson, to say that he expected 'much trouble' at the coming elections; but he added 'if the Nonconformists and those excommunicated have a vote, which I desire to know, Lord Hinchinbrooke will carry it.' Hinchinbrooke's election in 1679 indicates that, though suggested, there was probably no resort to the exclusion of excommunicants' votes.³⁹ Nevertheless between 1675 and 1678, there were seven by-elections in which the excommunication of dissenters led to an election defeat.⁴⁰

Gilbert Burnet claimed that there was no legal agreement on whether dissenters could be excommunicated and then prevented from voting, although he conceded that 'it gave them at least a color [collar] to deny them votes'. It is clear that some felt uncertain whether ecclesiastical courts could be used to deny the right to vote in this way.⁴¹ In February 1682, the Middlesex magistrates asked the king 'to appoint his counsel learned in the law to consult statutes made against dissenters and conventicles and to direct such rules and methods for the Justices and other officers to act by'. Later that year, magistrates asked Secretary Jenkins more directly about the measures that could be taken against dissenters, including: 'whether the prosecution against dissenters ought not to be prosecuted to excommunication for not coming to

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

church and receiving the sacrament, in corporations especially thereby to incapacitate them from being elected or electors of members of Parliament'.⁴² Some Anglicans felt equivocal about the systematic excommunication of dissenters. Edward Fowler, for instance, as incumbent of St. Giles, Cripplegate, London, and an Anglican who had struggled with conformity, was reported as saying 'the Church of England clergy are put on the presenting of the Dissenters only to make them odious and that my Lord of London told him so and that when they are made so sufficiently they will be left in the lurch'.⁴³ Fowler's views were in stark contrast to his tory parishioners, who sought to force him to prosecute dissenters. In 1685, Fowler was even suspended for ten days for administering communion to two excommunicated men. This was the culmination of a conflict which had seen Fowler try to prevent the prosecution of dissenters for non-attendance at church by issuing a certificate of conformity to a dissenter to allow him to escape excommunication. Fowler knew that these dissenters were targeted because they had been active in the shrieval elections in 1682.⁴⁴

Opponents of the use of excommunication for electoral purposes argued along the same lines as opponents of the Test Act, claiming that it was an abuse of religion to use it for such a secular purpose. The anonymous author of *A discourse concerning excommunication* argued to MPs that denying votes to excommunicants was a practice 'which will (if not timely by your Honours taken notice of and restrained) give the monopoly of suffrages into the hands of Registers, Officials and Proctors'.⁴⁵ He argued that excommunication was a divine institution and ought not to be used for 'minute offenders' but on 'atrocious horrible crimes.' But

our excommunications being grown ordinary revenges of particular spite and malice, when they have a mind to get a person out of a city or county, they know not why, or to be even with those that would not be awed to give their suffrages for such members to serve in Parliament as the officials, Registers and Proctors would have had.⁴⁶

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

Moreover, the author claimed that Lord Chancellor Hyde had made release of excommunicants from gaol more difficult, because writs of release were not granted 'without great difficulty' requiring first application to the diocesan bishop, not to the King's Bench, and some bishops refused the applications.⁴⁷ In 1665, for example, a legal opinion was sought on the excommunication of a Mr. Pickering in Kent and whether he could be discharged by the king without the bishop's sanction.⁴⁸

The electors of Taunton, which was a 'potwalloper' franchise borough, were perhaps more concerned than most by the use of excommunication as a means to determine who could and who could not vote.⁴⁹ In 1680, it seemed clear that a concerted attempt was being made to use excommunication for electoral purposes. In that year, a Taunton 'burgher' claimed to have been summoned by Bishop Mews to attend the diocesan consistory court. He complained that there was a trick to managing such summonses to attend the court:

if I appear not, they take the advantage and excommunicate me upon a contempt; if I do appear, 'tis ten to one they have no libel ready, and then I must appear next court-day, and so onwards, till some journey, sickness or other indispensable occasion make me absent, and then be sure I am delivered to the Devil.

The burgher continued that this determination by Bishop Mews to reach a sentence of excommunication was for a 'special and extraordinary reason':

Excommunication is a terrible thing ... it incapacitates a Freeholder from having a voice in the election of a members to serve in Parliament, and does so bereave a gentleman of all wisdom and understanding, that he's immediately unfit to be chosen to serve in that body: and thus the courts having gotten into their hands such an engine [as] may hinder the election of any who will not conspire in them their usurpation.⁵⁰

The burgher argued that he was not hostile to the Church of England, but attended the dissenters meetings largely because the vicar of Taunton, William Cross, was a 'lamentable parson' who preached only once a month and even then not to the 'purpose of our salvation'. The burgher was thus not a dyed-in-the-wool dissenter; rather, he said 'I am a kind of Latitudinarian'. But the central point of his concern was that the bishop of Bath and Wells was seeking to 'pervert that high censure of

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

excommunication so as to make it a state engine, to serve their interest and passions; especially to hinder the peoples' free choice of their trustees to serve in Parliament'. If such an agenda was pursued, he feared that large numbers of dissenters would be excommunicated.⁵¹ The burgher was aware that this was a politically inspired strategy, and that 'excommunication was adjudged the fittest expedient to deprive us of our votes', but he also believed that the house of commons committee of elections had decided that some 'were unqualified to elect, because cast out of the Church'.

