

Chapter Three

The End of the Medieval Church, c.1527-1534

We have seen the Episcopate's development cycle from a solidly political and spiritual block into a faction-ridden institution and, lastly, into an effective ecclesiastical elite. Although dominated by lawyers and administrators up to the mid-1520s, these naturally factious individuals were forged by Wolsey into a solid working synod fighting heresy, reforming the clergy and guarding the souls of the nation. Although they had been successfully moulded into this powerful spiritual fraternity, the king's 'Great Matter', a partially spiritual event, proved not only their downfall but the beginning of the end of the medieval church in England. The reasons for this are, perhaps, obvious enough.

While heresy and reform were largely straightforward matters of legal interpretation, marriage law, annulment and divorce were matters which raised serious and fundamental theological issues. Issues with which lawyers were ill-equipped to deal. Consequently, the 'old' bishops (those created prior to 1527) once again became divided. Warham, Fox and de'Ghinucci supported the king¹, Longland and Wolsey voiced some qualms about the matter and the rest opposed the effort (some quite impressively). The new bishops (those created after 1527), of whom almost all were humanists, theologians and scholars with little or no ties to Rome, entirely supported the king.

It was due to these divisions that the Episcopate was once again weakened. Neither its relationship with the laity nor with the crown were on an equal footing anymore, and consequently, the bishops could not resist the more dire aspects of the royal supremacy (even had they so wanted). Nor could they block key religious changes which brought an end to clerical independence. On the positive side, the divorce made the career of fourteen bishops. Canonists and theologians alike were given an unprecedented chance to prove their value to the king and thus, out of the ranks of the royal chaplains, jurists and other assorted spiritual officers, arose a new breed of bishop. These 'new men' included Stokesley (dean of the chapels royal), Edward Fox (almoner), Gardiner (principal secretary to Wolsey and later to the king), Edward Lee (royal chaplain) and Cranmer (a little known university don turned ambassador). Indeed, every man promoted to the Episcopal bench between 1530 and 1547 can account the divorce as in some way their introduction to court, government and to their ultimate position.

The basic issues and events are at once political and theological, diplomatic

and academic, parliamentary and literary. Most of them have been examined in depth, if not conclusively, elsewhere. We therefore need not go over them again in any great detail.² Using a chronological framework, however, we can examine how and why those bishops who were involved became so, what they did and how the 'new men' emerged dominant. In the course of events, some were allowed to be ruled by their consciences and some were not, but the outcome had implications for all of them. We shall see, however, that whether involved or not, the state of the church, spiritual and administrative, was still effectively maintained. As in the French wars, and under Wolsey's dominance, the pastoral duties of the bishops were kept up.

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1. The king's 'Great Matter' and the rise of the bishop-theologian

Although the origins of the Aragon divorce are shrouded in mystery and speculation, we know that questions about the marriage pre-date the beginning of the reign. In June 1505, for example, Prince Henry complained to Fox that his marriage contract with Catherine was illegitimate and that he refused to honour it. As Fox was known to have been against it anyway, at least until the papal dispensation arrived, the prince may have merely wanted a sympathetic hearing.³ Later, the marriage went ahead against the better judgement of Warham and, almost in fulfilment of the archbishop's worries, a series of miscarriages plagued it and tormented the king. By about 1518, he was confiding his doubts about his marriage to his confessor, Stokesley. The confessor advised him that 'he could not any longer live with the Queen, his wife, his marriage being certainly null and void, he having married his own brother's wife, which marriage no dispensation could make lawful'.⁴ Apocryphal perhaps, this story illustrates that there was some residual anxiety about the legality and morality of the marriage still in the air, even a decade later.

By 1525, Henry's fears of dynastic failure finally overcame his respect for his wife. He began to favour his illegitimate son, making him Duke of Richmond, and recognized Mary as his heir, making her Princess of Wales, and cast his obviously cursed marriage aside. He knew what he wanted to do and he naturally turned to his church and to his chief minister. Wolsey, whose support for the king on this matter has been held in some doubt, opted to pursue a line of inquiry against the impediment of public honesty. That is, he instigated a legal investigation. To facilitate matters he turned to men with legal training.

