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## Shaftesbury and the Exclusion Crisis

Lionel K.J. Glassey

The first Earl of Shaftesbury is perhaps most familiar to historians and literary scholars because of his participation in the politics of the so-called ‘Exclusion Crisis’ at the end of his career, during the four years or so before his death in January 1683. His activities before 1678 had not exactly been inconspicuous, as the other chapters in this book make plain. But historians have somehow typecast him as the founder and first leader of the political party that emerged from the ‘exclusion’ issue: the Whig party. Literary scholars remember him principally as ‘Achitophel’ in John Dryden’s satire Absalom and Achitophel (1681), but also as the character on whom ‘Antonio’ (or possibly ‘Renault’) is based in Thomas Otway’s play Venice Preserv’d, Or, A Plot Discover’d (1682), and as the subject of John Caryl’s The Hypocrite (1678), Dryden’s The Medal (1682), and Elkanah Settle’s The Medal Reversed (1682). All of these poems and plays, whether attacking or vindicating Shaftesbury, were written in the context of, and with some reference to, the circumstances of the period when ‘exclusion’ was the foremost theme in politics.<sup>1</sup>

### I

Every student of English history in the seventeenth century knows that the period from the autumn of 1678 to the spring of 1681 is familiarly described as that of the ‘Popish Plot’ and the ‘Exclusion Crisis’. The ‘Popish Plot’ was the discovery and publicising of an alleged conspiracy on the part of the Catholic community, or at any

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<sup>1</sup> George de F. Lord, Anthology of Poems on Affairs of State: Augustan Satirical Verse 1660-1714 (New Haven: Yale University Press, 1975), pp. 219-21, 303-29; K.H.D. Haley, The First Earl of Shaftesbury (Oxford: Clarendon Press, 1968), pp. 213-14.

rate some of the more prominent members of it. The primary objects of this conspiracy were assumed to be: the raising of a rebellion with French assistance; the firing of London and other large towns; the slaughter of large numbers of King Charles II's Protestant subjects; the assassination of the King himself and other members of the Stuart royal family; and ultimately the reversal of the Reformation in the British Isles. 'Exclusion' was the promotion of the passage of an Act of Parliament, to which King Charles would presumably be compelled to assent, to 'exclude' the Duke of York – the King's younger brother and heir presumptive, who had converted to Catholicism for reasons of personal conviction in the late 1660s – from the succession to the throne.

No politician has been more prominent in the historiography of the events of the 'Exclusion' period than Shaftesbury, and certain assumptions about him that originated during these years have persisted down to the present day. In the first place, it has been said that he cynically exploited the Popish Plot, by befriending and financing sinister and unsavoury informers such as Titus Oates and those who, like Oates, could be persuaded to swear to the truth of the Popish Plot in general and to the guilt of individual Catholics in particular. In the second place, Shaftesbury has usually been represented as an exceptionally cunning and skilful political operator, who combined charismatic qualities of leadership with an understanding of the techniques of organisation and electioneering and a wide knowledge of the English localities. In the third place, Shaftesbury presided over a circle of friends and allies that included John Locke; and this intellectual community was assumed to have formulated theories of parliamentary and popular sovereignty which were to shape the ideology of Whiggism into the eighteenth century and beyond. These theories were in direct opposition to the divine-right, high-Anglican, crypto-absolutist philosophy of

Toryism, which (even after suffering dislocation and re-alignment in the Revolution of 1688-9) was also to survive into the eighteenth century. In the fourth place, and following on from this third point, Shaftesbury has been credited with a leading role in the emergence of a ‘two-party’ polarisation of politics in the British Isles, discernible in embryonic form in the early 1680s in the conflicts between the nascent ‘Whig’ and ‘Tory’ parties.

Moreover, Shaftesbury’s career in late seventeenth-century politics has often been regarded as a spectacular failure, notwithstanding his achievements before 1678, because the policy of exclusion was unsuccessful. The Exclusion Bills of May 1679 and March 1681 were lost by the dissolution of Parliament. The Exclusion Bill of November 1680 was defeated by more than thirty votes in the House of Lords. On 2 July 1681, just over three months after the dissolution of the third (‘Oxford’) Exclusion Parliament at the end of March, Shaftesbury’s papers were seized and he was committed to the Tower of London. It was reported by Lord Halifax (his political adversary on the exclusion issue) that his opponents would find sufficient material with which to hang him. Shaftesbury himself was pessimistic, and he volunteered to retire permanently to his Dorset estates or even to Carolina.<sup>2</sup> In the event, a sympathetic jury recorded an *ignoramus* verdict when his case was heard at the Old Bailey in November 1681. However, Shaftesbury’s courage, which in earlier periods of his life had been conspicuous, now deserted him for the first time at the age of sixty: ‘fear, anger and disappointment had wrought so much on him,’ wrote Gilbert Burnet, ‘that Lord Essex told me he was much broke in his thoughts; his notions were

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<sup>2</sup> *Memoirs of Sir John Reresby*, ed. A. Browning (2nd edn revised by William A. Speck and Mary K. Geiter, London: Royal Historical Society, 1991), pp. 227, 233; *The Hatton Correspondence*, ed. E.M. Thompson (Camden Society, New Series, XXII, XXIII, 1878), II, 8; *The Entering Book of Roger Morrice*, ed. M. Goldie and others (Woodbridge: Boydell Press, 2007), II, 295-6; H[istorical] M[anuscripts] C[ommission], *Ormonde MSS*, New Series VI, 182.

wild and impracticable ...'.<sup>3</sup> Admittedly, Shaftesbury had undergone, and survived, many earlier vicissitudes with his nerve intact. He had retired from Oliver Cromwell's Council of State in January 1655; he had been sacked as Lord Chancellor in November 1673; he had spent twelve months in the Tower from February 1677 to February 1678 for asserting that the Cavalier Long Parliament was automatically dissolved because of a year-long prorogation; then, following a rapid but short-lived rehabilitation, he was sacked again as Lord President of the Council in October 1679. But at the climax of the Exclusion Crisis in 1681, there was something more abrupt, and more final, about his disgrace. The stakes were higher, and the charges against him were more serious. For most, if not quite all, of his lifetime, he had enjoyed wealth, influence, office and power. His flight into exile in Holland in November 1682 and his death at Amsterdam in January 1683 were perceived as a calamitous finale. Shaftesbury's whole career, which had begun when he was elected at the age of eighteen to the Short Parliament in 1640, might well have been regarded as declining into disappointment, despair, exile and death. The collapse of the policy of exclusion, and the disintegration of the 'Whig party' that had attempted to achieve it, appeared to be responsible for Shaftesbury's ruin.

An extension of this last point is that, although the eclipse of the Whig party, and of its programme of exclusion, in 1681-3 ended Shaftesbury's own career, these developments were in some sense a necessary prerequisite to the success of the Revolution of 1688-9 six years after his death. The Duke of York had not, after all, been excluded from the succession between 1679 and 1681, and in the event he did become King James VII and II in February 1685. If he had been excluded from the throne by Act of Parliament during the lifetime of his brother Charles, this would

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<sup>3</sup> Gilbert Burnet, *History of My Own Time*, ed. Osmund Airy (Oxford: Clarendon Press, 1897-1900), II, 351.

surely have been a fragile achievement. Charles's successor in default of the Duke of York, whoever that might have turned out to be, would have experienced great difficulty in sustaining himself or herself on the throne. Resolute attempts would have been made to assert the principle of hereditary right in general, and the claim of the Duke of York in particular; and these would probably have taken a military form.

