

DRAPER v. CROWTHER: THE PREBEND OF BROWNSWOOD DISPUTE 1664-92

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The prebend of Brownswood in St. Paul's may have existed before the Norman conquest of England. The prebendaries have been listed from the 12th century.¹ Few of them enjoyed national repute or became bishops; those who did held the benefice only briefly on the way to more lucrative preferment. Little is recorded of the prebendal manor before the 16th century and what follows is enlivened only by a remarkable chain of litigation in 1664-92. There were five actions in chancery over the leasing of the manor: the principal suit, in 1681-5, involved a bizarre plea of privilege of university and resulted in the incarceration of the prebendary in the Fleet, where he died in 1689. The unresolved issues were left for further dispute between his trustees, administrators, lessees and successor. His fate was noticed only briefly by contemporary historians² and deserves to be better known. The first part of this article traces the progress of the case and identifies the motives of the parties; in the second it is discussed in its historical context.

The former manor of Brownswood³ is now divided by the Seven Sisters Road between the London Boroughs of Hackney and Haringey but until 1895 it was entirely in the parish of Hornsey. In the 17th century it comprised all of Hornsey south of the manors of Topsfield and Farnfields, a boundary which appears from later maps to have roughly followed Dickenson and Ridge Roads. Most of it lay between Green Lanes in the east and Stroud Green Road and Blackstock Road in the west, but there were 60 acres in two detached blocks in Stoke Newington. Their isolation was already appreciated by the vestry in 1688-9.⁴ This detached copyhold was first to be developed for housing, but the rest of the manor was almost without habitation as late as 1869.⁵ Most of the demesne was then pasture as it probably was in 1577. Altogether the demesne represented 313 of the 536 acres of the manor as a whole.⁶ On it agriculture was rapidly eroding the Browns Wood (later known as Hornsey Wood), which was reduced from 122 acres in 1548 to 92 in 1649 and only 52 in *c.* 1709.⁷ The other major 17th century development was the introduction of the meandering New River in about 1613.

In 1569 John Harrington of Witham (Lincs.) took a lease of the whole manor for 99 years.⁸ He apparently assigned it to Thomas Draper (d. 1612), son of the sublessee of the woods in 1576,⁹ by his death in 1599.¹⁰ The lease descended to Thomas's youngest son Roger who died aged 61 in 1659 and was buried in the chancel of Hornsey church. As he had no children he devised the lease and his other lands to his nephew Thomas Draper of Sunninghill Park (Berks.),¹¹ who bought a baronetcy in 1660.¹² In spite of this windfall Thomas challenged his uncle's bequest of premiums to apprentice poor boys of Hornsey on the grounds that there were not enough poor boys, but after litigation chancery established a

trust for the purpose.¹³ As he had been called to the Bar Thomas may be presumed to have had some knowledge of the law.¹⁴ Since the lease of Brownswood was due to expire in 1668 Thomas applied to the prebendary for renewal.

Only £18 rent was reserved to the prebendary under the terms of the lease for the first thirty years, £19 for the rest of the term. This was a small stipend in 1569, when it may have represented only a small fraction of the value of the manor. The prebend had been valued at £13 13s. 4d. in 1535 and the demesne and woods but not the rents or issues of court had been let for £16 2s. in 1548-9.¹⁵ Towards the end of the lease, in 1649, it was even less realistic: the manor was then worth £290 13s. 4d.¹⁶ In 1681 the tenant admitted that it yielded £336 above the rent.¹⁷ It was generally accepted that church lands were let below their market value but even so the terms of Brownswood seem exceptionally favourable. In 1649-50 the annual value of forty rectories was found to be more than seven times the rent.¹⁸ In this case the rent was only a fifteenth or 6.5 per cent of the value in 1649. One cannot tell what fine Robert Harrington, prebendary 1561-1610, exacted, but the circumstances suggest that he asked less than the going rate. He let the manor to a brother¹⁹ who found it profitable first to underlet and then to assign the lease and the assigns themselves found it economic to sublet. Like other Elizabethan ecclesiastics he was willing to sacrifice his successors for his own advantage, monetary or otherwise. Since he survived another 41 years he lost most, receiving only the rent and foregoing the fines; his successor John Barkham, prebendary 1610-42, had no fines to supplement the rent of £19; and this was all to which Joseph Crowther was entitled during the 22 years following his collation in 1642. The prebend was abolished in 1649 and in 1650 it was sold for £2,628 to Richard Utber, a London draper.²⁰ The prebend was restored in 1660 with Crowther once again as prebendary. He was soon approached by the lessee bearing arrears of rent and seeking renewal of the lease on the old terms;²¹ not surprisingly Crowther thought that the existing arrangements needed improvement.

The sole source for this first clash is the bill lodged by Sir Thomas Draper in chancery in 1664. In it he made the most of his case and probably over-simplified that of Crowther. Since he wanted renewal of the lease by a deadline he portrayed Crowther's conduct since 1661 as a series of attempts to retard negotiations. This was less than just. When first approached Crowther declared his willingness to renew the lease. Had he wished it to expire he could have refused. It was not possible to repeat the previous lease verbatim because it was no longer legal to grant terms exceeding 21 years. There were other points of disagreement, probably raised by Crowther, including the level of the fine. Consequently Sir Thomas petitioned the king, who interviewed Crowther and persuaded him to accept arbitration by the archbishop of Canterbury (Gilbert Sheldon) and the bishop of London (Humphrey Henchman). In November 1663 they agreed on a 21-year lease from Lady Day (25 March) 1664 at a fine of £1,200; the restrictive covenants were referred to two lawyers with the final word for the Chief Justice of Common Pleas, Sir Orlando Bridgeman. At this late stage Dr Crowther had excluded from the lease a brick cottage near the manor house. On 17 December the referees reported to the king, who ordered completion. The chief justice had approved the covenants and the lease was engrossed by 20 January 1664, when Crowther failed to seal it. It is not known how the awards of referees and chief justice differed from Crowther's wishes, but one suspects that they rejected his principal proposals, whatever they were, and that he wanted to avoid implementing their scheme. Time was short. He may have hoped that by delaying until after Lady Day, when the lease was within three years of expiry

