

"BUT THE PEOPLE'S CREATURES": POLITICAL THOUGHT IN
THE FIRST PHASE OF THE ENGLISH REVOLUTION,
1642-49.

A thesis presented by

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ABSTRACT.

This dissertation purports to show that a certain general understanding of politics (called the "ascending" theory) manifested itself widely in England during the fifth decade of the seventeenth century. It was this understanding of politics (according to which it could be said, with the prosecutor of Charles I, that magistrates were "but the people's creatures") which justified the resistance of those who might be called "the men of 1642" to the rule of Charles I, and their use of the theory will (together with the Royalist reaction) be described at length. Subsequently, two more radical versions of the "ascending" theory were to appear, and these threatened to carry many of the men of 1642 further than they wanted to go. The first, embraced by the Levellers, pointed to a much more democratic society than the prominent resisters of 1642 had envisaged, while the second justified that very destruction of the King from the thought of which those resisters had in the first instance recoiled. It will be observed that the regicidal "ascending" theory was by no means wholly compatible with the (Puritan) Saintly ethos, although the two are the salient features of the regicidal literature. The highly original use, by Thomas Hobbes and Dudley Digges, of the "ascending" theory to defend the cause of Charles I will also be noticed.

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INTRODUCTION

In 1661, Bishop Robert Sanderson, a bitter but now triumphant Royalist, reflected upon the events of the past twenty years. He did so by way of a preface to Archbishop Ussher's The Power Communicated by God to the Prince and the Obedience required of a Subject, a work written twenty years earlier but now published for the first time. The Bishop hoped that eventually, with the restoration of a proper control over press and pulpit, the publication of such works as The Power would become unnecessary; but in the present unsettled situation it was fitting that works favouring the divine right of kings and passive obedience should make their influence felt. Among the people who would find such a work unwelcome were, the Bishop held, those who, notwithstanding the misadventures of the previous two decades, still believed "that the original of all government is from the people, and that the power which kings and princes have was derived unto them from the people by way of a pact or contract...and that princes can therefore claim no more power as of right belonging unto them than the people shall think fit to entrust them withal; which the people may from time to time, and at all times, as they shall see cause in order to the public weal and safety, either enlarge or restrain at their pleasure".¹

Sanderson's own understanding of politics was quite different: for him the sovereign power belonged to a king "by the ordinance of God, not the donation of the people. For he beareth the sword... as God's minister, from whom he received it; and not as the people's

minister, who had no right to give it, because they never had it themselves".² Consequently, he would hear nothing of the theory that, as John Cook had put it in the speech which he had prepared for the trial of King Charles a dozen years earlier, magistrates were "but the people's creatures",³ a theory which for Sanderson involved fatal logical difficulties and was also incompatible with the early history of human societies as recounted in the Scriptures. He concluded that this theory, which made "such a noise in the world", was intellectually "but a squib, powder without shot, that giveth a crack, but vanisheth into the air and doth no execution".⁴

What Sanderson is describing (and contemptuously dismissing) here, is what Walter Ullmann has called in the context of medieval political thought the "ascending" theory of politics.⁵ According to this general understanding of politics, the legitimacy of rulers was the consequence of an "upward" conferring of authority upon them by an entity called (often somewhat imprecisely) "the people". Ullmann has shown the ubiquity of this notion of political legitimacy in the medieval period of European history and, drawing a general inspiration from his work, it will be my contention that what might be called the hypothesis of the "ascending" theory does a great deal to make intelligible the events and ideologies of the first phase of the Great Rebellion in England. Thus while the validity of Sanderson's contempt for the theory will not be in question in what follows, it will be argued that the importance of the "ascending" theory for the period concerned is beyond question, and that, far from having done "no execution", the "ascending"

theory of politics was the principal intellectual justification for the war waged by the Parliamentarians against their king (chapters 1 & 5), for the trial and execution of that king (chapters 5 & 7), and for the attempt of the Levellers radically to remould English politics in the image of a preconceived design (chapter 6). Chapters 5 and 7 also deal with the developing tension between the "ascending" theory and the thrust of (Puritan) Saintly politics in a period when "the people" were revealing an exasperating lack of concern for the establishment of a Godly commonwealth.

The exact provenance of the "ascending" theory for the men of the Civil War must be a matter for detailed historical investigation. It may be said, however, that the evidence of early modern European history strongly suggests that when groups found themselves confronted by a tyrannous or heretical prince, there was a tendency for these groups to take up the verbal commonplace of medieval political thinking and to articulate their dissatisfaction in terms of what we would recognise as the "ascending" theory of politics, claiming to speak in the name of "the people" and claiming that magistrates were in an important sense the creatures of the people.

This had been the case with the Huguenots in France, with the Marian exiles, with the Scottish Covenanters and their sixteenth century predecessors such as George Buchanan, and with the various Jesuit inspired or influenced Catholic protests against persecuting princes, though in these instances the main object of the exercise

was probably to contrast the divine origin of the pope's power with the mundane origin of the power of princes and lesser magistrates, thereby justifying the exercise of the pope's "indirect" power in politics. With this helpful literature (some items of which - as with the Huguenot Vindiciae Contra Tyrannos - were actually reprinted during the period of the Civil War debates) the Parliamentarians were in some degree familiar,⁶ and their own contribution to it was to be massive.

