



EDWARD DE VERE NEWSLETTER NO. 14

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Did Edward de Vere, 17th Earl of Oxford, write Sir John Oldcastle in an attempt to save his cousin Thomas Howard, 4th Duke of Norfolk, from the headsman's axe? [Part 1 of 4]

In order to answer this question, we must look at Norfolk's situation as his contemporaries, including Oxford, would have seen it. Did Oxford believe that Norfolk was innocent of treason?

The facts surrounding the Duke of Norfolk's supposed treasonable activities are complex, and far from clear. However, an outline of a few key events can be established with some certainty. The Duke was first committed to the Tower on October 8, 1569 (*Marvellous chance*, 157), but was not charged at the time with any offence. A month later, the Northern Rebellion broke out, fuelled by Queen Elizabeth's demand that Sussex send for Northumberland and Westmoreland; it was all over by mid-December (Williams 170-3). The Duke remained in the Tower, still not charged with any offence. Seven months later, at the beginning of August, 1570, Norfolk:

... made a most solemn renunciation of his proposed marriage with Mary [Queen of Scots], and craved Elizabeth's forgiveness (Hume 246).

He was thereupon released to house arrest at the Charterhouse (*Marvellous chance*, 157). About March 25, 1571, Roberto Ridolfi left England on his "mission" to the Pope and the princes of Europe (*Marvellous chance*, 856). A little over a fortnight later, on April 11, Charles Baillie was taken at Dover with illegal books and, supposedly, a packet of

incriminating letters from Ridolfi (McKeen 247). Baillie's arrival was not unexpected: Burghley's spy William Herle had been waiting for him in the Marshalsea Prison since as early as April 4 (McKeen 247), and Lord Cobham's servant Francis Bertie had been expecting the illegal books since even before that time (McKeen 249-50). On April 12, Baillie was brought to Lord Cobham's at the Blackfriars in London where the packet of letters found on him was put into "one bag" with a packet of letters taken from some other unnamed person (McKeen 251). These two sets of letters were left unguarded at the Blackfriars all night, during which time Francis Bertie allowed the Bishop of Ross to see the originals (McKeen 253). Lord Cobham's brother, the pirate Thomas Cobham (McKeen 217-26), later bragged that he had also had access to the packet of letters at this time, and that, unknown to Lord Cobham, he had removed two letters from the packet (McKeen 257-8). Later, importuned by Thomas Cobham not to deliver the letters to the Privy Council, Lord Cobham gave the letters to the Bishop of Ross, and sent a substitute packet to the Council (McKeen 261-6). Baillie was imprisoned, and racked until he "confessed" (*Marvellous chance*, 72-6). Still, no charges were laid against Norfolk. Then sometime at the end of August, 1571 further incriminating letters were fortuitously "discovered" in a bag of money at St. Albans (*Marvellous chance*, 155, 164), and on September 7, 1571 Norfolk was brought back to the Tower (McKeen 283). By October 6, Lord Cobham was under house arrest for his aforementioned part in sending the substitute packet of letters to the Privy Council (McKeen 284). Cobham remained under arrest for seven and a half months

at Lord Burghley's house in the Strand, but was never charged (McKeen 295). Norfolk's treason trial took place on January 16, 1572, and he was executed on June 2 of that year (*Marvellous chance*, 209, 367).

The mass of "evidence" which survives from this period appears to incriminate Norfolk overwhelmingly in a joint plot with Mary, Queen of Scots; her ambassador John Leslie, the Bishop of Ross; Roberto Ridolfi; and Gerau de Spes, the Spanish ambassador. In fact, Ridolfi's so-called conspiracy was a totally impracticable farce which could never have done Mary's cause anything but harm, and none of the evidence used to "prove" the treason charges against the Duke would stand up in a modern court of law. Of those who gave evidence against Norfolk, several were tortured, and others were government spies (*Marvellous chance*, 43, 72, 227). "Incriminating" documents were tampered with (*Marvellous chance*, 228-9). During the entire period in which the "conspiracy" was supposedly being plotted, Mary and Norfolk were both prisoners who never once met face to face. Nor were any of the "conspirators" ever allowed to confront their "co-conspirators" afterward (*Marvellous chance*, 26-7). Had they been permitted to do so, they would likely have discovered that Ridolfi had lied to each of them about what the others had said. The Duke's trial for treason was a travesty, a form of "judicial murder". Ill after two and a half years of imprisonment, he was allowed no legal counsel, no access to the documents being used against him, and no opportunity to question his accusers (*Marvellous chance*, 212-5, 225). Throughout his imprisonment and trial, and even at the moment of his execution, Norfolk consistently denied any part in Ridolfi's treasonous schemes, though admitting freely his rashness in considering marriage to the Queen of Scots without Queen Elizabeth's formal sanction. In his final words on the scaffold, when he expected within moments to meet his Maker, Norfolk reaffirmed his innocence and blamed no-one, seeming to feel that his persistence in pursuing the marriage with the Queen of Scots was sufficient transgression in itself to merit execution:

I will not justify myself. I know I deserve to die. I will lay no injustice against my peers. I clear them. I

acquit them, for they have given just judgment against me. I dealt touching a marriage with the Queen of Scots not as I ought, without the assent of my prince. . . I dealt contrary to my promise to the Queen's Majesty.

