

The Foundation of Worcester College, Oxford¹

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I

THE volume on Worcester College in the University of Oxford College Histories series² gives a very incomplete account of the complex and long-drawn-out transactions whereby Gloucester Hall changed its name and status to that of Worcester College. This is partly, though not wholly, the result of shortage of material. The College has in its archives a small but important collection of legal documents relating to its final incorporation in 1714, when a decree of Lord Chancellor Harcourt brought the controversial process to an end.³ It has on the other hand no manuscripts of Benjamin Woodroffe, Canon of Christ Church and Principal of Gloucester Hall,⁴ who first conceived the idea of the transformation (apparently in 1697), and who in the years leading up to 1702 almost succeeded in achieving it. It appears to possess not one of the printed publications with which he sought to justify his claim, and indeed the College historian had to depend almost exclusively for his account of the early years of the controversy on a hostile pamphlet produced by Balliol College which was pressing rival claims against him.⁵ Quite recently, however, a bundle of manuscripts has been found in Balliol Library which throws much new light on this early period.⁶ They are the letters of John Ince, attorney of Fenchurch Street, addressed almost exclusively to the Master of Balliol, Roger Mander, when he was Vice-Chancellor between the years 1700 and 1702 and in the two succeeding years.⁷ They are accompanied by copies of letters and other documents collected for legal purposes by Ince who was employed by Mander on behalf both of the University and Balliol to obstruct Woodroffe's claims.

For a later period, the publication of the *Calendar of the Portland Papers* (Hist. MSS. Comm., series 29, vol. VII) which came out the year after the publication of the *College History*, has also drawn attention to much interesting material. From the various sources now available, therefore, it is possible to work out a fuller account of this curious episode, and to bring out a number of points important for the history of the University as well as for the College.

It is well known that Sir Thomas Cookes, Bt., of Bentley Pauncefote in Wor-

¹ I am grateful to the master and fellows of Balliol and to the provost and fellows of Worcester for permission to use and quote from their archives, and to their archivists and librarians for their unfailing helpfulness. I wish also to express gratitude to the Leverhulme Trustees for their award of an Emeritus Leverhulme Fellowship with the assistance of which I have carried out this work.

² G. H. Daniel and W. R. Barker, *Worcester College* (1900).

³ Boxes 28 (1) and (2).

⁴ For him see Daniel and Barker, op. cit., 128 ff.

⁵ See below, Appendix.

⁶ These MSS. at Balliol are cited here simply as 'Ince Papers'; there is no pagination. I am indebted to Mr. Vincent Quinn, librarian of Balliol, for drawing my attention to them.

⁷ Ince had been active in ecclesiastical circles for many years, having played a prominent part as attorney for the Seven Bishops in their famous trial (Bodl. MS Tanner 28/1, f. 109 ff.). He continued to do legal work for the University and also for Christ Church (Hist. MSS. Comm. 29, *Portland MSS.*, VII, 165).

cestershire, made a will on 19th February 1697⁸ under the influence of the then Bishop of Worcester, Edward Stillingfleet.⁹ It contained provisions for a benefaction of £10,000 for building in Oxford an 'Ornamentall pyle' where trustees might '... add raise create or endow such and so many Scholars places and Fellowships as they shall think the product or Yearly revenue ... will support or Maintain' or 'add to create raise or endow such other College or Hall in Oxford with such and so many fellowships and so many schollars places there' as they may think fit, preference being given to certain schools in Worcestershire, and among their scholars to the Founder's kin. Stillingfleet was apparently responsible for the very cumbersome body of trustees who were to carry out the will: the twenty-five Heads of Oxford Colleges and Halls, the Archbishop of Canterbury and the Bishops of Worcester, Oxford, Gloucester and Lichfield.

As soon as knowledge of Cookes's intentions got about, Woodroffe approached Sir Thomas with the proposal that he should attach the benefaction to Gloucester Hall and convert the latter into Worcester College. Woodroffe, a man who had made some mark for himself in scholarship and the Church, was a most enterprising, though exasperatingly unpractical, person. He was unpopular in the University¹⁰ and among his fellow clergy,¹¹ but he had at this time personal access to William III, and was in touch with prominent Whig politicians including the Duke of Marlborough.¹² No doubt his political affiliations added to his unpopularity in the University, but both his conduct of this affair and the ultimate collapse of his personal fortunes suggest that his critics were right in believing him to be ill-fitted for the position at which he aimed.

The idea of obtaining a charter of incorporation for his Hall had already occurred to Woodroffe some twelve months earlier, but would seem to have foundered on University opposition.¹³ A letter from Archbishop Tenison to Stillingfleet dated 24th March 1697 seems to show that Woodroffe was already enlisting his interest,¹⁴ though he himself dates his first letter to Cookes at the beginning of the following August.¹⁵ In the next year a plan was fully developed, with the assistance of the archbishop and Stillingfleet, for absorbing Sir Thomas Cookes's charity. Sir

⁸ The will is dated 1696, but also 9 Will. III, so the date follows the legal custom of the time in beginning the year in March; February 1697 is thus the correct date.

⁹ There are xeroxes of transcripts of Stillingfleet's correspondence in Dr. Williams Library, London, MS. 201, 38 and 39.

¹⁰ When he put in his first petition for incorporation in 1695/6 the Chancellor of the University sent a message to the University that 'his Grace will suffer nothing to be done in it, but as the University shall approve' (Bodl. MS. Ballard 9, f. 118). For Dr. Prideaux's views of him at Oxford see Daniel and Barker, *op. cit.*, 129 ff.).

¹¹ John Ince (not it must be admitted an impartial witness) claimed that 'our London Divines knew him so well at Sion Colledge that they have but meane thoughts of him', (Ince Papers, Ince-Mander, 20th August 1702).

¹² *Remarks and Collections of Thomas Hearne*, ed. C. E. Doble, I (O.H.S. II) 282. Hearne reports (8th August 1706) that Woodroffe had just published a sermon preached at Woodstock for the thanksgiving for Marlborough's success, dedicated to the Duke.

¹³ See Bodl. MSS. Ballard 9, f. 118; 21, f. 36 (J. Hough-Charlett, 28th January 1695/6; F. Adams-Same, 22nd January 1695/6).

¹⁴ He wrote that Woodroffe had been with him and showed him a scheme, promising a 'more perfect draught speedily'. He had not seen nor heard from him for 'some weeks' and adds 'Having no part of the scheme, I cannot send any pertinent thoughts upon it. When your Lordship opens the matter further, I will give my opinion and assistance with all freedom and readiness'. (Dr. Williams Library, MS. 201, 38, f. 48).

¹⁵ Quoted in J. Baron, *The Case of Gloucester Hall, in Oxford, Rectifying the false Stating thereof by Doctor Woodroffe*, (see Appendix). The author says that a nephew of Sir Thomas's approached him on 25th June 1697 suggesting he should enter into correspondence with Cookes.

Thomas, a curious character who combined two contradictory qualities, an incapacity to reject any personal approach made to him, and an underlying desire to submit himself to episcopal guidance, was attracted both by Woodroffe's proposition and his ecclesiastical backing. There were, however, obstacles to overcome. In the first place the benefactor was not an old man, and his intention was to leave his charity in his will. Woodroffe hoped to persuade him to grant it *inter vivos*, and though Sir Thomas disclaimed such an intention, he was not consistent in so doing, nor did Woodroffe give up hope.