The Taunton burgher was answered by an anonymous lawyer who claimed that there was no legal foundation to the denial of votes to those under sentence of excommunication. The lawyer examined the electoral laws of Henry VIII's reign, and argued that 'without any the least shadow or colour', there was no foundation for excluding excommunicants from the suffrage. He claimed 'nothing but an Act of Parliament can disable' the right to vote,⁵² and pointed out that the consequences of such a principle were dangerous. If it were accepted that excommunication removed the right to vote,

all our liberties and privileges whatever would hang at their Bishops Girdles, we should be freemen only at their pleasure ... they might pick a hole in the coat of every citizen in a city or burgess in a borough, especially where the election is confined to some few.

If such a principle had free rein, argued the lawyer, even dissenting peers would be inhibited from sitting in the house of lords.⁵³ In a detailed examination of the electoral laws of the country, the lawyer concluded 'the Bishops cannot excommunicate any for not coming to Church to deprive them of the benefit of their choice of members of the ensuing Parliament'.⁵⁴ This was, however, exactly what was happening.

At the same time, a number of authors considered the issue of the electoral consequences of excommunication. The anonymous *Discourse concerning excommunication* (1680), addressed to members of parliament, claimed that the 'adversaries of Non-conformists could not be satisfied that their ministers were outed

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

of their livings' and many were excommunicated for failure to attend church services. Some dissenting ministers were detained in prison under writs of *de excommunicato capiendo* for up to seven years, even though the law was not intended 'to keep worthy patriots from being chosen members to represent their counties in your honourable assemblies'.⁵⁵

The author cited the examples of John Rushworth of Berwick and a second case in Leicestershire in which dissenters had been denied their votes, 'as if their excommunication desseised (sic) men of their freehold'. John Rushworth had been a leading figure in the commonwealth, and had been elected MP for Berwick on Tweed in 1661 and again in 1679.⁵⁶ At a by-election in Berwick in 1676, Rushworth had petitioned the house of commons against the returning officer's report that Lord Treasurer Danby's son, Peregrine Osborne, Viscount Dumblaine, had been duly elected, on account of irregular voting. It was clear that Rushworth had the support of the majority of Berwick electors but a sufficient proportion were dissenters who were disqualified on the grounds of their excommunication, to give the seat to Osborne. Rushworth's petition was not, however, even discussed by the commons.⁵⁷

Rushworth was a dissenter, deeply unpopular with Charles II, and the sentences of excommunication badly damaged his share of the vote.⁵⁸ It is clear from Sir Richard Stote, the high sheriff of Northumberland, that the use of excommunication had been a deliberate tactic in the Berwick election. As he wrote to Danby 'we found that many of them [the dissenters] stood excommunicate for not repairing to divine service and not receiving the sacrament, and... we did except against their votes as not legal'.⁵⁹ Stote admitted that the tactic was a 'game' and claimed that such tactics had been 'rarely if ever practised'.⁶⁰ At the 1679 Berwick elections, the weight of votes for Rushworth was so great that there was no mention of the excommunication of

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

dissenters.⁶¹ But Charles II was not prepared to concede the borough and urged the mayor of Berwick to take action against conventicles.⁶² The corporation had, however, been slow to encourage the church courts to pursue prosecutions for excommunication against dissenters though, in September 1683, the newly-elected bailiffs of Berwick were excommunicants.⁶³ In 1682, Bishop Rainbowe of Carlisle resorted to excommunicating churchwardens for their failure to prosecute dissenters in church courts.⁶⁴ By the 1685 election, the court strategy had, however, worked: 140 Berwick dissenters were excommunicated or deprived of their votes and twenty new burghers created. Consequently the tory candidates, Phillip Bickerstaffe and Ralph Widdrington, were duly elected.⁶⁵ The Leicestershire election, which had been cited in the *Discourse concerning excommunication*, was challenged in the house of commons in March 1678 when it was deemed to be the sort of corrupt election that was poisoning the commons.⁶⁶ The whig candidate, Sir John Hartopp, who was a dissenter and described as 'no friend to the Church of England',⁶⁷ had been strongly opposed by the court.⁶⁸ Consequently in April 1679, the Speaker ordered the election to be held again.⁶⁹

These were not the only cases: there were other constituencies in which excommunication was used for electoral purposes, and they were clearly part of a concerted campaign. Moreover in some cases, it was the candidate who was excommunicated to disable his candidature. In July 1679, for example, John Wolveridge of Southwick, Hampshire, wrote to his friend Thomas Jervoise relating election gossip that he had heard when he had dined at Portsmouth a week previously. James, duke of York, was in the county 'incognito', in an attempt to electioneer for the king. More significantly, Wolveridge commented that

I have heard that [the] Bishops are endeavouring, all [that] Lyes in them to free [the] house of Commons from some opposites to [the] court; in order to which they pass an excommunication upon those Dissenters from the Church of England which now stand to be

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

chosen members in this Parliament. I can give one instance hereabout, of Major Braman, who is lately excommunicated by [the] Bishop of Chichester for not coming to Church etc, of what validation it will to exclude him [from] [the] Parliament, I know not, but believe it will not be without controversy.⁷⁰

