

What Made Gray's Inn Unfashionable?

Part 1: The Political and Religious Context

An impressive 154 new members were admitted to Gray's Inn in 1650, easily outstripping the other Inns, even when their totals were added together (116). Over the following two decades the admission rolls at Gray's began to contract markedly, and there was scarcely any revival in membership for the next 250 years.

Some legal historians have suggested that the dampening effect on admissions to the Society, at least at first, was associated with the parliamentary cause many members of the Inn openly supported during the Civil War that ultimately stained them – and Gray's – with a martyr's blood. It will be argued here, and in two succeeding articles, that such a contention is seriously wide of the mark. It is more likely that the Inn's perceived Roman Catholic associations lay at the root of its long-lasting unpopularity, not regicide. Before making the case that religion was the drag on the Inn's popularity, I shall first confront the political argument.

The political argument examined

Two Gray's Inn men, John Cooke (Solicitor General) and John Bradshaw (Judge and later Chief Justice of Chester and North Wales) were respectively prosecutor and President of the Court at the trial of Charles I in 1649. Perhaps less well known today, Sir Gilbert Pickering Bt MP, admitted to Gray's in 1629, was another appointed to sit as a Judge on the King's Trial. Fortunately for him, he attended only two sessions and was not among those who signed Charles' death warrant. Later he was granted a pardon by Charles II. Inevitably, all three men were connected in the public mind with regicide or at least with a cause that ultimately placed Gray's Inn on the wrong side of history.

Undoubtedly, there were other republicans and regicides among members of Gray's. A prominent figure in this group was Algernon



Charles II.



James Butler.

Sidney, philosopher, soldier, a Member of Parliament, and an ardent republican. He was admitted to the Society in 1633 and greatly revered Cooke. Much later Sidney was implicated in the Rye House Plot of 1683, a plan to assassinate Charles II and the Duke of York on their journey back from the races at Newmarket. In a trial for treason presided over by Judge Jeffreys, he was found guilty on dubious evidence and executed. All this was bound to have some effect on the fortunes of the Inn but its impact and duration is exaggerated by commentators.

Shortly after the monarchy was restored in 1660, an event occurred to which many historians have attached little significance. On 14th November that year, James Butler, Marquess of Ormonde, later first Duke of Ormonde, was admitted to Gray's with his three sons. He was a staunch royalist having commanded the King's troops in Ireland where he fought Cromwell. Shortly after the execution of Charles I in 1649, the Prince of Wales was proclaimed King Charles II by Ormonde who soon joined the new monarch in exile. At the Restoration, Ormonde was appointed Lord Lieutenant of Ireland and was in receipt of many more royal favours as the reign proceeded. Against this background, it is highly improbable that Ormonde, often described as the 'greatest and grandest' figure of his time, would have enrolled himself and his three sons at the Inn if there was any lingering sense in 1660 that Gray's was still associated with, or its reputation remained tainted by, regicides and republicans.

Even if Ormonde's actions are to be discounted, by the early 1680s at the latest, any adverse effect on the Inn of the regicide of the late King had evaporated, a development much influenced by the Royal

Family. This is illustrated by the feelings of benevolence expressed by Charles II himself towards Gray's. It is known, for example, that the King visited the Inn over the Christmas Season of 1682/1683 and was so delighted by the entertainment provided that he knighted the Master of the Revels. On Candlemas Day, he returned to the Inn with the Queen and the Duke and Duchess of York for a masque and banquet in Hall – some confirmation that the Royal House had at least forgiven the Inn, even if any blame had attached to the Society in the first place. This is further underlined by the suggestion, if true, made in *Graya* in 1937, that Charles II presented the Inn with the portrait of his royal father now located on the Benchers' staircase.

Yet the general decline in the popularity of the Inn was not arrested. In contrast, Middle Temple was resurgent. Considered a 'royal bastion', Middle Temple experienced a considerable increase in membership that began to rise in the 1660s and 1670s, mainly at the expense of Gray's. It is to be observed, however, that all four Inns registered some downturn in their membership from about 1680 until 1760, as was the case at Oxford and Cambridge Universities, but the decline was more obvious at Gray's than elsewhere and for much longer. So was there another problem?

The religious context: timeline 1516–1689

The most important component affecting the fate of Gray's Inn in the long term was the Roman Catholic religion. Once unpopularity takes hold, it can squeeze the very lifeblood from an institution, and it was, in Desmond Seward's words, 'England's neurotic terror of Catholicism, a terror exploited by ambitious politicians' that led to James II losing his throne and, it is argued here, the decline in the popularity and modishness of Gray's Inn.