There were various practical difficulties in the way, one that the site on which Gloucester Hall stood was not freehold, but leasehold belonging to St. John's College. The first necessity, however, was to obtain incorporation of the new College and the recognition of its statutes under the Great Seal. The former Woodroffe obtained on 22nd October 1698; the latter on the following 18th November. Letters from Tenison to Stillingfleet show that the combination of Woodroffe's haste and the absence of both William III and the Chancellor of the University, the Duke of Ormonde, in Ireland, led to a good deal of confusion. The charter, the warrant for which the king had signed before he went overseas and which in consequence passed 'without any addition or alteration, presuming all was by consent and thoroughly considered',¹⁶ was in fact drawn up in a form which was invalid in law. As the attorney general was to point out some four years later,¹⁷ it failed to name any of those incorporated under it except Woodroffe himself. The situation with regard to the statutes was no better. A body of them had indeed been signed by the bishops (the Bishop of Oxford adding his name later)¹⁸ though they were not signed by Sir Thomas. Those which Woodroffe now rushed through, and which were passed under the Great Seal purporting to have been approved by the Founder, differed considerably from the original ones. This was partly, it would seem, through his incurable inaccuracy, but even more because the Duke of Ormonde had insisted on a change of substance, to which Woodroffe had agreed without consulting Sir Thomas, or, probably, either of the bishops. Woodroffe's statutes were to remain in great confusion (ultimately there were four recensions of them in existence, all different)¹⁹ over-ambitious and full of discrepancies. When, in 1714, a committee of Heads of Houses tried to reduce them to enough order to be used as a basis for the statutes of the new College, they had to abandon the attempt in despair.²⁰

Woodroffe's intemperate haste was thus building up difficulties for the future. It also defeated his purpose in the short run. The concessions he had been obliged to make to the Duke of Ormonde proved quite unacceptable to Sir Thomas. The statutes approved by the bishops had placed the nomination of all future provosts, after Woodroffe, in the hands of the benefactor and his heirs. Ormonde (his hand

¹⁶ Dr. Williams Library, MS. 201, 38, ff. 51-2 (Tenison-Stillingfleet, 4th November 1698).

¹⁷ See below, p. 68.

¹⁸ For them, see the Ince Papers.

¹⁹ They were: (1) the statutes signed by the bishops (1698) which Woodroffe suppressed, and which his enemies, out of consideration for the bishops, passed lightly over. A copy of them in comparison with the later statutes survives, however, in the Ince Papers. (2) The copy passed under the Great Seal (18th November 1698). (3) The copy sent to the University of Oxford by order of the House of Lords (April 1702) and (4) The copy as amended by the Lords in April 1702 and sent down to the House of Commons. None of them, of course, ever came into operation.

²⁰ See below, p. 78.

strengthened apparently by University opinion²¹) insisted that it should remain with the Chancellor, and provision for this was incorporated in the statutes passed under the Great Seal. As a result Sir Thomas broke off negotiations with Woodroffe, and for some two years all plans for founding the charity at Gloucester Hall were abandoned.

This gave an opening to another claimant, Balliol, one of whose fellows, John Baron (soon to be master) had been in close touch with Worcester affairs, where, as he claimed, he had earlier used his influence to help Woodroffe.²² Balliol could not offer what Gloucester Hall could, but they had some different advantages. There was no chance of the Cooke's fellows taking over Balliol—they would be engrafted on its Foundation, as fellows under similar endowments were elsewhere—but it had a site which was then held to be much more desirable, it had no problems of incorporation or of title to its land, and, though residential buildings would have to be added, it had the supporting college accommodation. It was also a sound Tory College, well-looked on by the Chancellor who on 15th January 1700 went on record as considering it the 'fittest place' for the charity.²³ Sir Thomas undoubtedly took Balliol's claims seriously. The party feeling, never far below the surface in this controversy, here became open. William Lloyd, who had succeeded Stillingfleet as Bishop of Worcester in 1699, and his Whig supporters were at this time engaged in political warfare in Worcestershire with the local Tories. Sir Thomas's incapacity to steer a steady course through these conflicting currents exacerbated the ill-feeling they caused.

Balliol, like Gloucester Hall before, made a good deal of progress. A copy of Woodroffe's statutes was given to them and, after amendments, was accepted by their Visitor,²⁴ and on 9th March 1700 an agent of Sir Thomas's assured them that nothing held his employer back but doubt about the archbishop's consent.²⁵ To this the archbishop rather sulkily replied on 28th March 1700 that Sir Thomas was under 'no sort of Obligation to him' though he 'could not tell what Vows to God, or Promises to Men, or personal Resolutions, Sir Thomas had made'.²⁶ Nevertheless, behind the scenes the archbishop and others were bringing pressure to bear on Ormonde to compromise. As early as 8th June 1699 Edmund Gibson, much in the archbishop's confidence, wrote from Lambeth to Arthur Charlett, master of University College, 'We now think, that Worcester-College will goe forward: there being (as I hear) some hopes that the Duke of Ormond will recede from his right of Nomination'.²⁷ He was premature, but by January 1699/1700 Ormonde was offering compromises, and by May the bargainers were not far apart. Finally Ormonde agreed to waive his claim to the nomination of the provost in return for the position for the Chancellor

²¹ Tenison believed that he himself had obtained Ormonde's own consent earlier but that the latter had felt obliged to consult the Vice-Chancellor, (Dr. Williams Library, MS. 201, 38, ff. 50-1, Tenison-Stillingfleet, 29th September 1698).

²² *The Case of Gloucester Hall, in Oxford, Rectifying the false Stating thereof*, 44.

²³ Quoted in 'The Case of Sir Thomas Cooke's Charity of 10000^l', Ince Papers (Ormonde-Sir T. Cooke, 15th January 1699/1700). It must be admitted that since he was at this time engaged in negotiations for a compromise over Gloucester Hall, this statement is somewhat disingenuous.

²⁴ Henry Compton, Bishop of London. A copy of the document is among the Ince Papers.

²⁵ Quoted in *The Case of Gloucester Hall*, 45, where however the archbishop's person is disguised under the title of 'one of the most eminent Trustees'.

²⁶ Ibid.

²⁷ Bodl. MS. Ballard 5, f. 162.

of Perpetual Visitor of the College, the nomination of one of the original fellows and of a scholar in perpetuity. On 26th August 1700 Sir Thomas wrote triumphantly and gratefully thanking him for 'so Generous a Concession to make way for me to compleat my Charity at Gloster Hall or rather as I now wish your leave [to] Stile it Worcester College'.²⁸ Gloucester Hall seemed to have triumphed, and Sir Thomas's obstinacy, so much at variance with his usual irresolution, to have paid off.

Unfortunately, however, the story was not finished. Almost a year was to pass before Sir Thomas's premature death, and during that time he took no steps to consolidate his plans for Worcester College, but on the contrary showed some uneasiness about them. He was worried about the question of the title to the land, and he wanted the statutes translated into English so that he could understand them.²⁹ It is not quite clear when his health began to fail. It is certain that in his later months the interest of all who had hopes from him began to focus above all on his will. So far as Woodroffe and the supporters of Gloucester Hall were concerned, this became of prime necessity, for not only was the will drawn up in terms which gave little encouragement to the hopes of Gloucester Hall, but it was well-known that the majority of the trustees with whom the settlement of the charity would rest were hostile to Woodroffe and his claims. But Sir Thomas, like many weak men, was extremely unwilling to change his will, and evaded attempts to get him to do so even on his death-bed, and amid agitated scenes he died on 8th June 1701 at the age of fifty-two with his will unchanged.