Warham was consulted and found to be in much the same opinion as before: 'the trowth and jugement of the lawe must have place, and be folowed'.⁵ Fox, however, was found to have mellowed from his earlier opinion. When questioned, he wrote that while he agreed that Catherine and Arthur had lived

together, he 'could not remember' specific details. He could certainly recollect nothing about consummation⁶, although this was the major issue for Wolsey.⁷ Based on these and similar opinions, he initiated a series of inquiries. Along with Warham as his assessor, he set out to investigate the matter through an *inquisitio ex officio*. This was entirely appropriate. In their role as legates, the cardinal and the archbishop approached the king at Greenwich on 17 May 1527 and summoned him to appear at Wolsey's Westminster residence for the convening of the trial. Henry was to answer to a charge of incestuous cohabitation with his brother's widow, forbidden by Leviticus.⁸ Gardiner, Bell, John Allen, John Cocks, William Clayborough and William Benet (lawyers all) attended, and the trial progressed apace.⁹

On 20 May, Bell (royal proctor) presented his justifications for the marriage. On 23 May he produced Julius II's bull of dispensation and the two judges named 31 May as the day objections would be raised against it.¹⁰ The main objection was that the marriage was contrary to divine law. As neither Wolsey nor Warham were notable divines, they turned to other more learned men to examine the implications of this claim.¹¹ Among those contacted were bishops Fisher and Longland (recognized theologians) and Tunstal (a humanist jurist). This first consultation, however, was not favourable to the king. Indeed, most of the scholars approached pronounced that the marriage was valid.

Fisher, who it was assumed would not support the king¹², had been consulted earlier and had written to Wolsey twice already. The substance of his letters was that, while there was some question of divine law involved, the fact that the pope had often exercised dispensation for similar marriages in the past was enough for him to conclude that it was well within papal authority to do so.¹³ Longland and Tunstal agreed that the dispensation was sufficient.¹⁴ The dean of the chapels royal, Stokesley, had a different opinion. According to two contemporary sources, he became the first and only 'man of learning . . . found to write in his [the king's] favour or defend his unjust cause'¹⁵, still in the minority, however. Despite the weight of opinion, the trial would have gone ahead after 31 May to a successful conclusion. That is to say, the next session would have seen judgement taken against the marriage had it not been overtaken by events elsewhere.

On 6 May, Rome had been sacked by Imperial troops. This is undoubtedly what threw the cardinal's preparations, and hence the marriage question, into confusion. Free, the pope would have been under no pressure to degrade Wolsey's authority. In the hands of the queen's nephew, however, who could be sure what the pope would do? Wolsey decided that it would be expedient to obtain from the pope a confirmation of his authority to try the case in England. He now switched gears from legalities to diplomacy and set off for France. An indication of his plan is supplied by his report to the king on a flying visit to Fisher at Rochester.

After discussions over the papal position and Wolsey's scheme to

circumvent the problem with the help of Francis I and the French cardinals, Wolsey questioned Fisher on his knowledge of current affairs. He discovered that Fisher had been approached by some agent of the queen beforehand, who had informed him of 'certain matiers there were, bitweene Your grace and her lately chaunced'. Catherine wanted his council in the matter. Wolsey relayed the well-known story of the bishop of Tarbe's objections to the bull of dispensation and the possible divine law and public honesty objections against the marriage.¹⁶ Convinced that he had made an impression, Wolsey moved on and spent much of 1527 in France proposing to assume some kind of pseudo-papal authority.¹⁷ This made the king wonder where Wolsey's true loyalties lay? His agents warned him that the king had taken the matter into his own hands while casting doubts on Wolsey's commitment. The upshot was William Knight's famous mission to Rome behind his back. Wolsey only got wind of this in September, too late to stop it but soon enough to convince the king to modify it.

If the cardinal seemed distracted there were good reasons. Besides the new diplomatic necessities, he was troubled by the queen's claims of non-consummation¹⁸, and it would fall to him to find the king a new wife. Wolsey wanted a French princess to cement foreign relations, all the while ignorant of Anne Boleyn's presence. The Knight mission, however, surely clued him in. Knight was to get Henry a papal dispensation allowing him to marry a woman related to him in the first degree of consanguinity (of which the candidates were limited). The cardinal could only assume that this meant Anne.¹⁹ Why this should be kept from Wolsey is unclear, but it does indicate his slipping control over events.