Sanderson's preface, though profoundly hostile, provides a useful summary of the "ascending" theory: magistracy was said to be the creation of a people seeking their own welfare and benefit; the very existence of the magistrate was said to be the result of an upward conferring of authority on the part of those who thereby voluntarily subjected themselves to him, and the persistence of his authority was almost invariably said to depend upon the satisfaction of the people that their welfare and benefit were in fact being served. Looked at in more detail, it will be seen that the theory had two distinguishable strands, though in the Civil War period its protagonists usually failed to distinguish these strands at all clearly. More fundamental philosophically was the contention that the "ascending" theory reflected what might be called the logic of all just political relationships. Because no man could establish a natural claim to magistracy on account of inherent superiority, it followed that civil society had to be the artificial creation of its members and that the magistrate's limited powers were conferred upon him by people who were seeking their own weal and who were in principle his equals. Less fundamental, but nevertheless ubiquitous, was the contention that the "ascending" theory provided an understanding

of the history of political relationships in English society. Civil society in England (we will find it being said) had been the outcome of a conditional upward conferring of authority, and its original framework (within which king, Lords and Commons had their respective roles) had been sustained in its essentials until the present, and had thereby become traditional. It could thus be said by the Parliamentarians of 1642 of Charles I and his "evil counsellors" that their tyrannous intentions violated not only the logic of all proper political relationships, but also the English tradition of mixed monarchy. Subsequently, the Levellers, becoming suspicious both of this tradition and of its current protagonists, appealed more directly to the abstract "ascending" theory and produced a set of alarmingly democratic proposals against which their erstwhile Parliamentarian colleagues found themselves obliged to do battle.

Much of the context for the continuing articulation of the "ascending" theory was provided by the Royalist "descending" theory, which (as with Robert Sanderson) abhorred the notion that magistrates were "but the people's creatures", and sought to expose its intellectual and practical shortcomings by arguing that political power came, in the most significant sense, from God. Conventional Royalism in its various modes will therefore be examined (chapters 2 & 7) in order, by means of contrast, to become more fully acquainted with the significance of the "ascending" theory which was seemingly so rampant in the period in question. Students of the period are, of course, aware of the verbal similarities between Royalists and

Parliamentarians, similarities which have led J.P. Kenyon to comment on the "remarkable unanimity... [with which] early seventeenth century Englishmen believed that they were bound by the ancient constitution which had existed without change time out of mind". Everyone, he tells us, "spoke the same language".⁷ But verbal similarity, I will contend, overlaid philosophical disparity.

Less significant historically, but intellectually arresting nevertheless, is the use (which will be considered in chapters 3 & 4) of a modified "ascending" theory by two writers to support the cause of Charles I. The first, Thomas Hobbes, left the country in fear of the Long Parliament and lived to fight (philosophically) on other days; the second, Dudley Digges, perished of camp fever at Oxford in 1643. But the three pamphlets which he had by that time contributed to the debate concerning the propriety of resistance entitle him to rather more attention than he has hitherto received from students of the period. Here again, it is hoped that the contrast between the ideas of these two and the ideas of both the more orthodox Royalists and the Parliamentarians will help to provide a general illumination of the period.

What this work deals with, therefore, is the articulation of political opinion during a relatively short but hectic period during which the crisis in English affairs considerably concentrated the minds of some of the country's inhabitants so as to produce an unprecedented surge of publication, causing Charles himself to complain in 1642 that "every day produced new tracts against the established government of church and state".⁸ It will be my aim

to treat this subject in a properly historical manner, making the past intelligible by reconstructing it in accordance with the evidence, endeavouring to restore something of the immediacy of the emotional and intellectual experience of our predecessors while at the same time eschewing those modes of discourse (involving, for example, moral judgements, the taking of sides, the giving of "verdicts") which are foreign to the historian.⁹

Passages quoted from seventeenth century works have been modernized in spelling and punctuation.

FOOTNOTES

1. Works (1854), V.p.204.
2. Ibid. p.210.
3. See below, p.242.
4. Op.cit. p.214
5. See his Principles of Government and Politics in the Middle Ages (Methuen, 1961), pp.19-29.
6. See e.g. J.H.M. Salmon The French Religious Wars in English Political Thought (Oxford University Press, 1959); Francis Oakley "On the Road from Constance to 1688: the Political Thought of John Major and George Buchanan" (Journal of British Studies, I, 1962).
7. The Stuart Constitution: Documents and Commentary (Cambridge University Press, 1966), pp.9-10.
8. Declaration of May 23, 1642, reprinted in Clarendon The History of the Rebellion and Civil Wars in England (1888), II, p.65.
9. This view of the historian's activity draws its general inspiration from the works of Michael Oakeshott. It is a view which I have tried to explain and to follow elsewhere (see especially An Interpretation of the Political Ideas of Marx and Engels /Longmans, 1969/, "The Historian and the 'Masters' of Political Thought", Political Studies XVI, 1969; "Reflections upon Marxist Historiography: the case of the English Civil War" in A.M.Potter & B.Chapman /eds./ WJMM: Political Questions /Manchester University Press/, 1976).

PARLIAMENTARY THEORIES

A Defensive Cause

If the great issue of 1640-41 had been the destruction of the machinery of Charles I's conciliar government (together with its principal agents), the great issue of the years immediately following was the propriety of armed resistance to the king and his new-found party. His opponents claimed that armed resistance had become a regrettable necessity in order to guarantee the integrity of what has come to be called the "Constitutional Revolution" of 1640-41, which the king (or that "butcherly brood of cavaliering incendiaries" surrounding him)¹ might seek to reverse if the traditional royal control over the armed forces were allowed to continue. Our laws, it was said by a prominent Parliamentarian, "would be no better than cobwebs to us" should the king continue to be "sole master of the sword"²; and in appealing for money and plate in order to raise an army, the Houses alleged that "the enjoyment of the blessed fruits of this present Parliament" was in danger of being "ruined by wicked... hands", and that under God their only remedy was an armed force "without which they were no longer able to preserve themselves, or those by whom they were intrusted".³