Woodroffe and the supporters of Gloucester Hall were thus, despite their earlier triumph, left in a very doubtful situation. On the other hand the hopes of Balliol were revived, and they were in a strong position to see that their claims were not overlooked, since their master was now Vice-Chancellor. As soon as the will was proved Mander, in this capacity, waited on the archbishop with the request that the Trust be carried out. The archbishop replied evasively that nothing could be done quickly, that he would 'advise with Council both on the Civil and Common Laws' and would notify the Vice-Chancellor of the result.³⁰ The next documentary evidence of activity is the introduction of a private bill in the House of Lords on 5 February 1702³¹ with the dual purpose of giving statutory sanction to Woodroffe's charter and statutes and of replacing the thirty persons of the Trust set up in the will by a Trust of four; the Archbishop of Canterbury, the Bishop of Worcester, Woodroffe and Sir Thomas's heir and executor (who had been abroad at the time of his death) his nephew, who now took his name being henceforth known as Sir Thomas Cookes Winford. Judging from Woodroffe's account of the events the bill seems to have been sprung on the University, for he records 'That those of the Heads of Houses, who were in Town, had notice to attend at the first meeting of the Committee, and that they attended, and undertook to give notice to the Vice Chancellor, and the other Heads of Houses in the University'.³²

It has been assumed, on the strength of the statements in the Balliol pamphlet,

²⁸ Ince Papers.

²⁹ *The Case of Gloucester Hall*, 27.

³⁰ Copy of *The Case* sent with a letter of Ince-Mander, 11th July 1702 (Ince Papers).

³¹ *Journal of the House of Lords*, XVII, 27.

³² See B. Woodroffe, *A Letter from a Member of the House of Commons*, Postscript, 8; copy in Christ Church Library, see Appendix.

that the responsibility for this move rested entirely with Woodroffe, that it was typical of his erratic judgement, and that it was doomed to failure. In fact he could never have undertaken it, still less have carried it well on the way to success, had he not acted under influential patronage. This was certainly provided by the Archbishop of Canterbury and probably also by no less a person than Lord Chancellor Somers himself. The bill was described at the time as 'proffered by or in the name of his Grace and two other [of] the Trustees . . . and the Executor . . .'.³³ The archbishop was chairman of the powerful committee of the Lords who considered it. The case for superseding the will was based almost entirely on the evidence of the intentions of the deceased given by the Bishop of Worcester, no doubt reinforced from the chair. Lord Somers himself took a considerable part in the business, and he may have been responsible for some amendments made to Woodroffe's chaotic statutes. At the request of the Heads of Houses present the proposed statutes were sent down to the University who were given twelve days to comment on them. They did not do so. A deputation headed by the Vice-Chancellor appeared before the committee and gave evidence against the bill but without effect.³⁴ It passed its final reading on 13th April and was sent down to the Commons.³⁵

It was here that the University, in what were now the early days of Queen Anne's reign, began serious opposition to the bill, and even then only after it had passed its first reading on 20th April. Some surprise was expressed at their inactivity to date, and here again the party aspects of the affair became apparent. Simon Harcourt, at that time an extreme Tory, wrote to Arthur Charlett, Master of University College, on 28th April 1702,

Since your Bill came into the House of Commons, I have rec'd no other Commands from the University, than such as Doctor Woodruff [*sic*] hath thought proper to deliver, at which I must confess to you, I have been under some Surprise.³⁶

He added that he would be glad to serve the University. But he was out of date. On the day on which the bill passed its first reading Ince received instructions from the Vice-Chancellor to oppose it on behalf both of the University and of Balliol.³⁷ Ince was obviously not at that time known to the Vice-Chancellor, for the latter got his name wrong and had to be corrected, but the choice was a good one. Ince was strongly predisposed against Woodroffe personally,³⁸ he became deeply engaged in his clients' interests—particularly those of Balliol—³⁹ and he had personal access to the archbishop, the bishops⁴⁰ and a number of politicians. He promptly canvassed the University Members and other prominent Tory M.P.s⁴¹ to hold up the bill, produced

³³ Ince Papers (copy of *The Case*).

³⁴ The statutes were sent to the Vice-Chancellor by B. Portlock, secretary to the Duke of Ormonde, who had them from Woodroffe (Ince Papers, Portlock-[Mander], 10th March 1701/2). Ormonde did not oppose the bill.

³⁵ *Journal of the House of Commons*, XIII, 857.

³⁶ Bodl. MS. Ballard 10, f. 115.

³⁷ Ince Papers (Ince-Mander, 20th April 1702).

³⁸ 'I am told Woodroffe is a Beggar and tis dangerous to trust him with such a sume or any part of it', (ibid., Same-Same, 27th April 1702).

³⁹ He said his main purpose was 'getting this charity (sub rosâ) to Balliol if possible', (ibid., Same-Same, 22nd July [1702]).

⁴⁰ He claimed to do all the archbishop's 'business at law' and to know the Bishop of Worcester (Lloyd) 'intimately well', (ibid., Same-Same, 15th September 1702).

⁴¹ Ibid.; see letters of Ince-Mander from 20-27th April 1702.

a petition from a large majority of the Heads of Colleges and Halls asking for time to study the papers^{41a}, and submitted a petition on his own stressing not only these points but Balliol's claims.⁴²

Though the luckless Woodroffe stationed himself in the lobby of the House with bundles of the printed *Case* for his bill under his gown to distribute to Members,⁴³ and though he insisted that the opposition was not representative of University opinion as a whole, but only of a small group whipped up by Balliol, his bill was defeated in its second reading by forty-three votes to twenty-seven.⁴⁴ This result naturally infuriated him and annoyed his supporters. After the House rose he got out a second issue of his printed *Case* and circulated it with an abusive *Letter from a Member of the House of Commons, in Answer to a Letter, from a Member of the University, Enquiring: How the Bill for Settling Sir Thomas Cookes's Charity . . . came to be rejected in their House.*^{44a} The Bishop of Gloucester told Ince that the University's intervention was 'unreasonable',⁴⁵ and the Archbishop of Canterbury (already at odds with the Vice-Chancellor over a different subject⁴⁶), expressed his annoyance to Ince, rebutted his personal attacks on Woodroffe⁴⁷ and was quite unmoved by the legal opinions against the Gloucester Hall claims which Ince was collecting.⁴⁸

It was on the basis of the case which Ince drew up that the Attorney General, Sir Edward Northey, and another distinguished barrister, Henry Poley, gave their opinions (which were never challenged) that Woodroffe's charter and statutes were legally invalid, and that therefore no endowment could be settled on Gloucester Hall; they also maintained that a duly attested will over-ruled all other expressions of the testator's alleged intentions, and that in consequence the thirty trustees, or the majority of them, could settle the charity anywhere in Oxford they wished.⁴⁹ The alleged evidence of Sir Thomas's intentions expressed after he drew up his will became a major point of discussion in the development of the case, and the legal significance to be attached to it became important. So long as the assumption was no more than that this evidence could provide guidance for the trustees in carrying out the terms of the will, it was obviously legally acceptable, but some of the Gloucester Hall supporters, and certainly the archbishop and Woodroffe, believed that this later evidence could over-ride the provisions of the will, and do so not only if it were superseded by Act of Parliament (though this was the preferred method and two attempts were made to procure private Acts to do so), but in Chancery. In 1713 Lord Chancellor Harcourt was to go very near to acting according to this principle;

^{41a} There are two lists of subscribing heads, the one containing sixteen names only (an absolute majority of the trustees), probably the earlier; the second containing the same names but bringing up the total by additions to twenty-one out of a possible twenty-five signatories. Only the heads of St. Johns, Wadham, Gloucester Hall and St. Edmund Hall not appearing, (*ibid.*, Petition of the Vice-Chancellor and Heads of Colleges and Halls).

⁴² *Ibid.*, copy n.d. endorsed by Ince: 'This was sent in my own name only'.

⁴³ *Ibid.* (Ince-Mander, 27th April 1702).

⁴⁴ *Journal of the House of Commons*, XIII, 863.