It was the experience after 1685 of seeing some of the more pessimistic predictions of the Exclusionists apparently come true that convinced many who had favoured the maintenance of the hereditary succession in the early 1680s that a Catholic King really would threaten the liberty, property and religion of his Protestant subjects. Following his accession to the throne in February 1685, King James VII and II was allegedly responsible for decisions and policies that, individually and collectively, might have been described as 'arbitrary government'. These included: the prorogation of a loyal and initially co-operative Parliament, which was never to meet again, in November 1685; the dismissal of judges in the common law courts, and their replacement by less learned and more compliant successors; the assertion of a prerogative power to dispense individuals from the operation of the law; the assertion of another prerogative power to suspend the law altogether, in the form of the Declarations of Indulgence (which rendered inoperative the Penal Laws inherited from the reigns of Queen Elizabeth and King James VI and I, and the Test Acts of King Charles II's reign); the erection of an Ecclesiastical Commission; the assault on the privileges of the universities, and especially on the freehold tenure of the fellows of Magdalen College at Oxford; the purges of the militia, the municipal corporations and the commissions of the peace in the localities; the expansion of the army, achieved through recruiting soldiers in Ireland as well as in England; the appointment of Catholic Privy Councillors; and the trial of the Seven Bishops. This list of King

James's perceived errors and alleged illegalities illustrates the validity of the principle that, for the nation to be convinced of the necessity of excluding James from the throne, it was required that he actually should govern as King for four years. The most enthusiastic exponents of the Revolution of 1688-9 therefore had some reason to be glad that Shaftesbury's attempt to secure exclusion in the early 1680s had blown up. The dictum of Tacitus with regard to the emperor Galba, omnium consensu capax imperii nisi imperasset, applies to James: 'if he had never become King, everybody would have agreed that he was suitable for the job' (everybody, that is, apart from the former exclusionists).<sup>4</sup> Shaftesbury's posthumous reputation consequently suffered. Not only was he a failure; his failure was in some sense necessary and desirable, since it paved the way for the Revolution of 1688-9.

## II

Several authors of contemporary history and autobiography knew Shaftesbury, or had at least encountered him during his lifetime. These writers were for the most part agreed on certain features of his personality and temperament. They concurred with regard to his ability and intelligence. More surprisingly, there was a consensus on his amiability. 'He was a man of much wit,' said Burnet, 'and as long as the conversation run in a general ramble he was very entertaining company.'<sup>5</sup> A brief character-sketch of Shaftesbury by the second Earl of Peterborough was, for the most part, hostile, but Peterborough none the less emphasised his eloquence, learning and charm.<sup>6</sup> The Tory lawyer Roger North, writing during a long retirement after 1689, made no secret of his loathing for Shaftesbury; but North was prepared to concede (apparently, without sarcasm) that Shaftesbury possessed some attractive qualities. 'If [Shaftesbury] was a

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<sup>4</sup> Tacitus, *Histories*, i. 49.

<sup>5</sup> A Supplement to Burnet's History of My Own Time, ed. Helen C. Foxcroft (Oxford: Clarendon Press, 1902), p. 58.

<sup>6</sup> Robert Halstead, Succinct Genealogies ...[of the Noble and Ancient Houses of ... Mordaunt of Turvey ...] (London, 1685), pp. 432-3.

Friend really to any human Kind, besides himself,' reflected North, 'I believe it was to King Charles II; whose Gayety, Breeding, Wit, good Humour, Familiarity, and Disposition to enjoy the Pleasures of Society and Greatness, engaged him [Shaftesbury], very much, that had a great Share of Wit, Agreeableness and Gallantry himself.'<sup>7</sup>

The Whig Burnet and the Tory Earl of Ailesbury both drew attention to Shaftesbury's vanity. 'He turned the discourse almost always to the magnifying of himself,' wrote Burnet, and then 'he told so many incredible things of himself that it put me often out of patience; he was mightily overcome with flattery; and that and his private interests were the only things that could hold or turn him.'<sup>8</sup> This, coming from the garrulous and self-important Burnet, might well have provoked some quizzical comment, and it has even been suggested that Burnet's credulity was so notorious that Shaftesbury may have made a habit of pulling his leg.<sup>9</sup> Ailesbury – who had admittedly read the first volume of Burnet's History, published in 1723, before composing his own Memoirs in Jacobite exile in the late 1720s – does support, if not precisely confirm, Burnet's strictures with regard to Shaftesbury's character. Ailesbury recounted an otherwise unverified and probably fictitious anecdote about the derisive reception in London of the news (allegedly imparted by Shaftesbury himself) that Shaftesbury had been invited to accept the crown of Poland; and he then commented 'a man of so great [a] head piece was turned into a jest, proceeding all from vanity.'<sup>10</sup>

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<sup>7</sup> Roger North, Examen: or, an Enquiry into the Credit and Veracity of a Pretended Complete History (London: Fletcher Gyles, 1740), p. 119 (the printer repeated the page numbers 113-120 by mistake; the reference here is to the second p. 119).

<sup>8</sup> Supplement to Burnet's History, p. 59.

<sup>9</sup> Haley, Shaftesbury, p. 736.

<sup>10</sup> Memoirs of Thomas, Earl of Ailesbury, ed. W.E. Buckley (Westminster: Roxburghe Club, 1890), I, 26.



Of more relevance to Shaftesbury's engagement in politics was his ambition. Sir William Temple told Charles II that Shaftesbury was 'restless while he was out, and would try every Door to get in; had Wit and Industry to find out the Ways; and when Money would work, had as much as any body to bestow, and Skill enough to know where to place it.'<sup>11</sup> Linked to ambition were the qualities most associated with Shaftesbury on the strength of Dryden's famous lines in Absalom and Achitophel: a kind of untrustworthy cunning and an absence of firm principle, plus a mastery of intricate, subterranean politics.

Of these, the false Achitophel was first;  
 A name to all succeeding ages cursed:  
 For close designs, and crooked counsels fit;  
 Sagacious, bold and turbulent of wit;  
 Restless, unfix'd in principles and place;  
 In power unpleas'd, impatient of disgrace:  
 A fiery soul, which, working out its way,  
 Fretted the pigmy body to decay,  
 And o'er-inform'd the tenement of clay.

Roger North agreed with Dryden's references to 'close designs' and 'crooked counsels' when he wrote 'The whole Course of his [Shaftesbury's] Life ... while he kept the great Seal, and, afterwards, when he sat at the Council Board, was a Series of Stratagems'. North recollected the nickname 'Lord Shiftsbury', even as he observed that it was inappropriate since Shaftesbury did, in fact, have one consistent purpose: namely, to undermine and oppose King Charles II, and his family and government. North added 'he was certainly a true Matchiavellian Politicone [sic], and his Skill lay

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<sup>11</sup> Sir William Temple, 'Memoirs', in The Works of Sir William Temple, ed. Jonathan Swift (2nd edn, London: Benjamin Motte, 1731), I, 335.

in the English State.’<sup>12</sup> Sir Richard Bulstrode, like Ailesbury a Jacobite exile after 1689, represented Shaftesbury as ‘that false and traitorous Villain; that dextrous man at Wickedness; that cunning crafty Politician ... who was esteemed as an Oracle’.<sup>13</sup> Burnet agreed that Shaftesbury was a master-politician: ‘he had a particular talent of making others trust to his judgment, and depend on it, and he brought over so many to a submission to his opinion, that I never knew any man equal to him in the art of governing parties, and of making himself the head of them ... his strength lay in the knowledge of England, and of all the considerable men in it.’ Burnet added in support of this a tribute to Shaftesbury’s gifts of public eloquence, but also criticisms of his deceit and unreliability.<sup>14</sup> Peterborough was more harsh: ‘[Shaftesbury] was ... false to that degree, as he did not esteem any promise, any Engagement, any Oath, of other use then to serve a Purpose ...’, and Peterborough mentions in addition Shaftesbury’s inexorable and unforgiving temper.<sup>15</sup>

A remaining quality to which those who remembered Shaftesbury almost invariably referred was his inclination to turbulent, factious, even violent political activity, and his tendency to exploit his talents as a demagogue. Sir John Reresby chose what he presumably took to be appropriate adjectives when he recorded in his Memoirs, early in 1683, ‘the death of that soe busy and factious Lord Shaftsbury’.<sup>16</sup> Ailesbury, referring to Shaftesbury’s dismissal from office in 1673, described him as ‘our hotheaded Chancellor ... [who] exposed his spleen and inveterate malice in the Lords’ house’. Ailesbury also said that later, in 1682, Shaftesbury was so impatient for a rebellion in the City of London that even the Duke of Monmouth complained of

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<sup>12</sup> North, Examen, p. 42.