Of those who rallied to Charles in 1642, a few no doubt had always hated the pretensions of the Parliamentarians and had resented the success of the reforming initiatives taken by the Long Parliament. Others had been unhappy with official policy during the 1630's, but by 1642 felt that the "Constitutional Revolution" had substantially removed the suspicions which they

shared with those who were to support Parliament about the onset of a Continental-style absolutism. To these Royalists it now appeared that it was the leaders at Westminster who were the would-be absolutists, menacing our traditional constitution more seriously than Charles had ever done. These misgivings about the direction of Parliamentary policies must have contributed substantially to the king's ability to sustain his position through a protracted civil war;⁴ and most significantly in this context a leading Royalist pamphleteer, Dr. Henry Ferne, suggested that honourable men had in effect changed sides in the period 1640-42. Commenting sceptically upon the supposed continued prevalence of the evil counsellors by whom the king was said by the Parliamentarians to have been "enthralled", Ferne wrote that for every such counsellor there were "above a thousand of his good subjects, whose nobleness and honesty hath still engaged them honourably, though to the weaker side; before in behalf of the subject groaning under former grievances, now in service to His Majesty opposed by popular fury..."⁵

The resisters of 1642 were men who, unlike Dr. Ferne's "good subjects", could not accept that enough was enough.⁶ And it will be the aim of this chapter to elicit the reasoning whereby they sought to render their actions respectable. The resistance literature indicates clearly that these men regarded themselves first and foremost as being the likely or actual victims of a violent attack by the king and his supporters. Thus Stephen Marshall spoke for all Parliamentarians when in A Plea for Defensive Armes he upheld the right of "a people, especially the

representative body of a state...(after all humble remonstrances) to defend themselves against the unlawful violence of the supreme magistrate, or his instruments, endeavouring...to deprive them of their lawful liberties".⁷ Another Parliamentary pamphleteer insisted that the deputies of the "God of peace" ought to follow His example in being "kings of peace", and "study to the uttermost to preserve...kingdoms and subjects in perfect peace...and not to make war against them". It followed that His Majesty could not without sin "raise a civil war against the Parliament and kingdom", and this somewhat tendentious manner of describing the 1642 situation enabled the author to recruit supporters for Parliament by urging his readers to oppose the civil war; the subject should thus "prevent, oppose and withstand it, for the preservation both of the king, kingdom, Parliament, their own liberties, inheritancies, lives, persons, families, estates and religion, and...unite all their forces to extinguish the flames of civil dissensions already kindled among us".⁸

Persistent rumours of pro-Stuart invasions and of an army plot against Parliament had previously alarmed MPs, and Charles's attempt upon the five Parliamentmen of January 1642 ("such a desperate assault of the privileges of Parliament")⁹ had reopened in a more acute form the question of Charles's trustworthiness: "The ill satisfaction the people receive wrote a hostile contemporary", notwithstanding the King's mighty protestations to govern by the laws, to defend the Protestant religion, privileges of Parliament, etc. springs out of this jealousy

that if it come into His Majesty's power to do otherwise, he will do so"¹⁰; and it was this appearance of untrustworthiness (heightened, of course, by the suspicion that he was a cryptopapist, it being known that papists held that faith need not be kept with unbelievers) that Royalist pamphleteers would henceforth try to expunge. "Whatsoever former pressures we groaned under", argued one of their number typically, "as Shipmoney and monopolies, are...so absolutely taken away as no supposition can remain of their returning". And to this author it was scarcely conceivable that Charles's assurances about the future could be anything but sincere since his supporters consisted mainly of persons who had been persuaded by these assurances and who, having observed the laws of the land "unregarded and nullified" by the Parliamentarians, perceived that these laws were "either to be revived, and justice executed by him, or not at all".¹¹

To the Parliamentarians, on the other hand, the king's sudden departure from London immediately after the attempted arrest of his leading opponents was not only a grave dereliction of duty, but was also an extremely threatening turn of events. And it can have come as no great surprise to them when the ensuing period of total constitutional deadlock and propaganda exchanges culminated in the king's erection of his standard at Nottingham on August 22nd. 1642. Parliamentarians thus believed that their struggle was a defensive undertaking provoked by a slippery king and his bloodthirsty supporters; and the matter of "who started on who" was to remain one of bitter controversy. For

their part, Parliamentarians had intended to correct the constitutional imbalance which had in their view been produced by more than a decade of Charles's Personal Rule and having gone a considerable way towards the achievement of this end, they now found that their opponents had determined to put them down by force, perhaps even to extirpate them. Any society, William Prynne argued typically, had a right to resist those who would destroy its members, whether the destroyers were external invaders or (worse still) "intestine" insurgents, as in the present case. And he painted a vivid verbal picture of the appalling consequences that would follow from any general disavowal of armed resistance in the face of the king's "popish depopulating Cavaliers": "Will not every common soldier and officer be an absolute tyrant, equal in monarchy to the great Turk himself...? Either therefore this resistance must be granted...else every officer and common soldier will be more than an absolute... monarch, every subject worse than a Turkish slave, and exposed to as many uncontrollable sovereigns as there are soldiers in the king's army".¹² Henry Parker also asserted that a Turkish-style tyranny would be the inevitable outcome of a general acceptance of the doctrine that although kings were limited by God's laws, it was outside the competence of subjects to enforce these limits.¹³ For Parker, indeed, the maxim salus populi suprema lex was the "primum mobile"¹⁴ of all politics, and it was this maxim which in 1642 called for a Parliament-led resistance to Cavalier aggression.