^{44a} See below, Appendix. The House was prorogued on 25th May 1702.

⁴⁵ Ince Papers (Ince-Mander [1702]).

⁴⁶ The refusal of an honorary degree to Dr. Nicholson, Bishop of Carlisle, (*ibid.*, Ince-Mander, 29th August 1702).

⁴⁷ He said to him 'ffye man, ffye, you are misinformed'. Ince replied 'that if he would give me leave I would bring those clergymen to him who could satisfy him that the Dr. was both a Beggar and a Knave', (*ibid.*).

⁴⁸ *Ibid.*

⁴⁹ *Ibid.* (8th August 1702).

but it is of some interest that in the event he was not prepared to put the matter to the test.

It is significant of the feeling aroused over the issue that the attorney general thought it wise to advise Ince to urge his clients not to lose time in settling where the charity was to be fixed, lest pressure either from one of the Houses of Parliament or from some 'Great persons, or some powerfull interpositions by way of mediator' be brought to bear on the trustees to influence their decision.⁵⁰ It was agreed that it was for the archbishop to call a meeting of the trustees, but he took no steps to do so. Moreover, as the issue became more and more controversial, it was difficult to get individual trustees to give a firm undertaking to act. Worst of all, by the autumn it was also becoming clear that, though there had been little difficulty in getting a majority of Heads of Houses to oppose Woodroffe's bill, and though Balliol had gathered together a number of supporters, they were not likely to be able to muster a majority in the teeth of episcopal disapproval. When this news was broken to Ince he at first could scarcely believe it. 'It deadens me mightily, and abates my courage to heare you doubt of a majority—of which I ever thought you were sure' he wrote to Mander and three days later described himself as 'your sinking drowned Servant',⁵¹ but lists of supporters, non-starters, and opponents drawn up by experienced University politicians⁵² were discouraging. Neither Ince nor Balliol gave up hope, though Mander lost influence when he ceased to be Vice-Chancellor. They were active in propaganda in London, Oxford and Worcester,⁵³ and in 1703 they got out a long and formidably documented pamphlet, *The Case of Gloucester Hall* . . . which has always been attributed to John Baron, but which the Ince Papers show owed much to Ince and something to Mander as well.⁵⁴ It is on this pamphlet that the study of Woodroffe's efforts has hitherto been based, and it was used in the attack on the claims of Gloucester Hall throughout the dispute.

But all was to no avail. The only document on which a majority of the trustees could be found to agree (and they had to do so without any meeting called by the archbishop) was a bill in Chancery engaging the heir to deposit the money of the charity in Chancery, and even this proved ineffective, the heir continuing evasive on the ground that there were disagreements among the trustees.⁵⁵ Mander's successor as Vice-Chancellor was the notorious William Delaune, president of St. John's, who was both too lazy and too anxious for his own ecclesiastical preferment to raise so contentious an issue. It was not until 1707, when he had been succeeded by a vigorous and competent Vice-Chancellor in the person of William Lancaster, provost of Queen's, that the matter was raised again. By this time the fate of the charity had become something of a scandal. On 23rd September [1707] Henry Compton, bishop of London, wrote to Charlett,

⁵⁰ Ibid. (Ince-Mander, 13th August 1702).

⁵¹ Ibid. (letters of 12th and 15th September 1702).

⁵² Charlett was in touch with Ince about tactics in Worcestershire and he returned lists of supporters, etc. (ibid., Ince-Charlett, 17th December [1702]; Ince-Mander, 29th April [1703]).

⁵³ Ince produced an Address which was sent to the Vice-Chancellor and heads on 14th August 1702 in support of Balliol by the Grand Jury at the Assizes at Worcester. A note on a later repeated Address of August 1704 to Baron says it is a copy of a document received by the master from Ince 'as proper to stir up the slow proceedings in this trust . . .' (ibid.).

⁵⁴ See Appendix.

⁵⁵ At one point he agreed to pay it in by June 1704, but failed to do so (Worcester College Archives, Box 28 (1), Lord Keeper's Decretal, 31st October 1712).

... let me intreat you to consult a little with Mr. Vice Chancellor about Sir Tho. Cookes bounty. There are some that intend, if they can, to defeat the charity, and others are so stiff to their own inclinations, that makes it almost as unhappy on their side. If therefore you do not agree upon some place in the University joyntly, without the nicety of preferring this or that place to another and resolve to be unanimous in resigning up your private inclinations to a common consent, it may quickly be too late to repent you had not so done. This between you and me.⁵⁶

Lancaster had forestalled his advice. On 4th April 1707 he waited on the archbishop, asking for a meeting of the trustees. The archbishop promised to call one at Oxford on 21st, 22nd and 23rd November. Lancaster had prepared the way carefully, and was pleased with the result. He had no intention of giving way to the claims of Gloucester Hall, and he believed he had some success in placating its supporters. He informed Charlett on 10th May 1707,

... I hope to bring power enough from my Lord of Cant. at my coming home if I can se (*sic*) Him before I return, for He is very fair and has said lately that He will be concluded by the majority. I do believe my Lord Somers has soften'd him; and my Lord C. J. will be of the same mind ...⁵⁷

This last point was of some significance, for the archbishop and the heir now claimed to have some new evidence of the benefactor's wishes on which the Lord Chief Justice's opinion was sought.⁵⁸ Lancaster asked that this fact be withheld from the Hebdomadal Board, lest Woodroffe, hearing of it, should procure some tampering with the witnesses.⁵⁹ The chief justice presumably found no reason to intervene, and this is the last reference in the papers to Woodroffe's personal concern in the issue.

At the meetings at Oxford in November 1707 neither the archbishop nor any of the bishops attended, but nineteen of the twenty-five Heads of Houses did. The plan put before them was, as Bishop Compton had proposed, a compromise. Neither of the original contestants was chosen. It was thought better that the endowment should go to a Hall than to a College since the Halls were poorer, and it was settled on Magdalen Hall rather than on Gloucester Hall, ostensibly because it offered better accommodation and consequently more of the money could be used for educational purposes.⁶⁰ This plan was passed by sixteen of the nineteen trustees present, an absolute majority of the trustees as a body. To hold the endowment Magdalen Hall would require a charter of incorporation under the Great Seal, and a decree releasing the funds of the charity since these were, nominally at least, in Chancery.

The defeat of Gloucester Hall now seemed as certain as its victory had seemed seven years earlier. Nevertheless, its supporters made one last effort to save it by parliamentary intervention. On 19th February 1708 Sir Thomas Cookes Winford, now Member for Worcestershire, petitioned the House of Commons for a private bill to settle the charity in the way he maintained his late uncle had intended. The proposal to refer the petition to a committee was debated in a large House, appar-

⁵⁶ Bodl. MS. Ballard 9, f. 62. It is not clear what danger he feared.

⁵⁷ Ibid. MS. 21, f. 71.

⁵⁸ Ibid., f. 69.

⁵⁹ Ibid., f. 71.

⁶⁰ Worcester College Archives (Box 28 (1), Lord Keeper's Decretal, 31st October 1712).

ently once again on party lines, for the tellers for the majority were Whigs and those for the minority High Tories. The petition was referred to a committee by 118 votes to 87.⁶¹ The committee to which it was referred was, as was usual with private business, large and miscellaneous. Four days later three extra Members were added to it,⁶² after which it disappears from sight. All that is known of its proceedings comes from a schedule of the legal expenses incurred by the University (still under the guidance of the indefatigable Ince) in opposing the petition.⁶³ These expenses were incurred between Michaelmas Term 1707 and Trinity Term 1709. The committee may well have been a casualty of the dissolution of 1710, when the great Tory victory of this year and the general election following completely changed the political scene.

