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978-0-521-08280-8 - Revolution Politicks: The Career of Daniel Finch Second Earl of Nottingham, 1647-1730

Henry Horwitz

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CHAPTER I

THE MAKING OF THE MAN

1647-72

On thursday the 30th of July 1646...Mr Heneage Finch...was maryed to Mistress Elizabeth Harvey...By her hee had his eldest sonne borne the 2 of July 1647 being fryday about a quarter of an hour after 8 a clock in the morning or somewhat more which was Christened...the 8th day of the said month of July and called Daniel.¹

Daniel's family heritage, in the unpropitious year of 1647, was the moderate royalism and Anglicanism of Kent whence the Finches had taken their rise in the later fifteenth century.² Service to the crown, coupled with a series of advantageous marriages, had provided the basis for a gradual enhancement of the family's position during the sixteenth and early seventeenth centuries. From what were apparently modest squirearchical origins, the main branch of the family in the person of the widow of Sir Moyle Finch (1551-1614) had bought its way into the peerage during the early Stuart 'inflation of honours', with Lady Finch, *née* Heneage, being made first Viscountess of Maidstone in 1623 and then Countess of Winchilsea in 1628.³

Daniel's own grandfather, the first Heneage Finch, was only a younger son of Sir Moyle and the new Countess of Winchilsea, but his legal training and a lucrative second marriage had enabled him to establish his own family on a solid footing before his death in 1631.⁴ His eldest son Heneage was also trained for the law, by

¹ BM Add. MSS. 34177, fos. 16-17.

² Feiling, *Tory party*, p. 16; A. Everitt, *The community of Kent and the great rebellion 1640-60* (Leicester, 1966), pp. 45-55, 116-24.

³ For a somewhat fanciful account of the family's origins, see B. F. Anson, *The history of the Finch family* (London, 1933), esp. pp. 12-21, 52-5.

⁴ DNB, 'Heneage Finch'. At his grandmother's death in 1634, the second Heneage Finch also inherited valuable estates in Buckinghamshire and Northamptonshire (H. J.

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way of Westminster School, Christ Church and the Inner Temple. Called to the bar in 1645, his royalist sympathies do not seem to have hindered him during the interregnum from building up a lucrative practice or from acquiring the reputation of a skilful and eloquent pleader. And when the restoration of the Stuart house came in 1660, his legal acumen and his services as one of the leading royalist spokesmen in the Convention parliament were quickly rewarded with a knighthood, a baronetcy, and the post of Solicitor-General to Charles II.¹

A year after his first appearance at the bar, Heneage married Elizabeth, the daughter of Daniel Harvey—a prosperous London merchant, associated chiefly with the Levant trade, ‘of very eminent loyaltie, prudence, integritie, & generositie’.² Little survives to shed much light upon the boyhood of Daniel Finch, the eldest child of their alliance, save for the aura of affection and devotion that pervades the family correspondence in later years and that suggests the loving concern with which Daniel was brought up. Admitted to the Inner Temple early in 1658, it is unlikely that he began to study law at such a young age, though he must have been intimately familiar with the precincts of the Inns of Court since the family resided for a time close by Heneage Finch’s chambers.³ A few months later, following in his father’s footsteps, Daniel entered Westminster School where he lived as a boarder for over three years in the house of Dr Richard Busby, the headmaster and his father’s former tutor at Christ Church.⁴ The fervid Anglicanism and rigorous curriculum of Westminster were, no doubt, important influences on Daniel’s character, while some of the friendships he formed (particularly with George

Habakkuk, ‘Daniel Finch, 2nd Earl of Nottingham: his house and estate’, *Studies in social history*, ed. J. H. Plumb (London, 1955), p. 142.

¹ GEC, ‘Heneage Finch’ [first Earl of Nottingham]; *Lord Nottingham’s chancery cases*, ed. D. E. C. Yale (Selden Society, London, 1957), I, xiii–xvi; J. R. Jones, ‘Political groups and tactics in the convention of 1660’, *Historical Journal*, VI (1963), 169.

² GEC, ‘Heneage Finch’; KAO, Dering MSS. U 275, A 3, an unpaginated autobiographical fragment of another of Harvey’s sons-in-law, Sir Edward Dering.

³ *The Records of Old Westminsters*, ed. G. F. R. Barker and A. H. Stenning (London, 1928), I, 328.