It seemed to Parliamentarians that their opponents were men naturally drawn to violent solutions (an imputation suggested by

the very name 'Cavalier')¹⁵, not least (as Prynne suggested) because so many of them were papists seeking an opportunity to reintroduce their faith at the sword's point - perhaps the only way this could be done now that the crypto-papism of the Arminian faction of the Anglican Church had been exposed and its domination ended. That Catholics were merciless cut-throats, permanently bent upon a reversal of the Reformation, was virtually a self-evident truth to the men of 1642, a truth confirmed by generations of beligerent propaganda and by recent events in Ireland. We are told by Clarendon that even "very moderate men" were disposed to believe "all the ill that could be spoken of the papists", including the allegation that "their strength and number was... so vast within the kingdom...that if they should be drawn together and armed...they might not be willing to submit to the power which raised them, but...¹⁶ would give the law to both king and Parliament". Now this anti-Catholic sentiment could not but damage the king's cause in the eyes of many of his Protestant subjects, and it was a sentiment which the Parliamentary writers both shared and exploited, with John Goodwin being by no means untypical when he declared that those supporting the king in arms intended to "root out" the Saints and to spread "that veil, or covering of Antichristian darkness again over the face of the land, which God by a most gracious hand of providence had rent and taken off many years since; to leaven the whole lump of the land, the second time, with the sour leaven of Romish error and superstition".¹⁷ The fact that Charles had accepted the armed support of Catholics was to the Parliamentarians a clear indication of the corruptness of his cause. English law forbade the arming of Catholics, and how (it was asked)

could a good cause ever involve itself with idolatry? Let the Royalists, wrote one Parliamentarian, "show one text of Scripture that allows affinity with idolators, and to help them, or be helped by them; to love the haters of God, or desire to be loved by them"¹⁸; and for this author the king was quite simply arming the Beast of Revelation, and setting himself even more obstinately against God.¹⁹

It was the notion of a defensive struggle against Antichrist which, for a significant minority of Parliamentary writers, provided the occasion for the introduction into the debates of millenarian ideas. Antichrist, readers of John Goodwin's Anti-Cavalierism were assured, was "about to be destroyed and cast out of the world";²⁰ and while in the process many registers would suffer a martyr's death, Goodwin comforted them with the thought that fighting the Cavaliers could well be the last opportunity that men would have of dying for Christ before his return. The author of A New Plea for Parliament was also strongly of the opinion that the present troubled times, distressing though they were (with "the father...against the child, and the child against the father")²¹, were but the prelude to the Second Coming: "the immediate forerunner of a clear and warm day is a misty morning"²². And this writer was convinced that the appearance of the sun could not be long delayed, "and that the very quarrel in which Antichrist shall fall...is now begun in this kingdom".²³ Jeremiah Burroughs also concluded that "the time is...at hand for the pulling down of Antichrist",²⁴ and had no doubt that it was

nothing less than divine Providence which lay behind the aggressiveness of the king's supporters: "...you see Babylon must down and God will so order things, that the papists shall by their malice be put upon such plots and enterprises, that they shall make themselves liable to the justice of the law...and inferior magistrates, assisted by the people, shall in a just way fall upon them".²⁵

The defensive character of Parliament's commitment to military action was also conveyed by the analogies commonly used by its apologists. These analogies were concerned with what might be termed the "miscreant authority" who, by his aggressive conduct, was guilty of undoing those entrusted to his care. Parliament's enterprise was illustrated by reference to the insane general who wanted to fire on his own troops, the demented father who attacked the members of his own family, the shepherd who became a wolf, the destructive park-keeper who laid waste to the land which he was employed to protect, and the ship's pilot who deliberately sought "to split thee upon the rocks".²⁶ The miscreant authority, it was manifest in 1642, needed restraint: subsequently more drastic remedies would be seen to be necessary.

A Scriptural Cause

But how, the Parliamentarians were obliged to ask themselves, could even a defensive recourse to arms (albeit against a Catholic-backed tyrant) be consistent with certain passages in Scripture, Scripture which they all regarded (at least formally) as the overarching authority of authorities? The passages principally concerned

here were Romans 13 and 1 Peter 2 in the New Testament and those in the Old Testament concerned with the dispute between Saul and David. For the Parliamentarians these were texts which had at least to be neutralised. "It is the divine that must settle the conscience",²⁷ warned Henry Ferne, and the Parliamentarians could not but agree. But of "the divine" there were to be differing interpretations.

"Let every soul fran Romans 13⁷ be subject unto the higher powers. For there is no power but of God; the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that shall resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good and thou shalt have praise of the same. For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil". 1 Peter 2 urged the faithful to "Submit yourselves to every ordinance of man for the Lord's sake: whether it be to the king as supreme; or unto governors, as unto them that are sent by him for the punishment of evil doers and for the praise of them that do well".

The Parliamentarians believed that Paul and Peter had in mind here legitimate rulers exercising authority, rather than anyone who happened to be in a position of power and able to inflict his will upon others. And while they asserted that "powers" clearly included inferior magistrates (such as Peers and MPs), as well as

princes, they found it inconceivable that the tyrant and those whom Philip Hunton called his "subverting instruments"²⁸ could find any protection in these texts, for by definition the tyrant did not suppress evil, nor did he praise those who did well. And surely when the Apostle held that "the powers that be are ordained of God", he could not have been implying that God was the author of tyranny. It was clear to the Parliamentarians that (as one of their number wrote in 1643) "tyranny is no ordinance of God and He that commands us to obey a king does nowhere subject us to a tyrant".²⁹ Indeed, for Samuel Rutherford, tyranny was positively satanic; it was, he held, a "maxim of divinity" that "tyranny being a work of Satan, is not from God, because sin...is not from God; the power that is, must be from God; the magistrate, as magistrate, is good in the nature of office, and the intrinsic end of his office (Rom.xiii.4) for he is the minister of God for thy good...therefore, a power...to oppress, is not from God..but from...the old serpent".³⁰ Jeremiah Burroughs also stated categorically that only persons exercising "authority" were protected by Romans 13, and he differentiated between "authority" and mere strength ("By power I do not mean strength, but authority") and for him (as for virtually all Parliamentarians) "authority" arose in respect of the consent of those subject to it. Therefore what was "got and merely held by force without any consent or agreement, was no power within the terms of Romans 13, no authority at all, but might be resisted, notwithstanding that apparent prohibition".³¹