<sup>13</sup> Sir Richard Bulstrode, Memoirs and Reflections upon the Reign and Government of King Charles the Ist and K. Charles the IId (London: Charles Rivington, 1721), p. 422.

<sup>14</sup> Burnet, History, I, 172-4.

<sup>15</sup> Halstead, Succinct Genealogies, p. 432.

<sup>16</sup> Memoirs of Reresby, p. 296.

his ‘hot head and rashness’.<sup>17</sup> ‘How shameful a thing was it,’ lamented Bulstrode, ‘that Persons of Birth and Quality should condescend to be Tools, and to creep in the Dust, to humour a base, unworthy, disloyal Faction, taken out of the Dregs of the people?’<sup>18</sup> Sir William Temple employed, more than once, metaphors of fire and conflagration to describe Shaftesbury’s activities during the Exclusion Crisis. ‘Since the last Prorogation [of 27 May 1679], Lord Shaftesbury had been busie in preparing Fewel for next Session, not without perpetual Appearance of ill Humour at Council,’ he wrote, and then ‘[the Duke of Monmouth] was guided by Lord Shaftesbury, who resolv’d to blow up the Fire as high as he could this summer [of 1680].’ Temple occasionally varied the imagery: ‘my Lord Shaftesbury ... inflam’d [the House of Commons] to that degree, as made the three Lords of my Commerce [Sunderland, Essex and Halifax] begin to grow uneasy, and to cast about which Way they might lay this Storm.’<sup>19</sup> Many of the contemporary pamphlets, poems and songs, which were hostile to Shaftesbury and published during the period of the Exclusion Crisis, amplified this theme of inflammatory, tempestuous and malevolent sedition.<sup>20</sup>

### III

This, then, was the image of Shaftesbury which emerged during his lifetime, and which was to persist for long after his death. To sum up so far: Shaftesbury was a politician of enormous ambition and ability, whose motives tended to be interpreted as factious and cynical opportunism. He founded and led the Whig party, which, mutatis mutandis, was to survive through the eighteenth century and into the time of Charles James Fox, Lord Grey and Lord John Russell in the nineteenth century. His policy as Whig leader was exclusion; everybody seemed to agree that his ambition

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<sup>17</sup> Memoirs of Ailesbury, I, 24, 66.

<sup>18</sup> Bulstrode, Memoirs, pp. 422-3.

<sup>19</sup> Temple, Works, I, 337, 339, 349.

<sup>20</sup> Tim Harris, London Crowds in the Reign of Charles II: Propaganda and Politics from the Restoration until the Exclusion Crisis (Cambridge: Cambridge University Press, 1987), pp. 146-7.

was to secure the exclusion of the Duke of York from the succession to the throne. His final downfall was inextricably associated with his inability to attain this programme of exclusion. The emphasis on these aspects of his career means that his commitment to 'liberal' ideals of representative government, and his association with John Locke, were overshadowed. Although Shaftesbury has never quite relinquished his claim to be the founder of the original Whig party, the Whigs of the eighteenth century preferred to regard Algernon Sidney and William, Lord Russell (the great-great-great-grandfather of Lord John Russell) as more admirable embodiments of the virtues of embryonic Whiggism. Shaftesbury was somehow tainted: his patronage of Titus Oates, his indifference to the fate of the hapless Catholic victims of the Popish Plot, his exploitation of some of the more disreputable techniques of late seventeenth-century politics, all seemed to disqualify him from aspiring to the heroic stature of Russell and Sidney.<sup>21</sup>

Most of Shaftesbury's contemporaries accepted, in essentials, this picture. So too did many historians of Charles II's reign for 250 years from the early eighteenth century onwards, irrespective of the political standpoint from which they started. In the eighteenth century, Oldmixon, Rapin-Thoyras, Ralph, Dalrymple, Hume and Catherine Macaulay differed in detail in their portrayal of Shaftesbury, but none diverged very far from the orthodox interpretation established by writers such as Burnet, Kennet and Echard before about 1735, when Shaftesbury's participation in the Exclusion Crisis had still been within living memory. Three references illustrative of this eighteenth-century consensus must suffice. The Whig Dalrymple wrote in the 1770s that Shaftesbury 'had joined with the King and the Duke [of York] to exalt the power of the crown, because it exalted his own; but [he], when deserted by the King,

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<sup>21</sup> Melinda S. Zook, *Radical Whigs and Conspiratorial Politics in Late Stuart England* (Pennsylvania: Pennsylvania State University Press, 1999), pp. 120-6, 174; Haley, *Shaftesbury*, p. 736.

had put himself at the head of the people, to gratify his revenge, to secure his safety, and to open a new field for his ambition; [he was] a man insinuating, imposing in private, eloquent, daring in public, full of resources in both.’<sup>22</sup> A little earlier (in the 1750s), David Hume, an apologist for the Stuarts, had found few redeeming qualities in Shaftesbury. He was a man of ‘restless temper’, ‘subtle wit’, and ‘abandoned principles’; a ‘veteran leader of a party, enured from his early youth to faction and intrigue, to cabals and conspiracies’; moreover, ‘his furious temper, notwithstanding his capacity, had done great injury to the cause, in which he was engaged.’<sup>23</sup> Catherine Macaulay, for once, found herself in broad agreement with Hume. Describing Shaftesbury’s death, she wrote ‘thus did this unfortunate refugee, once the idol of a numerous party, once the terror of a government which he hated, and respected for his abilities even by those who were acquainted with his vices and imperfections, languish ... His furious temper, united to his great capacity, had done the cause of liberty and the friends of the constitution ... much mischief.’<sup>24</sup>

Especially interesting as an indication of how Shaftesbury’s reputation and his place in English history had come to be judged by the beginning of the nineteenth century is a letter from Charles James Fox, written in 1803 to his friend Samuel Heywood, and printed as a ‘Postscript’ to Lord Holland’s introduction to Fox’s posthumously published fragment A History of the Early Part of the Reign of James the Second:

I am quite glad,’ wrote Fox, ‘I have little to do with Shaftesbury; for as to making him a real patriot, or friend to our ideas of liberty, it is impossible, at

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<sup>22</sup> Sir John Dalrymple, ‘Review of Events after the Restoration’, in Memoirs of Great Britain and Ireland (London and Edinburgh: Strachan and Cadell, 1771-90), I, 43 (first pagination).

<sup>23</sup> David Hume, The History of England, from the Invasion of Julius Caesar to the Revolution in 1688 (Indianapolis: Liberty Fund, 1983-5), VI, 358, 412, 426-7.

<sup>24</sup> Catherine Macaulay, The History of England from the Accession of James I to that of the Brunswick Line (London: Nourse, Dodsley, Johnston, 1763-1783; several variations in the title and the names of the publishers in the progression of volumes), VII, 422-3.

least in my opinion. On the other hand, he is very far from being the devil he is described. Indeed, he seems strictly to have been a man of honour, if that praise can be given to one destitute of public virtue, and who did not consider Catholics as fellow-creatures; a feeling very common in those times. Locke was probably caught by his splendid qualities, his courage, his openness, his party zeal, his eloquence, his fair dealing with his friends, and his superiority to vulgar corruption. Locke's partiality might make him, on the other hand, blind to the indifference with which he (Shaftesbury) espoused either Monarchical, Arbitrary, or Republican principles, as best suited his ambition; but could it make him blind to the relentless cruelty with which he persecuted the Papists in the affair of the Popish plot, merely as it should seem, because it suited the purposes of the party with which he was then engaged?<sup>25</sup>

Fox here elucidates the interpretation of Shaftesbury as a flawed political genius. The Whigs of the early nineteenth century would naturally have wished to elevate the founder of their party to a place in the front rank of heroic national memory, but they were unable to do so. It is interesting that Fox does not refer to the failure of exclusion. Shaftesbury is not criticized for the collapse of his policy, a disaster which had led to the 'Tory reaction' and the reign of James VII and II. Rather, he is condemned for his opportunist ambition, and for his persecution of Catholics in pursuit of party ends.