Knight reported that the pope had urged the king to take no immediate actions. He feared that a dispensation would only encourage Wolsey to pursue the matter under his legatine authority, which would do Clement no favours with the emperor. He wanted the English to do nothing until he was at full liberty. New commissions, draft dispensations and letters flowed out of England, and diplomatic efforts were enthusiastically pursued on two fronts – Wolsey in France and Edward Fox and Gardiner in Rome. In England, the king initiated a wider theological inquiry on divine law and the Levitical prohibitions.

On the diplomatic front, the emperor countered Wolsey's wider intentions simply by allowing the pope to escape to Orvieto, effectively removing the pretext of his proposed synod. With his options thus limited, the only way the pope could be levered out of the emperor's influence would be through war. De'Ghinucci, now Wolsey's agent in Rome, wrote to him in December to explain that if the French were to advance, the pope would be most grateful.²⁰ Wolsey instructed English agents in Spain to join their French peers and declare war on Charles V in January 1528 but, ultimately, the English effort was reduced to financing a French army²¹, which was good enough. Soon, all

of Milan, the western Mediterranean and Rome itself were under French control; the Imperialists were cut off from Spain and pent up in Naples. Safe, the pope sent Campeggio to England to hear the king's cause as senior partner to Wolsey, carrying the famously 'secret' decretal commission with him. When the French occupation ended, so too did the commission's power. How had Wolsey failed?

While he deftly handled the French and tied up the Imperials, Edward Fox and Gardiner had arrived in Orvieto to try to change the pope's mind and obtain an open decretal commission. The focus was on the irregularities in Julius II's bull. By 13 April Fox had left Italy to report to Wolsey that the pope was willing only to issue a fresh dispensation and a general commission sanctioning only the usual type of papal inquisition. Knowing that French military pressure would soon be forthcoming, Wolsey ordered Gardiner to keep pressing for the decretal letter and pursue the public honesty case.²² The pope held out until the Imperial threat was removed but, even then, well aware of the ever-shifting military position in Italy, granted the decretal bull in June, making its powers secret and thus deniable. Wolsey practically got what he wanted but could never use it. He and Campeggio were to try the matter in England and deliver a just sentence but, ultimately, the Blackfriars trial was meaningless. The impetus now shifted to the theologians.

It cannot be stressed enough how important their work was to become. It would influence the king's thinking from this point far into the future²³, favouring it more and more as the diplomatic and judicial methods broke down. Stokesley, Fox and Gardiner became the *foci* of a panel of scholars. These men dealt with the divergent intellectual questions springing from the king's scruple, produced a number of polemics and books in support (some good, some mediocre) much of which has been examined elsewhere.²⁴ In brief, they began with Warham's doubts about the dispensation and related divine law.

If the second marriage had transgressed divine law then the dispensation was invalid as papal authority was not sufficient to dispense; a view which was opposed by Fisher, Longland and Tunstal. The scholars, however, could take the position that dispensation of 'divine law' (conveniently ambiguous) was, based on Aquinas, beyond papal authority and therefore useless as the basis of a marriage.²⁵ What needed to be shown was that Henry's marriage specifically fell under the Levitical prohibitions. That Leviticus represented divine law and that the king's marriage transgressed it went on to become the crux of theological debate (particularly as Deuteronomy seemed to rebut the words of Leviticus). Debating scriptural meaning is often a formidable task and the dean assembled a team of specialists – experts in theology, canon law, Greek, Latin and Hebrew – to bolster the king's arguments. Who were these men and how did they get involved?

At the core of the group were Stokesley (a theologian and linguist) and Edward Fox (a canonist)²⁶ and, aided by such men as Nicholas de Burgo, Robert

Wakefield and Richard Pace, they approached the matter with keen determination. In fact, only a short time after the Westminster trial, at least three polemics had already appeared, attempting to reconcile the paradoxical verses. These formed the initial drafts of the *Henricus octavus*, the book presented in 1529 at the Blackfriars' trial in the king's name.²⁷ Gardiner produced part of the draft copy of the *Henricus*²⁸ and made other contributions to the overall work.²⁹ The role of the intellectuals was more than theoretical, however.