and Sir Thomas would lose the advantage of surrendering his existing lease, he could thus obtain more favourable terms. This was certainly what Draper believed when he exhibited a bill in chancery on 14 February asking for enforcement of the verbal promise of renewal from Lady Day. To strengthen his case he claimed to have undertaken costly improvements in expectation of renewal from which he could not otherwise benefit, that he had bought up the underleases, and that he had lost the interest on the capital set aside for the fine. Chancery could not act fast enough: Crowther never had to reply. It is not known what occurred out of court before the renewal of Draper's lease on 18 January 1665. Evidently Crowther did not exploit his advantage. Neither the fine nor the reserved rent was raised; the lease was backdated to Lady Day 1664; and there were no important changes in the covenants, although an element of rancour appears in stronger remedies to the lessor in case of arrears and the protection of Draper against interference by Crowther.²² Perhaps Draper successfully invoked the support of king and referees, which Dr Crowther could not resist: later their intervention was mentioned as the *immediate* preliminary to the new lease. What is certain is that tenant nursed distrust for landlord and that Crowther did not obtain all he wanted.

This is confirmed by his unsympathetic reception of Draper's application for renewal after the first seven years of the lease.²³ Such renewals were habitual. The tenant had the advantage, as he had fourteen years to trade in for an extension of only seven years, while the lessor had an offer of a fine to which he was not entitled for fourteen years. The lessor had little leverage to alter the terms of the tenancy. This was why Dr Crowther refused to comply. If he intended awaiting the expiry of the lease he was singularly optimistic: having been born in 1608,²⁴ he was already 61 and would be 77 before the end of the term. Probably he was already seeking what he sought in 1681.

As Crowther would not compromise and the final years approached, Draper again appealed to the king. On 25 November 1681 the issue was referred to Henry Compton, bishop of London.²⁵ After seeing both men he reported on 23 November that as preconditions Crowther demanded a terrier of the estate and the surrender of the court rolls. Draper immediately handed over a terrier but demurred over the court rolls, feeling that he was not obliged to surrender them, but declared his willingness to abide the king's pleasure. After hearing the report Charles referred the issue to the bishop, to Dr Stillingfleet dean of St. Paul's, and for advice on legal points to Sir Francis North, Chief Justice of Common Pleas. At the same time he pronounced in Draper's favour on what he (and presumably Draper) thought to be the crux of the matter, the level of fines. He declared that he

'does think fit, that his fine is as moderate as those generally are, which the Dean and Chapter of St. Paul's set on their tenants'.²⁶

The referees could not reconcile the contenders. A compromise was reached concerning custody of and access to the court rolls but the main issues were unsolved. Crowther made a new demand. He pointed out the low level of the reserved rent,

'which he thought too small a maintenance [and] he was resolved to resume the manor, which was not above twenty pounds per annum more, for an addition towards the support of the prebendary, which the lease might well bear, it being of very great over value.'

By the manor he meant the royalties and courts, including fines for entry into copyhold tenements. He said that he was willing to leave Sir Thomas the demesne and woods 'at the usual rates of the Church of St. Paul's' but at the true annual value which must first be ascertained. To this Sir Thomas complained of the injustice of losing the manor which was valuable because his forebears had thwarted attempts by copyholders to fix the entry fines. Of

this the referees were convinced by copies of court rolls submitted to them. However, not only had Draper's ancestors acted for their own advantage and reaped the benefit but it was no more than was required in the 1569 lease. Draper also stressed the long tenure of his family and portrayed Crowther's demands as contrary to custom, to which he appealed. While admitting Crowther's right to vary the lease, the referees considered Draper's arguments reasonable, and advised Crowther that it might be 'of great service to the Church to take some certain increase in rent than resume the manor'. By certain they meant fixed. However, finding him adamant, they reported on 8 February to the king, who ordered them to conclude the lease.²⁷ On 4 March they agreed on a 21-year lease of the demesne and woods at a fine of £1,700 and that Draper should retain the manor until Lady Day 1685, the date of expiry of the existing lease.²⁸

Crowther's demands fall under two heads linked by his determination to obtain a realistic price. He was apparently conscious of the effects of inflation that the 17th century, like the present day, experienced. This explains why he chose to resume the manor rather than accept a higher rent. Perhaps he foresaw that a fixed rent would not keep pace with prices and to compensate for its depreciation the lease would again have to expire, but few prebendaries could have resisted a fine after seven years. However, the issues of the manor could be adjusted to inflation by raising the fines at will: by 1821 they averaged £164.²⁹ His awareness would also explain his insistence on an accurate survey of the prebend, which he realised would have grown in value. His interpretation of the usual rate of fines was to multiply by 5½ times the *current* annual value of the prebend rather than accept £1,200, the fine of 17 years before, as Draper thought he should. Moreover he suspected a greater income than Draper admitted and wanted a fine for that too. His suspicion was justified, however reasonable Draper's later (unchecked) excuses may have been.³⁰ The fine would be Crowther's own property: naturally he wanted to compensate for his self-denial since 1665.

In spite of apparent success in achieving his aims, Crowther did not complete the lease. Sir Thomas petitioned chancery for enforcement of the agreement of 4 March. He alleged that he had delivered a draft lease to Crowther's agent for engrossing, which was not done; instead the draft was withheld. His petition recited events since 1662 but this time he did not claim loss of investment in improvements, loss of interest on capital, or his expense in buying up underleases. Perhaps he was not faced with such misfortunes, but it was also true that this time his case needed no reinforcing as it concerned a *written* contract, on which he had doubtless insisted. The case went to court. Draper submitted his bill on 21 March 1682³¹ and on 27 June Crowther replied. He did not answer Draper's case; instead he pointed out that members of the University of Oxford possessed the right to be sued only at the court of the chancellor of the university and as principal of St. Mary's Hall he claimed this privilege.³² He had solicited a writ from the chancellor, the duke of Ormond, which is now attached to the record.³³ The point of law was debated in court before the lord chancellor, the earl of Nottingham, who then ruled that the chancellor's court had no jurisdiction as the matter did not arise from the university but concerned land in Middlesex. Crowther was directed to reply to the matters in Draper's bill.³⁴ He did not. His contempt led on 5 June 1683 to an order to the serjeant-at-arms to arrest him.³⁵ On 23 August the serjeant reported that he had been to Oxford and encountered Crowther, who had produced a writ of privilege. Consequently he had not arrested him but sought the assistance of the chancellor, which was refused. An attempt to enter St. Mary's Hall was unsuccessful. Accordingly the court