The more distinguished authors of the nineteenth century, with one exception, accepted and amplified what had become the standard assessment. Lord Macaulay's

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<sup>25</sup> Charles James Fox, A History of the Early Part of the Reign of James the Second, with an Introductory Chapter (London: William Miller, 1808), pp. xxxix-xl. The 'introductory chapter' mentioned in the title covers the period from Henry VII to the death of Charles II, and is mostly devoted to the Civil War, the Interregnum, and Charles II's reign. Fox's remarks are discussed in William D. Christie, A Life of Anthony Ashley Cooper, First Earl of Shaftesbury, 1621-1683 (London: Macmillan, 1871), II, 470-2. Heywood, a Serjeant-at-law, published A Vindication of Mr Fox's History of the Early Part of the Reign of James II in 1811.

Essay on Sir William Temple contains a sustained analysis of Shaftesbury's time-serving hypocrisy which is much more hostile than the judgement of Fox, and which concludes:

Therefore, after having early acquired and long preserved the reputation of infallible wisdom and invariable success, [Shaftesbury] lived to see a mighty ruin wrought by his own ungovernable passions, to see the great party which he had led vanquished, and scattered, and trampled down, to see all his devilish enginery [sic] of lying witnesses, partial sheriffs, packed juries, unjust judges, bloodthirsty mobs, ready to be employed against himself and his most devoted followers, to fly from that proud city whose favour had almost raised him to be Mayor of the Palace, to hide himself in squalid retreats, to cover his grey head with ignominious disguises; and he died in hopeless exile, sheltered by the generosity of a State which he had cruelly injured and insulted, from the vengeance of a master whose favour he had purchased by one series of crimes, and forfeited by another.<sup>26</sup>

It is a paradox that the great 'Whig' historian dealt so harshly with the politician alleged to be the founder of his party. Macaulay was a little more moderate in his History of England, published some ten years after the Essay on Temple. Macaulay remarked that Shaftesbury's career up to the break-up of the 'Cabal' in 1672-3 was the expression of 'deliberate selfishness'. He had 'timed all his treacheries so well that, through all revolutions, his fortunes had constantly been rising'. Later, in the mid-1670s, he went into opposition, and 'appeared at the head of the stormy democracy of the City'. The Popish Plot was 'a romance which served [his] turn; and to [his] seared conscience the death of an innocent man gave no more uneasiness than

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<sup>26</sup> Thomas Babington [Lord] Macaulay, Critical and Historical Essays (London: J.M. Dent, 'Everyman' edition, 1907), I, 249-53.

the death of a partridge'. His flight into exile meant that he 'escaped the fate which his manifold perfidy had well deserved'.<sup>27</sup>

Hallam echoed Macaulay in condemning 'a man so destitute of all honest principle as the Earl of Shaftesbury'. Ranke, more positively, described Shaftesbury as 'the principal founder of that great party which, in opposition to the prerogative and to uniformity, has inscribed on its banner political freedom and religious tolerance', but Ranke still deprecated Shaftesbury's 'fiery ideas' and the excessive zeal of his followers. It is clear, too, that both Hallam and Ranke accepted that Shaftesbury commanded the Whig party as its sole and unquestioned leader in both Houses of Parliament as early as the spring of 1679, when the first Exclusion Bill was introduced.<sup>28</sup>

The one exception to this nineteenth-century consensus was the diplomat-turned-historian William Dougal Christie, who embarked on an explicit rehabilitation of Shaftesbury in a biography published in the early 1870s. This incorporated research among the papers of Shaftesbury and Locke, and in the archives of the English and French governments. Christie's much more favourable assessment of Shaftesbury's consistency, courage, honesty and idealism emphasised (as Fox had done) his freedom from mercenary motives. However, Christie's biography still left intact the assumption that Shaftesbury had created the Whig party, and the supposition that, from the mid-to-late 1670s onwards, his main objective, consistently pursued, was to secure the exclusion of the Duke of York from the line of succession.<sup>29</sup>

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<sup>27</sup> Thomas Babington [Lord] Macaulay, The History of England from the Accession of James the Second, ed. Charles Harding Firth (London: Macmillan, 1913-15), I, 198, 210, 228, 256.

<sup>28</sup> Henry Hallam, The Constitutional History of England from the Accession of Henry VII to the Death of George II (London: John Murray, 1846), II, 129, 136-65; Leopold von Ranke, A History of England principally in the Seventeenth Century, ed. C.W. Boase and G.W. Kitchin (Oxford: Clarendon Press, 1875), IV, 84, 95, 166-7.

<sup>29</sup> Christie, Life of Shaftesbury, I, pp. xiii-xiv; II, 463-82.



In the course of the ensuing one hundred years – following on from, and to some extent influenced by, Christie’s work in the 1870s – there appeared two more biographies (a slight one by H.D. Traill, and a more substantial and scholarly one by Louise Fargo Brown); two more monographs on the Exclusion Crisis (by Francis S. Ronalds and J.R. Jones); and many more general works on the period of the Restoration (of which the best example is the two-volume study of Charles II’s reign by David Ogg). All of these incorporated the revisions of Christie in otherwise orthodox assessments of Shaftesbury’s place in seventeenth-century English history.<sup>30</sup> In particular, Brown, like Christie, emphasised Shaftesbury’s statesmanlike qualities and his far-sighted and constructive mobilisation of the techniques of party politics. Ronalds, in a more critical tradition inherited from the eighteenth century, concluded that ‘[Shaftesbury’s] personal ambition is the key to his conduct’, that he was ‘the heart and soul of the opposition party’, that he ‘made use of the Plot in every way, not scrupling to use the worst rogues in Newgate as his emissaries’, and that he ‘deliberately hounded innocent men to death’. Moreover, Ronalds alleged that Shaftesbury masterminded the election of Whigs to the House of Commons; and that he risked civil war by his intemperate advocacy of the Exclusion Bill.<sup>31</sup>

It was above all J.R. Jones in the early 1960s who expounded most lucidly the explanation of Shaftesbury’s contribution to the politics of the Exclusion Crisis which had evolved over nearly three centuries. Jones, more than earlier scholars, had

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<sup>30</sup> Henry D. Traill, *Shaftesbury* (London: Longmans, Green, 1888); Louise Fargo Brown, *The First Earl of Shaftesbury* (New York: The American Historical Association, 1933); Francis S. Ronalds, *The Attempted Whig Revolution of 1678-1681* (Urbana: Illinois Studies in the Social Sciences, XXI, University of Illinois, 1937), pp. 75-85; James R. Jones, *The First Whigs: The Politics of the Exclusion Crisis, 1678-1683* (London: Oxford University Press, 1961); David Ogg, *England in the Reign of Charles II* (Oxford: Clarendon Press, 1934).