⁴ *Ibid.*

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Legge) were of lasting significance. But it is only after he matriculated at Christ Church as a Gentleman Commoner on 26 July 1662 that we can first perceive something of his personality.¹

The University, and Christ Church in particular, had not escaped the Restoration reaction which swept aside Puritan notions of conduct.² But the dissoluteness of some of Daniel's fellow collegians seems to have had but little effect on his own way of life, shepherded as he was by his tutor Benjamin Woodruff and also by Richard Allestree (soon to be made Regius Professor of Divinity).³ Even in his youth, Daniel seems to have displayed the family traits of gravity and temperateness, for his father (now Sir Heneage) felt confident, even as he dispatched to him 'a large treatise of good counsell' which had been drawn up by his Uncle John's friend, Dr Thomas Baines, that it would not be needed.⁴ Although apparently the butt of derision from some of his acquaintances, Daniel showed a commendable devotion to his studies. Indeed, the excellence of some of his early efforts even roused his father's suspicion of their authenticity.⁵ Yet in the main, Sir Heneage felt justified in writing in April 1663 to Daniel (with a characteristic combination of advice and praise), 'loose not the reputation which I am told you have gayn'd of diligence and sobriety'.⁶

Daniel, in fact, would seem to have been in more danger of succumbing to self-complacency than to dissipation or indolence, though on occasion his father did express some uneasiness about his behaviour. 'It was never your mother's meaning nor mine that you should lose an hours study for him', he cautioned Daniel when informed that his dancing master had been entertained of a morning.⁷ The purpose of an Oxford education, Sir Heneage made clear, was not to teach Daniel how to be 'that which the town calls a fine gentleman being to my understanding rather a

¹ J. Foster, *Alumni Oxonienses: 1500-1714* (London, 1891-2), II, 496.

² See, for example, *The life and times of Anthony Wood*, ed. A. Clark (Oxford Historical Society, Oxford, 1892), II, 2.

³ *HMC Finch*, I, 208, 212, 245, 249, and *passim*.

⁴ *Ibid.* pp. 211-12.

⁵ *Ibid.* pp. 236-7.

⁶ *Ibid.* p. 249.

⁷ *Ibid.* p. 244.

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libell than a commendation'.¹ Rather, he encouraged and exhorted him to develop that steadiness of judgment and loyalty to the Church that were the hallmarks of his own life. Only a month after Daniel's arrival in Oxford, his father was reminding him 'to frequent the publique prayers, and study to reverence and defend, as well as to obey, the Church of England'.² Again, urging Daniel to prepare himself carefully for his first Easter away from home, he advised him that 'Nothing can make you truly wise but such a religion as dwells upon your heart and governs your whole life'.³

Daniel's health was another frequent concern of his parents. He would seem to have been a somewhat delicate, if not sickly youth, and only a fortnight after he first went up to Oxford his father permitted him to journey with his tutor to Bath partly, at least, for reasons of health.⁴ What complaints he suffered from is not entirely clear, though he was prone to frequent infections, but, as Sir Heneage later recalled to him, 'All your former studyes were full of payns and difficultys and the close pursuit of them might impayr your health'.⁵ Perhaps it was for this reason that Daniel left Oxford without taking a degree. A continental tour was proposed for him, and, after a tearful family farewell at Dover, he left England late in the summer of 1665 accompanied by his younger brother Heneage who 'in Jest . . . wayt[s] upon his brother over seas as farr as Bruxels'.⁶

Daniel's eventual destination, by way of Frankfurt, Munich and Venice, was Florence, where his uncle Sir John Finch was now serving as English Resident at the court of the Grand Duke of Tuscany.⁷ His 'chiefest study' at Florence, as his father observed to him soon after his arrival, was to be 'conversation and to understand men'.⁸ But he was also to avail himself of this oppor-

¹ *HMC Finch*, 1, 244.² *Ibid.* p. 212.³ *Ibid.* p. 249.⁴ *Ibid.* p. 208.⁵ *Ibid.* pp. 401, 403; LRO, Finch MSS., uncalendared section of Sir Heneage's letter of 15/25 Nov. 1665.⁶ KAO, Dering MSS. U 350, C/2/116, Sir Heneage to [Robert Southwell], 3 Sept. 1665.⁷ LRO, Finch MSS., Literary papers 16, a diary in Latin kept by Daniel Finch on his trip to Florence; A. Malloch, *Finch and Baines, a seventeenth century friendship* (Cambridge, 1917), pp. 32-45.⁸ *HMC Finch*, 1, 403.

