

ART. XII.—*King James the Second's Proposed Repeal of the Penal Laws and Test Act in 1688: His Questions to the Magistrates of Cumberland, With their Answers thereto.* Transcribed from Rawlinson's MSS. A 139^a in the Bodleian Library, Oxford, by the Rev. A. L. BROWNE, M.A.

INTRODUCTION.

AFTER issuing a "Declaration of Toleration and Liberty of Conscience" James II instructed his Council to present certain Questions to all Deputy-Lieutenants and Magistrates in England and Wales, through the respective Lord-Lieutenants of counties, to ascertain their attitude towards a projected repeal of the Penal Laws and the Test Act. The response, however, except in the counties of Cumberland, Westmorland and Lancashire proved unfavourable. The comment on the questions passed by Sir John Reresby is illuminating. "Several lord-lieutenants who refused to execute this order were turned out, and Papists were put in their places, and the deputy-lieutenants and magistrates that did not give a satisfactory answer were generally displaced. This was indeed putting the thing too far, and the wondering of all men to what purpose it was done. For what answer could any man give that was to be a member of parliament, till he heard the reasons and debates in the House? If men had a mind to deceive the king, how easy, nay how likely was it for them to pretend to be of one judgment now, and of another when they were of the House. Besides it struck at the very foundation of Parliaments to pre-engage men, before they came there,

where they were allowed the freedom both of speech and judgments . . . The general answer that was given by Protestants, was this, that they would give their votes so, in the House, as the reasons of the debate directed them; that they would vote for such as they thought would do so; and that they would live quietly with all men as good christians and loyal subjects" (Reresby's Memoirs, ed. Browning (1936), p. 478).

The answers were apparently, with one or two exceptions, handed in personally at a meeting in Penrith convoked for their reception, Cumberland being the first county from which the returns were received. In an age when the laws of orthography did not obtain, the following peculiarities will be observed: " of " for " off "; " then " for " than "; the abbreviated p' for pre, and others characteristic of the spelling of the period.

F. 345. *Deputy Lieutenants and Justices of the Peace for the County of Cumberland.*

Sr Christopher Musgrave of Edenhall Knt. and Bart.

Sr George Fletcher of Hutton Bart.

Sr William Pennington of Muncaster Bart.

Sr Wilfred Lawson of Isell Knt.

Justices of the Peace onely.

Sr John Lowther of Whitehaven, Bart.

Sr Richard Musgrave of Hayton, Bart.

Sr Francis Salkeld of Whitehall, Knt.

Sr John Ballantine of Crookdale, Knt.

Francis Howard of Corby Esq. Gov. of Carlisle.

John Aglionby of Drawdyke Esq.

Thomas Warwick of Warwick Bridge Esq.

Henry Dacre of Leonard Coast, Esq.

Andrew Huddlestone of Hutton John Esq.

Edward Hasell of Dalemaine Esq.

Anthony Hutton of Gate Esq.

Henry Bronham of Shailes Esq.

Thomas Dalston Esq.

Christopher Richmond of Catterlen Esq.

John Skelton of Thonthwaite Esq.

Thomas Denton of Warnall Esq.

Leonard Dykes of Warthole, Esq.
 Charles Orfeur of High Close Esq.
 Richard Tolson of Wath nigh Wakefield, Yorkshire, Esq.
 John Lamplugh of Lamplugh Esq.
 Richard Lamplugh of Ribton Esq.
 Richard Patrickson of Calder Abbey Esq.
 John Senhouse of Seascale Esq.
 Henry Curwen of Workington Esq.
 Edward Stanley of Dalgarth Esq.
 William Fletcher of Morresby Esq.
 Miles Pennington of Seaton Esq.
 William Christian of Lowthwaite, Esq.
 John Errington of Beefront Esq.
 Thomas Salkeld Esq.
 John Aglionby Jun^r Esq.
 (*blank*) Skelton Esq.