<sup>31</sup> Traill, *Shaftesbury*, pp. 198-208; Brown, *Shaftesbury*, pp. 239-308, especially pp. 305-8; Ronalds, *Whig Revolution*, pp. 75-85.

investigated the papers of those persons who were involved in parliamentary elections in the constituencies. His verdicts were clear-cut:

[Shaftesbury] alone maintained contact with and control over all sections of the party. The first Whigs were his creation, Exclusion his policy. He had evolved the parliamentary tactics and organizational developments which made them a formidable force ... He appreciated that the policies, principles and sympathies of Charles and his Court directly endangered the religion and liberties of the nation, and that these would never be secure until the influence of the Court and Crown was drastically reduced and power and office permanently entrusted to men who possessed the confidence and support of parliament and the nation. It was to bring this about that Shaftesbury introduced and fought for Exclusion.<sup>32</sup>

Jones identified a number of different elements which had come together in the creation of the Whig party: the 'old presbyterians', the 'country opposition', the circle around the Duke of Monmouth, and so on. Therefore, he concluded, the early Whigs were not a homogenous group. He also introduced some qualifications to his apparently uncompromising interpretation that the Whigs were an 'exclusionist' party. There were more 'Whig' policies than simply exclusion. The Whigs in the constituencies were not necessarily operating a smooth-running machine for winning elections from the dissolution of the Cavalier Parliament early in 1679 onwards. But Jones did stress four principal themes: exclusion was, or perhaps gradually became, the dominant issue; the Whig and Tory groupings crystallized into two irreconcilable parties; the Whig party in particular developed a sophisticated organization; and Shaftesbury was supreme as the leader of the Whigs. These points are discussed with

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<sup>32</sup> Jones, First Whigs, pp. 16-17.

some subtlety, and Jones is fully aware of nuances in, and reservations about, his argument. His conclusion is however unequivocal:

The [Exclusion Crisis] was more acute, and raised questions of more fundamental importance, than any which the eighteenth century was to experience ... nothing in the eighteenth century justified and demanded the discipline, organization, ruthlessness, and mass effort which, under Shaftesbury's leadership, made the first Whigs such a formidable force. In this context the word 'party' can be substituted for 'force' ... They [the first Whigs] followed Shaftesbury's somewhat autocratic leadership and subordinated their particular grievances and interests to the common cause.<sup>33</sup>

In this passage Jones seems to be contrasting the latter part of Charles II's reign with the politics of the eighteenth century; and he was doing so for a reason. The influential theories of Sir Lewis Namier had demolished the perception of 'parties' in mid-eighteenth-century politics, more specifically in the early part of George III's reign. An American scholar, Robert Walcott, had published an analysis of the politics of Queen Anne's reign along Namierite lines in the mid-1950s; he had discerned, not 'parties', but 'connections', in the parliamentary conflicts of the early 1700s.

Walcott's views, though not as yet comprehensively demolished as they were to be in 1967 by Geoffrey Holmes, were nonetheless controversial in the late 1950s and early 1960s.<sup>34</sup> Jones, writing in 1961 when Namier's views were still fashionable but when there seemed to be something unsound about attempts to transfer Namier's conclusions to other periods, was evidently persuaded that Namier's interpretations could not be extended backwards in time, and certainly not to the early 1680s. Jones

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<sup>33</sup> *Ibid.*, p. 212.

<sup>34</sup> Robert Walcott, *English Politics in the Early Eighteenth Century* (Oxford: Clarendon, 1956); Geoffrey S. Holmes, *British Politics in the Age of Anne* (first edn, London: Macmillan, 1967).

was, in short, anxious to demonstrate that these interpretations were not applicable to the years dominated by Shaftesbury.

#### IV

The publication of K.H.D. Haley's biography of Shaftesbury in 1968 was a watershed. The history of Charles II's reign was transformed. In particular, Chapters XXI-XXVII of Haley's book, a quarter of the whole, constitute by themselves a self-contained monograph of 200 pages on the Exclusion Crisis.<sup>35</sup> In some respects Haley confirmed traditional interpretations, in others he disagreed with them, but either way he brought to bear a formidable weight of evidence and argument to sustain his case. In particular, Haley questioned Shaftesbury's alleged role as founder and first leader of the Whigs. He demonstrated that Shaftesbury was only one of a number of 'Whig leaders'; that he was sometimes isolated from, or at odds with, his political allies; and that his organizational and electioneering skills were limited. Haley also drew attention to a number of issues alongside exclusion, which occupied the attention of the parliaments of 1679-81. He did not, however, dispute that exclusion was a principal preoccupation of these parliaments, or that the term 'Exclusion Crisis' is an appropriate expression to describe this period.

The publication of Haley's book was followed, after an interval, by a number of works by a new generation of scholars who began to explore the territory opened up by his research, or who in some cases wished to challenge his conclusions. These are too numerous to list for the purposes of this essay; but some original lines of enquiry might be mentioned as proving particularly fruitful. Gary S. De Krey investigated in detail the complexities of London municipal government, uncovering in the process evidence of an early 'party' organization in the micropolitics of

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<sup>35</sup> Haley, *Shaftesbury*, pp. 453-651.

London's wards and parishes. Tim Harris researched the London crowd, and Mark Knights uncovered and analyzed the mass petitions of the winter of 1679-80; both Harris and Knights have moved on to produce very substantial monographs on the wider themes of Charles's reign and the Exclusion Crisis. Richard Ashcraft scrutinised Locke's thought in the light of his political activity and his association with Shaftesbury. Alan Marshall described the intelligence system of the Restoration regime. Andrew Swatland elucidated the behaviour of the Restoration House of Lords. In all these monographs, Shaftesbury looms large, and there are frequent references to Haley's biography of him. It may not be the case that Haley or his book 'inspired' these scholars, exactly (although Ashcraft wrote an explicit and generous tribute to Haley in his own 'Preface'). It would, however, be a reasonable supposition that Haley's Shaftesbury is one of the more well-thumbed volumes in the working libraries of many of those engaged with the period and the topic of exclusion.<sup>36</sup>

One book in particular stands out as a revisionist interpretation of the last part of Charles II's reign. This is Jonathan Scott's two-volume study of Algernon Sidney, published in 1988-91.<sup>37</sup> Scott's main concern, naturally, was with the life and thought of Sidney. But the first part of the second volume consists of an iconoclastic survey of the Exclusion Crisis more generally, in which many of the assumptions of Haley's predecessors are demolished and some of the interpretations of Haley himself and his

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<sup>36</sup> Gary S. De Krey, London and the Restoration 1659-1683 (Cambridge: Cambridge University Press, 2005); Tim Harris, Restoration: Charles II and his Kingdoms, 1660-1685 (London: Allen Lane, 2005); Mark Knights, Politics and Opinion in Crisis, 1678-1681 (Cambridge: Cambridge University Press, 1994); Richard Ashcraft, Revolutionary Politics & Locke's Two Treatises of Government (Princeton, New Jersey: Princeton University Press, 1986), especially the 'Preface', p. xvii, for the acknowledgement of Haley's influence; Alan Marshall, Intelligence and Espionage in the Reign of Charles II (Cambridge: Cambridge University Press, 1994); Andrew Swatland, The House of Lords in the Reign of Charles II (Cambridge: Cambridge University Press, 1996). In each case the author's corpus is represented here by the book most closely linked to the twin themes of Shaftesbury and the Exclusion Crisis.

<sup>37</sup> Jonathan Scott, Algernon Sidney and the English Republic, 1623-1677 (Cambridge: Cambridge University Press, 1988); Algernon Sidney and the Restoration Crisis, 1677-1683 (Cambridge: Cambridge University Press, 1991).

successors are rejected. Scott even proposed that the terms ‘the Whig party’ and ‘the Exclusion Crisis’, though deeply entrenched in the historiography of Charles II’s reign, are inappropriate and inaccurate when used about the politics and events of the late 1670s and early 1680s.<sup>38</sup> Scott’s views attracted much debate in the 1990s.

Indeed, a complete issue of the learned journal *Albion* was devoted to a discussion of them in 1993.<sup>39</sup> The remainder of this essay will consider the participation of Shaftesbury in the promotion of exclusion, in the light of the re-evaluation of the relevance of the exclusion issue by Scott and his fellow-revisionists in the course of the forty-year-long aftermath of the publication of Haley’s biography.