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tunity to master those 'outward accomplishments' that denoted good breeding in later seventeenth-century England. Thus, we hear once again of the employment of a dancing master and also of a master of arms.¹ Still, there was ample time for travel too—to Naples, Rome and Venice usually in the company of Dr Baines.²

In this fashion, Daniel spent almost two years in Italy before the first summons came to return home. Congratulating him on his twentieth birthday in July 1667, his father expressed his great desire to see him once again and remarked that it was 'now high time you should return and settle yourself'.³ It was at first proposed that he journey home in the company of his uncle, but the delay in obtaining Sir John's recall and Daniel's own wish to spend some time in France eventually moved his father to permit him to stay the following winter there. A few months in France, Sir Heneage thought, would be 'time enough to make you master of the French tongue, as farr as will be necessary for conversation, and to instruct or perfect your fencing, riding, and dauncing, without inconvenience to your health'.⁴

Daniel's sojourn in France was, however, to be extended beyond his father's original expectation. Arriving in Paris in the early autumn, his stay seems to have been uneventful at first. But early in February 1668, John Trevor, who bore the character of Envoy Extraordinary to Louis XIV, reached Paris. Trevor, so Sir Heneage wrote his son, was highly esteemed by the English Court and it was rumoured that he would soon be advanced to a secretaryship of state 'so that it will be a happy circumstance of your travells, to be made known to him abroad'.⁵ All proceeded as he had hoped; Daniel was introduced to the envoy and his father permitted him to extend his term in Paris so that he might return with Trevor's party.⁶ Finally in June 1668, almost

¹ *Ibid.* p. 404.² *Ibid.* pp. 414–15; *Conway Letters*, ed. M. H. Nicolson (New Haven, 1930), pp. 284–5.³ *HMC Finch*, I, 469.⁴ *Ibid.* p. 479.⁵ *Ibid.* p. 493.⁶ *Ibid.* p. 509.

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three years after his tour had begun, he set foot once again in England.¹

Daniel was now twenty-one and, as his cousin Sir Roger Twysden wrote in compliment to his father, 'every body speaks him a very fine gentleman, and one you and your lady are likely to have much comfort in'.² Unfortunately, it is at this time that he is almost completely lost to view; virtually nothing is known of his activities for over four years save that he was made a Fellow of the Royal Society shortly after his return—an indication that in some small measure he may have shared his former tutor's and his uncle's interests in 'natural philosophy'.³ It may be conjectured that at least part of this period was spent in studying law, for among his personal papers which seem to date from this time are to be found numerous notes on, and extracts from, lawbooks.⁴ He also appears to have been assisting Sir Heneage in the management of his official and family affairs.⁵

But if these were his chief activities in the years after his return from the continent, no doubt both he and his father must have regarded them merely as preliminaries to his own 'settlement' in marriage and the world of affairs. Thanks to Sir Heneage's continued advancement—the Attorney-Generalship in 1670 and the Lord Keepership in 1673—he was eventually able to make a very fortunate match for Daniel with Lady Essex Rich, co-heiress of the third Earl of Warwick. Her guardian, the Countess of Warwick, had previously rejected a number of prospective husbands for her niece 'because the young men were not viceless'.⁶ But when Finch was proposed to her, probably by Lord Halifax late in 1673, she gave her approval to his suit 'upon the assurance I had from all the persons that knew him, that he was an extraordinary both

¹ *Second series of the catalogue of the collection of... Alfred Morrison; the Bulstrode papers* (London, 1897), I, 46. ² *HMC Finch*, I, 510.

³ *The records of the Royal Society of London* (4th ed. London, 1940), p. 381; Malloch, *Finch and Baines*, pp. 31–2; DNB, 'Benjamin Woodruff'.

⁴ LRO, Finch MSS., Legal papers 9. ⁵ *HMC Finch*, II, 19–20; CSPD, 1670, p. 508.

⁶ *Autobiography of Mary, Countess of Warwick*, ed. T. C. Croker (Percy Society, London, 1848), p. 35.

