

short reign of King James, he will see what havoc he was making in the Church and universities, the nurseries of our religion, what haste he made to settle Popery, and the means and ways he took to make his power and rule absolute, and the laws dispensable at his will and pleasure, must think all these were in danger; but all were established by laws, and could not be destroyed but by the same power that made them, that is, by a law, and who they are that made our laws, must conclude, as I did, that tho' many particular persons might be destroyed by his power, yet the nation could not, people would not be so mad as to send to Parliament such representatives as would cut their own throats; wherefore I must leave those that called in the prince inexcusable. But as for him [William], if the case be stated (as I think it ought) that he being a free prince, and having a just right in succession in his princess [his wife, Mary], and after her and her sister [Princess Anne], and her issue, in himself also, and that the king, out of fondness for Popery, and enmity to the established religion, and for that cause to his daughters and their issue, and to the prince also, did give way to a Jesuitical contrivance, to impose upon the nation a supposititious son, as born of the body of the queen, and thereby to disinherit the above-mentioned prince and princesses; this, I say, being his belief and opinion, and there being no way for one prince to sue another, nor way to determine their controversies, but the sword, I dare not condemn the prince absolutely for making war on that occasion, tho' against an uncle and father.

8.12 James II's Declaration of Indulgence (April 4, 1687, reissued April 27, 1688)¹⁹

One of the things which upset Bramston and his fellow Tories was that by 1686 James made it clear that he intended to allow fellow Catholics to practice their religion and to serve in the military and government. He did this, first by granting dispensations for specific persons, and, later, by encouraging Parliament to repeal the penal laws and Test Acts (of 1673 and 1678). In preparation for a more malleable Parliament, in April 1687, James II went one step further towards repeal by issuing his Declaration of Indulgence. Compare and contrast it with the extract from Charles II's Declaration of Indulgence (see the introduction to document 8.3). What were James's goals? Did James seek unity of Church and State? What was the reaction? Why might Anglican Tories be especially upset? (This might become clearer as you read the next document.) What reaction would you expect among Whig Dissenters?

¹⁹ T. B. Howell, comp., *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanors ... to the Year 1783* (London, 1816), 12: 234–6.

We ... have thought fit by virtue of our royal prerogative to issue forth this our declaration of indulgence, making no doubt of the concurrence of our two houses of Parliament when we shall think it convenient for them to meet.

In the first place we do declare that we will protect and maintain our archbishops, bishops, and clergy, and all other our subjects of the Church of England in the free exercise of their religion as by law established, and in the quiet and full enjoyment of all their possessions. ...

We do likewise declare ... that from henceforth the execution of all and all manner of penal laws in matters ecclesiastical, for not coming to Church, or not receiving the sacrament, or for any other nonconformity to the religion established, or for or by reason of the exercise of religion in any manner whatsoever, be immediately suspended; and the further execution of the said penal laws and every of them [*sic*] is hereby suspended. ...

We do hereby further declare ... that the oaths commonly called the oaths of supremacy and allegiance, and also the several tests and declarations mentioned in the Acts of Parliament made in the 25th [1673] and 30th years [1678] of the reign of our late royal brother King Charles II, shall not at any time hereafter be required to be taken, declared, or subscribed by any person or persons whatsoever, who is or shall be employed in any office or place of trust, either civil or military, under us or in our government.

8.13 Trial of the Seven Bishops (June 29, 1688)²⁰

In 1688 James reissued his Declaration of Indulgence with the added instructions that all Anglican clergy were to read it from their pulpits – in effect, forcing them to abdicate publicly the Church of England's legal monopoly on the religious life of the nation. On May 18, 1688, William Sancroft, archbishop of Canterbury (1617–93) and six other bishops petitioned the king that they not be required to order their clergy to read the Declaration in their dioceses. James, furious, had the bishops arrested. As Bramston noted, the trial of the seven bishops was a *cause célèbre*. What are the key components of the Crown's argument? Of the bishops' defense? How are these issues related to other documents found in this chapter, and to documents found in chapters 6 and 7? Are they related to issues of sovereignty as well as religion? Bramston (document 8.11) was not the only contemporary to note “the great joy and bonfires expressed at the bishops' delivery.”²¹ What specifically do you think the London populace were celebrating with their bonfires?

²⁰ Howell, *State Trials*, 12: 393–4, 397, 412, 416, 425–7.

²¹ HMC, *Fourteenth Report, Appendix II, Portland III* (London, 1894), 414, June 30, and July 3, Edward to his father, Sir Edward Harley.