## V

It has been argued, by Scott and others, that it is desirable to emphasise strongly the continuing relevance of religion to politics and government. It is not the case that Puritanism ‘peaked’ in the 1650s, and then ran out of steam after 1660. What appear to be manifestations of a more secular outlook in the Restoration period – the Royal Society, the revival of the stage, the influence of commercial considerations on foreign policy, the increasing expenditure of all ranks of people on consumer goods, the moral tone of Charles II’s court, the preoccupations recorded by Samuel Pepys in his celebrated diary – are all misleading. Quarrels over religion were still at the heart of political conflict in the 1660s and 1670s. This conflict, especially in the municipal corporations, frequently took the form of a struggle between the adherents of the Church of England and the adherents of dissent. Alongside this, the Popish Plot agitation can be interpreted as a genuine ‘popular movement’, more so, indeed, than some other seventeenth-century phenomena which are conventionally described as

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<sup>38</sup> Scott, *Restoration Crisis*, Part One, pp. 3-82.

<sup>39</sup> *Albion* (xxv[4], Winter 1993), contributions by Gary S. De Krey, Tim Harris, James M. Rosenheim, Robert L. Greaves, and Jonathan Scott to a discussion of the theme of ‘Order and Authority: Creating Party in Restoration England’.

‘popular movements’, such as the ‘Levellers’ and ‘Diggers’ of the late 1640s. The Popish Plot cannot be condescendingly written off as an outbreak of mob hysteria sparked off by deluded monomaniacs such as Israel Tonge or by calculating charlatans and mountebanks such as Titus Oates, William Bedloe, Miles Prance, Stephen Dugdale and Stephen College. The Plot does seem to have reflected the apprehensions of intelligent and well-informed persons. These persons were wrong, but we can see (with hindsight) why they were wrong. They were, for example, aware of the aggressive and expansionist policies pursued by France, and of the increasingly robust treatment by Louis XIV of his Huguenot subjects.<sup>40</sup>

It follows from this, as Scott has remarked, that the phrase ‘the Exclusion Crisis’ is inaccurate. The real issue in 1678-81 was not necessarily the succession to the throne at some point in the future. It was the security of the Protestant religion in the present. Charles II, in his early fifties, was apparently in good health – notwithstanding an alarming, but brief, illness, diagnosed as a ‘tertian ague’, in August 1679 – and the problem of who should succeed him was something to be considered at a later time. There was no especially compelling reason, at the time of the Exclusion Crisis, to suppose that Charles would not eventually celebrate his eightieth birthday in 1710, apart from the supposition – which, admittedly, many people took seriously – that he would be assassinated by the Popish conspirators identified by the Plot witnesses. But this danger receded as more and more details of the alleged Plot came to light, and more and more suspected assassins were imprisoned and tried; and in any case it was assumed that, once the Plot had been exposed, the King’s regiments of guards would protect him from harm. In the late 1670s and early 1680s, therefore, most politicians concentrated, not on the ‘exclusion’

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<sup>40</sup> Jonathan Scott, ‘England’s Troubles: Exhuming the Popish Plot’, in The Politics of Religion in Restoration England (Oxford: Basil Blackwell, 1990), passim, and especially p. 118.

of some hypothetical future monarch, but on ‘popery’ and ‘arbitrary government’ in the immediate context of Charles’s regime.

Charles himself was attacked on a number of different fronts: his maintenance of a small army; his unwillingness to enforce persecuting legislation; his indifference to, or even protection of, the Catholic coteries at his Court (centred around his Portuguese wife, his Italian sister-in-law, and his younger brother); his apparent reluctance to commit himself to joining with the Protestant Dutch in a meaningful alliance against France; his retention of the Duke of Lauderdale in high office in Scotland; his retention of the Duke of Ormonde in high office in Ireland. Exclusion, the proposal for a statutory extinction of the claim of the Duke of York to succeed to the throne at whatever date in the future his elder brother should die, only really attracted attention when Exclusion Bills were debated in Parliament, initially for a few weeks in the spring of 1679, again for a few weeks in October and November 1680, and then once more, very briefly, in the last week of March 1681. Exclusion, therefore, was an important secondary theme in politics; but it was not the main controversy that somehow determined the character of the whole period.

These arguments are persuasive, and they can be extended. Exclusion was never a fully convincing solution to the problem posed by the circumstance that the Duke of York, the heir presumptive to the throne and therefore the heir presumptive to the Supreme Governorship of the Church of England, was a Catholic. The obvious objection to exclusion was that the Duke of York would not lightly surrender his rights. Indeed, the Duke, and his friends and allies, would not even accept that Parliament was empowered to alter the succession by the passage of a statute. Even if the campaign to pass a bill to exclude him from the succession proved to be successful, this would probably end in a dynastic war. The Duke would naturally



assert that Parliament's powers did not extend to making a change in the divine management of the succession to the throne. He would then seek to justify his claim by military means, probably with foreign assistance. It could hardly be supposed that the Duke would recognise and accept the incongruity of his inheritance of the headship of the Protestant Church of England, and that he would be persuaded to retire of his own volition into dignified exile. This was a prospect that hardly anybody seriously contemplated, except in a spirit of exceptionally optimistic wishful thinking. But, even if the possibility that the Duke might somehow be disqualified could be envisaged, then a further, and very difficult, question arose. Who would replace him? This conundrum was never satisfactorily solved. The proposal that the next heir might succeed as though James were dead, or incapacitated by illness or insanity, would have meant the elevation of his adult, Protestant daughter (by his first wife), namely Mary, the Princess of Orange; but it was never made clear how Mary, at this stage of her life a dutiful daughter, could have been persuaded to accept the crown in the place of her father when her father was not dead, and not otherwise incapacitated by old age or poor health, from ascending the throne when Charles II should die. The same difficulty applied to James's other adult daughter, Anne. The Exclusionists were left with the dubious option of the illegitimate Duke of Monmouth, in defiance of all recognised principles relating to the inheritance of property. The attempts by Sir Gilbert Gerard and others to prove that Monmouth was legitimate after all were blocked by the unequivocal denials of the King himself. These took the form of sworn statements, entered in the Privy Council Register and enrolled in Chancery, to the effect that he, Charles, had never been married to Monmouth's mother, Lucy Walters. A chorus of loyal pamphleteers warned against the inherent tendency of exclusion to result in an elective monarchy, or, worse, in the revival of a republic.

The promotion of an Exclusion Bill in the House of Commons was problematic for a different reason. If it passed in the Commons, it would still have to get through the House of Lords, where there would be a majority of courtiers and bishops determined to preserve the hereditary succession. The House of Lords did, in the event, defeat the Exclusion Bill by 63 votes to 30 in November 1680, and the presumption must be that it would have done so (not necessarily, perhaps, by so large a margin) in May 1679 and March 1681 as well. Andrew Swatland has reminded us that, although the famous debate in the Lords on 15 November 1680 lasted for several hours, and although Halifax is credited with defeating the Bill through the power of reason and eloquence against the formidable opposition of Shaftesbury and others, nonetheless the result was pretty much a foregone conclusion. The votes of a high proportion of the peers were predictable, and most of them had made up their minds in advance.<sup>41</sup> Not only this; the royal assent would be required if the Bill did, by some unforeseen (and unimaginable) process, pass both Houses. It was not unknown for the royal assent to be extorted from a reluctant monarch in extraordinary circumstances, as had happened in the case of the Act of Attainder of the Earl of Strafford in 1641. But such occasions were very rare. It is hard to imagine how Charles II could have been manoeuvred into a situation in which he would be confronted with the stark choice of assenting to, or rejecting, an Exclusion Bill. If he had been, the royal veto would have been a possible fall-back.

One further consideration weighed heavily with some MPs. Suppose the Duke of York was, after all, successfully excluded by Act of Parliament in England; then this exclusion would apply only to England and Ireland. Would he not still succeed to the throne in Scotland? If he did, what would be the consequences? Sir William

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<sup>41</sup> Swatland, House of Lords, pp. 257-8.