Wolveridge's example was correct. In Chichester, where the leading presbyterian, John Braman, had defeated the Anglican candidate at the first election in 1679, the bishop had excommunicated him 'before the next election'.⁷¹ It was subsequently reported that the bishop had 'excommunicated a great fanatic because that town should not choose him [for] Parliament-man'.⁷² A number of other elections were similarly influenced. In the 1681 election in Tewkesbury, the whig exclusionist candidate, Mr Collet, who was also the local baptist leader, was defeated by 'excommunication and persecuting him'.⁷³ In Ipswich, where dissenters were numerous, between 1682 and 1684 'those attending unlawful meetings or absent from Church have been punished or proceeded against... [and] many times imprisoned in feigned actions'. The actions were feigned because they had electoral, rather than spiritual objectives, although for many Anglicans this distinction was a fine one which they would not have made.⁷⁴ In 1679, Sir Richard Newdigate's failure at the Warwickshire poll led him to suggest with the other candidates 'by joint consent, [to] leave out all the dissenters of either side, and if they will accept the wager, I will stake £1000 that I will outpoll them both with Church of England men'. Accordingly, Newdigate won the following election.⁷⁵

As church courts were used for these electoral purposes, there was a boom in the number of excommunications. In Wales, for example, the Brecon archdeaconry consistory court of the diocese of St Davids compiled a separate book for the large number of excommunications between 1681 and 1683.⁷⁶ Similarly, the Lewes archdeaconry excommunication books filled three volumes between 1675 and 1685.⁷⁷ The hundreds of excommunicant dissenters in Chichester diocese included Joseph

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

Osborne 'for being a conventicle preacher and for not coming to church'.⁷⁸ In Salisbury diocese there were 297 excommunications between 1679 and 1682, which represented a huge increase compared to preceding and subsequent years. Evidence that the bishop of Salisbury was taking more severe action against dissent also came from one parson who was surprised that two dissenters from his parish were excommunicated, since previously they had been presented without penalty at the archdeacon's visitation.⁷⁹ In Salisbury diocese, where the dissenters numbered 4,679, almost four per cent of the population, some of the impetus for the excommunications came from tory boroughs, one of which petitioned Bishop Seth Ward against 'these notorious dissenters [who] obstinately resist and oppose the authority of the Church'.⁸⁰

In some cases, these actions in church courts were prompted by secular prosecutions. In January 1682, for example, Lord Herbert wrote to Secretary Jenkins that he had disrupted illegal meetings of dissenters and prosecuted them and 'we have ordered two copies [of the writs of prosecution] to be delivered to the bishop and chancellor of the diocese with our desire of their doing the like with the spiritual power as we have done with the civil'.⁸¹ Sometimes, local support for dissenters occasionally prevented their excommunication. In September 1683, Bishop Guy Carleton of Chichester received a letter from his registrar complaining that, in remote parts of the diocese, magistrates supported dissenters, warned them that there were legal errors in some sentences of excommunication, and accepted flimsy evidence of conformity to prevent prosecution of dissenters. The registrar therefore urged the bishop to excommunicate the dissenters, since the civil power was failing to act.⁸²

It was not only in parliamentary elections that excommunication was used. In London in 1682 the mayoral election was also swung by the use of excommunication.

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

Henry Cornish, a dissenter, was only defeated by the tory, Sir Thomas Gold, because the dissenters' votes were disqualified. In consequence, a natural whig majority became a tory majority of fourteen.⁸³ In the run-up to the election, 'the dissenters living in this city are generally cited in Doctors' Commons and will be excommunicated if they go not to church'. Parish clergy were encouraged to report non-attenders at church and there were rumours that thousands would be excommunicated to prevent dissenters' participation in the elections.⁸⁴ These actions were the result of increasing court intolerance of dissent and whig exclusionist activity in London. Charles's annoyance at his inability to control London elections was a key reason why parliament met in Oxford in 1681.⁸⁵ Charles II had himself issued injunctions to pursue dissenters in church courts, to give the tories an electoral advantage.⁸⁶ Charles had also deployed his own legal muscle against dissenters' appeals against sentences of excommunication. In January 1683, for example, he ordered the advocate-general, Sir Thomas Exton, to represent the archdeacon of London's official, Dr Thomas Pinfold, against whose sentences of excommunication some dissenters were appealing. The king also ordered that no relief should be granted to appellants against Pinfold's sentences, and issued advice to ecclesiastical judges to ensure the proper procedure was strictly enforced for relieving dissenters from their sentences of excommunication.⁸⁷

At the king's prompting, the secretary of state, Sir Leoline Jenkins, adopted the tactic of excommunication to influence elections; but the use of excommunication was part of a wider campaign.⁸⁸ Between 1678 and 1683, Charles repeatedly ordered that the penal laws against the dissenters and conventicles be enforced to the utmost rigour of the law.⁸⁹ In some areas the magistracy was purged of dissenters.⁹⁰ The king also ordered that dissenters should be removed from government employment in the

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

board of excise.⁹¹ Besides excommunication, after the Oxford parliament of 1681 there was also a concerted effort to use the Five Mile and Corporation Acts to imprison 'an unknown number' of dissenters to prevent them exercising their votes.⁹² In St. Asaph diocese, Bishop Lloyd issued orders that clergy were to 'speedily give notice' if excommunicants left their parishes so that they could be traced and tracked.⁹³ The king also ordered his declaration appealing for support of the monarchy and the Church against dissenter to be read in all parishes.⁹⁴

The use of excommunication to disable dissenters from voting was considered in a number of published works at this time. In 1682, the controversial clergyman Edmund Hickeringill, asserted in *Black nonconformist discovered* that:

nor the least hint in the Gospel that our Blessed Saviour ... should (under the colour and by vertue of Excommunication) grant them a licence to rend and tear, rant and domineer ... over one another, much less by such a stratagem to deprive Nonconformity ... of their lands or goods, freedoms or Free-holds.⁹⁵