I have had judgment given on me by reason of my dealing with suspected persons, namely one, I mean Ridolphi. I never saw his face but once; a stranger, a naughty man with whom I never dealt but once, and that once touching a recognizance between him and me, as the world knoweth. [Here the Duke was interrupted and told not to purge himself.]

I purge my peers. I will not accuse them. I have been charged that I should receive letters from the Pope. Indeed, I confess such letters were brought unto me . . . somewhat touching rebellion, but I never assented, nor allowed them touching rebellion or invasion or any danger to my prince or this city. I never consented to any. But yet that I had to do with such persons as I might well understand had not good meaning to the Queen and state, and did not utter the same as appertained. And therein I did offend. [Here the Duke was again interrupted, and told not to deal with such matters.]

I take God to witness, I am not, nor never was, a papist since I knew what religion meant. I have had friends, yea, familiar friends, and peradventure servants, that have been papists, with whom I have borne. But I call God to witness I am none. I utterly defy the Pope and his religion, and I hope to be saved only by my faith in Jesus Christ. I utterly abhor all man's traditions. And if at any time I did give countenance to any papist whereby any good man was offended, or the Church, I ask them mercy. There is no man that alloweth better of religion than I do. [Here again the Duke was interrupted, and 'required to be short', whereon he finished by reaffirming that he had never departed from his loyalty to the Queen] (*Marvellous chance*, 367-9).

At Norfolk's trial, the Attorney-General claimed God's hand in the ultimate discovery of the evidence which had, after two years of vain attempts, finally brought Norfolk down:

No man could by any travail find it out, till God disclosed it by a marvellous chance (*Marvellous chance*, frontispiece).

But at least one observer saw a hand more sinister than God's. Twelve years after Norfolk's execution, in 1584, the anonymous author of *Leicester's Commonwealth* had this to say:

I have a friend yet living that was towards the old Earl of Arundel in good credit and by that means had occa-

sion to deal with the late Duke of Norfolk in his chiefest affairs before his troubles. This man is wont to say strange things from the Duke's own mouth of my Lord of Leicester's most treacherous dealings towards him for gaining of his blood, as after appeared, albeit the Duke, when he reported the same, mistrusted not so much my Lord's malice therein. But the sum of all is this, in effect, that Leicester, having a secret desire to pull down the said Duke, to the end that he might have no man above himself to hinder him in that which he most desireth, by a thousand cunning devices drew in the Duke to the cogitation of that marriage with the Queen of Scotland which afterward was the cause of his ruin. And he behaved himself so dexterously in this drift, by setting on the Duke on the one side and entrapping him on the other, as Judas himself never played his part more cunningly when he supped with his master and set himself so near as he dipped his spoon in the same dish, meaning that night to do it himself, as he showed soon after supper when he came as a captain with a band of consirators and with a courteous kiss delivered his person into the hands of them whom he well knew to thirst after his blood.

The very like did the Earl of Leicester with the Duke of Norfolk for the art of treason, though in the parties betrayed there were great difference of innocency. Namely at one time, when her Majesty was at Basing in Hampshire and the Duke attended there to have audience, with great indifferency in himself to follow or leave off his suit for marriage (for that now he began to suspect her Majesty liked not greatly thereof), my Lord of Leicester came to him and counselled with him in any case to persevere and not to relent, assuring him with many oaths and protestations that her Majesty must and should be brought to allow thereof whether she would or no, and that himself would seal that purpose with his blood. Neither was it to be suffered that her Majesty should have her will herein; with many other like speeches to this purpose, which the Duke repeated again then presently to my friend, with often laying his hand upon his bosom and saying: I have here [that] which assureth me sufficiently of the fidelity of my Lord of Leicester, meaning not only the aforesaid speeches, but also divers letters which he had written to the Duke to that effect, as likewise he had done to some other person of more importance in the realm; which matter coming afterward to light, he cozened most notably her Majesty by showing her a reformed copy of the said letter for the letter itself.