The Inn had always enjoyed a sizable devout Roman Catholic membership. This was largely the result of the Society's early historical association with Roman Catholic foundations stretching back to the time when the Inn forged a close bond with the Community of the Prior and Convent of St Bartholomew's in Smithfield. The Order had provided 'tyme out of minde' a Chaplain to say mass at Gray's Inn 'for the studyents, gentlemen, and felowes of the same House of Grey's Inne'. In 1510, the de Grey family sold the Manor of Purpoole (Gray's Inn) to Hugh Denys, a royal courtier, who may have purchased the property as agent for Henry VII. On the death of Denys in 1516, the Inn passed

into the hands of Shene Priory, a Carthusian Order founded a century earlier. Also in the 16th century, a number of important Roman Catholic churchmen became members of the Society including Prior William Bolton (admitted in 1520) and John Islip, Abbot of Westminster – one of the last pre-Reformation Abbots of a Benedictine community.

Even after the Reformation, the ‘old faith’ was still celebrated at Gray’s Inn, though driven underground, causing major embarrassment to the Society generally and Lord Burghley in particular when it was exposed. A letter from the Privy Council to the Benchers on 25th November 1585 illustrates the extent of official concern about the Inn: ‘To our great grief we have understood that not only some seminary popish priests have heretofore been harboured in Gray’s Inn but also have their assemblies and Masses [at Gray’s Inn] and so have perverted divers young gentlemen [of the Inn].’ None of this is entirely surprising as the Inn had for centuries drawn many of its members from Ireland, Lancashire and the north, where Roman Catholicism continued to maintain a stronghold on the faithful.

The outlying location of Gray’s Inn was especially attractive to priests and seminarians who passed to and fro, mysteriously hooded and cloaked, along Gray’s Inn Lane. To the north and east lay fields and woods leading to ‘Highgate and Hamsted’ providing places to congregate as well as assisting flight when necessary. Bordering the Lane were tenements and buildings that were *ne plus ultra* as refuges for priests and papists generally. Within Gray’s Inn itself, the gardens lent excellent cover for clandestine meetings and small gatherings for prayer.

The year 1578 was remarkable for the admission to the Inn of Henry Walpole (beatified 1929, canonised 1970), the scion of a wealthy Catholic Norfolk family who was not slow in seizing his opportunities. While still only a student, he was instrumental in persuading several members of the Inn to convert to the old faith before inevitably he departed Gray’s to become a Roman Catholic priest. Subsequently, in 1595, he died a martyr’s death in York for refusing to take the Oath of Supremacy.

There were other secret Catholics and recusants who appear to have used Gray’s Inn as a staging post before travelling to the English Catholic seminary near Rheims. Missionary priests came to Gray’s Inn too, though the other Inns were not overlooked. As Professor William Prest has put it, the students at the Inns, largely unsupervised, were key targets. Their importance lay in the fact that they were ‘the embryonic

ruling class of thirty years on: without support from at least a substantial minority of these future lawyers ... the hoped-for return to Rome was inconceivable’.

In 1595, John Lancaster, a man who benefited from the protection of the Queen’s favourite Sir Christopher Hatton (Lord Chancellor and, it was said, a Roman Catholic in all but name), was permitted to become Treasurer of Gray’s despite being openly forthright about his Roman Catholicism. On the face of it, this seems inexplicably stupid of the Inn but it illustrates a remarkable paradox that was at play: while antipathy to the Roman Catholic religion was deeply ingrained, the authorities were nevertheless wholly disinclined to enforce the penal statutes against Roman Catholics, as the Government had decided to adopt a halfway house. Instead of attempting to suppress the old faith to the point of extinction – an unlikely prospect – the authorities sought to contain it, a policy largely followed by James I, and subsequently by Charles I and Charles II, both of whom had Catholic wives. The policy only shifted from an attitude of inertia to clampdown when public opinion challenged the Government to face real or manufactured threats such as the Gunpowder Plot of 1605.

The Government’s general inertia was in turn reflected by all four Inns in their remarkably lax attitude to the admission of Roman Catholic members to their Societies. Here human nature played a significant part. The Benchers at the Inns and those barristers practising in the profession might be perfectly genuine in their abhorrence of Roman Catholicism yet their response to Roman Catholic colleagues on a personal level was often mitigated by indulgence, not to mention those close bonds of friendship that the Inns proudly sought to foster amongst their membership.

By the early 1670s, there were growing concerns about the line of succession, or, more particularly, about the King’s brother and heir presumptive, the Duke of York. In 1673 the Duke’s refusal to take the oath prescribed by the new Test Act at once exposed him as a Roman Catholic, giving rise to fears of Popery, absolutism and Civil War if the Duke did indeed succeed Charles. What followed was the Exclusion Crisis 1679–1681 when three attempts were made in Parliament to prevent the Duke succeeding to the throne. All three Bills failed leaving a bitter aftertaste, considerable nervousness and anxiety. The Crisis was ultimately resolved by Revolution but not before Gray’s Inn was again damaged by its religious associations. (Part 2 in *Graya* 137.)

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