sequestered Crowther's spiritual and temporal possessions,³⁶ without noticeable effect. Finally on 4 December they issued a writ of assistance to the vice-chancellor of Oxford University,³⁷ which evidently had the desired effect: on 20 February 1684 Crowther was in custody. On that day he was produced in court but again pleaded privilege: after debate of the question again before the new lord keeper no reason was found to amend the previous decision. He was again ordered to answer the bill.³⁸ Three times he was fetched from the Fleet under writs of *Habeas Corpus* but each time pleaded the privilege.³⁹ At last on 14 June the court declared that he had admitted Draper's charges and decreed that he should seal a new lease of demesnes and woods for 21 years from 25 March 1685 according to agreement. In anticipation that Crowther might disobey, the decree provided that Draper would hold the demesnes and woods as if a lease had been sealed and that the fine of £1,700 minus Draper's legal expenses of £123 6s. 8d. would be deposited in chancery until such time as Crowther had sealed the lease.⁴⁰ On 26 July 1684 he was brought to the Rolls Chapel to execute the decree but refused, whereupon the contingency plans took effect.⁴¹ Dr Crowther never did relent but remained in the Fleet until his death on 16 December 1689, aged 81.

This change of fortune is astonishing. To comprehend it an insight to Crowther's mind is needed but unfortunately he never answered Draper's bill. The best use must be made of the charges of his enemies and apologia of his friends. This time Sir Thomas thought Crowther was driving a hard bargain rather than being purely obstructive, but he assumed that failure to engross the lease was intended to put off renewal until after Lady Day. That done he feared that a concurrent lease would be granted, the prebend encumbered, or their agreement otherwise overthrown. Presumably he viewed Crowther's contempt as deliberately obstructive, an attitude for which there is justification: not only did Crowther follow the progress of the suit and do his best to avoid arrest but even in default he employed counsel to stave off chancery's recourse to extreme measures.⁴² Draper's interpretation may be the right one, but it is hard to conceive what changed the prebendary's mind between 4 and 21 March. Had he disliked the settlement he should not have signed the agreement, even under the duress that was later pleaded on his behalf:⁴³ his tactics do not suggest that he could be coerced into doing anything against his will. In view of his failure in 1664 he could have had little hope of success. Moreover, the agreement seems to have given him all he sought. Admittedly he had said on 6 February that he offered such favourable terms only out of respect to the king.⁴⁴ By this he may have been deferring to Charles's earlier declaration in favour of the customary rate of fine, rather than a higher rate (which it is implied) was intended. However, Draper does not mention this possibility which conflicts with Crowther's earlier readiness to concede it for more important ends.

An alternative explanation is more convincing. Draper's bill says that a clause in the preliminary agreement allowed Crowther a year to discover undeclared revenue and to levy a fine on it.⁴⁵ This period had not expired when the bill was lodged, as was later pointed out on Crowther's behalf.⁴⁶ In submitting a draft lease to him Draper and North presumably thought this issue could be deferred, but there were reasonable grounds on which to demur: entry fines were customarily paid at the sealing of the lease; the lease might not be valid if not all the lands in it were covered by the fine; and, guaranteed security of tenure for another 21 years, Draper might have delayed completion until after Lady Day and backdated the lease. If this is a correct assessment, why did he not explain it in court, where his tactics gave him no advantage?

By so-doing he would have explicitly accepted the jurisdiction of chancery and admitted a limitation to the jurisdiction of the chancellor of Oxford. He was essentially an Oxford academic, who spent most of his life there from the age of 16, holding office in college and university, until his death.⁴⁷ He might be expected to feel strongly about the rights of the university and apparently did, as emerged in the next stage of the dispute in 1686. Unfortunately the bills are lost but the proceedings are described in entry books and later bills. The plaintiffs were his nephews William and Thomas Ryder, sons of his sister and Sir William Ryder, sea-captain. According to them, in 1683 Crowther leased them the whole prebend, comprising not only the demesnes and woods hitherto held by Draper, but also the courts, royalties and the small brick cottage for twenty years at £40 rent.⁴⁸ He thereby raised the rent due to himself, as the king's referees had urged, instead of retaining the courts as a hedge against inflation, as he himself had desired. In the light of his consistency hitherto it is likely that this change was forced on him by the lawsuit. The Ryders claimed to be able and willing to assign their lease to Draper without the need for Crowther's consent. As Draper observed, this would have saved him the indignity of surrender.⁴⁹ It seems that this was what was intended, as the Ryders apparently confessed.⁵⁰ If so, it implies that by 10 October 1683 he realised that he could not win the case by his existing tactics but did not intend to change them. By conveying his rights to the Ryders he might have obtained his rent and fine without abandoning the university's privilege. In their bill the Ryders explained that their uncle was so zealous for it that he would never submit. This tallies with his own statement in court in 1684 'that he could not make any other answer although his counsel advised him to answer the same'.⁵¹

When confronted by Draper's bill, he denied that he could be impleaded in chancery and pleaded privilege. As he never moved from this position he deprived himself of room for manoeuvre and the case could not advance. It is unlikely that Draper foresaw this. He probably wanted no more than renewal of his lease, although he may have hoped to escape paying a fine on undisclosed revenues: for this we have only Crowther's unsubstantiated claims to set against the sum of £14 13s. 4d. that was declared in Draper's bill. He is unlikely to have anticipated an ending different from that of 1664, when the action was settled out of court. Once the case had begun he was deprived of the secure lease that he sought and had to wait a decade to obtain it.