But how well he performed his promise in dealing with her Majesty for the Duke, or against the Duke, in this matter, her Highness can best tell and the event itself showed. For the Duke, being admitted soon after to her Majesty's speech at another place and receiving a far other answer than he had in hope conceived upon Leicester's promises, retired himself to London, where the same night following he received letters both from Leicester and Sir Nicholas Throgmorton upon Leicester's instigation (for they were at that time both friends and of a faction) that he should presently flee into

Norfolk, as he did, which was the last and final complement of all Leicester's former devices whereby to plunge his friend over the ears in suspicion and disgrace, in such sort that he should never be to draw himself out of the ditch again, as indeed he was not, but died in the same (Peck 171-3).

This version of Leicester's responsibility for entrapping the Duke into the proposed marriage with the Queen of Scots, and then withdrawing at the critical moment, leaving Norfolk to face alone the Queen's wrath and suspicion, is supported by numerous contemporary documents from the years 1569-1572 (Williams 155-61). It is also reiterated in the fable in Thomas Nashe's *Pierce Penilesse*, in which Leicester is the bear, Elizabeth the lion, and Norfolk the camell:

The bear on a time, being chief burgomaster of all the beasts under the lion, gan think with himself how he might surfeit in pleasure, or best husband his authority to enlarge his delight and contentment. With that he began to pry and to smell through every corner of the forest for prey, to have a thousand imaginations with himself what dainty morsel he was master of, and yet had not tasted. Whole herds of sheep had he devoured, and was not satisfied; fat oxen, heifers, swine, calves, and young kids, were his ordinary viands. He longed for horseflesh, and went presently to a meadow, where a fat camell was grazing, whom, fearing to encounter with force, because he was a huge beast and well shod, he thought to betray under the colour of demanding homage, hoping that, as he should stoop to do him trewage, he might seize upon his throat and stifle him before he should be able to recover himself from his false embrace. But therein he was deceived; for, coming unto this stately beast with this imperious message, instead of doing homage unto him, he lifted up one of his hindmost heels and struck him such a blow on the forehead that he overthrew him. Thereat not a little moved and enraged that he should be so dishonoured by his inferior, as he thought, he consulted with the ape how he might be revenged.

The ape abhorring him by nature, because he overlooked him so lordly and was by so many degrees greater than he was, advised him to dig a pit with his paws right in the way where this big-boned gentleman should pass, that so stumbling and falling in, he might lightly skip on his back, and bridle him, and then he come and seize on him at his pleasure. No sooner was this persuaded than performed . . . What needeth more words? The devourer feeds on his captive and is gorged with blood (Steane 122-3).

It is thus evident that in the Elizabethan period there was a belief, in some circles at least, that Norfolk's downfall was the direct result of his entrapment by

Leicester. No-one would have been more likely to have shared this opinion that those members of the nobility who were said to be ready to rise in rebellion along with Norfolk, since they were well aware that this was far from the case. Considering the efforts Oxford is said to have made to effect the Duke's release, it seems he may well have been one of those who did not believe Norfolk guilty of treason.

History has unfortunately left no direct evidence from Oxford himself of his position with respect to Norfolk's difficulties in the period 1569-1572, and much of the fragmentary indirect evidence which survives appears to be tainted by self-interest on the part of the deponents. However, one impression dominates: Oxford's contemporaries believed that he was actively involved in trying to save his cousin's life.

The earliest record of Oxford's involvement pertains to the summer of 1570, when he is said to have initiated a plan for the Duke's escape to Spain. A "petition of a poor woman to the Queen", preserved in the Calendar of State Papers (478), recites the details:

At the time the late Duke of Norfolk was removed out of the Tower to the Charterhouse [August, 1570] my husband, being a prisoner in the Fleet, the Earl of Oxford provided a ship called the "Grace of God", and £10 was given earnest thereupon, and £500 more was to be paid for her, my husband's liberty granted, and the ship to be given him with £2000 in ready money, the one half to be paid here, the other to be delivered him at his arrival with the Duke in Spain. My husband opened these dealings with me, and offered to leave me £900 of the first payment so that there might no words grow thereon. But I utterly renounced such gain to receive. I had a care of the duty I owe to your Majesty, as also feared it would be the utter destruction of my husband. So that with dutiful persuasions, I caused to let the earnest be lost. And so that enterprise was dashed (*Marvellous chance*, 399).

That plans were afoot to free the Duke in 1570 is supported by the mention of a rising in Norfolk in May, 1570, led by John Appleyard, and including among the participants John Jerningham, the husband of Lord Cobham's sister Catherine (McKeen 380). In late August, 1570, Appleyard, Jerningham, and two others were condemned to death, although

Appleyard and Jerningham were later pardoned (Peck 246).