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ingenuous and civil person (which upon my own knowledge of him, I afterwards found to be true)'.¹ By mid-April 1674, Daniel was reported to be 'a very close suitor to my Lady Essex', and her own consent was soon won.² On 16 June 1674 the couple was wed in the chapel of Lady Warwick's house at Leas, Essex, by her chaplain Thomas Woodroff, with the Lord Keeper (newly ennobled as Baron Finch of Daventry) making a handsome financial settlement on his son.³ The marriage was to vindicate fully Lady Warwick's judgment; Lady Essex, as the few extant letters to her reveal, was beloved by her husband and doted upon by her father-in-law.⁴

Even before his marriage, however, Daniel had made his entry into politics. In the winter of 1672-3, he had become a candidate for the parliamentary seat at Great Bedwyn, Wiltshire, vacated by the death of Sir John Trevor. Bedwyn was a burgh borough under the influence of the lords of the manor, the Seymour Dukes of Somerset (relations of the Finches by marriage).⁵ But Daniel's success, even though he was probably sponsored by the Dowager Duchess, was by no means assured since the individual burgh owners (some eighty in number) had not yet been bought out by the lords of the manor.⁶ Indeed, before he was elected late in January 1673, Daniel had been put to the charge of a new town hall for Bedwyn.⁷ On 4 February, then, he took his place for the first time in the House of Commons at the opening of the tenth session of the Cavalier parliament of 1661-78.

¹ *Ibid.* p. 36. See also *HMC Finch*, II, 17.

² *CSPD*, 1673-5, pp. 227-8.

³ P. Finch, *History of Burley-on-the-Hill* (London, 1901), I, 176; *HMC Finch*, II, 16-19.

⁴ See, for example, *ibid.* pp. 24-6.

⁵ B. Willis, *Notitia Parliamentaria*, III (London, 1750), pt. I, p. 63; S. T. Bindoff, 'Parliamentary history 1529-1688', *A history of Wiltshire* (The Victoria History of the Counties of England, London, 1957), v (ed. R. B. Pugh and E. Crittal), 159 and n. 31. The Duchess was the mother-in-law of Sir Heneage's cousin, the second Earl of Winchilsea. Sir Heneage and Daniel later served as trustees of her will.

⁶ Willis, *Notitia*, III, pt. I, p. 63; *A history of Wiltshire*, v, 159.

⁷ Bodl. Willis MSS. 15, fos. 78-9. However, his election (and all other by-elections ordered by Lord Chancellor Shaftesbury during the parliamentary recess) was adjudged void by the Commons when they met, but Daniel was successful when the election was re-run early in February (*Members of parliament* (Return to the House of Commons, London, 1878), I, 530 and note).

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CHAPTER 2

THE APPRENTICE PARLIAMENTARIAN

1673–9

In Parliament, (my first publick appearance in the year 1672/3) I alwaies thought the limits of the Prerogative of the Crown and the liberties and rights of the people so well Settled, that those landmarks ought not to be remov'd. . . I did not think it a breach of Trust, with which every member is vested, to gratify King Charles 2 with little summs, whose revenue for all services was not above 1,200,000 pounds. . . I was alwaies against Impeachments. . . because there is not an instance of any prosecution by impeachment. . . that was carryd on by legal Steps in matter and form, rage and violence overruling Law. . . [and] because the opinion of the declaratory power. . . which is so universally received and believ'd. . . is most certainly false and this is plain even to a demonstration. . . I have allways been for some Indulgence in Those, who differ'd in Religion from the Establisht Church, so far as was consistent with the safety of the Church and peace of the state.¹

So wrote Daniel Finch in the 1720s, recounting for the benefit of his children his early years as a member of the Cavalier parliament. The tone of these recollections was undoubtedly affected by his experiences of the intervening half-century, but they do accord with much of what can be gleaned from other sources about his attitudes and activities as a young member of parliament.

Finch's desire to balance the claims of prerogative and liberty was exemplified, on the one hand, in his opposition to efforts made in the Commons to usurp the royal prerogative in the shaping of foreign policy and the conduct of military operations. In the 1677 session, he spoke out against proposals to word a Commons' address on foreign policy in a way which would effectively have tied the king's hands in his choice of allies, and in the first 1678 session he objected also to the proposed appointment by parlia-

¹ LRO, Finch MSS., Political papers 148, pp. 1–2.