The decree of 1684 provided that Sir Thomas Draper should hold the demesnes and woods under the terms of the agreement of 4 March 1682. By their bill of 6 November 1686 the Ryders offered to assign their lease according to the agreement, including the clause relating to an increased fine for undisclosed revenues. Draper could have accepted this offer but may have doubted its legality. Anyway he opposed their claims. He pointed out that under his bill of 1682 Dr Crowther should have revealed any incumbrances but had not. The Ryders could not offer a guarantee as secure as Crowther might, nor could they be examined on interrogatories as he ought to have been. Besides their bill was intended to 'elude the justice of this court' and 'would encourage disobedience to their decree and ordinance'. Finally he denied that the Ryders had shown any action of overvalue against him. In view of the collusion admitted by the Ryders it is not surprising that their bill was dismissed on 23 November.⁵² Neither chancery nor Draper would accept less than outright surrender. This did not materialise. Crowther, now 78, resigned himself to imprisonment for the rest of his life, his last escape route cut off.

Although aged and probably in-failing health,⁵³ Dr Crowther made no will. On his death administration was confided to his niece Elizabeth Crowther, wife of George Bromfield merchant of London, as next of kin.⁵⁴ The Bromfields wanted to realise all his assets including the fine deposited in chancery, which they petitioned on 12 February 1690. They asked it to review the decree of 1684 in *Draper v. Crowther* and the dismissal of the Ryders' bill in 1686.⁵⁵ Guarded replies were made by Draper and the new prebendary Dr Turner, both of whom confined themselves to the specific points raised by the Bromfields.⁵⁶ Draper also filed a cross-suit on 2 May 1691, which was admitted by the court on 23 December following,⁵⁷ by which all parties were prevailed on to put their cases. The Bromfields offered, if the earlier suits were reviewed, to execute the decree by instructing the Ryders to assign their lease to Draper; they might then collect the fine themselves. Their offer assumed that the decree bound Crowther's successors. If it did not they wanted the arrears of rent, which they denied that Draper had offered or Crowther had refused. Their bill conflicted with the plans of Dr Turner, who did not feel bound by the decree to which he was not a party or by the lease to the Ryders, which he considered illegal. As no lease had been sealed, he had obtained possession of the manor by leasing it to one Thomas Gilbert, who sued for the ejectment of one Paul Howard. Having gained possession, Turner was willing to grant Draper a *new* lease for a new fine. He would not confirm the term commencing in 1685, which he did not recognise: Draper would have to recover the fine for the unexpired years from the administrators of Crowther's estate.⁵⁸ This he might have been willing to do, reluctantly accepting the loss of the unexpired years, had not the actions of the Bromfields and Ryders prevented him. The issue was thrashed out in court on 18 February 1692, when all agreed that the lease to the Ryders was invalid, this time because it had not been confirmed by the dean and chapter of St. Paul's. The Bromfields, Ryders and Dr Turner reached an agreement and on 11 June 1692 the court decreed a settlement. The Bromfields were to obtain a surrender from the Ryders of their lease and were to hand it and the court rolls over to Turner, receiving in return £142 in arrears and £500 of the deposited fine. Turner was to receive £76 13s. 4d. of the fine for his kindness to Crowther's sister-in-law and the other £1,000 of the fine for obtaining a surrender of Gilbert's lease and for confirming the remaining fourteen years of Draper's lease. Draper's lease was confirmed but his cross-suit was dismissed.⁵⁹ By this arrangement the Bromfields were paid one-third of the fine for the third of the lease that had expired and Turner was paid two-thirds for the two-thirds yet to come. The dividing date was Lady Day 1692 and it was presumably then that the lease commenced which Turner sealed on 4 March 1692. This was before the decree but may be presumed to have been for 14 years and on the same terms as the 1682 agreement, although unfortunately it was not registered in the cathedral chapter's lease book. Finally on 1 September, in return for the surrender of this lease, Dr Turner granted a new one along the lines of that of 1665 and omitting the controversial terms of Crowther's 1682 agreement.⁶⁰ Doubtless he felt that he was putting behind him the bad feeling of the previous thirty years and was making a fresh start but he also abandoned without a fight all that Crowther had fought for and, posthumously, won.

For a full understanding of this struggle it should be considered in the light of contemporary opinion and the career of Joseph Crowther.

Crowther was a Laudian. In 1626 he became scholar and in 1628 fellow⁶¹ of Archbishop Laud's old Oxford college, St. John's, of which Laud's protégé William Juxon was president. From 1629 Laud was himself chancellor of the University, which he moulded to his own views.⁶² When Crowther wrote *c.* 1627 his play 'Cephalus and Procris' it was natural for him to dedicate it to Juxon.⁶³ In return Juxon as bishop of London collated Crowther to the vicarage of Great Dunmow (Essex) in 1639. In 1642 he collated him to the prebend of Brownswood.⁶⁴ With such a background it is not surprising that by 1646 he had been ejected from his vicarage by the Puritans;⁶⁵ nor that the parliamentary visitors would not allow his promotion to a chair at Oxford;⁶⁶ nor that in 1648 they ejected him from his fellowship. By then he was one of the irreconcilable divines who had taken refuge in France at what soon became the court of Charles II.⁶⁷ In 1651, as the upshot of a palace feud, Crowther was appointed chaplain to the king's brother James, duke of York, later James II,⁶⁸ remaining in his household until at least 1662.⁶⁹ The sources mention him several times in exile, in 1654 as preacher of a sermon in the king's chapel, in 1655 encouraging the translation of a reply to Milton's 'Eikonoklastes', and in 1653 vouching for the loyalty of a former colleague of St. John's who was candidate for a chair at Breda.⁷⁰ He rubbed shoulders with the most distinguished Anglican clerics of the next generation⁷¹ without achieving equal importance.