(1) If in case he shall be chosen Knight of the Shire or Burgess of a Towne, when the King shall think fitt to call a Parliament. Whether he will be for taking off the Penal and the Tests ?

(2) Whether he will assist and contribute to the election of such numbers as shall be for taking off the Penal Laws and Tests ?

(3) Whether he will support the King's Declaration for Liberty of Conscience, by Living friendly wth those of all persuasions, as subjects of the same Prince and good Christians ought to do ?

F. 346.

Sir

It is humbly my opinion that the first question is more proper for the consideration of a Parl^t than a private meeting of Country Gentlemen whoe not having Liberty to Debate are not able to arrive at a true understanding of the conveniences or inconveniences that may attend this quest: but whenever His Maiesty shall be pleased to call a Parl^t of the Gentry and Freeholders of this County will doe me the hon^r to let me serve them as one of their members I shall endeavour to discharge my duty to my God, my King and Country as well as my Conscience and Judgment can direct me.

As to the Second Question

wherever I am an Elector and that such persons are present with whom I think I may with confidence trust my Religion, Liberty and Property, they shall truly be my choyce.

3. I have ever been of the King's opinion that conscience ought

not to be forced and when I was a member of Parl^t did act accordingly, and it is my desire as it shall be my endeavour to live friendly with men of all persuasions.

Geo. Fletcher.

F. 347.

To the first question, if I be a parliament man I shall give my vote for the taiking away the penall laws and test soe far as not to prejudice the church of England.

To the second question I shall give my assistance for the electing of such members as I hope will concur with the king in all things resonable.

To the third question I declare I was alwayes of opinion that none ought to be restrained of Liberty of contiens, and that I never designe to live otherways then friendly with persons of all persuasions.

W^m Pennington.

F. 348.

(1) When I shall be elected a member of Parl^t as I believe I never shall, I will defer my opinion to the house, as far as it tends to the Publique good.

(2) I shall always Give my assistant towards electing such members of Parl^t as are good subjects and will favour and support the Protestant religion as it is now by law Established.

(3) I doe very well approve of the King's Declaration of Indulgence, and shall Indeavour to live friendly and peaceably with men of all persuasions, as becometh every good Christian, Provided they Demean themselves in noe wise contrary to law.

R. Musgrave.

F. 349.

(i) If I be chosen a member of Parl^t I think myself obliged to refer my opinion concerning taking away the Penall laws and Tests to the reasons that shall arise from the Debate of the hous.

(ii) If I doe give my Interest for any to serve in Parl^t it shall be for such as I shall think Loyall and well-affected to the king and the Established Government.

(iii) I will live friendly with those of several Persuasions as a Loyal subject and a good Christian ought to live.

John Lowther.

F 350. *Blank.*

F. 351.

To the First, were I a member of Parl^t I would most certainly give my Vote for takeing away the Penall Laws and the Tests.

To the Second, I will not give my Vote for the Election of any that I have not a confidence in and will not vote for takeing off the Same.

To the Third, I am for supporting the King's declaration for Liberty of Conscience and liveing peaceably amongst the rest of my Fellow Subjects and will be ready upon all occasions to serve the King with my Life and Fortune.

Fra: Salkeld.

F. 352 (*blank*).

353.

(1) If I be chosen a member of Parl^t I think myself obliged to refer my opinion concerning the takeing away the penall laws and tests to the reasons that shall arise from Debate of the house.

(2) If I give my interest for any to serve in the next Parl^t it shall be for such as I shall thinke loyal and well-affected to the king and Established government.

(3) I will live friendly with those of several persuasions as a Loyal subject and good Christian ought to do.

J. Ballantine.

F. 354.

(1) If I be chosen a member of Parl^t I thinke myselſe obliged to Refer my Opinion concerning the takeing away the Penal Law and Tests to the Reasons that shall arise from the Debate of the House.