Dissenters were also alerted to the threat of excommunication. In the *Domestic Intelligence*, a protestant dissenters' publication, dissenters were urged to 'design in some places to have voters swear that they have been at Church and received the sacrament within the last year'.⁹⁶ This would have prevented such cases as the attempt at Great Yarmouth in February 1684 by Lord Yarmouth, to scrutinize evidence of whig voters' franchise, including evidence of baptism and affidavits that they had received the sacrament.⁹⁷ The anonymous author of *Considerations offered to all the corporations of England* (1681) also bemoaned that dissenters 'hate and mislike the government only because they have no share in it' and suggested that the decline of trade was due to the fact that MPs tended not to be chosen from the tradesmen of the town. This was a veiled hint that dissenters should be chosen as MPs, rather than the landed tories.⁹⁸

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

The volume of excommunications in this period attracted the censure of John Owen, the nonconformist divine, whose *Letter concerning ... excommunications* (1683) denounced the use of excommunication as a tool to enforce conformity. In response to the excommunications, Edward Stillingfleet proposed that the sentence of excommunication in secular cases, such as tithes, should be replaced, especially as the civil proceedings to secure a prison sentence had so often been ineffectual.⁹⁹ Paradoxically, there was a precedent for excluding excommunicants from the exercise of the suffrage, which came from dissent. In the 1650s, Richard Baxter had argued for a protestant theocracy in which 'none but church members may govern or choose governors'.¹⁰⁰

Attempts were made to clarify the legal position of the penalties for excommunication were made. In 1682, a comprehensive work entitled *The case and cure of persons excommunicated according to the present law of England*, clarified the civil consequences of excommunication and of the writ of *de excommunicato capiendo*. These included disability from suing in civil courts, from acting as executors of wills and from making a will. It continued:

A person Excommunicated cannot (say some) give his suffrage in any Election, no not of Parliament man, but this is an idle dream, so long as he hath a freehold of 40s a year. Some will have it too that he cannot marry; but marriage being *de juris Naturi*, no learned counsel would ever affirm it.¹⁰¹

Nevertheless, there were other cases suggesting instances in which dissenters were prevented from voting. In the diocese of London in 1683, there were references to the 'novelty' of some legal proceedings against dissenters and it is clear that spiritual court proceedings were being pursued against London dissenters.¹⁰² One such was James Jones, who lived in the parish of St. Bartholomew's Exchange. Jones was prosecuted before Thomas Pinfold for not attending church or receiving the sacrament. Pinfold's judgement on Jones was prejudiced, commenting 'I think it in

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

vain to ask when you were at Church, but I will hear what you have to say'. Pinfold warned Jones that unless he attended Church and took the sacrament 'you will be excommunicated and afterwards laid up in jail'. The action was one of a series of prosecutions by the churchwardens of St. Bartholomew's, George Cole and William Baron, who presented a total of eleven dissenters for failure to attend church. Jones's prosecution attracted attention because he was unwilling to submit to the ecclesiastical courts and was supported by 'a great number of His Majesty's Protestant subjects'.¹⁰³ On 23 December 1682, Jones was excommunicated and the official order published in his parish church. Jones also complained that Pinfold had pursued a great number of 'citizens of London, and to carry them to Prison for not obeying his admonitions, and thereby separate husbands from wives, parents from children, masters from servants, besides hindering many persons from managing their business and lawful trades and callings'. Jones nevertheless bore the punishment 'with patience'.¹⁰⁴ Jones was a victim of a series of campaigns of excommunication of dissenters undertaken by London clergy, including William Basset, rector of St. Swithin's. In 1684, Basset argued that there was a distinction to be made between occasional communicants who had tender consciences and those dissenters who 'obstinately refuse' to communicate with the Church of England. Toward the latter, Basset claimed, the churchwardens had to be 'the Bishop's eyes'. And the only punishment for those who obstinately refused to attend Church or who held the Church in contempt and sought to be separate from it was excommunication.¹⁰⁵

Such excommunications should perhaps be seen within the broader contemporary context of the use of excommunication of dissenters. Bishop Mews also excommunicated both women and catholics, so his excommunications were not exclusively focused on electoral objectives. Moreover, there were large-scale

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

excommunications of dissenters for purely religious reasons, such as excommunication of Quakers for non-payment of tithes and those conducted by Bishop Lucy of St. David's after the restoration.¹⁰⁶ Similarly, there were zealous individuals and groups, often working with government, royal and episcopal sanction, which pursued religious dissenters in the courts and in more direct action. In London, the 'Hilton gang' cut a swathe through conventicles, reporting them to magistrates and ensuring their suppression. In Taunton, the mayor, Stephen Timewell, burned the pews and woodwork from the dissenters' meeting house in the town square with the encouragement of the lord lieutenant and Secretary Jenkins.¹⁰⁷ The eradication of the dissenters' electoral influence was one aspect of the annihilation of dissent.