He returned to England with Charles II in 1660 and shared in the gradual restoration of the Anglican church. His old patron Juxon became archbishop of Canterbury on 3 September but unfortunately he was old and sick and resigned effective primacy to Gilbert Sheldon before his own death in 1663. Nevertheless he roused himself to install Crowther in a benefice in Worcestershire on 3 July.⁷² It was not to Juxon but his fellow exiles that Crowther owed his advancement. As early as 16 June the king presented him to the rectory of Tredington (Worcs.).⁷³ He joined with four future bishops on 21 August in testifying that Daniel Bullen was 'a preserver of our Church's doctrine and discipline'.⁷⁴ When he married the duke of York and Anne Hyde on 3 September he used the forms of the Book of Common Prayer,⁷⁵ which had yet to be restored. He was appointed precentor of St. Paul's on 25 August⁷⁶ and in December, having already become a D.D. without the usual formalities, he was appointed professor of Greek at Oxford.⁷⁷ The king presented him to the seventh stall in Worcester cathedral on 17 March 1661⁷⁸ and he was proctor of the diocese in the convocation that commenced on 8 May and as such subscribed to the revised prayer book in December.⁷⁹ In spite of such favour he received no more official approval after becoming principal of St. Mary's Hall late in 1664.⁸⁰ Perhaps his dispute over Brownswood brought him into disfavour?

Crowther was a Laudian. We may suppose that he was 'high church' in the conduct of services, quite enough to account for him being maligned as a papist in 1678.⁸¹ But is that all? In 1673 he debated with two Quakers, one the formidable George Fox, on whose evidence he seems to have made a poor showing. Fox asked him two questions:⁸²

'whether you denied the pope of Rome's sacrament and altar and his consecrated bread and wine which he calls God and Christ and his host with all the rest of his fopperies and inventions; and secondly whether you did deny that the pope had any power to forgive sin. But you would not set your hand to this.'

As there were doctrinal differences among Anglicans and Quakers as well as between both and Catholics it matters precisely how Fox posed the first question. But Crowther's hesitancy on the second one is a reminder that in 1641 he was asked to subscribe the Protestation which affirmed

‘the true Reformed Protestant Religion, expressed in the Doctrine of the Church of England, against all Popery and Popish innovations within this realm contrary to the law of God’.

This may have been aimed at some of Laud’s policies but in taking time to deliberate before subscribing he was exceptional among Oxford dons,⁸³ many of whom were also Laudians. Taken together these clues suggest that Crowther was one of those extreme followers of Laud who, like Bishop Montague,⁸⁴ belittled the differences between the churches of England and Rome.

Besides all this Crowther shared Laud’s desire to revive the economic power of the church. He is said to have written *A Disquisition on our Saviour’s Sanction of Tithes*,⁸⁵ in which is argued the divine origin of an institution that was apparently disputed in his parish of Tredington.⁸⁶ At Brownswood he fought to regain a realistic, inflation-proofed income for the canon in lieu of occasional fines. At Worcester, where he was a canon, the cathedral was in disrepair⁸⁷ and revenues did not cover expenses, yet the chapter estates were let for lives — longer in practice than 21 years. With Crowther’s approval, Charles II had forbidden this practice, but the lessees of two rectories objected and — like Draper — petitioned for royal intervention. Crowther and two other elderly canons of similar backgrounds resisted them. They hoped not only for the augmentation of the vicars’ stipends but for an increase in the salaries of the choir and a contribution towards cathedral expenses.⁸⁸ In other words, as at Brownswood, they wanted a higher income and a larger proportion of revenues, for which there was ample room. Ecclesiastical authorities approved such augmentations but not direct clerical management of church estates.

This was what he proposed at Brownswood. Sir Thomas Draper requested a fine at the level current on other chapter estates, which was generally realised to be uneconomic. While admitting he owed his tenancy to the favour of the church, Sir Thomas asserted his leasehold heritage above its freehold, implying that it carried a *right* to renewal to all the estate. Furthermore ‘he insisted that there should be no diminution of that tenant right which all other [church] tenants enjoy’.⁸⁹ He claimed beyond the terms of his lease perpetual tenure at very favourable rates. He would not have tolerated such *rights* among his own tenants and at Brownswood denied them to his subtenants. What is striking is that he could look for support not only to fellow tenants but to the king and even ecclesiastical referees. In 1681 Bishop Compton and Dean Stillingfleet found his requests ‘very reasonable’; in 1664 it had been Bishop Henchman and Archbishop Sheldon. Even they recognised that the church had less rights as landlord than laymen. Crowther realised that it was not feasible to raise the fine from the customary level: enough opposition arose without trying to obtain that. The referees’ reason against resuming the manor was that it might prove litigious — an argument that would scarcely have influenced Archbishop Laud, who was not deflected from his purpose by fears of controversy. But he, after all, had not lived through the abolition of the hierarchy and so had no fears of repetition. At the Restoration Laud’s disciples returned to their benefices but deliberately relinquished their economic pretensions, preferring peace with the laity. Crowther was out of step, an anachronism. A bitter controversy *c.* 1731 over realistic revenues for the church from its lands bore few fruit.⁹⁰ It was not until the establishment of the Ecclesiastical Commissioners that a businesslike approach was adopted. Even so there remained the assumption,⁹¹ still present today, that the church had not the same rights as the laity. Ultimately Crowther’s stance was adopted; to his contemporaries he was a maverick who hazarded the Restoration settlement. No wonder he never became a bishop.

One should remember that Crowther not only suffered defeat but financial loss in the Brownswood dispute. He lost reserved rent to the sum of £142 and deliberately abstained from £1,700 in fines, less than a third of which was recovered by his heirs. Had the lease been sealed in 1682 he might have obtained another fine before his death which instead went to his successor. His costs are unlikely to have been less than those of Draper. What was the effect of the sequestration of his property in 1682? One should not forget that in opposing long leases of Worcester cathedral rectories he and his fellow canons were foregoing their shares of the fines. He clearly suffered financial loss for the benefit of the church.

On the other hand it may be argued that as he lacked dependants he could afford such eccentricities. It is true that he was a bachelor and had not, as other clerics had, the need to maximise his income to support his children. But he did not lack relatives: most of his numerous nephews and nieces had been consigned to his care by his brother John (d. 1658).⁹² A result was that two of John's sons, John and Joseph, began their studies at Oxford at St. Mary's Hall. So did two other Crowthers, presumably more distant kinsmen.⁹³ Surely this reveals some avuncular affection? At his death he was apparently supporting his sister-in-law. There were kinsfolk among whom he could have distributed his possessions but he did not even make a will, a sign that he attached little weight to material considerations. Would he have acted otherwise with his own children? Rather than speculate on this hypothesis it seems fairer to give him the benefit of the doubt. After all, in one with Catholic sympathies, celibacy might be a principle.