II

The political events of 1710 and the climate of opinion emerging from them would have seemed *prima facie* favourable to the settlement of a domestic University issue in which the majority of Heads of Houses were in agreement and where the opposition to them had come largely from the Whigs. (As late as the beginning of 1711 John Holland, the new warden of Merton, one of the small groups of Whig Colleges, was being sworn in as a supporter of Gloucester Hall.⁶⁴) But in the event the most dramatic volte-face of the sixteen years' story was to follow. The explanation for this lay in questions of personality, and the volte-face was a by-product of the tensions within the new Tory Administration between Lord Treasurer Harley, Earl of Oxford, supported by the Queen, who stood for moderation in Church and State on the one side, and a group of extremists on the other. Circumstances brought together two of the most intransigent of the latter in Oxford in 1711, where they proceeded not only to attempt to replace the Lord Treasurer's influence but also to build up a much more powerful one of their own. These two men were Simon Harcourt (appointed Lord Keeper in 1710 and Lord Chancellor in 1713) and Francis Atterbury (appointed Dean of Christ Church in August 1711). Both men saw political power in such a University interest; Harcourt also hoped to extend his family interest by obtaining a University seat for his son, he providing the patronage and Atterbury managing it. The Lord Chancellor's powerful position as an ecclesiastical patron was further strengthened in the University at this time by a plan that was afoot to annex prebends to the headships of some of the smaller Colleges.⁶⁵ Moreover he and his allies had the benefit of the support of the University's Chancellor, the Duke of Ormonde.

There might have seemed little likelihood that Harcourt's and Atterbury's ambitions in the University would involve them in the controversy over the use to which Sir Thomas's benefaction should be put, and even less that they should emerge

⁶¹ *Journal of the House of Commons*, XV, 554-5.

⁶² *Ibid.* 567.

⁶³ Worcester College Archives (Box 28 (1)).

⁶⁴ Merton College Archives, Register 4.21, Dr. Holland's Register, Entry for 3rd January 1710/11. Answer to a bill in Chancery on 'information of Dr. Lancaster and others'. Holland related that 'I thought Sir Thomas Cook did design to settle his Charite of £10,000 on Gloc. Hall and name it Worcester College'. Sworn before an attorney in Oxford.

⁶⁵ See G. V. Bennett, *The Tory Crisis in Church and State, 1688-1730* (1965), 119-60; G. R. Ward, *Georgian Oxford* (1958), 38-51.

as champions of the claims of Gloucester Hall, whose supporters had hitherto been found among the Whigs. Indeed as late as 8th November 1711 Lancaster believed himself to be on good terms with the Lord Keeper and sure of his co-operation in settling the endowment at Magdalen Hall. He wrote to Charlett on that date,

My Lord Keeper has promised to hear Sir Thomas Cookes Case this Term and nothing delays it now but the want of Mr. Presidents and your Answers. A Commission is ready to prove the Will as soon as you have answer'd and then my Lord Keeper will make an end of it.⁶⁶

But by the time he wrote the situation was beginning to change. Atterbury and the Lord Keeper were running into difficulties in their campaign to impose their will on the University. Quite apart from the difficulties in which Atterbury's strong-arm tactics were involving him in his own College, he found little support among the Heads of Houses he approached. Instead, he found himself opposed by a strong party led by Lancaster and Bernard Gardiner of All Souls (now in 1712 Vice-Chancellor);⁶⁷ the former already was, and the latter soon became, an enemy. William Stratford of Christ Church, whose correspondence begins at this stage to provide valuable, if by no means impartial, evidence on University personalities,⁶⁸ drew attention even before Atterbury came into residence to the latter's relations with Lancaster. He wrote to Edward Harley on 2nd September 1711 'It is no secret how they are affected to each other, and that they will oppose each other to the utmost',⁶⁹ and he later reported that he 'owns he designs upon the first opportunity he can meet with to attack Lancaster. They are as well met as any two I know'.⁷⁰

There can be little doubt that the head-on collision which followed between the Lord Keeper in the court of Chancery and the trustees of the charity (who were in effect the Hebdomadal Board) was the outcome of this design. There was, however, a further explanation. A radical change had taken place in the position of Gloucester Hall. Woodroffe had died in August 1711. The nomination of his successor as principal of the Hall rested with Ormonde as Chancellor of the University, and though the Archbishop of Canterbury and the Bishop of Worcester (both now old and infirm)⁷¹ and the heads of a few Whig Colleges might still support its claims almost by habit, it now became of political importance to the High Tories as well, for its head would have a vote on the Hebdomadal Board and his choice was in effect in their hands.

Tactics born of this new situation soon became apparent. So far from finishing the matter off quickly and confirming the settlement of the charity at Magdalen Hall, Chancery began in 1712 a full-scale investigation into the history of the dispute from 1698 onwards.⁷²

It was not until 31st October 1712 that the court was ready to sit. When it did

⁶⁶ Bodl. MS. Ballard 21, f. 95.

⁶⁷ Thomas Braithwaite of New College was Lancaster's immediate successor, but he resigned on moving to the wardenship of Winchester, and was succeeded by Gardiner, a strong and abrasive personality.

⁶⁸ Hist. MSS. Comm. 29, *Portland MSS.*, VII, *passim*. He wrote regularly to Lord (Edward) Harley, son of the Lord Treasurer, whom he had known as an undergraduate.

⁶⁹ *Ibid.* 53.

⁷⁰ *Ibid.* 68.

⁷¹ *Ibid.* 44, 46; Worcester College Archives, Box 28 (1), Archbishop of Canterbury—Vice-Chancellor, 8th December 1713.

⁷² See Lord Keeper's Decretal, 31st October 1712 (*ibid.* Box 28 (1)).

so the decrees issued by the Lord Keeper created a sensation. From one point of view they were approved by all. The Lord Keeper was determined to bring the issue at last to a conclusion. Sir Thomas's heir was ordered to pay the £10,000 bequest into the court, together with five per cent interest from the date at which payment was due under the will. All parties were to get taxed costs (which by no means covered actual expenses) and the details of a settlement were carefully spelled out. It was the settlement itself that was sensational. Without positively asserting the power of Chancery to over-ride the decision of the trustees under the will, the Lord Keeper went within an ace of doing so. He referred the trustees' decision back to them together with an expression of the wishes of the court couched in the strongest language. He found that 'although the Testator at the time of making his Will had not determined on what particular Colledge or Hall the said Charity should be fixed or Established, yet it further appeared by undeniable Evidence that the Testator afterwards had come to a fixed and settled Resolution that the same should be established in Gloucester Hall'.⁷³ He advised the trustees to examine in detail all the objections which had been raised to Gloucester Hall: the site of the College; its title to the land from St. John's; the cost of restoring its ruinous buildings and making it habitable for a College; the feasibility of Woodroffe's statutes. Only if the trustees 'find upon the Reconsidering of the said Trust any unanswerable Objections to the settling the said Charity in Gloucester Hall' were they to 'execute such new Appointment as they shall conceive to be most reasonable . . . and they are to Certifye the same to this Court, After which, such further Directions shall be given as shall be just and necessary'.⁷⁴ The decree added to the difficulties in which they would find themselves if they adhered to their decision in favour of Magdalen Hall, by pointing out that that hall could not hold a permanent endowment without incorporation under the Great Seal, and by accepting without question that Woodroffe's incorporation of Gloucester Hall (which they attributed not to his application but to a non-existent one from Sir Thomas) was valid, ignoring completely the case so laboriously built up against it in 1703 and put forward in the same form in 1707 and in 1712.