Serjeant Levinz (for the defense): Now, my lord, this is a petition setting forth a grievance, and praying his majesty to give relief. And what is this grievance? It is that command of his, by that order made upon my lords the bishops, to distribute the declaration and cause it to be read in the churches. And pray, my lord, let us consider what the effects and consequences of that distribution and reading is: it is to tell the people, that they need not submit to the Act of Uniformity [1662], nor to any act of Parliament made about ecclesiastical matters, for they are suspended and dispensed with. This my lords the bishops must do, if they obey this order; but your lordship sees, if they do it, they lie under an anathema by the statute of 1 Eliz. [1559], for there they are under a curse if they do not look to the preservation and observation of that Act. But this command to distribute and read the declaration, whereby all these laws are dispensed with, is to let the people know they will not do what the Act requires of them. ...

Mr. Somers: My lord, I dare appeal to Mr. Attorney General himself, whether, in the case of Godden and Hales [1686], which was lately in this court. ... He admitted it not to be in the king's power to suspend a law, but that he might give a dispensation to a particular person, was all that he took upon to justify him at that time. ...

The Solicitor-General (for the Crown): I dare say it will not be denied me, that the king may, by his prerogative royal, issue forth his proclamation; it is as essential a prerogative as it is to give his assent to an Act of Parliament to make it a law. And it is another principle, which I think cannot be denied, that the king may make constitutions and orders in matters ecclesiastical; and that these he may make out of Parliament, and without the Parliament. If the king may do so, and these are his prerogatives, then suppose the king do issue forth his royal proclamation (and such in effect is this declaration under the great seal) in a matter ecclesiastical, by virtue of his prerogative royal; and this declaration is read in the council and published to the world, and then the bishops come and tell the king, Sir, you have issued out an illegal proclamation or declaration, being contrary to what has been declared in Parliament, when there is no declaration in Parliament; is not this a diminishing the king's power and prerogative in issuing forth his proclamation or declaration, and making constitutions in matters ecclesiastical? Is not this a questioning his prerogative? Do not my lords the bishops in this case raise a question between the king and the people? Do not they, as much as in them lies, stir up the people to sedition? For who shall be judge between the king and the bishops? ...

Justice Holloway: Pray give me leave, Sir: then the king having made such a declaration of a general toleration and liberty of conscience, and afterwards he comes and requires the bishops to disperse this declaration; this, they say, out of a tenderness of conscience, they cannot do, because they apprehend it is contrary to law, and contrary to their function: What can they do, if they may not petition?

Solicitor-General: I'll tell you what they should have done, Sir. If they were commanded to do anything against their consciences, they should have acquiesced till the meeting of the Parliament. [At which some people in the court hissed.] ...

Lord Chief Justice: Gentlemen, upon the point of the publication, I have summed up all the evidence to you; and if you believe that the petition which these lords presented to the king was this petition, truly, I think, that is a publication sufficient. If you do not believe it was this petition, then my lords the bishops are not guilty of what is laid to their charge in this information, and consequently there needs no inquiry whether they are guilty of a libel. But if you do believe that this was the petition they presented to the king, then we must come to inquire whether this be a libel.

Now, gentlemen, anything that shall disturb the government, or make mischief and a stir among the people, is certainly within the case of "*Libellis Famosis*" [seditious libel, specifically against public persons]; and I must in short give you my opinion, I do take it to be a libel. Now, this being a point of law, if my brothers have anything to say to it, I suppose they will deliver their opinions.

Justice Holloway: Look you, gentlemen, it is not usual for any person to say anything after the chief justice has summed up the evidence ... but this is a case of an extraordinary nature. ... The question is, whether this petition of my lords the bishops be a libel or no. Gentlemen, the end and intention of every action is to be considered; and likewise, in this case, we are to consider the nature of the offence that these noble persons are charged with; it is for delivering a petition, which, according as they have made their defense, was with all the humility and decency that could be. So that if there was no ill intent, and they were not (as it is not, nor can be pretended they were) men of evil lives, or the like, to deliver a petition cannot be a fault, it being the right of every subject to petition. ...

Lord Chief Justice: Look you, by the way, brother, I did not ask you to sum up the evidence (for that is not usual) but only to deliver your opinion, whether it be a libel or no.

Justice Powell: Truly I cannot see, for my part, anything of sedition or any other crime fixed upon these reverend fathers, my lords the bishops.

For, gentlemen, to make it a libel, it must be false, it must be malicious, and it must tend to sedition. As to the falsehood, I see nothing that is offered by the king's counsel, nor anything as to the malice. It was presented with all the humility and decency that became the king's subjects to approach their prince with. ...

Justice Allynbone: ... Gentlemen, consider what this petition is: this is a petition relating to something that was done and ordered by the government. ... The government here has published such a declaration as this that has been read, relating to matters of government; and shall, or ought anybody to come and impeach that as illegal, which the government has done? Truly, in my opinion, I do not think he should, or ought: for by this rule may every act of the government be shaken, when there is not a Parliament *de facto* sitting.