(2) If I give my interest for any to serve in the next Parl^t, it shall be for such as I think loyal and well-affected to the King and the Established Government.

(3) I will live friendly with those of several persuasions as a loyal subject and a good Christian ought to doe.

Dan Fleming.

F. 355. A verbatim repetition of replies nos. 353, 354
Signature,

Chr: Philipson.

F. 356.

To y^e 1st

I will consent to y^e penall Laws relating to Religion and y^e

Tests shall be repealed conformably to his Ma'tys Declaration touching Liberty of Conscience.

To y^e 2^d

I will vote for y^e election of such persons as I think will consent that y^e penall Laws and y^e Tests shall be repealed.

To y^e 3^d

I will endeavour to live peacably wth all men though of different persuasions in Religion and I think it my duty to do so.

I. Aglionby
Jan 24 87/88.

F. 357. *blank.*

358.

To the first question proposed by your Lordship. Were I a member of Parl^t I would certainly bee for talking away the Penall Laws and Tests.

To the Second.

I will contribute to choose such members as will be for the taik- ing off the Penall Laws and the Tests and noe others.

To the third.

I will support the King's Declaration for Liberty of conscience by living friendly with those of all persuasions.

Francis Howard.

F. 359. *blank.*

F. 360.

Q. 1. Answer. I have noe intention to attempt being chosen a member of Parliam^t. But if I were I should think myself obliged to defer y^e giving of my Opinion untill I had heard y^e reasons y^t should arise from y^e Debates of y^e house upon y^e Subject.

Q. 2. A. When it shall be his Majesty's pleasure to call a Parliam^t I will assist wth my Interest in Electing such as I think are of undoubted Loyalty to y^e King and well-affected to y^e Govern^{mt} as by Law Established.

Q. 3. A. I will endeavour to live friendly and in Amitie with all his Majestys subjects of w^t persuasion soever they be in Religion as a good Christian ought to doe.

Wm. Sandford.

F. *not numbered.*

To y^e first queston.

I doe not esteeme my Selfe sufficiently qualified to serve in

Parliament nor doe I expect to be chosen, and for the takeing away the Penall Laws and Test I doe leave y^e matter (with great submission) to y^e wisdome of y^e King and Parliament.

To y^e Second.

I will to the outmost of my power contribute to y^e electing such to serve in Parliament as will with all readynesse and fidelity serve their King and Country.

To y^e Third.

I doe heartily acquiese in the king's Declaration for Liberty of Conscience and will live in friendship and Respect to all, as becomes a Christian and dutiful subject.

R. Patrickson.

F. *not numbered.*

If I should be chosen Knight of the Shire or a Burgess I would be willing to take away the Penall Laws and test.

I will contribute to the election of such members as I hope will oblige the King in all things.

I will promote the King's interest and will live peaceable amongst my Neighbors.

Folio *not numbered.*

(1) If I should be a member of Parl^t I should think it expedient to refer mine opinion to the reasons that shall arise from the debate of the houses relating to the Penall Laws and the Tests.

(2) If I give mine interest to any one to serve in the next Parl^t, I shall vote for such as I consider to be of Loyal Principles and fiet to serve his King and Country.

(3) I shall (as I have ever done) live freindly with those of several persuasions as be comes a good Christian and a Loyal Subject.

Tho. Denton.

F. 365.

To the first question proposed by my Lord.

As for y^e Tests I doe abominate them; and as for the Penall Laws I think there ought to be no persecution for religion.

To the first were I a member of Parl^t I would certainly be for takeing off y^e Penall Laws and y^e Tests especially since his Majesty has been pleased to declare it a great and Necessary work.

To the second, I will assist in the Election of such persons as shall be for takeing off the Penall Laws and Tests.

To the 3rd I will doe as I would be done to, live friendly with subjects of all persuasions as being equally under his Majestys care with myself.

Thomas Dalston.