For William Prynne, likewise, the tyrant, far from

exercising authority, became a private man, having by his tyrannous acts "quite denuded himself of his just regal authority", and, of course, of the protection given by Romans 13.³² Similarly with Stephen Marshall: it was indeed required by the Apostle, he wrote in 1643, that we "be subject to the higher powers which are ordained of God, and not...resist the ordinance of God", but there was here "not one word that we may not resist the tyranny of men...unless any will say that tyranny is God's ordinance". Certainly "we must be under the authority of rulers, that is, under their legal commands", but this did not mean "being at the dispose of their illegal wills...their lawless lusts".³³ Most significantly, Marshall proceeds to argue that the protection of Romans 13 is conferred not merely upon princes, but upon "that power, which by the original and fundamental constitution of any people and nation, hath authority to make laws which shall bind the whole nation...and to judge every person...in the nation determinatively".³⁴ In England, therefore, it was "King and Parliament" who were covered by Romans 13, and Marshall is able to "translate" the text accordingly.³⁵

For the Parliamentarians, the logical outcome of their understanding of Romans 13 and I Peter 2 was the contention that the office of the magistrate was in principle distinguishable from his person. Charles Herle thus spoke of the king's "double capacity",³⁶ and it was this separation of office and person which helped Parliamentarians to claim that they were opposed to Charles's personal (and misled) will rather than to the monarchy as such. The tract Scripture and Reason Pleaded for Defensive Armes argued

that by "higher powers" Romans 13 meant "all civil legal authority", which authority had in the circumstances of 1642 to be distinguished from "the person of the magistrate in the concrete", lest the Apostle's injunction to obedience "might be understood of his personal commands without or beyond, or even against his authority".³⁷ It was now important to make this distinction, so the authors of the tract perceived, because only violent resistance could repel the tyrant; and if Romans 13 were to be distorted so as to grant him immunity, then God's blessed ordinance would be turned into a veritable curse for mankind to bear. It had therefore to be made clear that "the Apostle... banishes tyranny out of the context, describing everywhere a righteous magistrate, and not a tyrant". The text, then, allowed "him that is a tyrant no security that he shall be endured and not resisted even with arms".³⁸

Jeremiah Burroughs' analysis of Romans 13 also led him to the view that the monarchy had two distinguishable aspects, the separation of which became important in the context of resistance. Burroughs insisted that we should be able to distinguish between "the man that hath the power" and "the power of that man".³⁹ Now Burroughs strictly disavowed any ambition to resist "the power", for this was clearly inviolable according to the terms of Romans 13. But as for "the illegal will and ways of that man", it was quite clear that these could be resisted without the least offence to the Apostle's text.⁴⁰ For Samuel Rutherford also this text called for a distinction between "the power lawful" and the "sinful person" who for the time being abused it.⁴¹ It therefore followed from

Romans 13 "that all subjection and obedience to higher powers... is subjection to the power and office of the magistrate in abstracto or, which is all one, to the person using the power lawfully, and that no subjection is due by that text...to the abused and tyrannical power of the king".⁴² Resisting "the power" was therefore absolutely forbidden by the text, while "he who resisteth the man, who is the king, commanding that which is against God, and killing the innocent, resisteth no ordinance of God, but an ordinance of sin and Satan".⁴³

Henry Parker complained that "Court parasites"⁴⁴ would have nothing of this distinction which Romans 13 so plainly demanded; rather they insisted on a "subtle conjunction" of the office and "the will or pleasure of a prince", alleging the inviolability of both. Parker's reposte was that "because the will lies under an indifferency of commanding the ill, as well as the good, we may lawfully embrace that part and power only of his will which is to good...and we may reject the other, which makes him a bloody tyrant".⁴⁵

As interpreted by the Parliamentarians, then, Romans 13 and I Peter 2 tended to become in effect texts indicating the propriety of resistance in certain circumstances. That is to say, they held that when the subject found himself face-to-face with a so-called magistrate who (in the words of Scripture and Reason Pleased for Defensive Armes) "bears the sword, not only in vain in reference to any good intended by God's ordinance, but altogether

contrary to it; and is so far from being the minister of God, that he is...a minister of his own lusts",⁴⁶ resistance would be a justified response on the subject's part. What is probably the most forthright contemporary application of Romans 13 to British affairs came from the pen of Samuel Rutherford, though his emphasis on religious grievances is characteristically Scottish. The lawful ruler, he wrote in Lex Rex, was not to be resisted for "he is not a terror to good works, but to evil". On the other hand "the man who is a king may command an idolatrous and superstitious worship, send an army of cut-throats against them...who refuse that worship, and may reward papists, prelates and other corrupt men...who teach and write Arminianism, and may imprison, deprive, confine, cut the ears, and slit the noses, and burn the faces of those who speak and preach and write the truth of God; and may send armies of cut-throats, Irish rebels and other papists and malignant atheists, to destroy and murder the judges of the land i.e. Parliamentmen, and innocent defenders of the reformed religion, &c., - the man, I say, in these acts is a terror to good works - an encouragement to evil, and those that do good are to be afraid of the king, and to expect no praise, but punishment and vexation from him; therefore, this...text will prove that the man who is the king, in so far as he doth those things that are against his office, may be resisted...for we are to be subject to his power and royal authority in abstracto, in so far as, according to his office, he is not a terror to good works, but to evil".⁴⁷