Alternatively he was rich enough to afford it. Edmund Calamy thought that he received £1,300 a year from Tredington, his canonry at Worcester, and St. Mary's Hall,⁹⁴ quite apart from other benefices of which he was ignorant. He exaggerated. He said that Tredington was worth £700 a year and that one year Crowther was offered £800 as farm for the tithes,⁹⁵ but in 1669 it was valued at only £500.⁹⁶ The office of principal was not a source of profit;⁹⁷ and on average the canonry produced only £57 10s. 4d.⁹⁸ From Brownswood he had £19, from the rectory manor of Bishop's Stortford (Herts.) £46 as precentor,⁹⁹ and as chaplain to the duke of York £50.¹⁰⁰ He probably received fines from Bishop's Stortford as well as £1,200 from Brownswood. His ordinary income can have been worth little more than £650, from which were to be deducted the expenses of a curate for Tredington and the maintenance of his residences at Brownswood, Bishop's Stortford, St. Paul's churchyard, Worcester¹⁰¹ and Tredington. If he received much less than Calamy supposed, he was nevertheless wealthy and able to decline several legitimate sources of income.¹⁰² It had not always been so. Until 1639 he had only his fellowship¹⁰³ and if he had £99 from Brownswood and Great Dunmow for the three years to 1645,¹⁰⁴ he then had £19 and afterwards nothing. Doubtless he incurred debts to others than his brother while in exile.¹⁰⁵ He was already 52 in 1660 and had to start again from scratch, yet refused a proffered fine. The fact that he did this shows that he could afford it but it was a sacrifice. Had he less income — perhaps from Brownswood alone, which he considered too small a maintenance — he could not have acted thus but starvation is hardly a choice. Without other benefices he could not have resisted Draper but he poured away their income in costs and forewent fines with little hope of recouping his losses. More he could hardly have done.

Calamy also implied that Crowther was a negligent pluralist, a charge that George Fox echoed.¹⁰⁶ He was certainly a pluralist, which was the fault as much of the contemporary church as him personally, but it is unlikely that he was negligent, although hard to prove. He

was not single-minded in his pursuit of benefices to augment his income. According to Worcester custom that each vacant cathedral living should be offered in turn to each canon, he could have become rector of Doddenham with Knightwick (worth £60) in 1672, of Cleeve Prior or St. Michael's in Bedwardine, Worcester (worth £6 8s. 4d.) in 1673 and of Sedgeberrow (worth £73) in 1680,¹⁰⁷ but apparently declined each. He presumably had scruples, as in the first and last case he had been dispensed to hold them with his other livings.¹⁰⁸ If he was offered any benefices in the gift of the chapter of St. Paul's he declined them too. The most onerous of his benefices was that of precentor of St. Paul's, which involved responsibility for services in the cathedral. Unfortunately no records reveal how frequently he was resident, although he was certainly there sometimes,¹⁰⁹ but from 1666 his duties may have been unusually light as the cathedral was in ashes. At Worcester surviving records show that he not only kept his two months residence each year but exceeded it to such an extent that in 1682 he was excused it to attend to the Brownswood dispute.¹¹⁰ He frequently attended chapters, signed for his stipend and also officiated as subdean (1663-4), treasurer (1670-1) and receiver-general (1669-70, 1671-2).¹¹¹ As principal of St. Mary's Hall he presided over disputations but so fiercely and passionately¹¹²

'that if the opponent had made a false syllogism, or the Respondent a wrong answer, he bade the next that sat by them *kick their shins*; and became a proverb *Kick shins Crowther*'.

At Tredington he quarrelled with the parish, as Calamy, Fox and Bishop Kennett variously testify. The latter says that his parishioners obliged him to keep a boar for their benefit and that he provided a black one to spite them, so black pigs were henceforth called 'crowthers';¹¹³ while probably apocryphal, the tale may reflect their relations. However, it is more illuminating that on presentation Crowther was resisted by the occupant of the benefice, William Durham; for several Sundays they are said to have preached from opposite ends of the church (there were three) until Durham admitted defeat. A man of parts, he was eventually persuaded by the bishop of London to conform and was given a City living.¹¹⁴ He was presumably responsible for the strength of dissent. In 1673 George Fox, the Quaker, had a congregation of 400 at a service in a barn.¹¹⁵ A year later the churchwardens reported that 46 parishioners were Quakers who did not attend church, at least 16 children were unbaptised, many others only took communion at Easter, and only 5 sent their children to catechism. A less detailed report in 1682 mentioned 26 Quakers. As the parishioners withheld wine at Easter, contributions to repairs for the church¹¹⁶ and, evidently, tithes,¹¹⁷ their bad relations with Crowther are hardly surprising. While not normally resident himself, he supplied a curate who in 1674 was episcopally ordained, a good preacher, of good life, conversation and doctrine, and respected by his neighbours:¹¹⁸ as there were three churches, he may however have been overworked. From the fragmentary church records it appears that Crowther did not neglect his charge. He occurs baptising children, attending vestry and nominating churchwardens in 1681 (twice), 1682, 1683, 1688 (twice) and 1689.¹¹⁹ In 1673 he had reacted vigorously against Fox.¹²⁰ Altogether it appears that he was a busy man who tried to divide his time between his various cures. It also seems that he had quite enough concerns without worrying about Brownswood.