F. 366. (*blank*).

367.

(1) If I be chosen a member of Parl^t I think myselfe obliged to referr my opinion concerning the taking away the Penall Laws and the Tests to the Reasons that shall arise from the Debate of the house.

(2) If I doe give my Interest for any to serve in the next Parliament, It shall be for such as I think Loyal and well-affected to the King and the Established Government.

(3) I doe and will live ffriendly with those of several persuasions as a Loyal Subject and good Christian ought.

Ed. Hasell.

F. 368.

If I were chosen Knt of the Shire or Burgess of a Towne when the King shall thinke fitt to call a parliament I would most willinly and greely be for taking off the penale laws and the tests.

Secondly, I would most willinly assist and contribute to the Election of such members as shall be for takeing off the penall laws and the tests.

Thirdly, the King's Declaration for Liberty of Conscience by liveing most friendly with those of all persuasions I most willinly and freely Affirm and Condesend too.

John Skelton.

F. 369. *Blank*.

370.

(1) If I ware a memb^r of Parl^t I think my selfe obliged to refer my opinion to the Reasons that shall arise from the Debate of the House concerning the abrogating the Tests and penall Laws.

(2) ffor electing of members of Parl^t I shall make choyce of such as in my thoughts will be most advisable to ye King and the Kingdom in a Loyal way.

(3) I will live friendly with those of several persuasions as a Loyal Subject and good Christian ought to doe.

Edward Musgrave.

F. 371. (*Blank*).

372.

To the 1st question.

If I were chosen a member of Parl^t I would certainly be for takeing of the Penall Laws and the Tests.

(2) I will assist and contribute to my power to y^e electing of such members as shall be for takeing of the Penall Laws and Tests.

(3) I will endeavour to Support His Majesty's Declaration by liveing friendly His Majesty's Subjects of all persuasions.

Thomas Warwicke.

F. 373. *Blank.*

F. 374. *A verbatim transcript of 367 signed by*

Anth. Hutton.

F. 375. *Blank.*

F. 376.

(1) If I am chosen I shall vote as his Majesty desires.

(2) I shall endeavour to chose such a member as will repeal the Penall Laws and the Tests.

(3) It has always been my Principle to practise liberty and with God's assistance continue to live peaceably with my fellow Subjects off of what Persuasion soever.

J. Errington.

Folios 377, 378.

The replies of Jo. Senhouse (377) and of Hen: Browham (378) are accurate repetitions of no. 367.

F. 379, 380 (*Blank*).

F. 381.

(1) I cannot hope to have the honour of being elected to Parl^t, but if I were I should really consent to His Majesty's desire by giving my Vote for repealing of y^s Penall Laws and test.

I shall very redily imploy what Interest I may have any where for the choysing of such persons to serve in perlment when his Majesty shall ples to call one as I think will comply with His Maisty's desires in this matter.

And to live pessably with my fellow Subjectes (all persuasions) it has been always my Principall and Praktis to doe so and I shall think my self obliged to doe the same as in obedyance to his

Maiesty and to comply with the duty of a christian y^e 24 Jenuary 87/88.

Hen: Dacre.

F. 382. *As in 367*—signed by Edw. Stanley.

F. 383 *ditto.* signed Christ: Richmond.

F. 384. I think he is noe good Subject and neither loves his king nor Government who is not for complying wth his Maiestys desires in those three questions proposed to me.

William Fletcher.

F. 385. *Blank.*

386. *As in 367*: signed Christo Dalston.

387. *ditto.* Miles Pennington of Seaton.

388. *ditto.* Will: Fleming.

389.

As to the First Question.

I finde myselfe obliged in Duty to God, Obedience to my King, and charity to my neighbours to contribute all that I can to take off the Penall Laws and Tests, from which resolution I will (by God his Assistance) never departe whether I am a memb^r of Parl^t, or placed in any other Circumstance; and more particularly finde an obligation incumbent upon me to apply the uttmst endeavours for the takeing off the Tests, which are absolutely against the Word of God and continued on purpose to destroy monarchy for which so many of my Ancestors sacrificed their Estates and Lives as I am, and ever shall be, ever ready on all occasions to performe.