Both Fox and Stokesley would be sent to Paris on diplomatic missions to gauge support for the divorce among scholars and clergy there. Later, Stokesley, Cranmer and Edward Lee would go to Italy for the same purpose. Moreover, Fox would present the king's case as part of the embassies to the two English universities – at Cambridge with Gardiner and at Oxford with Longland and Bell. It is well known that Cranmer came to the king's attention in October 1529, after a chance meeting with Gardiner and Fox near Waltham Abbey the previous August.³⁰

Henry asked the university don to write out his opinion of the matter and arranged for him to stay at Durham Place with the earl of Wiltshire. Cranmer argued that, 'besides the authorities of the Scriptures, of general councils, and of ancient writers . . . the Bishop of Rome had no authority, as whereby he might dispense with the word of God and the Scripture'.³¹ Although hardly original, Cranmer had taken his book around Cambridge, convincing several of the learned doctors. This had impressed Gardiner and Fox, as had Cranmer's idea that the king should consult the universities on the marriage question.³² Thus, after the Blackfriars' trial and with Wolsey's influence waning, the king organized a new initiative. The new spiritual advisors would blitz their opponents, the pope, parliament and finally the church in England, with their learning and power on the king's behalf. What was the reaction to this of the 'old guard' bishops?

Chief among the king's opponents was Fisher, and More would not commit himself. In an attempt to win them over or at least make them reconsider, selections of the new men were dispatched. More, shortly after his elevation as lord chancellor, faced a visit from Cranmer, Fox and Lee, and was later engaged by Stokesley.³³ No more than a year later, Fisher faced a slightly varied band at Warham's residence, of Stokesley, Lee and Fox (with Cranmer now ambassador to the emperor and out of the country).³⁴ The king grew to depend upon this core group so much that they were moulded into an 'inner ring of political counsellors' advising him on divorce-related matters and practically taking over the privy council.³⁵ These men continued to centre their efforts on the divorce for some time to come, as indeed did the queen's own champions, several bishops among them. Obviously Campeggio and de' Athequa were both working on Catherine's behalf. Sherborne also initially supported the queen but did not get involved.³⁶ Tunstal, West, Warham, Veysey, Clerk and Standish, with Fisher, had all been appointed to the queen's council and all, save Warham,

took their duties seriously despite her reservations.

Clerk, however, was in a unique position. As Wolsey's agent he was also acting for the king, diplomatically. He was in France in 1527-8 urging Francis I to support Henry and he helped Wolsey with the preparations for Blackfriars. His own book on the subject, entitled *Pro Defensione Matrimonii Henrici cum Catherina*, was circulated in Paris.³⁷ Standish and Veysey did little more than present themselves as advocates of the queen during the trial, while Clerk was her apparitor and advocate throughout.³⁸ There was a clear 'generation gap' over the issue among the bishops.

Campeggio reported that both Fisher and Standish also submitted books on the queen's behalf, as had Tunstal, works which impressed him but which were not read out in court.³⁹ Tunstal never actually appeared in court, having been sent on another diplomatic mission, but his book was enough to earn him the king's displeasure for some time to come. In any case, apart from Fisher, only one bishop in opposition to the king stood by his convictions for any length of time. West had written a reply to one of the many polemics produced in the pre-1528 period. This in turn generated a response and a further reply concerning the basics of the case. His polemics, *In Dei nomine, amen. Cum ex facto . . .* and *In Dei nomine, Amen. Ad ea qua . . .*⁴⁰, extensively examined by Henry Kelly, maintained that the marriage was not at all contrary to divine law.

In any case, such materials were presented to the Blackfriars' court and West stood by his opinions and the queen. According to Scarisbrick, the men appointed for her acted in the form of a council body at least twice: once when they witnessed her promise to send for the dispensatory brief of Julius II's from Spain and again when they were all present when she declared her virginity at Bridewell.⁴¹ This council, after 1529, did meet from time to time, but this became increasingly pointless and even dangerous.⁴² Apart from the naming of councils, the one idea that seemed fruitful was to make a wider consultation on the issues.⁴³ Just prior to the trial, therefore, more scholars were dispatched to Paris and rumours of even greater efforts surfaced afterwards.