Dr Joseph Crowther was an able man, as even his enemies admitted, and was undoubtedly a man of principle. There is much to admire in his stance over the Brownswood leases, which was taken without ulterior motive (or significant approval) for the benefit of the church. Unfortunately, confronted with a choice of principles he gave overriding priority to the privileges of his university and, by refusing to abandon his cause when lost, sacrificed what

was probably a winning case. It was typical of him to behave with rigidity. The anecdotes told of him as an old man do not show him in an attractive light, although he had a gentler side.¹²¹ His outstanding feature was evidently the hot temper which caused him to quarrel with almost everyone. At his death Anthony Wood noted that he died 'as 'twere choked with phlegm'.¹²² Sued in chancery he need only have won or lost his case but instead he threw it away in defending the indefensible and suffered the rigours of imprisonment to no good purpose. Hopeless defence of a lost cause hardly makes him a martyr. It is for his aims for Brownswood that he merits remembrance.

NOTES

- This article is based on material collected for the *Victoria History of the County of Middlesex*, vol. vi (forthcoming). I am indebted to the editor, Mr. T. F. T. Baker, for reading it and making suggestions.
- J. Le Neve *Fasti Ecclesiae Anglicanae St. Paul's 1066-1300* 29-31; 1300-1541 21-2; 1541-1857 21-2.
 - A. Wood *Life and Times 1632-95* ed. A. Clarke (London 1894) iii. 317; W. Kennett *Register and Chronicle Ecclesiastical and Civil* (London 1728) 640; J. Walker *Sufferings of the Clergy* (London 1714) ii. 50-1; J. Newcourt *Repertorium Ecclesiasticum Parochiale Londinense* (London 1708) 102n.
 - The best account is in *Early Records of Haringay alias Hornsey* ed. S. J. Madge (London 1938) 48-51; *Medieval Records of Haringay alias Hornsey* ed. S. J. Madge (London 1939) map facing p. 113.
 - G[reater] L[ondon] R[ecord] O[ffice] (M[iddlesex Section]) D.R.O. 20/CA/1.
 - Ordnance Survey Map 6" XII. Middlesex SE. (1863-9 edn.).
 - P[ublic] R[ecord] O[ffice] SP 12/113/37.
 - St. Paul's [Cathedral] MSS. C(Sampson) f. 198v.; F.B.3 f. 15; Guildhall MS. 11816B p.86.
 - St. Paul's MS. C(I Nowell) ff. 320-2v.
 - P.R.O. PROB 11/58 (P.C.C.8 Carew); SP 12/113/37.
 - It is not mentioned, P.R.O. PROB 11/93 (P.C.C. 32-3 Kidd).
 - P.R.O. PROB 11/293 (P.C.C. 356 Pell).
 - Calendar of Treasury Books 1660-7, 229*; G.E.C. *Baronetage* (Exeter 1903) iii. 35.
 - G.L.R.O. (M) D.R.O. 20/H/1 pp.27-30; P.R.O. C10/61/105.
 - He was admitted to Lincoln's Inn in 1644 and was called to the Bar in 1653, *Records of . . . Lincoln's Inn, Admissions* (London 1896) i. 251; *Black Books* (1898) ii. 398.
 - Valor Ecclesiasticus* (Rec. Com.) i. 364; St. Paul's MS. C(Sampson) ff. 198v-199v, 279v-280.
 - Guildhall MS. 11816B pp.86-7.
 - P.R.O.C 10/209/29/1.
 - J.E.C. Hill *Economic Problems of the Church* (Oxford 1956) 7-8.
 - See P.R.O. PROB 11/37 (P.C.C. 1 More); /42A (29 Wells); /90(90 Cobham); /93(32-3 Kidd).
 - P.R.O.C 54/3540/16.
 - P.R.O.C 10/488/73. This is the source of the next paragraph.
 - St. Paul's MS. C(Sancroft) ff. 2-3v.
 - P.R.O.C 10/209/29/1.
 - E. P. Hart *Merchant Taylors' School Register 1561-1934* (London 1936).
 - P.R.O. SP 44/55 p.146.
 - Ibid. p.149. The spelling of quotations has been modernised.
 - P.R.O. SP 44/55 pp.155-6.
 - P.R.O. C 10/209/29/1.
 - Guildhall Library Church Commissioners' MS. 1963. The growing values partly reflect the pull of the London market.
 - P.R.O. C 10/209/29/1.
 - Ibid./1.
 - See also P.R.O. C 33/257 f. 711v.
 - P.R.O. C 10/209/29/2.
 - P.R.O. C 33/257 f. 711v.
 - Ibid./259 f. 528.
 - Ibid. ff. 669-v.
 - P.R.O. C 33/261 f. 176.
 - Ibid. ff. 264, 388-v.
 - P.R.O. C 33/261 f. 628v.
 - Ibid. ff. 628v-9v.
 - Ibid. f. 670.
 - P.R.O. C 33/259 f. 855v.
 - P.R.O. C 10/282/20/3.
 - P.R.O. SP 44/55 p.156.
 - P.R.O. C 10/209/29/1.
 - Ibid./282/20/3.
 - W. C. Costin *History of St. John's College, Oxford, 1598-1860* (Oxford 1958) 54-5; J. Foster *Alumni Oxonienses* (London 1888) i. 359.
 - P.R.O. C 33/268 f. 147; C 10/282/20/3.
 - P.R.O. C 33/268 f. 147.
 - P.R.O. C 10/282/20/1.
 - P.R.O. C 33/261 f. 629.
 - Ibid./268 f. 147.
 - There was a report of his death on 16 July, *Wood Life & Times* iii. 306.
 - P.R.O. PROB 6/66 f.4.
 - P.R.O. C 33/275 f. 373v; C 6/270/22/1.
 - P.R.O. C 6/270/22, /299/10.
 - P.R.O. C 10/282/20/1; C 33/277 f. 99v.
 - P.R.O. C 10/282/20/5.
 - P.R.O. C 33/277 ff. 775-6.
 - St. Paul's MS. C (Tillotson & Sherlock) ff. 118-20.
 - Foster *Alumni Oxonienses* i. 359.
 - H. R. Trevor-Roper *Archbishop Laud* (London 1965) 115 and *passim*.
 - St. John's College Oxford MS. 217.
 - Guildhall MS. 9531/15 ff. 102, 109.
 - W. J. House and F. Robus, *Short History of Great Dunmow parish church* (Dunmow 1926), 52.
 - Walker *Sufferings of the Clergy* ii. 50.
 - 'Restoration visitation of the university of Oxford' *Camden Miscellany* xviii (1948) 13; *Register of the Visitors of the University of Oxford* (Camden Soc. N.S. xxix (1881)) 164.