As for the Second, I will never give my Vote for any Person (through favour or affection) to be a memb^r of Parl^t whom I have not a very great assurance of even almost certainty that he will give his vote for the takeing off the Penall Lawe and Tests.

As to the 3rd I will with all my endeavours support the King's Declaration for Liberty of Conscience by liveing ffriendly with those of all Persuasions without envie hatred or evil as every good christian is obliged to do.

Tho: Brathwait.

390. *Blank.*

391.

For
The Honoured
Richard Viscount
Preston
These

My Answers
Sir William Lawson.

392.

My Lord

In Answer to the three Questions in yo^{rs} now rec^d I make this returne.

To y^e first. That in Case I should be Chosen Kn^t of y^e Shire or Burgesse of a Towne when the King shall thinke fitt to call a Parl^t I shall (God willing) be for takinge off y^e Penall Lawes and Tests.

To the Second I will assisst and contribute to y^e Eldftion of such members as shalbe for takinge off the Tests and Penall Lawes to the best of my knowledge. And to the third,

I will support y^e King's Declaration for Liberty of Conscience by liveing friendly wth those of all p'suasions as Subjects of the same Prince and good Christians ought to do By God's Assistance And shall Remaine

Yo^r Lordship's
Most obliged and humble
Servant
William Lawson.

30th Jan: 87.

F. 393.

My very good Lord,

After y^e tender of my humble service and daily prayers for yo^r Lordshippe health and prosperity I presume wth yo^r Lordships leave, humbly to offer these answers to yo^r Questions.

1st I doe not desire y^e penall laws or y^e tests to be taken away or repealed.

2ly. If his Majestie shall have occasion to call a parl^{mt} I will give my vote for such members as are of known loyalty and I shall rest satisfied wth their doeings in a parliamentary way.

3ly. I shall endeavour to live at peace (and friendly) wth all men (as becomes a good Christian) of what Christian persuasion soever and testifie myself a loyall Subject who subscribes himself

Yo^r Lordships most obliged
and most humble Serv^t

Warthole y^e 29 January (87).

Geo: Dykes

F. 394.

To

The Right Honorable Richard Lord Preston att Hutton Hall,
these humbly offer

Right Hon^{ble}, In obedience to your Lordships Letter which I received late this evening I humbly present the Inclosed paper in answer to the questions I had endeavoured to have waited upon you at Penrith had not my sons told me that you had some thoughts of calling at Millrig in your returne an Honour which would have been highly valued by

Your Lordships Most humble Servant
John Dalston.

January y^e 27th 1687.

395.

To the Right Honorable
The Lord Viscount Preston
att Hutton in
Cumberland.

396. (*Enclosure*).

My Lord

To 1 and 2. I do not (in my weake Judgment) thinke that the takeing away of the Penall Laws would be for the gen^r all good of this nation: those Laws being the great security and support of the Government. And therefore I cannot in Conscience either note the takeing of them away, or give my vote to the Electing of such members as would take them away.

To y^e 3rd. To live peaceably (under the Gov^t) with my fellow Subjects of what a persuasion soever is a duty which I owe both to God and the King and I am stedfastly resolved *Deo Volente* to performe it accordingly. John Dalston.

397. *Blank*.

398.

Honored Sir

January 29th '87/8.

Such answer as the shortness of time and my indisposition would permit inclosed is here sent you from

Your Lordships Humble Servant

John Lamplugh.

399. *Blank*.

400.

(1) My age and disability of health has so incapacitated me that I cannot be a parliament man.

(2) I will endeavour such shall be chosen as have always been Loyall: and be well-affected to the King and the Established Government.