Construed this way, we are assured by Rutherford that Romans 13

would "torture Court parasites"⁴⁸; and so convinced was William Prynne of the correctness of this type of construction that he pictured himself wresting the "sword" of Romans 13 from the hands of the Royalist Goliath and cutting off the latter's own head with it,⁴⁹ there being, as he remarked, "scarce any more pregnant text against the tyranny, the boundless prerogatives, the illegal proceedings of kings...in all the Scriptures, than that of Romans 13".⁵⁰ And in vain did the Royalists wring their hands over what seemed to them a criminal distortion of the divine word.⁵¹

The Parliamentarians had also to confront David's conspicuous refusal to lay hand upon the sleeping Saul, even though David was a man of special providential significance and even though Saul had wronged him mightily. Parliamentarians pointed out that no more than David did they intend to injure the king ("No man pleads that any David should kill the Lord's Anointed; yet he may defend himself against his unjust violence, as David...did");⁵² indeed, they intended to rescue him from the thralldom of those who had seduced him. A significant passage in Lex Rex shows both the strong desire of the Parliamentarians to see themselves in a defensive posture in the war and their determination to be bound in the context of the Saul-David confrontation only by the latter's refusal to harm the former in deliberate cold blood. Saul's army, Rutherford argues, consisted of people who genuinely considered David a traitor. Our own situation was quite different, for the king's supporters could by no imaginative agility be conceived as people conscientiously doing what they took to be their duty. Such was their malignancy,

in fact, that Rutherford found it plausible to transform them into heretical aggressors from beyond the seas: "if therefore an army of Irish rebels and Spaniards were sleeping in their camp, and our king in a deep sleep in the midst of them, and these rebels...actually besieging the Parliament, and the City of London, most unjustly to take away Parliament, laws, and liberties of religion, it should follow that General Essex ought not to kill the king's majesty in his sleep, for he is the Lord's anointed; but will it follow that General Essex may not kill the Irish rebels sleeping about the king; and that he may not rescue the king's person out of the hands of papists and rebels, ensnaring the king, and leading him on to popery...? Certainly from this example this cannot be concluded. For armies in actual pursuit of a whole Parliament, kingdom, laws and religion (though sleeping in camp).... may be...killed, though sleeping".⁵³ And if the king had been in danger at Edgehill, surely (the Parliamentarians argued) they could not be held responsible who had so often implored him to return to London to settle his differences with his loyal Estates. It was also pointed out that David had been prepared to resist Saul and his cut-throats (he had assembled six hundred men at Keilah - hardly the response of a man who believed that either flight or "prayers and tears" were the only remedies for the deprivations of a tyrant) and this resistance was said by the Parliamentarians to be analagous to that which they were undertaking currently, and we thus find both the Earl of Essex (as in Lex Rex) and Sir John Hotham cast in David's role.⁵⁴

Ascending Politics: the Philosophy of Resistance

Implicit in the treatment by most of the Parliamentarians of Romans 13 and I Peter 2 was the conviction (more often made explicit in other contexts) that in post-biblical times, only in the most general and abstract sense could it be said that political power was of divine origin. The Old Testament revealed, it was conceded, that long ago God has established what one Parliamentarian called "thearchy"⁵⁵ by granting a "commission" to certain rulers "extraordinarily and immediately".⁵⁶ But as Henry Parker wrote, "this age...knows of no miracles remaining"; and it could therefore be assumed that "God does not immediately and otherwise than by the same providence as rules in other human affairs either design the persons or distinguish the prerogatives of any kings or potentates...These things are now left to men..."⁵⁷ And human provenance (as thus understood) did not imply that the rulers concerned had an inferior status to those "thearchs" who had previously enjoyed a commission immediately from God, for "when...a right is conveyed ...by means of a public fundamental oath, contract or agreement of a state, it is equivalent ...to a divine word; and within the bounds of that public agreement the conveyed power is as obligatory, as if an immediate word had designed it".⁵⁸

Because God wanted to secure an ordered life for His creatures, the Parliamentarians did not doubt that He had ordained political power in general and instructed men to be subject to it. But within the several commonwealths, it was clear to the Parliamentarians that the specific regime and the specific office-

holders were the creatures of "the people". "That there be in all societies of men...a government", wrote Charles Herle, "(capable of its end, safety) is out of question, God's institution and moral; but that this government be so, or so moulded, qualified and limited, is as questionless from the paction or consent of the society to be governed".⁵⁹ The Wounded Conscience Cured, William Bridge's critique of Henry Ferne, contains the same distinction, the former's advocacy of resistance being immediately deduced from it in a passage of considerable significance: "We distinguish...the power abstractively considered from the qualifications of that power, and the designation of a person to that power. The power, abstractively considered, is from God...but the qualifications of that power, according to the divers ways of executing in several forms of government, and the designation of the person that is to work under this power, is of man... If the person intrusted with that power shall not discharge his trust, then...it falls to the people, or the representative body of them, to see to it".⁶⁰