After 1685, there were no further references to widespread attempts to excommunicate dissenters in order to deny them the right to vote on the grounds that a sentence of excommunication disabled their suffrage. The accession of James II meant that tory Anglicans found themselves caught in a difficult dilemma; namely whether to defend the actions of James in eroding the privileges of the Church or to join with the dissenters in a united protestant attempt to resist a lawful ruler. As Mark Goldie and John Spurr commented 'the Tories carried the national purge down to the roots of parish life, but deep as the purge went, it was short-lived, for ultimately it depended on the contingencies of national politics.'¹⁰⁸ This dilemma, and the inherent threat from the increasingly assertive Romish policies of James, distracted Anglican churchmen from their divisions with dissenters. In fact, there were conscious efforts to woo dissenters to Anglicanism.¹⁰⁹ When James issued his first declaration of indulgence for liberty of conscience in 1687, it became clear that there was a scramble to win the support of the dissenters. The king sought to do so by offering freedom of worship. In reply, the Anglicans began to treat their erstwhile enemies as allies

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

against the Catholic menace. Even loyalist tory Anglicans, such as William Sancroft and Francis Turner, saw that dissenters had to be conciliated if the king was to be dissuaded from his reckless religious policies. At the height of the conciliation of dissent, Archbishop Sancroft issued a pastoral letter to the bishops asking them to treat dissenters with tenderness.¹¹⁰ Thus the need to treat the dissenters as electoral enemies had disappeared.

Was the policy, while it lasted, a success? Certainly in the 1681 election, the numbers of presbyterian and congregational MPs declined.¹¹¹ In some cases, it drove dissenters to greater occasional conformity, and while this did not erode their commitment to dissent, it may have maintained a relationship with Anglicanism that was important, especially in the events of 1688 when dissent and Anglicanism were able to close ranks. Between 1678 and 1683 the policy of electoral excommunication also welded monarchy and bishops together in a way that they had not been previously. It was as close to the political union of church and crown as England came, and was a vital ingredient in ensuring the succession of James II. There is no doubt that such a regime, if it could have been sustained, might have been highly successful. It could have saved James II from disaster and would have excluded the whigs from power, at least if their alliance with dissenters had held together. A confessional state of this nature would have entrenched the Tory cavalier domination of the commons, ensured the marginalisation of the whigs, prevented religious toleration and made England a far more conservative Anglican monarchy than she had been, even under Charles I's ambitions. So why did not the court pursue wholesale excommunication on a national scale, rather than the widespread, but piecemeal, spiritual prosecutions of 1678-83? Perhaps because Charles realised that he was pushing the law beyond reasonable construction, and, if challenged, the strategy

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

would fail. In this sense, Charles recognised that he was operating at the limit of the restoration confessional state. It was a confessional state that assumed a greater theocratic role for the bishops in excommunicating dissenters, and which made the state more dependent on the church than on the parliament which it would control.

Perhaps Charles did not pursue the policy of excommunicating dissenters because such a strategy relied on spiritual prosecutions that could be evaded by occasional conformity and subverted by local sympathies, such as existed in Chichester. It may also have been that, after the Oxford parliament, Charles had little intention of facing a parliament again. While Charles made much of his 'love' of parliaments, declaring them 'the best method for healing the distempers of kingdom' he also proclaimed his desire to 'extirpate popery', but neither view was sincere.¹¹² Without parliaments there was no need for electoral strife; even in the wake of the tory resurgence following the Rye House plot, Charles showed no desire to call an election. In 1684, he flouted the terms of the Triennial Act by not calling a parliament. But the policy may also have foundered on the absence of Charles's resolve, born of concern that excommunication to deny parliamentary representation was not a legitimate part of the 'ancient constitution'. This view had been advanced by, among others, the duke of Buckingham, Sir Peter Leicester and Andrew Marvell on the 'Clarendon code' which they claimed trespassed on the ancient constitution by making property rights contingent on religion.¹¹³ Whilst excommunication for electoral purposes represented the further extent of England as a 'confessional state', paradoxically that state lacked the political will to pursue electoral religion in its reified form.

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

William Gibson, Westminster Institute of Education, Oxford Brookes University, Oxford, OX2 9AT.
wgibson@brookes.ac.uk

* I am grateful to James Bradley, Robert Ingram and Ruth Paley for their comments on a draft of this paper.

¹ J. Spurr, *England in the 1670s: 'this masquerading age'*, (Oxford 2000); M. Watts, *The dissenters, from the Reformation to the French Revolution* (Oxford, 1978) p. 229; J. Miller, *Popery and politics in England 1660-1688* (Cambridge, 1973); E. Lipson, 'The elections to the exclusion parliament, 1679-1681', *English Historical Review*, 28 (1913) pp. 59-83; M. D. George, 'Elections and electioneering, 1679-1681', *English Historical Review*, 45 (1930) pp. 552-578.

² G. Tapsell, 'Parliament and political divisions in the last years of Charles II, 1681-5', *Parliamentary History*, 22, (2003) pp. 243-4. For discussion of the absolutist tendencies of government see J. R. Western, *Monarchy and revolution: the English state in the 1680s* (London, 1972) and J. Miller, 'The potential for 'absolutism' in later Stuart England', *History*, 69 (1984) pp. 187-207.

³ J. C. D. Clark, *English society 1660-1832* (2nd edition, Cambridge, 2000) pp. 31, 40.

⁴ J. C. D. Clark, 'On hitting the buffers: the historiography of England's ancien regime. A response', *Past and Present*, 117 (1987) p. 199.

⁵ J. Marshall, *John Locke, toleration and early Enlightenment culture* (Cambridge, 2006) p. 121. While identifying thirty five excommunicated dissenters, Michael Watts does not discuss electoral consequences at all: Watts, *The dissenters*, p. 229. Moreover the most recent study of English church courts does not cover this issue: R. B. Outhwaite, *The rise and fall of the English ecclesiastical courts 1500-1860*, (Cambridge, 2006).