The queen learned that Stokesley was to be sent, and gossip had it that Fox and Reginald Pole were already hard at work. Meanwhile, in England, Cranmer suggested approaching the other universities, thinking that this would give the king enough assurance of the marriage's illegitimacy to allow him to 'proceed to a final sentence' and annulment in a domestic church court.⁴⁴ Neither Oxford nor Cambridge proved particularly obliging in the short term, but eventually both came around. In February 1530, Gardiner and Fox elicited a positive response from about 200 Cambridge scholars⁴⁵, although Oxford resisted commenting until April.⁴⁶ Interestingly enough, Gardiner's list of supporters includes the names of eight future bishops: Capon, Rugg, Shaxton, Latimer, Skip, Goodrich, Heath and Day. Neither university, however, offered unequivocal support.⁴⁷ The king hoped that he might fare better in France and

Italy, and looked to his scholastic envoys for more convincing support.⁴⁸ Academic investigations began in Europe shortly after the Blackfriars' trial.

Pole, Thomas Starkey and Thomas Lupset had been sent to Paris, in October 1529, while Richard Croke had been sent to Italy in November. De'Ghinucci doubted the wisdom of consulting individual scholars⁴⁹ and, indeed, both France and Italy looked like lost causes until Fox and Stokesley arrived.⁵⁰ It should be noted that Stokesley, Fox and Pole engaged in other intellectual pursuits while in Paris which would bare fruit for the king's purposes in the future. These other pursuits evince a back-up plan, should the consultations fail, to gain the king's divorce through an appeal to a general council. Stokesley, Pole and Fox (in Paris by June⁵¹) were all actively seeking to treat with Parisian conciliarists⁵², gaining material later used against papal authority at home.

Although the Parisian consultations are well known and have been examined in depth elsewhere, it is worth noting the work that the king's agents actually did. Opponents, moles and trouble-makers were uncovered and dealt with⁵³, the French were spurred on to increase their efforts, obstacles were overcome⁵⁴, supporters were recruited to the cause⁵⁵ and subscriptions were gained from right under the noses of Imperial agents.⁵⁶ In fact, Stokesley and Fox were making 'such efforts to procure the divorce as are enough to set the world on fire'.⁵⁷ Their success was crowned on 23 May when the Parisian jurists determined against papal power to dispense from divine law⁵⁸ and later, on 2 July 1530, when the 'unanimous judgement and consent of the majority of the whole Faculty [of theology]' voted in support of the king's case.⁵⁹ Similar votes were held at Angers, Orléans, Bourges, Toulouse, Padua and Ferrara with much the same results.⁶⁰ The consultation of Bologna is more interesting for the fact that Campeggio was present as an *agent provocateur* and because of its position under direct papal jurisdiction.

Stokesley had a great deal on his plate in Italy. As part of the Wiltshire embassy he was to explain the foundations of the king's case to the emperor.⁶¹ As the king's chief advocate he was also to explain how the marriage transgressed divine law and to marshal the now familiar arguments against the bull, the brief and the origin of the marriage proposal.⁶² If this were not enough he also had to orchestrate the massive academic effort, but he did so quite successfully. Indeed, when on 10 June 1530 the Bolognese theologians declared for the king, the Spanish ambassador, Rodrigo Niño, was flabbergasted. How, he asked, 'in a college founded by a Spaniard, and in a city within the territory of the Church, so unjust a cause could have any partisans'?⁶³

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When Stokesley (now bishop of London) returned to England in November, eight of the nine continental determinations were handed over to Warham with an eye to a domestic resolution. Stokesley, Fox and de Burgo finished a Latin

version of the king's book while a translation, which included the determinations, was prepared by Cranmer in 1531. At the same time, of course, Fisher had been writing against the king's book and had begun sending finished chapters to Rome by June.⁶⁴ It appeared at the same time as the translation.⁶⁵ Despite the efforts of the opposition, however, the king's cause rolled on, much of which was now being tied into a burgeoning theory of royal authority in ecclesiastical matters.