Essentially, the same distinction occurs in Philip Hunton's Treatise of Monarchie, where he sees a contrast between the "undefined being" of political power as "God's immediate ordinance", and political power in its "specificated and determinate being".⁶¹ In his Vindication of the Treatise of Monarchie, Hunton treats this distinction at somewhat greater length. A people, he writes, have "a power of resigning up their natural liberty, to be governed by one or many; after this or that form as they shall judge fittest. God ordaining that powers should be to such

an end [i.e. as specified by Romans 13], hath thereby... ratified any consent or contract which people may make of parting with their liberty and giving magistrates a common power over them to that end. And God's not prescribing any rule or measure of power by His ordinance of authority, hath left it in the people's liberty, to resign up themselves according to such rules and terms, as they judge fittest, so it be such as the end of His ordinance may be attained thereby".⁶² Hunton's main point here is that the act of subjection on the people's part is the cause of specific political authority: "The duty of subjection is the original of the power of authority. People by becoming debtors of subjection do set up authority"; and it was the people's privilege to set the conditions upon which this authority would be exercised. Thus "by stinting and terminating the duty of subjection [they] do put bounds and terms to the power of commanding".⁶³ In its "specificated" and "determinate" form, then, political power was recognised by Hunton and his fellow resisters as being at the disposal of the community; and it could not be supposed (they held) that the community had been so careless of its well-being as to denude itself of the power to resist the tyrant's onslaught.⁶⁴

Parliamentarians should thus be seen as embracing some variant of what Walter Ullmann would call an "ascending" theory of politics to justify their armed resistance to Charles I. According to this theory, governors, who are taken to have no natural political superiority over others ("for no man cometh out

of the womb with a diadem on his head or a sceptre in his hand"),⁶⁵ receive their right to rule by dint of some kind of contract, compact, agreement, trust or covenant. Jeremiah Burroughs puts the matter succinctly in A Brief Answer to Dr. Fernes Book: "the foundation of all power that such and such men have over others will be found either from election or covenant, which will come to all one".⁶⁶ And this was taken to hold good even in respect of hereditary monarchy, because, as Samuel Rutherford explained, "in hereditary crowns, the first family being chosen by the free suffrages of the people, for that cause ultimate, the hereditary prince cometh to the throne, because his first father, and in him the whole line of the family, was chosen to the crown and propter quod unumquodque tale, id ipsum magis tale".⁶⁷

Some kind of consent was necessarily implied by the "ascending" theory and conditions almost invariably said by its protagonists to have been imposed upon rulers by those from whom they derived their authority. Regimes were thus understood to be "mere human institutions" established originally by "human power...and subordinate still thereto, as the creature to its creator".⁶⁸ While God was to Samuel Rutherford unquestionably the causa causarum, it by no means followed that He did not work through the mediation of other agencies in His general superintendence of Creation, as He lit the earth by the mediation of the sun. So, in the establishment of particular regimes the people were to be considered as "a sort of vicarious cause in God's room",⁶⁹ and it followed that "the people in power are superior to the king,

because every efficient and constituent cause is more excellent than the effect...but the people is the efficient and constituent cause, the king is the effect; the people is the end...and the people appoint and create the king out of their indigence to preserve themselves from mutual violence".⁷⁰

The presence of a specifically "ascending" theory in the "official" thinking of the Parliamentarians is attested by the important Remonstrance of the two Houses of May 26, 1642, a document which, in the words of a modern scholar, "remained to many the most decisive and acceptable statement of their case".⁷¹ Here the Houses deplored the "infusion" into princes of the "erroneous maxim" that "their kingdoms are their own, and that they may do with them what they will, as if their kingdoms were for them, and not they for their kingdoms". The truth of the matter was that princes "are only intrusted with their kingdoms...and with their people, and with the public treasure of the commonwealth...and by the known law of this kingdom the very jewels of the crown...are only intrusted to him for the use and ornament thereof". The prince's powers could properly only serve "the good and safety and best advantage" of the whole kingdom, and "as this trust is for the use of the whole kingdom, so ought it to be managed by the advice of the Houses of Parliament whom the kingdom hath [also] trusted for that purpose, it being their duty to see it discharged according to the condition and true intent thereof, and, as much as in them lies, by all possible means to prevent the contrary".⁷² As one would anticipate, it was the pamphleteers who clarified and exploited these ideological

intimations, and among the protagonists of Parliament's cause were a number of writers who succeeded in articulating a more or less coherent theory of resistance in which some form of the "ascending" schema was deployed.

"Power is originally inherent in the people", wrote Henry Parker in Observations upon some of His Majesties late Answers and Expresses, "and it is nothing else but that might and vigour which such or such a society of men contains in itself". It followed that "power is but secondary and derivative in princes, the fountain and efficient cause...being the people".⁷³ All rule, Parker was thus able to report later in the pamphlet, "is but fiduciary"⁷⁴: any particular prince was consequently "more or less absolute, as he is more or less trusted...and...since it is unnatural for any nation to give away its own propriety in itself absolutely, and to subject itself to a condition of servility...we must not think that it can stand with the intent of any trust, that necessary defence should be barred, and natural preservation denied to any people"⁷⁵, Consistently with the "ascending" theory, he argued, as did almost all Parliamentarians, that monarchy was no more divine than any other form of rule. After the Fall, men had no doubt in the first instance seen monarchy as a remedy for the inconveniences caused by their competitive jostlings. But when monarchy, sliding into tyranny, became a remedy almost as bad as the disease, and when the appointment of ephori to check the monarch's despotical tendencies merely led to further conflict, men had naturally turned to some form of representation. That Parliament, England's representative body, was "the voice of the Kingdom"⁷⁶ formed the premise of Parker's

argument in 1642 for the potential sovereignty of the Houses, a potentiality which, he believed, should be asserted now that the constitutional deadlock faced the whole society with the prospect of ruin.