[*Verdict of the jury*: Not Guilty, June 30, 1688.]

8.14 *Letter of the Immortal Seven (June 30, 1688)*²²

Just a few weeks before the trial of the seven bishops, John Evelyn (1620–1706) had noted in his diary, “A young prince born,” adding later, “which will cause dispute.”²³ Indeed, Whigs soon charged that the birth of James, prince of Wales (1688–1766) was faked, thus leaving the king’s Protestant daughter Mary, her younger sister Anne, and then Mary’s husband, William, prince of Orange (1650–1702), *stadholder* of the Netherlands, as the next heirs to the throne. What did the birth of the young James portend for the problems of sovereignty and religion (see Bucholz and Key, chapter 9)? How might it relate to the bishops’ trial? On the same day as the verdict exonerating the bishops, seven other prominent politicians, including Whigs, Tories, and the bishop of London, wrote to William of Orange in the Netherlands. How would a Whig justify writing this letter? A Tory? Compare their view of the birth of James’s son with that of Evelyn and Bramston (document 8.11). What does Bramston mean when he states that this invitation was “perfect rebellion”? Is he correct?

The people are so generally dissatisfied with the present conduct of the government in relation to their religion, liberties, and properties (all which have been greatly invaded), and they are in such expectation of their prospects being daily worse, that your highness may be assured there are nineteen parts of twenty of the people throughout the kingdom who are desirous of a change and who, we believe, would willingly contribute to it, if they had such a protection to countenance their rising as would secure them from being destroyed before they could get to be in a posture to defend themselves. It is no less certain that much the greatest part of the nobility and gentry are as much dissatisfied ...; and there is no doubt but that some of the most considerable of them would venture themselves with your highness at your first landing. ... And ... we ... believe that their [James II’s] army then would be very much divided among themselves, many of the officers being so discontented that they continue in their service only for a subsistence ..., and very many of the common soldiers do daily show such an aversion to the popish religion that there is the greatest probability imaginable of great numbers of deserters which could come from them should there be such an occasion; and amongst the seamen it is almost certain there is not one in ten who would do them any service in such a war.

But ... we must presume to inform your highness that your compliment upon the birth of the child (which not one in a thousand here believes to be the queen’s) hath done you some injury; the false imposing of that upon the princess and the nation being ... an infinite exasperation of the people’s minds here.

²² J. Dalrymple, *Memoirs of Great Britain and Ireland*, 2nd ed. (London, 1771), 2: 229.

²³ *The Diary of John Evelyn*, ed. E. S. De Beer (Oxford, 1955), 4: 586.

8.15 *William’s Declaration (October 24, 1688, n.s.)*²⁴

William of Orange was well known in England as the major adversary of Louis XIV’s continental ambitions. He was thus viewed as something of a Protestant champion. The rationale behind William’s acceptance of the invitation is complex (see Bucholz and Key, chapter 9). But he realized that he needed to explain it to the English political nation, which was now used to debating such issues. (Indeed, his invasion fleet included a printing press; and this was the second of three versions of the Declaration.) Below, how does William justify his invasion? Was he above “dirty tricks”?

We [William] cannot any longer forbear to declare that, to our great regret, we see that those counselors who have now the chief credit with the king [James II] have overturned the religion, laws, and liberties of those realms and subjected them in all things relating to their consciences, liberties, and properties to arbitrary government. ...

Those evil counselors for the advancing and coloring this with some plausible pretexts did invent and set on foot the king’s dispensing power, by virtue of which they pretend that, according to the law, he can suspend and dispense with the execution of the laws that have been enacted by the authority of the king and Parliament for the security and happiness of the subject and so have rendered those laws of no effect. ...

But, to crown all, there are great and violent presumptions inducing us to believe that those evil counselors ..., have published that the queen hath brought forth a son: though there have appeared, both during the queen’s pretended bigness, and in the manner in which the birth was managed, so many just and visible grounds of suspicion, that not only we ourselves, but all the good subjects of these kingdoms, do vehemently suspect that the pretended prince of Wales was not born by the queen.

HISTORIANS’ DEBATES

Was there a Restoration Crisis? Was it shaped by religion?

T. Harris, P. Seaward, and M. Goldie, eds., *The Politics of Religion in Restoration England* (Oxford, 1990), esp. essay by M. Goldie; M. Goldie, “Restoration Political Thought,” and J. Spurr, “Religion in Restoration England,” in *The*

²⁴ *The Declaration Of His Highness William Henry, By the Grace of God Prince of Orange, &c. of the Reasons Inducing Him to Appear in Arms in the Kingdom of England for Preserving of the Protestant Religion, and for Restoring the Laws and Liberties of England, Scotland, and Ireland* (The Hague, [Oct. 24,] 1688, n.s.), 1, 3.