Coventry drew attention to the danger when exclusion began to be discussed in the House of Commons on 11 May 1679. ‘Whenever it comes to pass that the Duke shall be disinherited,’ Coventry remarked, ‘and they in Scotland set him up for a King whom you acknowledge not, they will set up such a thorn in your side, by the help of France, that you will never be able to get it out.’ Sir Christopher Musgrave, MP for Carlisle near the Scottish border, made much the same point in the second Exclusion Parliament on 2 November 1680 when he observed ‘you are told “it may engender a Civil War by putting the Duke from his Succession to the Crown of England”’; which nevertheless cannot exclude him [from] Scotland. And I should be glad to have the Borders secured, for my own concern, for I live near them.’<sup>42</sup>

The force of all these objections to the policy of exclusion was such that many of those who apparently acquiesced in it, and who were willing to vote for Exclusion Bills, were, in reality, less than wholeheartedly committed to the success of the measure. This was true of Shaftesbury himself. Shaftesbury seems to have preferred to explore the possibility that the King might divorce the Queen and re-marry, with a view to the birth of a legitimate Prince of Wales. Sir Robert Southwell told Ormonde in July 1679 that Shaftesbury was resolved to press the King’s divorce. By September, in the late stages of Shaftesbury’s tenure of office as Lord President of the Council, Southwell described Shaftesbury’s solution to the danger of a Catholic succession as ‘a new Queen from Germany’.<sup>43</sup> The following year, on 16 November 1680 after the defeat of the Exclusion Bill in the Lords, Lord Longford described Shaftesbury’s speech advocating as an emergency expedient the divorce of the King; on 23 November, Shaftesbury referred again to a possible divorce in another speech, in which he drew attention to the precedent of Henry IV who had ‘put away a great

<sup>42</sup> Anchitell Grey, Debates in the House of Commons, from the Year 1667 to the Year 1694 (London: Becket and De Hondt, 1769), VII, 257, 407.

<sup>43</sup> HMC, Ormonde MSS, N.S. IV, 529-30, 537-9.

part of his family' upon an address by Parliament, and which inveighed against a 'Popish Wife'. Two days later, on 25 November, the Dowager Countess of Sunderland reported that Shaftesbury had finally abandoned the plan to divorce the King. 'He found it would not do', she said.<sup>44</sup>

When the Oxford Parliament met in March 1681, Shaftesbury seems, at last, to have come round to the idea that Monmouth should succeed. He presented a proposal to this effect to the King in person at Oxford in an interview at which several other persons were present. The King naturally responded that such an expedient would 'trample over all laws of God and man', and that he intended to stick to the law and the established church. This episode was very widely publicized and discussed. It may be that Shaftesbury was prepared at least to ventilate the possibility that Monmouth might become King. But most of those who described this notorious interview between Shaftesbury and the King at Oxford remarked upon Shaftesbury's apparently self-conscious adoption of a mood of frivolity, and on an apparent lack of seriousness in his advocacy of the notion that Monmouth should succeed. It is not altogether clear that Shaftesbury really was willing fully to commit himself to the solution of replacing the Duke of York with the Duke of Monmouth in the succession.<sup>45</sup>

Another alternative to exclusion, which many favoured as a natural, straightforward way out of all difficulties, was the reconversion of the Duke of York. If this could be accomplished, it might be a solution that everybody would welcome. Numerous attempts were made to convince the Duke that his own best interests would be served by reconciling himself to the Church of England. One such approach was

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<sup>44</sup> HMC, Ormonde MSS, N.S. V, 490-1; A Speech Lately Made by a Noble Peer (London, 1681); Haley, Shaftesbury, pp. 612-14; Diary of the Times of Charles the Second by the Honourable Henry Sidney, ed. R.W. Blencowe (London: Henry Colburn, 1843), II, 126, 136.

<sup>45</sup> The Earl of Shaftesbury's Expedient for Settling the Nation, Discours'd with His Majesty in the House of Peers at Oxford, Mar. 24th 1680/1 (London, 1681); HMC, Twelfth Report, Appendix IX, Beaufort MSS, pp. 83-4; HMC Ormonde MSS, N.S. VI, 8.

made to James by several bishops in February 1679, and similar trials of the Duke's faith were made at frequent intervals thereafter. From time to time, it was reported optimistically that James was expected to attend church and take the Test, or even that he had already done so, and was about to be restored to his offices.<sup>46</sup> However, Shaftesbury seems not to have been much interested in this remedy for the nation's fears. The Duke's resolve never to waver in his commitment to the Catholic faith was, in the event, insurmountable.<sup>47</sup> There was never any genuine prospect of a resolution of the problem of the succession by this means.

More plausible were the propositions that the Duke of York should succeed to the throne in the event that Charles predeceased him; but also that, if this should happen, then James's powers as King should be modified and reduced to protect the Church of England. James would be allowed to reign, but not to rule. These alternatives to exclusion were generally described as 'limitations' or 'expedients'. 'Limitations' were especially associated with the Earl (later Marquess) of Halifax. The 'limitations' offered at different times to public debate included some that appeared moderate and reasonable. James, once on the throne, would not be permitted to make appointments within the Church of England, or to nominate Privy Councillors, or to appoint lords-lieutenant who would command the militia in the counties. Parliament would not be automatically dissolved on the death of the King, but would continue to sit into the reign of his successor. Suggestions along these lines had been canvassed as early as November 1678 when the revelations of the 'Popish Plot' brought the prospect of a Catholic succession into the limelight; and they were

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<sup>46</sup> Bodl[eian Library], MS. Carte 228, fos 147-8: newsletter addressed to Thomas Wharton, 25 Feb. 1678[9]; MS. Carte 39, fos 107-8: Sir Robert Reading to Earl of Arran, 28 Feb. 1679/80; MS. Carte 232, fos 82-3: newsletter addressed to 'My Ever Honoured Lord', 16 Sept. 1680; B[ritish] L[ibrary], Add. MSS 29558, fos 366-7: W[illiam] L[ongueville] to Lord Hatton, 4 July 1681; Hatton Correspondence, I, 238-9.

<sup>47</sup> The Correspondence of Henry Hyde, Earl of Clarendon, and of his Brother Laurence Hyde, Earl of Rochester, ed. S.W. Singer (London: Henry Colburn, 1828), I, 45-6.

discussed in tandem with exclusion throughout the period.<sup>48</sup> They were embodied in a Bill ‘for Securing the Protestant Religion’ introduced in the aftermath of the defeat of exclusion in November 1680, with the addition of a clause to the effect that any attempt by the Duke of York or his friends to raise a military force, or to introduce a foreign army, might lawfully be resisted.<sup>49</sup> More vigorous measures were advocated during the Oxford Parliament in March 1681. The Duke of York was to be banished for the remainder of the life of King Charles. If James were eventually to succeed, then his daughter Mary would govern as Regent in his name. She would recommend names for the Privy Council, which would have to be approved (or not) by Parliament. The whole government, civil and ecclesiastical, would be vested in the Regent during James’s lifetime. If Mary predeceased James, Anne would take over. If James were to have a son, the new Prince of Wales would be educated as a Protestant, and the Regency arrangement would continue in the event of James’s death until this heir attained a suitable age.<sup>50</sup>

There were many weaknesses in the ‘limitations’ remedy, and it was generally regarded as an improbable and unrealistic settlement for the future. The working out of the details of a moderate scheme for restricting the royal powers would involve a complex and time-consuming negotiation between Parliament and the King. The more draconian suggestions, such as the banishment of the Duke and the elevation of Mary to a hypothetical regency, were impractical. It was impossible to suppose that King Charles and the Duke of York would understand themselves to be bound by any agreements they might make to accept limitations in the present, or to observe them in the future. ‘Limitations’ offered the superficial prospect of a permanent diminution of

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<sup>48</sup> HMC, *Ormonde MSS*, N.S. IV, 478-9; Grey, *Debates*, VI, 262-8.