68. F. C. Turner *James II* (London 1948) 36-7.
69. Hist[oric] Manuscripts Comm[ission] *8th Report* i. 279a. He was paid £50 a year. James did not become a Roman Catholic until c. 1668-9. J. Miller *Popery and Politics in England 1660-88* (Cambridge 1973) 109.
70. *Collection of State Papers of John Thurloe* ed. T. Birch (London 1732) ii. 84; *Nicholas Papers* ii (Camden Soc. N.S. 1 (1892)) 19-20; iii (Camden Soc. N.S. 1vii (1897)) 42.
71. See his relations with Dr Cosin, later bishop of Durham, and Dr Steward, dean of Westminster, *Correspondence of John Cosin* i (Surtees Soc. Iii (1868)) 278, 281.
72. *Calamy Revised* ed. A. G. Matthews (Oxford 1934) 174. He also inducted him to Brownswood again on 5 August, Guildhall MS. 9531/15 f. 130v.
73. P.R.O. C 66/2936/12; SP 29/18/101.
74. P.R.O. SP 29/11/10. See also R. S. Boshier *Making of the Restoration Settlement* (London 1951) 159-61, 160n. 3.
75. *Calendar of Clarendon State Papers* ed. F. J. Routledge (Oxford 1970) v.80.
76. *Newcourt Repertorium* 102.
77. *Wood Life & Times* i. 328, 361. He adds that Crowther neglected it until replaced in 1664.
78. P.R.O. C 66/3002/45.
79. *Kennett Register* 584. He adds that Crowther attended the Savoy conference, *ibid.* 502.
80. A. Wood *History ... of the Colleges ... of the University of Oxford* (Oxford 1786) 672-3.
81. *Wood Life & Times* ii. 421.
82. *Journal of George Fox*, ed. N. Penney (Cambridge 1911) ii. 276-83 esp. 283.
83. *Walker Revised* ed. A. G. Matthews (Oxford 1948) 149.
84. Trevor-Roper *Laud* 74-5.
85. Costin *Hist. of St. John's College* 55. I have been unable to confirm or disprove this attribution.
86. This is suggested by *Fox Journal* 275, 277, 283.
87. *Diary of Henry Townshend* ed. J. W. Willis Bund (Worcestershire Historical Soc. 1920) i. 60.
88. *Calendar of State Papers Domestic 1672-3* 1; letter (1660), Worc[ester] Cath[edral] MS. A76 f. 9v, partly printed in V. Green *History ... of Worcester* (London 1796) i. 133n.
89. P.R.O. SP 44/55 p.156.
90. I. Newton *Tables for renewing leases of cathedral-churches and colleges* (1731); J. Roberts *A true estimate of the value of leasehold estates* (1731); *idem Reasonableness of church and college fines asserted* (1731); *Value of church and college leases considered* (1731).
91. E.g. in 1886 it was thought that Highgate woods could be obtained for the public by forcing the Ecclesiastical Commissioners to surrender them, *North Middlesex Chronicle* 4 Dec. 1886; *The Times* 10 Dec. 1886.
92. P.R.O. PROB 11/294 (P.C.C. 439 Pell).
93. Foster *Alumni Oxonienses* i. 358-9.
94. E. Calamy *Continuation of the account of ejected ministers* (London 1727) ii. 895.
95. *Ibid.*
96. G. Miller *Parishes of the Diocese of Worcester* (Birmingham 1890) ii. 250.
97. Hist. MSS. Comm. 36 *Ormond* viii. 27.
98. Made up of £22 stipend, £2 for repairs and his share of fines, heriots etc. which over 23 years ranged from £7 13s. 6½ d. to £50 10s. 1½ d. and averaged £35 10s. 4d., of which £9 0s. 4d. each year was in kind. His fees as subdean and treasurer were £5 and as receiver-general £10, Worc. Cath. MSS. A76 ff. 143v-4, 147; A125 iii-vi.
99. Lambeth Palace COMM XIIa/12 f. 79.
100. See above p. 340.
101. His house, formerly that of the monastic kitchen, was in disrepair in 1677 and was 'inconvenient' in 1690, Worc. R.O. BA3945/iv; Worc. Cath. MS. A76 f. 152v.
102. See below.
103. For an indication of his prosperity see W. Laud *Works* (Oxford 1853) v. 292n.
104. Great Dunmow was worth £80 in 1650, Lambeth Palace COMM XIIa/8 f. 444.
105. P.R.O. PROB 11/294 (P.C.C. 439 Pell).
106. Calamy *Ejected ministers* ii. 895-6; *Fox Journal* ii. 275.
107. Worc. Cath. MS. A76 ff. 75v, 82v, 111; valuations are from W. Urwick *Nonconformity in Worcester* (London 1897) 165, 171.
108. *Index to the Act Books of the Archbishops of Canterbury 1663-1859* i (Brit. Rec. Soc. 55 (1929)) 205-6.
109. P.R.O. C 33/257 f. 456v.
110. Worc. Cath. MS. A76 f. 119. He was never fined for non-residence.
111. *Ibid. passim.*
112. B. L. Lansdowne MS. 987 f. 116v.
113. *Ibid.*
114. Calamy *Ejected ministers* ii. 895.
115. *Fox Journal* ii. 265.
116. Worc. R.O. BA2289/20 iii.
117. See above p. 342; *Fox Journal* ii. 275, 283; Calamy *Ejected ministers* ii. 895-6.
118. Worc. R.O. BA2289/20 iii.
119. I am grateful to Mr. M. W. Farr, Warwickshire County Archivist, for this information. Crowther also attended chapters and signed accounts after 1685, Worc. Cath. MSS. A76 ff. 143v-4, 147; A28. Presumably he received bail.
120. *Fox Journal* ii. 265 sqq.
121. E.g. his lifelong interest in drama, see above p. 340; *Wood Life & Times* iii. 174.
122. *Ibid.* iii. 317.