Having issued his decrees the Keeper requested the Archbishop of Canterbury to summon a meeting of the trustees, and he permitted the archbishop and bishops to register their votes in absentia for their convenience, and also no doubt with voting strengths in mind. Had they all taken advantage of this concession, the votes for Gloucester Hall would have been increased by five. In the event two of the bishops (Lichfield and Gloucester) wished to continue to abstain, so the gain in votes was only three.

At the time when the decrees came out our informant, Canon Stratford, was deeply engaged in other controversial matters arising out of Atterbury's quarrels in Christ Church in which the Lord Keeper had also become involved, and he at first failed to recognize the significance of the attack on the settlement of Sir Thomas's benefaction, and did not apparently expect any resistance. On 11th November 1712 he wrote to Edward Harley,

⁷³ Ibid.

⁷⁴ Ibid.

Your Lordship has heard that my Lord Keeper has set aside the appointment of the Heads, by which Sir Thomas Cooke's benefaction was appointed to Magdalen Hall. It is now thought that it will be settled on Gloucester Hall.⁷⁵

and he went on at once to what seemed to him the chief importance of the decision 'I know not in whom the nomination of the Head will be placed probably in the Chancellor'. He suggested that John Hudson, Bodley's Librarian, a supporter of the administration who had been offered and had refused the principalship of Gloucester Hall on Woodroffe's death, should be offered it again.⁷⁶ But a stronger competitor was in the field now that the appointment was intended to carry with it the provostship of the new College. This was Richard Blechynden, fellow of St. John's and chaplain to the Lord Keeper, whose family interest in Oxford he managed, and from whom he had already received substantial preferments.

The first provost of Worcester College has been under-estimated by the College historians on the strength of Hearne's opinion of him as 'good for nothing but drinking and keeping jolly Company'.⁷⁷ In fact he proved a very successful ally of those working for Gloucester Hall, and most of the spade-work necessary to translate the court's intentions for Worcester College into practical terms fell on him. Moreover, the easy acceptance of the new College by the University seems to have owed a good deal to his tact. Stratford respected his ability and for that reason thought at first that his appointment was 'very dexterous in Lord Keeper',⁷⁸ though when he saw the reaction to it in the University he changed his mind. 'Blechingden's being made Principal of Gloucester Hall has quite spoiled the credit of the Lord Keeper's decree' he wrote 'His Lordship disowns his having had any hand in making Blechingden Principal, but [this] nobody will believe'.⁷⁹

The meeting of the trustees to discuss the decrees was fixed for 2nd January 1713. Two things were clear from the beginning: the dominant majority of the Heads of Houses were not prepared to give way without a struggle, and however the Lord Keeper might bluster, he was trying to achieve his end, not by asserting the claims of an over-riding Chancery jurisdiction, but by bringing about, one way or another, a majority among the trustees. The advantage of the challengers was their control over patronage to use for this purpose, their disadvantage, their unpopularity. When Atterbury first set to work he had only two active supporters among the Heads, William Delaune, who was frankly out for what he could get and who was soon being pushed by the Lord Keeper for an Irish bishopric,⁸⁰ and Robert Shippen, principal of Brasenose, brother of the Jacobite M.P. 'Honest' William Shippen, and thus a natural ally. Two new principals of Halls, nominees of the Duke of Ormonde, Blechynden and Hudson (for whom St. Mary Hall providentially fell vacant) were

⁷⁵ *Portland MSS*, VII, 110.

⁷⁶ *Hearne's Collections*, III (O.H.S. XIII, 220).

⁷⁷ *Ibid.* Hearne's judgement was probably affected by Blechynden's close relations with the president of his College, Delaune, but everything suggests that he was a competent and conciliatory man, who served his new College well. He certainly did so in his friendship with the distinguished Sir George Clarke who became a great benefactor (as C. H. Daniel and W. R. Barker point out, *Worcester College*, 185-6).

⁷⁸ *Portland MSS*, VII, 115 (Stratford-E. Harley, 29th November 1712).

⁷⁹ *Ibid.* 126 (Same-Same, 13th December 1712).

⁸⁰ *Ibid.* 113, 175 (Same-Same, 20th November 1712; 5th December 1713). Jonathan Edwards, principal of Jesus, was also thought of as a possible ally at the beginning, but he was old and dying. There had been at one time a hope of combining the two biggest Colleges, Christ Church and Magdalen (a feat never achieved in the Century) through the influence of Sacheverell, but that never got off the ground.

soon added to the challengers' ranks, as was a third, Richard Newton, principal of Hart Hall, whom Atterbury warmly supported in his campaign for election as Public Orator. We have no knowledge of the extent of the patronage which their leaders had freedom to dispose of, but we do know of the plums among it, the prebends which were made available. It was originally intended that there should be four of these, all to be attached permanently to headships. It had not been envisaged that they should all be available at the same fixed date, nor indeed were they, promises and half-promises had to be made in advance. In the event one fell by the wayside,⁸¹ one was awarded to an individual head and not attached to his College, and two only were permanently attached to headships.

When the trustees met on 2nd January 1713,⁸² it was apparent that the battle was only beginning. Fifteen of the twenty-five heads were present, and the archbishop, the Bishop of Worcester and the Bishop of Oxford registered postal votes in favour of Gloucester Hall. Given the three episcopal votes, thirteen heads had to be found to support the measure if they were to obtain the absolute majority of sixteen. For some days the meeting proceeded by adjournment, but no attempt was made to divide. After several adjournments, however, the challengers scored a point. Delaune announced on behalf of St. John's that, with their Visitor's permission they were able to alienate the land required for a site for Worcester College, and that they were prepared to do so. On the strength of this, over a month after the deliberations had begun, a division was attempted on 7th February. Once again fifteen heads attended (by no means all the same ones as before), and the vote showed that the challengers had made some gains; they now had the votes of nine heads⁸³ as well as those of the three bishops. Besides Atterbury's two original supporters, Delaune and Shippen, and the three heads of Halls, Blechynden, Hudson and Newton, whose support had been added in 1711, they could now count on two heads who were promised the coveted prebends, George Carter, provost of Oriel and John Baron, master of Balliol. The prebend to be held by the latter was personal only. His new allegiance to the claims of Gloucester Hall, despite the fact that his pamphlet against them was still the major statement of the opposition's case, is an odd development. The two other recruits who now came in, Thomas Dunster, warden of Wadham, and John Holland, warden of Merton, the two major Whig Colleges in the University at this time, also found themselves in odd company; they were representing the old Whig Gloucester Hall interest in the midst of a new Tory one.

The challengers' tactics had obviously won them some success, but not yet the majority which they required. They were still short of this by four votes, and at this point they seemed to have shot their bolt. For several months nothing happened whatever, the supporters of Magdalen Hall simply abstained from attending, the challengers failed to win over further supporters, and there was no quorum at the meetings of the trustees. Though Blechynden and others managed to get some

⁸¹ A prebend at Worcester had been promised to Charlett in which he was disappointed. He claimed that Harley had assured him that alternative preferment would be given him, a promise which was not carried out (Bodl. MSS. Ballard, 19, 20, *et al.*). It is not clear that his disappointment was directly concerned with this particular political operation.

⁸² Worcester College Archives (Box 28 (1) and (2)); in particular copy of a letter from Gardiner to Harcourt, 18th June 1713.