<sup>49</sup> Bodl. MS. Carte 81, fos 658-61: ‘An Act [that is, a Bill] for Securing the Protestant Religion’, n[o] d[ate]; ‘Some Additions made by the Judges to the Act for Securing the Protestant Religion’, n.d.

<sup>50</sup> BL, Add. MSS 38847, fos 83-4: ‘The Heads of the Expedient proposed to the Parliament at Oxford in lieu of the former Bill for excluding the Duke of York’, n.d.

the powers of the monarchy, but for this very reason the ‘Court’ party was suspicious of them, while Shaftesbury never seriously contemplated ‘limitations’ as a viable alternative to exclusion. There is no reason to doubt Haley’s verdict that ‘[Shaftesbury] was firmly convinced that any policy merely of limiting the power of a Popish successor would be ineffective, and that discussion of such proposals would only be a waste of time since there could be no guarantee that Charles would observe them.’<sup>51</sup>

There remained one feasible method of securing the nation against the danger of a Catholic succession, in which Shaftesbury does appear to expressed some interest. This was the project of an Association; that is, an oath which bound those who swore it to combine to resist the potentially disastrous consequences of certain defined eventualities, such as a foreign invasion, the assassination of the monarch, or the hypothetical succession of a Catholic. There was a respectable precedent for this, in an Association to defend Queen Elizabeth against invasion and rebellion, and against plots (such as those connected with Mary Queen of Scots) to assassinate her; and to avenge her in the event of these plots succeeding. This Elizabethan Association was embodied in the Act for Provision to be Made for the Surety of the Queen’s Person, passed in 1585.<sup>52</sup> It seemed an appropriate model in the similar circumstances of the ‘Popish Plot’, and there was some discussion of a new Association in November 1678, although this came to nothing. Two years later, Lord Cavendish proposed an Association in a Grand Committee on the State of the Nation on 15 December 1680, following the defeat of the Exclusion Bill, and this was supported by several members including Sir William Hickman, Ralph Montagu, Sir Francis

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<sup>51</sup> Haley, *Shaftesbury*, p. 605; also pp. 463-4, 517-18, 603.

<sup>52</sup> 27 Eliz I, c. 1. The Act is conveniently printed in G.R. Elton, *The Tudor Constitution: Documents and Commentary* (Cambridge: Cambridge University Press, 1962), pp. 76-80.

Winnington and Sir William Jones. It was resolved that the House be moved to bring in a Bill for an Association, which the House duly approved nemine contradicente.<sup>53</sup>

The great virtue of an Association was that it was easy to identify those who neglected, or refused, to subscribe to it, and who might therefore be supposed to disagree with it. Such persons could be removed from office, or deprived of the rights and privileges of a subject, without difficulty. Looking ahead, the Association to defend King William II of Scotland and III of England from assassination and conspiracy in 1696 was exploited for precisely these purposes; it was accompanied by an Act which made subscription to the Association compulsory for office-holders; and it was followed by a laborious attempt to eliminate non-subscribers from their offices.<sup>54</sup>

When Shaftesbury was arrested and sent to the Tower on 2 July 1681, a draft of an Association was found among his papers, and this was deemed to be evidence of treasonable conspiracy although the Association was not technically one of the charges in the indictment brought against him. It might seem that a project that had been approved in principle by the House of Commons would be unexceptionable, but the wording of the draft, and especially the form of the declaration to which the King's Protestant subjects were expected to subscribe, amounted to exclusion in another form. Promises in Shaftesbury's draft Association to maintain and defend the Protestant religion, the power and privileges of Parliament, and the lawful rights and liberties of the subject were not controversial. However, the ensuing pledge to refuse consent to the succession to the throne of the Duke of York, to oppose his succession 'by all Lawfull meanes, and by force of Armes', to 'endeavour to subdue and destroy him, and all his Adherents', and to disregard any attempt to prorogue or dissolve

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<sup>53</sup> Commons Journals, IX, 676 [recte 679], 680; Grey, Debates, VIII, 153-71.

<sup>54</sup> 7 & 8 William III, c. 27.



Parliament if such an attempt was designed to thwart the objects of the Association, all seemed to threaten rebellion.<sup>55</sup> Several loyal addresses to the King condemned the perfidy demonstrated in this Association. That from Kent announced ‘wee doe from our Soules abhor & detest that traiterous & devillish Association’. That from Norfolk described the Association as ‘republican’. The Association was publicly burnt in London and elsewhere.<sup>56</sup> In the face of this hostility, Shaftesbury’s friends were obliged to defend him by urging that the draft among his papers was undated, unsigned and not in an identifiable handwriting, and there was no proof that he had even read it. This was hardly a plausible argument, and it is unlikely that many people found it convincing.

## VI

The exclusion of the Duke of York from the succession was one of the strategies devised to meet the hypothetical danger of a Catholic King, but it was not the only, or even the most prominent, such strategy. The conflicts of the period of the Popish Plot did not resolve themselves into a clear-cut polarisation of Whig exclusionists and Tory loyalists. There were many ambiguities in the attitudes adopted by Shaftesbury’s contemporaries. Some of the old certainties of the writers of the eighteenth and nineteenth centuries have been challenged in ways which have provoked fruitful discussion. It may now be questioned whether there really was a ‘Whig party’. There is room for debate on whether Shaftesbury was ‘the Whig leader’, or only one of a number of ‘Whig leaders’ with subtly differing views. It is no longer possible to

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<sup>55</sup> T[he] N[ational] A[rchives], PRO, PRO/30/24/6A/349, fos 158-66: lists of books and papers taken from various parts of Shaftesbury’s house, various dates between 2 and 12 July 1681; PRO, PRO/30/24/6B/422, fos 75-6: draft of a Protestant Association, n.d.; BL, Egerton MSS 2979, fos 189-90: ‘The Association found in the Lord Shaftesbury’s Closet’, n.d.

<sup>56</sup> Haley, *Shaftesbury*, p. 687; BL, Egerton MSS 2985, fos 276-7: address to the King from the county of Kent (copy), 13 Mar. 1681/2; BL, Add MSS 36988, f. 180: address of the Norfolk Deputy-Lieutenants, JPs and Grand Jury, from the Assizes at Thetford (copy), 17 Mar. 1681/2; Bodl. MS Carte 216, fos 29-30: Longford to [Arran], 11 Apr. 1682.

sustain a case for the view that Shaftesbury was a master-politician, who was, as one pamphleteer put it, an ‘old, cunning statesman’ who ‘sets up green-ribbon clubs’ and ‘has emissaries every where, to whisper treason and sedition’, and who ‘in the country appears for all the discontented at elections for parliament-men’.<sup>57</sup> Shaftesbury’s real opinions about the merits of exclusion remain elusive. It is difficult to be convinced that he was in favour of the succession of the Duke of Monmouth, or that he believed that the divorce of the King or the promotion of an Association would restore harmony and stability to a troubled nation. At the same time, it might be thought to be a somewhat drastic step for historians to jettison the phrase ‘the Exclusion Crisis’ altogether. The proposals for exclusion were a striking development in the context of late seventeenth-century England. The contrast with the widespread expressions of loyalty to the Stuart monarchy at the Restoration only twenty years earlier are hard to overlook. Moreover, James did find himself excluded from the throne eventually, as a consequence of events defined by another phrase which historians may find inappropriate and which they may come to dislike, but which it is easier to accept than to reject, simply because of its familiarity: the so-called ‘Glorious’ Revolution.

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<sup>57</sup> F.K., The Present Great Interest both of King and People, by a Lover of his King and Country (1679), printed in Somers Tracts, ed. Walter Scott (London: T. Cadell and others, 1809-15), VIII, 116-20.