⁶ G. S. de Krey, *Restoration and revolution in Britain* (Basingstoke, 2007), ch. 4.

⁷ D. Lacey, *Dissent and parliamentary politics in England 1661-1689, A study of the perpetuation and tempering of parliamentarianism* (New Brunswick NJ, 1969) p. 311.

⁸ W. Gibson, *Religion and the enlightenment 1600-1800: conflict and the rise of civic humanism in Taunton* (Oxford, 2006), ch. 3.

⁹ B. D. Henning, *The History of parliament: house of commons, 1660-1690* (London, 1983, 3 vols) vol. 1, p. 13.

¹⁰ Lacey, *Dissent and parliamentary politics*, p. 119.

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

¹¹ J. Miller, *James II* (London, 1978). In 1676, the Compton census was able to calculate that Protestant Dissent represented between three and four percent of the population, though there was wide variation, with much higher proportions of Dissenters in Bath and Wells, London, Winchester and Canterbury dioceses. A. O. Whiteman, ed., *The Compton census of 1676, British Academy Records of Social and Economic History*, New Series, 10 (1986) pp. cxxiii ff.

¹² J. Humphrey, *A defence of the proposition for the safety and happiness of the king*, (London, 1668).

¹³ Watts, *The dissenters*, p. 251.

¹⁴ Mary K. Geiter, 'William Penn', *Oxford dictionary of national biography*, (Oxford, 2004).

¹⁵ Miller, *James II*, pp. 94-113. R. Pickavance, 'English boroughs and the king's government: a study of the tory reaction 1681-85' (DPhil. thesis, University of Oxford, 1976).

¹⁶ M. A. E. Green, F. H. B. Daniell and F. Bickley, eds., *Calendar of state papers domestic of the reign of Charles II, (CSPD)* (London, 1860-1929), passim. Among the towns and cities to which Charles issued injunctions to pursue Dissenters were Exeter, Plymouth, Canterbury, London.

¹⁷ G. Lyon Turner, *Original records of early nonconformity under persecution and indulgence* (London, 1911, 3 vols) vol. 3, pp. 451-683.

¹⁸ Lacey, *Dissent and parliamentary politics*, pp. 105-6.

¹⁹ A potwalloper franchise was one in which the franchise was vested in households in which a pot could be boiled, and 'scot and lot' boroughs were those in which a household tax was paid, in effect both were household franchises.

²⁰ Hampshire Record Office, Winchester, 9M73/G283/8. Malmesbury papers.

²¹ E. K. Timmins, ed., *Calendar of state papers domestic of the reign of James II 1685*, (London, 1960), p. 454.

²² The incumbent is unidentified. Henning, *Commons*, vol. 1, p. 233-4; vol. 2, p. 552.

²³ *Ibid.*, vol. 1, p. 51.

²⁴ Lacey, *Dissent and parliamentary politics*, pp. 110-111.

²⁵ For fear of the dissenters' electoral activity, see Tapsell, 'Parliament and political divisions' p. 251.

²⁶ *Articles of visitation and enquiry concerning matters ecclesiastical ... within the diocese of Bath and Wells at the triennial visitation of the Rt. Revd. Father in God Peter, Lord Bishop of the Diocese* (Oxford, 1676) passim. In 1673, Mews even asked whether clergy sought to bring sectaries back to the Church.

²⁷ A. M. Coleby, 'Peter Mews' in *Oxford dictionary of national biography* (Oxford, 2004).

²⁸ Longleat House, Coventry MS, 7, fo.130, Mews Letters, Mews to Jenkins, 19 November 1677. I owe this reference to Ruth Paley.

²⁹ R. Clifton, *The last popular rebellion: the Western Rising of 1685* (London, 1984) p. 55.

³⁰ Bodleian Library, Aubrey Mss 13/14, 4 May 1680, Mews letters.

³¹ Pickavance, 'English boroughs and the king's government', pp. 398-400, 402. M. Goldie, 'Danby, the bishops and the whigs', T. Harris, P. Seaward, M. Goldie, eds., *The politics of religion in restoration England* (Oxford, 1990), p. 97.

³² Anon, *Vox patriae: or the resentments and indignations of the free-born subjects of England against popery, arbitrary government and the Duke of York or the Popish succession, etc* (London, 1681) p. 19.

³³ *CSPD, Charles II, 1677*, pp. 423-6. By February 1680, the mayor of Bristol was reduced to asking the government 'how to proceed and what I would be directed in and request you to inquire and advise what is to be done' about the Dissenters. (*CSPD, Charles II, 1680*, p. 163). Bristol elections remained hard-fought, John Spurr has claimed that the 1681 election was 'one of the most bitterly fought.' (Spurr, *England in the 1670s*, p. 296).

³⁴ Henning, *Commons*, vol. 1, pp. 153, 167, 264, 500-1; The National Archives (TNA), return of Rye and Sandwich to the Privy Council, PC2/69/432. Moreover, in 1683, Benjamin Coombs the newly elected Mayor of Sandwich was an undischarged excommunicant. (Pickavance, 'English boroughs and the king's government', p. 226).

³⁵ G. S. De Krey, *London and the restoration*, (Cambridge, 2005), pp. 353-4.

³⁶ Henning, *Commons*, vol. 1, pp. 139, 226.

³⁷ *Journal of the House of Commons*, (London, 1802) vol. 9, 7 December 1669.