If these plans were actually bona fide, their failure was probably due, more than anything else, to Norfolk's reluctance to cooperate. As the Bishop of Ross wrote some years after the event:

Many advertisements were sent to the duke by his friends with fair offers of assistance in time of his absence, and at Windsor, in respect to the great rigour intended, assuring him, if he came to court, it would cost him his life. But he would attempt nothing (*Dangerous queen*, 136).

Similarly, a decade later, Lord Henry Howard and Charles Arundel recalled Oxford's frustration at Norfolk's "tame submission", and his:

Railing at my Lord of Norfolk for his coming at the Queen's commandment, contrary to his [Oxford's] counsel as he said in a letter he wrote.

Continual railing on the Duke for coming up when he was sent for.

My Lord of Norfolk worthy to lose his head for not following his counsel at Lichfield to take arms (Ward 67).

Oxford's activities in the following year on behalf of Norfolk (whatever these may have been) were noticed by the French ambassador, de la Mothe Fenelon. On December 10, 1571, Fenelon sent the Sieur de Sabran to Paris with secret information for the King about various matters, including:

a certain proposal recently made by the Earl of Oxford to some of his friends, and what came of it (Ward 66).

On December 22, 1571, the Ambassador again mentioned Oxford in his despatches to the French court, stating guardedly in a letter to Queen Catherine de Medici that the Earl was "un peu broiller ez affaires du Duc de Norfolk" (Ogburn 491).

The historical record also shows that Oxford tried hard to persuade his powerful father-in-law, Lord Burghley, to act on Norfolk's behalf, and that he seems to have been bitterly angry with Burghley for his part in the proceedings against Norfolk. On

March 18, 1572, two months after Norfolk had been condemned to death for treason, John Lee, one of Burghley's agents, wrote to him from Antwerp that:

The Papists in the Low Countries hope some attempt shortly against the Queen, for they hear the French King has manned twenty ships of war, and that the Duke of Alva has sent into Germany to take up bands of Horse and Foot. They further affirm that there was like to have been a meeting there the 27th of last month, when it was thought that the Duke of Norfolk should have passed [i.e., been executed]; so that they be fully persuaded that the Queen dare not proceed further therein, and also affirm that the Duke has secret friends and those of the best, and such as may do very much with the Queen; and that the Earl of Oxford (who has been a most humble suitor for him) has conceived some great displeasure against you for the same, whereupon he hath, as they say here, put away from him the Countess his wife (Ward 68).

The story of Oxford's displeasure with Burghley over the Norfolk affair was still current fifty years later. William Dugdale, in his *Baronage of England* of 1625, says that:

This Edward, being an intire friend to Thomas, Duke of Norfolk; when he discerned his Life in danger, upon what was laid to his charge; touching the Q. of Scots (whereof our Historians of that time do give some account) earnestly interceded with the Lord Treasurer Burghley (his Wives Father, and one of the chiefest States-men of that time) for the preserving him from destruction; but prevailing not, grew so highly incensed against Burghley, knowing it was in his power to save him; that, in great indignation, he said, he would do all he could to ruin his Daughter: and accordingly, not only forsook her Bed, but sold and consumed that great Inheritance, descended to him from his Ancestors: leaving very little for Henry his Son and Successor (199-200).

Whatever Oxford's actual activities in the Duke's behalf may have been, the historical record conveys a clear impression that he was loyal to Norfolk, and that he did what was in his power to aid his cousin and friend. In common with other of his contemporaries in court circles, Oxford probably believed that Norfolk was innocent of treason, and that he had been — at least with regard to the marriage with Mary, Queen of Scots — entrapped by Leicester. Given the suspicious circumstances surrounding all the key evidence against Norfolk — the letters taken from Charles Baillie and those found under the mats in the Duke's apartments and in the bag of money at

St. Alban's — the possibility that evidence was deliberately planted to implicate the Duke in treason cannot be easily discounted. It is thus against a background of Oxford's probable belief in his cousin's loyalty to the Queen, and his activism on Norfolk's behalf, that the question of Oxford's authorship of *Sir John Oldcastle* must be considered. The proposition advanced in this four-part article is that *Sir John Oldcastle* was written in 1571/2 in an attempt to influence the Queen in favour of Norfolk, and that Sir John Oldcastle in the play stands for Thomas Howard, 4th Duke of Norfolk.

The second part of this article will deal with the play's sources, and the connection of two authors of lives of Oldcastle — John Bale and John Foxe — with Thomas Howard, 4th Duke of Norfolk, and Edward de Vere, 17th Earl of Oxford.

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