⁸³ In Gardiner's letter (see previous note) the figure of eight is given (Shippen's name being omitted) but later he is included as one would expect, making the figure nine.

practical business started which would be useful if a major decision were reached, no further progress could be made. The deadlock was the more embarrassing to Harcourt (now promoted Lord Chancellor) because he and Atterbury were running into difficulties with the University on other points, resulting in a clash between the Chancery and the Vice-Chancellor's court. Harcourt was said to have broken out angrily in open court that there was 'no man in England' whom he would 'sooner lay by the heels' than Gardiner of All Souls, the Vice-Chancellor.⁸⁴

He met this further challenge to his authority in the hectoring style characteristic of his dealings with the University. On 18th May 1713 the court issued a further decree, complaining that the deliberations of the trustees had 'been rendered ineffectual by adjournments from time to time by the Vice-Chancellor and some other of the said trustees who are influenced in Defiance of this Court to oppose the establishing the said Charity in Gloucester Hall',⁸⁵ it ordered the Vice-Chancellor to give within a month's time a report to the court of the trustees' deliberations.⁸⁶ When he did so in a detailed letter on 18th June, it consisted of a report of no change. The trustees were in complete defiance of the court.

The Lord Chancellor now found himself in a most awkward position. His previous attack on the University's jurisdiction had ended in humiliating defeat,⁸⁷ and his own unpopularity was such that all chance of his building up a family interest in the University—then or later—had been blasted. Moreover, Ormonde was beginning to show signs of uneasiness with an alliance which was proving so unpopular in the University,⁸⁸ and Atterbury was escaping from the chaos he had created at Christ Church by promotion to the see of Rochester. Neither side had any real interest in Gloucester Hall or Worcester College, but Harcourt had gone too far to turn back. Indeed, those who had been under attack began to show signs of retaliating. It was believed in the University that the majority of the trustees intended to appeal to the House of Lords against his high-handed actions. He decided therefore to press on with the attempt to find the weakest links in the chain of the hostile majority. He instructed the Vice-Chancellor to procure from all those trustees who had not voted for Gloucester Hall letters explaining their attitude, and to lay these before the court on 28th November 1713.

The only consecutive account of the subsequent events we have comes from Stratford. It is no doubt over-dramatized, but it seems in the main to be accurate. On 13th October he wrote to Edward Harley,

Here are great discontents here, and much talk of an Appeal to the House of Lords against a late order of Chancery about Sir Th. Cook's charity. Somebody is so apprehensive of this, that all means are tried to bring off particular votes, and to prevent a majority of the trustees from concurring in it. Promises of preferment fly as thick as hail. Public notice has been sent that there are orders for settling a prebend of Gloucester on Pembroke, and one of Norwich on Oriel and a vacant prebend of Bristol is to be bestowed on the Master of Balliol. We shall see in a little

⁸⁴ *Portland MSS*, VII, 151.

⁸⁵ Worcester College Archives, Box 28 (1), Order of 18th May 1713.

⁸⁶ *Ibid.*

⁸⁷ *Portland MSS*, VII, 146; see also E. Hamilton-Charlett, 21st May and 6th June 1713 (Bodl. MS. Ballard 36, ff. 113-16v.), Oxford University Archives (SP/A/13/b).

⁸⁸ In October 1713, over the election of a chaplain to the Speaker, Ormonde supported the candidate backed by the University against Atterbury and Harcourt (*Portland MSS*, VII, 170, 181-3). He was also said to have been irritated by the handling of the Aldrich case (*ibid.* 176).

time whether this be given out only to serve a present turn, but there is no expense will be spared to prevent the storm that is feared.⁸⁹

A week later on 7th November he was inclined to believe that this activity was tending to a loss of votes rather than a gain 'More are disobliged than gained by it; some I believe will now declare who before were doubtful'.⁹⁰ But by 16th November, twelve days before the sitting of the court, he reported that the challengers had won. He wrote,

Since it was perceived that votes were valued, every one was for getting something, a promise at least. There were persons here who had a full commission to give them, and they have now brought off so many that they have a majority by one, and it was done so openly that some who had given their word desired to be released from it and named the preferment of which they had a promise, if they voted as they were desired in this case. The storm is stopped I believe that was apprehended, but they have been obliged to pay dear for it.⁹¹

When the court sat on 28th November the Vice-Chancellor reported that thirteen heads and three bishops had cast their votes for Gloucester Hall, thereby giving it, as Stratford had forecast, an absolute majority, though not a majority of the University voters. One of the new votes which came in was that of Colwell Brickenden, master of Pembroke to whose headship a prebend of Gloucester was to be attached; two of the new supporters were heads of Halls, Thomas Bouchier, Regius Professor of Civil Law and principal of St. Alban Hall (always an unsteady voter on this topic) and John Brabourne, principal of New Inn Hall. The last name needed (and received two days before the vote) was that of William Dobson, president of Trinity, whose statement amounted to little more than that he had changed his mind.

The voting is fully documented in the Chancery records.⁹² Five heads abstained from acting, two on the grounds that they had consistently done so in the past, three because their predecessors had cast a vote and they did not believe they could supercede it. Atterbury, who was among the abstainers, explained his abstention by his ignorance of the history of the case, but his successor Smalridge attributed his own abstention to a prior vote given for Christ Church by Aldrich. Six heads maintained to the end their support of Magdalen Hall and their opposition to Gloucester Hall. They were Gardiner, Lancaster, Harwar, president of Magdalen, Paynter, rector of Exeter, Fitzherbert Adams, rector of Lincoln, and Pearson, principal of St. Edmund Hall. Of the thirteen heads who now voted for Gloucester Hall, eight were among those who had put their hands in 1707 to the decision in favour of Magdalen Hall (Delaune, Dobson, Carter, Brickenden, Shippen, Bouchier, Brabourne and Newton). Three had been appointed since the 1707 vote was taken (Holland, Blechynden and Hudson). Two were men who had abstained in 1707 but now entered the arena and were of very different political affiliations (Baron and Dunster).

It was no doubt a humiliating defeat for Lancaster and his party, though not an overwhelming one. Since the purpose for which the battle had been engaged was

⁸⁹ Ibid. 170.

⁹⁰ Ibid. 170-1.

⁹¹ Ibid. 171.

⁹² Worcester College Archives (Box 28 (2)).

now at an end, it served no immediate political purpose. It had, however, two permanent consequences, a minor one (though of some consequence for the Colleges concerned) the annexation of prebends to the headships of Oriel and Pembroke which continued into the 20th century, and the major one, the foundation of Worcester College. The vote having been taken, the practical arrangements for the incorporation of the new College went on apace.⁹³ The Chancellor gave his consent though only on the terms which Sir Thomas had refused to accept, the nomination of the provost must rest with the Chancellor who was to select him from two candidates sent forward from among the fellows. Terms were reached with St. John's on the alienation of its land. Blechynden, assisted by an informal committee of Heads of Houses, worked out the statutes for a small but viable College (instructions from the court to base them on Woodroffe's statutes proved impracticable). Care was taken that the articles of association were in order, and on 29th July 1714 Letters Patent from Queen Anne gave Worcester its new status. It was not, however, until 24th January 1715 that the Convocation of the University passed a letter from the Chancellor exempting the new corporation from the Aularian Statutes and confirmed that the Society 'under the name of Worcester College be received into the body of the University'.⁹⁴

APPENDIX

PUBLICATIONS BEARING ON THE CASE OF GLOUCESTER HALL AND WORCESTER COLLEGE 1699-1703

Two Sermons, one full-dress pamphlet, and three shorter publications concerning this controversy have survived.