³⁸ A. Grey, *Debates of the House of Commons. From the year 1667 to the year 1694. Collected by the Hon. Anchtell Grey*, (London, 1769, 10 vols), vol. 1, pp 195-215.

³⁹ TNA, Clerk of the Passage, Dover to Sir Joseph Williamson, PC2/63/99, 103.

⁴⁰ Lacey, *Dissent and parliamentary politics*, p. 111.

⁴¹ Lacey, *Dissent and parliamentary politics*, pp. 153, 331.

⁴² *CSPD, Charles II, 1682*, pp. 83, 571.

⁴³ *CSPD, Charles II, 1683*, p. 198.

⁴⁴ M. Goldie and J. Spurr 'Politics and the restoration: Edward Fowler and the struggle for St Giles Cripplegate', *English Historical Review*, 109, No 2, (1994) p. 582.

⁴⁵ Anon., *A discourse concerning excommunication*, p. 2.

⁴⁶ Ibid, p. 9.

⁴⁷ Ibid, pp. 20-1.

⁴⁸ BL, Stowe Ms, 744, vol 2, f. 107, Johnson legal opinion 1665.

⁴⁹ Taunton was a 'potwalloper' franchise, which gave the vote to male householders.

⁵⁰ Anon., *Excommunication excommunicated: or, legal evidence that the ecclesiastical courts have no power to excommunicate any person whatsoever for not coming to his parish church in a dialogue between a doctor of both laws and a substantial burgher of Taunton-Dean* (London, 1680) pp. 3-4.

⁵¹ Ibid., pp. 4-5.

⁵² Ibid., pp. 10-11. This was a view with which the canonist Edmund Gibson agreed. His monumental *Codex Juris Anglicani* (1713) made no mention of excommunication having a consequence for the excise of the franchise.

⁵³ Anon., *Excommunication excommunicated*, p. 12.

⁵⁴ Ibid., p. 23.

⁵⁵ Anon., *A discourse concerning excommunication* (London, 1680) p. 1. The copy in the Huntington Library, San Marino, California is marked 'written between 1678 and 1679 and now published.'

⁵⁶ John Rushworth had been the author, though not a signatory, of the death warrant for Charles I and was eventually imprisoned by Charles II.

⁵⁷ Henning, *Commons*, vol. 3, p. 359.

⁵⁸ Joad Raymond, 'Rushworth, John (c.1612–1690)', *Oxford dictionary of national biography*, (Oxford, 2004).

⁵⁹ Quoted in Lacey, *Dissent and parliamentary politics*, p. 111.

⁶⁰ Quoted in Ibid., pp. 311, 440

⁶¹ *CSPD, Charles II, 1679*, p. 58-9.

⁶² *CSPD, Charles II, 1678*, p. 560.

⁶³ *CSPD, Charles II, 1683*, pp. 355, 437.

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

⁶⁴ CSPD, *Charles II, 1684*, p. 254. The same prosecution of churchwardens for failure to pursue Dissent also occurred in Dorset in 1683. (Pickavance, 'English boroughs and the king's government' p. 401).

⁶⁵ Henning, *Commons*, vol. 1, p. 345.

⁶⁶ A. Grey, *Debates of the House of Commons*, vol. 7, pp. 55-67.

⁶⁷ British Library (BL), Loan, Ms 29/182, ff. 312-3. Blathwayt letters.

⁶⁸ Lacey, *Dissent and parliamentary politics*, p 409.

⁶⁹ *Commons Journal*, Vol. 9, 17 April 1679.

⁷⁰ John Wolveridge to Thomas Jervoise, 3 July 1679, Hampshire Record Office, 44M69/F5/3/36.

⁷¹ Henning, *Commons*, vol, 1, p. 709. The fact that Braman's house lay in an ecclesiastical peculiar and therefore outside the bishop's jurisdiction did not save him from excommunication.

⁷² Lacey, *Dissent and parliamentary politics*, p. 311.

⁷³ *Protestant Intelligencer*, 15 February 1681. The *Protestant Intelligencer* was published by Frank ('Elephant') Smith, a protégé of Shaftesbury and a bookseller, printer, whig propagandist and Anabaptist preacher. In Gloucester diocese, the chancellor, Richard Parsons, was also a magistrate which facilitated coordination of prosecutions of Dissenters in both civil and spiritual courts. O. Roberts, *Some memoirs of the life of John Roberts, one of the early Friends, written by his son, Daniel Roberts in 1725* (London, 1859) p. 91.

⁷⁴ Henning, *Commons*, vol. 1, p. 402.

⁷⁵ BL, Add. Mss., 34,730, f. 41 et seq. Sir Richard Newdigate letters.

⁷⁶ National Library of Wales (NLW), Aberystwyth, 'Church in Wales: Diocese of St David's Episcopal, 5. Consistory Court, Archdeaconry of Brecon'.

⁷⁷ West Sussex Record Office, Chichester, Excommunication books, EP II/7/1-3. Lewes was a town in which anti-Dissent feeling was very strong and in 1682 many were thrown in prison: W. Figg, 'Sufferings of the Quakers in Lewes', *Sussex archaeological collections*, 14 (1864) p. 16.

⁷⁸ West Sussex Record Office, Excommunication books, EP II/7/1 f. 2. While there were other causes of excommunication, drunkenness, adultery etc, the vast majority were for 'being Dissenters', 'being anabaptists' and for failure to attend church or failing to receive the eucharist. The Lewes Excommunication books record, by parish and deanery every excommunicant and the reason for the sentence.