Although we will examine that issue more fully later, it should be noted that as the grant of the supreme headship initially gave the king no new powers, it is doubtful that this had been his purpose. Much more likely is the theory that assuming, or forcing, the clergy to recognize his authority was just another means of pressurizing the pope. The title and grant of royal authority over the domestic church was nothing more than one weapon, of many, used in the ongoing divorce campaign. Indeed, if the pope would still not act, the king could threaten to have the marriage decided by the church, over which he was recognized supreme head. This makes sense in light of the king's request that the pope elevate Stokesley and Gregory Casali to cardinalships.⁶⁶

It is logical to assume that there was a plan for a third *ex officio* papal trial at which the king would have two sure judges. One English and one Italian, as before, at least hinting at impartiality (Stokesley and Casali *in locum* for Wolsey and Campeggio). Henry also suggested, on 10 July 1531, that the pope commit the case to the judgement of three English abbots (Kidderminster, Islip and Capon) or, alternatively, to allow the bishop of London to oversee a new trial as the king's ordinary. Yet another plan called for the matter to be committed to the Byssshop of London, or the Almoner [Edward Fox] whome He knowyth, as named by Us, one other whome the Quene or thEmperor shal name, to the Bisshop of Canturbery, to be named by the Pope as Metropolitane of the Realme . . . and fourth to be named by the Frensh Kyng.

to meet at a neutral sight, Calais or Guisnes.⁶⁷ When no reply was forthcoming on any of these, the scholars were sent to sound out parliament.

Officially, this was a damage limitation exercise to put an end to unhelpful conjecture. It had the advantage, however, of showing the pope that Henry was more than willing to appeal to parliament if need be. Stokesley gathered up his research materials, the lists of books, opinions and the university determinations and, with Longland and More, delivered the fruits of the year-long academic crusade to the lords, together with an abridgement of the *Collectanea*, talking up the cause from a number of angles. A neutral commentator praised the bishop's refutation of 'malignant opinions', primarily those of bishops Clerk and Standish.⁶⁸ Unfortunately, these two lacked the disputation skills of the queen's other advocates, Tunstal, Warham and Fisher, none of whom were present, and so a long-winded debate was avoided.⁶⁹ In the commons, More made much of Stokesley's recent efforts⁷⁰, reporting that

If this mariage be good or no many clerkes do doubt. Wherefore the kyng like a vertuous prince willing to be satisfied in his conscience and also for the suretie of his realme hath with great deliberation consulted with great clerkes, and hath sent my Lord of London here present to the chiefe universities of all Christendome to knowe their opinion and judgement in that behalfe. And although that the universities of Cambridge and Oxford had been sufficient to discuss the cause, yet because they be in his realme and to avoyde all suspicion of parcialitie he hath sent into the realme of Fraunce, Italy the Pope's dominions, and Venicians to knowe their judgement in that behalfe, whiche have concluded, written and sealed their determinacions according as you shall heare red.⁷¹

Hall noted that the writing opinions were well received.⁷² Public relations out of the way, the king's men could exploit other options.

As the king's scholars were responsible for defending his cause, it was decided for a number of reasons that a delegation would be sent to the queen on the last day of May. A further delay of the proceedings at Rome might be agreed if she could be convinced of the need or she might even be persuaded to consent to having the cause tried in England again (or at least not at Rome). A rather large deputation of 'mostly reluctant persecutors'⁷³ was sent, but little was expected or achieved. The duke of Norfolk talked up the political advantages. Lee examined her first marriage and the impediments it brought. Sampson explained how and why a decision at Rome in her favour could easily be overturned. Longland argued that her 'sterility' (i.e. the fact that she had lost so many babies) was a divine punishment for the illicit marriage – a point Stokesley took up in detail. Their main point was that even if they could offer no proof of consummation, legal opinion would favour presumption as she had lived with Arthur and shared a bed with him.⁷⁴ The effort came to nothing in the face of the queen's resolution, which left the king's men with the option of determination in a domestic church court.

Warham, however, now refused to co-operate (in a manner reminiscent of his attitude during the testamentary jurisdiction matter). Revenge perhaps? The king was prepared for the archbishop's defiance and a *praemunire* charge was threatened on the basis that, in 1518, he had consecrated Standish without ascertaining whether he had exhibited his bulls of appointment to the king for the restitution of temporalities. Although Warham prepared a speech in self-defence, it was never used. The archbishop died on 22 August 1532 before anything further was done.⁷⁵ In the meantime, the king turned to Lee (now also royal almoner), offering him the nomination to York if he would preside over a trial of the marriage in England. The deal was accepted but, once installed in October 1531, Lee inexplicably changed his mind about a trial and about the wisdom of pursuing the case in England altogether. Although the scholars continued to debate, without the archbishops the matter was effectively stalled.