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ment of commissioners to oversee the management of the war then being mooted against France.¹ On the other hand, his apparent opposition in 1673 to the king's unilateral suspension of the penal statutes against recusants and Protestant dissenters, as well as his support in 1677 for a Habeas Corpus bill, illustrate his readiness to reject extreme prerogative claims and his concern for the liberty of the subject.²

His inclination to favour Court requests for supply is also amply attested to in surviving accounts of the Commons' proceedings between 1673 and 1678. On virtually every occasion when proposals for supply were before the House, Finch is recorded as having urged their adoption.³ His record on impeachments is marked by a similar consistency. Not surprisingly, his strongest words were reserved for those few instances when his father came under fire.⁴ But he also opposed impeachment proceedings begun against the Earl of Arlington in 1674 and against the Earl of Danby in 1675 and 1678.⁵

Again, though Finch's most notable labours to secure some alleviation of the dissenters' position were to be undertaken after 1679, there is confirmation in contemporary sources of his interest in a relaxation of the penal laws as they applied to Protestants even in these early years. During the 1674 session, he prepared a speech in support of a proposal to modify on their behalf the Oath of Supremacy.⁶ Again, during the spring session of 1675, he reminded the House of its earlier discussion of schemes of indulgence and sought to persuade his fellow members of the wisdom of easing the plight of 'so considerable a part of the nation' for reasons both of 'charity and prudence'.⁷

But faithful as is the account given in Finch's fragmentary memoir to many of the positions he adopted in his first years in

¹ App. F6, G1.² LRO, Finch MSS., Political papers 148, p. 2, and Political papers 42, p. 22.³ App. E2, F1, F3, F7, G3.⁴ App. F2, G7, H2.⁵ App. C1, D1, H8. See also App. B1, G4, G6, H7.⁶ App. C2.⁷ Grey, III, 163.

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parliament, it would be misleading to view them solely through the spectacles of his old age. They need also to be placed in their immediate setting—the years of Charles II's reign from the fall of the Cabal to the meeting of the first Exclusion parliament.

From this perspective, it would appear that the course which the young member of parliament steered through the shifting political sands of the 1670s closely paralleled that of his father, save perhaps for Finch's early interest in indulgence. With the collapse of the Cabal, Attorney-General Finch—accounted a friend of Secretary Arlington since Clarendon's fall—drew closer to the new Lord Treasurer, Sir Thomas Osborne (soon to be made Earl of Danby).¹ And it was the Treasurer and his ally Sir Edward Seymour, the Speaker, who were the chief movers of the elder Finch's promotion, after the dismissal of the Earl of Shaftesbury, to the Lord Keepership on 10 November 1673.² For a time, however, the new Lord Keeper tried to keep a foot in each camp by remaining on friendly terms with the Secretary.³ It could well be, then, that the defence of Arlington made by Daniel in the following session was prompted by his father's ties to the Secretary, though he may also have been influenced by the surprisingly adept self-vindication Arlington made when he appeared before the Commons in January 1674.⁴

However, by the beginning of the next parliamentary session in April 1675, the Lord Keeper had cast off his remaining links with Arlington, and he and Danby were now working hand-in-glove.⁵ This was clearly reflected in his son's behaviour in the Commons.

¹ For the elder Finch's connections with Arlington, see *CSPD*, 1667–8, p. 258; *PRO*, *PRO* 31/3/129, Colbert au Roi, 10/20 Nov. 1673; *KAO*, Dering MSS. U 350, C 2/121, Sir Heneage Finch to Sir Edward Dering, 12 Aug. 1669. For Sir Heneage's connections, before the fall of the Cabal, with Osborne (chiefly through Finch's brother-in-law, Viscount Conway), see *CSPD*, 1671, p. 510; *HMC Lonsdale*, p. 95; *Conway letters*, p. 365.

² *Essex Papers*, ed. O. Airy, I (Camden Society, London, 1890), 140.

³ *Ibid.* *Letters addressed from London to Sir Joseph Williamson while plenipotentiary at the Congress of Cologne in the years 1673 and 1674*, ed. W. D. Christie (Camden Society, London, 1874), II, 92. Cf. *Essex Papers*, I, 141–2, 150.

⁴ App. C.1. For Arlington's speech, see Grey, II, 275–80.

⁵ *Essex Papers*, I, 228; A. Browning, *Thomas Osborne Earl of Danby and Duke of Leeds 1632–1712* (Glasgow, 1944–51), I, 136–7.