(3) As his Ma^{tie} has been graciously pleased to give Liberty of conscience to his Subjects of different Persuasions I shall endeavour to live friendly with them.

John Lamplugh.

400.

ffor
the much Hon^{ed} Richard Lord Preston
att Hutton near Penrith.
These

F. 401.

My Lord,

I had intended to have waited on yo^r Lordship but was surprised wth a sharpe fitt of Sickness on Sunday night last and am not yet able to gett out of my Chamber and in answer to yo^{re} both my age and infirmities renders me unable to be a Member of Parliament; but shall endeavour to elect an honest and loyall man to serve and to live peaceably as a good christian ought to doe wth all men, I am

My Lord
yo^r Honor's most humble Servant

Edw: Wilson.

Dalham Tower

27th Jan: 1687.

F. 402. *Blank.*

F. 403.

Stainebanckgreene.

Jan: 26, 1687.

My Lord,

Being indysposed in health I was prevented of waiteing on you at Penrith for which I humbly begg your Lordships pardon: in answer to your propositions.

(1) I think myself a very unfitting person to be chosen a Parliament man therefore humbly begg the favour that suppositions may be suspended.

(2) I shall endeavour to contribute to the election of such men who may be for fulfilling his Majestys desires in takeing off the Tests and Penall Laws.

(3) I shall endeavour to support the king's declaration by living friendly with those of all p'suasions as subjects of the same Prince and good Christians ought.

Your Lordships most humble Servant
John Fisher.

404.

ffor
The Right Honourable
my Lord Preston
these

405 (*Ibid.*).

F. 406.

May it please y^r Lordshipp.

1st. If in case I shall be chosen Knight of the Shire or Burgess of a Towne whether I will be for taking off the penall Laws and Tests to w^{ch} I answer as followeth That I must wait the Deabate of the House and if I find the reasons there given be convincing then I shall be for taking them away.

2nd. I answer that I shall contribute to the election of such members as shall be loyal and faithful to the King.

3^d To which I answer affirmatively.

y^r Lordships most humble Serv^t
Tho. ffletcher.

27 January, 1687.

F. 407.

Richard Lamplugh, his answer.

My Lord.

(1) My answer is Noe.

I answer Noe.

To this my answer is I will.

Your Lordships most humble Servant
Richard Lamplugh.

Jan: 29, '87.

The names of those Gentlemen of the County of Cumberland who did not appear at Penrith on Tuesday, Jan. 24th, 1687-88.

Christopher Musgrave, Knt. and Bart.

Wilfred Lawson, Knt. He answered by Letter.

Andrew Huddleston, Esq. He is nephew to Father Huddleston and has been sometime in London attending a Law-Suit and must be enquired after.

John Lowther of Whitehaven Bart. He lives in London.

Leonard Dykes Esq. Answered by Letter.

Richard Tolson Esq. He lives in the West Riding of Yorks and I could not tell how to direct a Letter to him: but he hath neither fortune nor interest considerable in this Co.

John Lamplugh Esq. He answered by Letter.

Richard Lamplugh Esq. ditto.

Henry Curwen Esq. High Sheriff at present in London.

William Christian Esq. I spoke wth him before I left London and find him ready to comply wth his Maj^{ty} pleasure.

The names of those Gentlemen of y^e County of Westmorland who did not appear at Penryth on This Day, Jan. 24th 1687/8.

John Otway, Knt, Vice-Chancellor of y^e Dutchy and at present in London.

Thomas Strickland, Knt. At present in London.

John Dalston Esq. Answered by Letter.

Anthony Duckett Esq. He lives in London.

Thomas Fletcher Esq. Answered by Letter.

Edward Wilson Esq. Ditto.

. . . Wilson, his son. He lives in Lancashire and gave his answer there.

John Fisher Esq. He answered by Letter.

. . . Stevenson, Gent. He complys wth His Majesty's pleasure.