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

⁷⁹ Wiltshire and Swindon Records Office, Trowbridge, Excommunication records, D1/41/1/22.

⁸⁰ Ibid., D1/27/1/4/66 and D1/41/1/22.

⁸¹ *CSPD, Charles II, 1682*, pp. 24-5.

⁸² The bishop forwarded the letter to Secretary of State Jenkins and asked that the Lewes JPs should be turned out of the commission for the peace (*CSPD, Charles II, 1683*, pp. 362, 380). John Spurr claimed that it was common for local people not to exact prosecutions against their Dissenter neighbours, neighbourliness exceeding doctrine as a call on loyalty (Spurr, *England in the 1670s*, p. 232).

⁸³ Henning, *Commons*, vol. 1, p. 314.

⁸⁴ *CSPD, Charles II, 1682*, p. 557. By March 1683 London Dissenters resorted to writs of Habeas Corpus to relieve excommunicants from imprisonment. (*CSPD, Charles II, 1683*, p. 100). De Krey, *London and the restoration*, p. 354.

⁸⁵ Tapsell, 'Parliament and political divisions', p. 250.

⁸⁶ In March 1683, however, Charles denied that he was 'conniving' against the Dissenters. (*CSPD, Charles II, 1683*, p. 131).

⁸⁷ Ibid., p. 7.

⁸⁸ *CSPD, Charles II, 1682*, pp. 453, 481.

⁸⁹ D. Ogg, *England in the reign of Charles II* (London, 1957, 2 vols) vol. 2, p. 624.

⁹⁰ M. Mullett, 'Recusants, dissenters and north-west politics between the restoration and the glorious revolution', J. C. Appleby & P. Dalton, eds., *Government, religion and society in northern England 1000-1700* (Stroud, 1997) p. 201.

⁹¹ A. Coleby, *Central government and the localities, Hampshire, 1649-1689* (Cambridge, 1987) p. 200.

⁹² Lacey, *Dissent and parliamentary politics*, p. 164.

⁹³ NLW, St. Asaph Diocesan Records, SA/MISC/520-1.

⁹⁴ Pickavance, 'English boroughs and the king's government', p. 397.

⁹⁵ E. Hickeringill, *The black nonconformist discovered in more naked truth* (London, 1682) p. 17.

⁹⁶ *Domestic Intelligence*, 19 September 1679.

⁹⁷ Henning, *The House of commons*, vol. 1, p. 326. As early as 1676 the Yarmouth election for bailiff produced a large number of Dissenting voters and the church party called for the 'Church Book' to list those who had and had not received the sacrament and therefore 'who were capable to be electors and elected.' (*CSPD, Charles II, 1678*, pp. 20-2).

⁹⁸ Anon., *Considerations offered to all the corporations of England well worth their observation containing seasonable advice to them in their future elections* (London, 1681), passim.

⁹⁹ Barry Till, 'Stillingfleet, Edward (1635–1699)', *Oxford dictionary of national biography* (Oxford, 2004).

¹⁰⁰ Lacey, *Dissent and parliamentary politics*, p. 443.

¹⁰¹ Anon., *The case and cure of persons excommunicated according to the present law of England, in two parts* (London, 1682) pp. 29-30.

¹⁰² Anon., *A letter concerning the matter of the present excommunications* (London, 1683) p. 1. See also De Krey, *London and the restoration*, p. 390.

¹⁰³ Jones had, moreover, previously been prosecuted for non-attendance at church in Surrey.

¹⁰⁴ Anon., *The admonisher admonished: in a modest and impartial narrative of the proceedings of the ecclesiastical court, against James Jones, citizen of London...being a true account of matter of fact, from his citation to Doctors Commons, to their taking out the writ of excommunicato capiendo against him* (London, 1683) pp. 2, 3, 4, 7, 10-15.

¹⁰⁵ W. Basset, *A discourse on my Lord Archbishop of Canterbury's and my Lord Bishop of London's letters to the clergy touching catechising and the sacrament of the supper with what is required of churchwardens and ministers in reference to obstinate recusants. Also a defence of excommunication, as used by the Church of England against such* (London, 1684) pp. 33-34.

¹⁰⁶ W. T. Morgan, 'Prosecution of nonconformists' in *Journal of the Historical Society of the Church in Wales*, 12 (1962) p. 38. I owe this reference to Ruth Paley.

¹⁰⁷ M. Goldie, 'The Hilton gang and the purge of London in the 1680s', in H. Nenner, ed., *Politics and the political imagination in later Stuart Britain*, (Woodbridge, 1998) pp. 43-73; Gibson, *Religion and the enlightenment 1600-1800*, passim.

¹⁰⁸ Goldie and Spurr, 'Politics and the restoration', p. 595.

¹⁰⁹ W. Gibson, 'Dissenters, Anglicans and the Glorious Revolution: *The Collection of Cases*' in *The Seventeenth Century*, 22, (2007) passim.

¹¹⁰ *The articles recommended by the Arch-Bishop of Canterbury to all the bishops within his metropolitan jurisdiction, the 16th of July, 1688*, (London, 1688).

¹¹¹ Lacey, *Dissent and parliamentary politics*, p. 119.

'Electoral religion in the reign of Charles II and the limits of the confessional state?' in *The Historical Journal*, 2008.

¹¹² *His majesties declaration to all his loving subjects touching the reasons that moved him to dissolve the last two parliaments*, (London, 1681).

¹¹³ Spurr, *England in the 1670s*, p. 237.