A. On 1st June 1699 John Baron (later master of Balliol) preached a sermon at Feckenham in Worcestershire before the trustees appointed by Sir Thomas Cookes to manage his charity.¹

B. On 23rd May 1700 Benjamin Woodroffe countered in a sermon preached at the same place.²

Both sermons were extremely partizan and provoked some scandal. Woodroffe's in particular aroused adverse comment.³ It exhausted his oratory and his supply of biblical texts to urge the intending benefactor not only to give his charity to Gloucester Hall, but to do so forthwith '... Expose not thy self to the temptations of the Adversary; Expose not thy self to the temptations of any of his instruments; Expose not thy self to the temptations of thine own deceitful heart; Thou knowest not what a change time, and place, and persons may work thee to...'.⁴

C. In April 1702 Woodroffe printed a single sheet for circulation to Members of the House of Commons in support of the private bill brought to change the terms of the late Sir Thomas Cookes's will, to vest his charity in Gloucester Hall, and to recognize the latter as Worcester College. Anonymous, without date or place of printing, it was headed *The Case*

⁹³ Ibid. (Box 28 (1), Record of the Court of Chancery, 22nd December 1713).

⁹⁴ Oxford University Archives, Register of Convocation, 1703-1730 (N.E.P./Subtus/Register Bd).

¹ *A Sermon Preach'd 1 June 1699 at Feckenham, in Worcestershire Before the Trustees appointed by Sir Thomas Cookes, Kt. Bart. To Manage his Charity given to that Place.* John Baron (Oxford, 1699), [1]-[37]. There is a copy in the Bodleian (Bodl. 4° C. 841 Linc.).

² *A Sermon Preach'd 23rd May 1700 at Feckenham in Worcestershire, Before the Trustees appointed by Sir Thomas Cookes Bart. To Manage his Charity given to that Place.* By Benjamin Woodroffe (Oxford, 1700). There are three copies in Christ Church Library (Sermons Z247; 3.c.80; 2.c.156).

³ Bodl. MS. Ballard 12, f. 142 (G. Hickes—A. Charlett, 18th July 1700).

⁴ *A Sermon Preach'd 23rd May 1700 ...* [21].

of Worcester-Colledge Or Gloucester-Hall, changed into Worcester Colledge.⁵ John Ince saw Woodroffe distributing it in the lobby of the House on 27th April 1702, and obtained a copy which he sent to the then master of Balliol.⁶

After Parliament was prorogued on 25th May 1702, Woodroffe, we are informed

... published a Second Edition of the same Case, with some little Alteration in half a Sheet of 4 Pages, Entitling it "*The Case of Worcester Colledge, as it was presented to the Members of the House of Commons*" which was also dispersed about the Town, together with a printed Letter in 4to of 8 Pages calling itself "*A Letter from a Member of the University*,⁷ enquiring, how the Bill for Settling Sir Thomas Cookes's Charity of 10,000£ for the Erecting and Endowing of Worcester Colledge in Oxford, came to be rejected in their House".⁸

Until very recently no copy of either of these publications was known to exist, but descriptions of them were taken from the pamphlet replying to them (see D. below). The assistant librarian of Christ Church has, however, now identified copies of both of these among the College's collection of 18th-century Ephemera.⁹ Ince's correspondence suggests that they became available to readers shortly after 4th July 1702.¹⁰

D. A reply to the above short papers was made in a long and detailed pamphlet, which has hitherto provided most of our knowledge of the controversy. It was entitled *The Case of Gloucester Hall, in Oxford, Rectifying the false Stating thereof by Doctor Woodforde*.¹¹ Its place and date of publication have been tentatively assigned to 'Oxford 1702',¹² and its authorship has generally been attributed to John Baron of Balliol, who indeed made little attempt to disguise that he played a part in it.

The Ince correspondence makes it clear (a) that it was printed by Thomas James of London;¹³ (b) that it appeared in print in 1703;¹⁴ (c) that a good deal of the material in the pamphlet was collected and put together by Ince but that Baron determined its final form and also provided material and that the master of Balliol was closely associated with its production at all stages.

We also have evidence that the printer was paid £17 2s. 6d. for an edition of 500 copies and for corrections¹⁵ and that near the end of April 1703 some sixty copies were sent, on behalf of Baron, to Clements the Oxford bookseller for distribution.¹⁶ The order was completed on 12th August when 100 copies in sheets were dispatched to Baron.¹⁷

The production of the pamphlet was held up for a variety of reasons. In the first place Ince had believed for some time that there would be two publications: a reply to

⁵ The only known copy is in the Ince Papers.

⁶ Ince Papers (Ince-Mander, 27th April 1702).

⁷ Woodroffe's opponents suggested that he had invented this 'Member' since no trace of him has been found.

⁸ This quotation is taken from *The Case of Gloucester Hall*... (see note 11 below), [1].

⁹ *The Case of Worcester-Colledge, as presented to the Members of the House of Commons and A Letter from a Member of the House of Commons, in Answer to a Letter, from a Member of the University, Enquiring: How the Bill for Settling Sir Thomas Cookes's Charity of 10,000£ for the Erecting and Endowing of Worcester-College in Oxford came to be rejected in their House* (Christ Church Pamphlets Miscellany, Z45 (16)).

¹⁰ Ince Papers (Ince-Mander, 4th July 1702).

¹¹ There are three copies of this pamphlet in the Bodleian (C.8.45 (1) Linc. (57 pp.) complete; Gough Oxford 108, with pp. [48] and [53] missing; Gough Oxford 89 (7) with pp. [40]–[45] missing). See also note 21 below.

¹² E. H. Cordeaux and D. H. Merry, *A Bibliography of Printed Works relating to the University of Oxford* (Oxford, 1968), p. 736.

¹³ Ince Papers (Ince-Baron, 18th August 1702).

¹⁴ Ibid. (Ince-Mander, 20th and 29th April 1703). There were two sizes of paper; the larger sheets were primarily for the trustees.

¹⁵ Worcester College Archives, 28 (1): 'A Particular of the Charges and Expenses the Trustees mentioned in Sir Thomas Cookes Will have been att in relation to the saide Trust besides the Costs and Expenses they have been att in this Cause'. The costs were queried but were considered reasonable by the Bank Printer 'considering the delay and alterations after composing etc.' (see also Ince Papers (Ince-Mander, 12th August 1703)).

¹⁶ Ibid. (Ince-Mander, 29th April 1703); cf. note 14 above.

¹⁷ Ince Papers (Ince-Mander, 12th August 1703).

Woodroffe's *Case* (suitable for presentation in Parliament) and another more combative reply to his *Letter*, and he became alarmed lest his part in the 'vituperative' pamphlet which it was ultimately decided to produce should become known, and should damage his professional reputation. Judging from the printer's complaint of the length of time it 'tied up his letter' its printing must have begun early in February 1703.¹⁸ The most serious hold-up occurred after the first sixty copies had been received in Oxford in April, when Ince discovered important new material he thought should be incorporated.¹⁹ When this was adjudged impracticable, he sent a specimen copy showing how the absence of it could be off-set by MS marginalia.²⁰ His advice was not adopted but two of the copies of the pamphlet in the Bodleian²¹ are annotated (one apparently in Baron's hand and one in Ince's hand). In both cases the MS marginal notes concern the proposed statutes for the College and both pamphlets have missing pages.

E. An abridged form of *The Case of Gloucester Hall, in Oxford, Rectifying the false Stating thereof by Doctor Woodforde* was printed for use in the House of Commons in 1709, since the original was deemed 'too long for the Members' perusal',²² but no trace of this has been found.

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¹⁸ Ibid.

¹⁹ The pamphlet contains an analysis of three recensions of Woodroffe's statutes. He had now obtained a copy of a fourth, and most important one, the original body drawn up by the archbishop and Bishop Stillingfleet. This shows that it agrees with none of the texts published by Woodroffe (ibid., Ince-Mander, 9th July 1703).

²⁰ Ibid. (Ince-Mander, 25th May 1703).

²¹ Bodl. Gough Oxford 108 is annotated by [Baron] and Gough Oxford 89 (7) is annotated by [Ince].

²² Worcester College Archives, 28 (1).