Parliamentary writers dismissed the idea that in creating a government, the people of any locality had relinquished so much authority to the magistrate as to afford him what William Bridge called a "supra-supremacy"⁷⁷ and to leave them remediless in the event of serious governmental misbehaviour. For these writers the maxim salus populi suprema lex conveyed the essence of politics, and no right of the magistrate (given that magistracy was only a means to an end) could stand against the people's safety. It was neither possible nor just, wrote Parker in his Observations, "for any nation to enslave itself, and to resign its own interest to the will of one lord...and...to have no right to preserve itself. For since all natural power is in those who obey, they which contract to obey to their own ruin...are felonious to themselves and rebellious to nature".⁷⁸ Stephen Marshall similarly could not see how a people could strip itself of its natural right of self-defence, especially where "their protector would prove their murderer...and will...send, or suffer a company of thieves or murderers to go in his name, and spoil and destroy them that do well".⁷⁹ William Prynne also held it to be unthinkable that in instituting civil society, men had abandoned all right of armed self-defence. For just as subjects were restrained by fear of punishment by the magistrate, so magistrates were restrained by fear of resistance. He thus believed that the consequence of the doctrine of non-resistance

would be the speedy degeneration of all monarchies into tyrannies, with "everyone...thereby... exposed as a voluntary prey to the arbitrary cruelty...of the greatest men".⁸⁰

Ascending Politics: the English constitution and its History

Now for the Parliamentarians the "ascending" theory not only explained political relationships in a philosophical manner, it also provided an understanding of the origins and history of the English constitution. In this context, the "ascending" theory was usually articulated in terms of "fundamental law" and in terms of "mixed monarchy", and opposition and resistance legitimated at least in part by these ideas can be observed in the works of a substantial number of Parliamentary writers, as well as in the pronouncements of the Houses themselves.

As J.W. Gough has shown, the idea of fundamental law in contemporary English thinking is vague and has a considerable emotional as well as empirical significance. Both Royalists and Parliamentarians used the notion of fundamental law in the sense of "principles supposedly inherent in the English Constitution";⁸¹ and because both monarchy and Parliament had gone beyond the bounds of what was traditionally expected (Charles, for example, with Shipmoney and the attempt on the five Parliamentmen; the Houses, for example, with the expulsion of the bishops from the Lords and the Nineteen Propositions) both became vulnerable in some degree to the lash of the fundamental law idea. For Parliamentarians the fundamental laws were those immemorial laws by which the community had originally established, and by which it still maintained, a pluralist constitution requiring for its normal functioning the

co-operation of the Estates of monarchy, aristocracy and commons; and to subvert the fundamental law was for these people to transform this mixed monarchy into an absolute monarchy. In condemning the strongly monarchist sermons of Roger Manwaring, John Pym had thus in 1628 identified the unfortunate cleric as an enemy of the fundamental law: the law, Pym declared, "whereby the subject was exempted from taxes and loans not granted by the common consent of Parliament, was not introduced by any statute, or by any charter or sanction of princes, but was the ancient and fundamental law, issuing from the first frame and constitution of the kingdom".⁸²

But if Manwaring was an enemy, the arch-enemy of fundamental law had been the Earl of Strafford, and the Act of Attainder which cut him down spoke of his endeavour "to subvert the ancient and fundamental laws and government...and to introduce an arbitrary and tyrannical government against law".⁸³ Having disposed of the arch-enemy of the fundamental law, Parliament found that many others were eager to continue the work of subversion, and the Grand Remonstrance held that at the root of the mischiefs identified in the document was "a malignant and pernicious design of subverting the fundamental laws and principles of government, upon which the religion and justice of this kingdom are firmly established".⁸⁴ MPs accused "Jesuited Papists", bishops and other corrupt clergy together with the king's evil advisers, of being the main offenders. In particular, these malignants had sought "to disaffect the King to Parliaments by slander and false imputations", and had put him "upon other ways of supply"

than legal Parliamentary ones. And in general, they were accused of urging that the king's government "must be set free from all restraint of laws concerning our persons and estates".⁸⁵

The constitutional significance of the idea of fundamental law is shown clearly in the works of Charles Herle. Herle distinguishes between "superstructive" laws which can be altered or repealed while the frame of government remains unimpaired, and the unwritten fundamental laws. Thus "if we would know what is meant by those fundamental laws of this kingdom...it is that original frame of this co-ordinate government of 3 Estates in Parliament: consented in, and contrived by the people in its first constitution, and since in every several reign confirmed both by mutual oathes between king and people, and constant custom time (as we say) out of mind".⁸⁶ It followed, of course, that for Herle (as for other Parliamentarians) there was no fundamental difference between elective monarchy and the hereditary monarchy which had been established by fundamental law in England. The English could (like the Poles) have decreed that new kings should be elected; but instead "successive" monarchy had been preferred, "that wars and tumults might be eschewed in the commonwealth, which we see oftentimes to happen in electives kingdoms".⁸⁷

Herle's main contention about the content of the English constitution was ^{that} in normal times English government was the joint responsibility of the three Estates: England, he reported, "is not simply a subordinative, and absolute, but a co-ordinative and mixt monarchy".⁸⁸ Therefore, although Peers and MPs were clearly

subjects as individuals, assembled together in their respective Houses they were the king's equals, and capable in certain circumstances of overruling him. For in abnormal times of crisis, two Estates could "supply" the deficiency of the third in the event of any dereliction of duty ("co-ordinates supply each other"),⁸⁹ and this "supplying" was clearly provided for in the original constitution as devised by the people and consented to on a continuing basis by successive generations of Englishmen and by successive English kings. Parliament's Militia Ordinance was therefore "but an occasional supply of this co-ordination of the government (in case of one part's refusal) lest the whole should ruin, and to continue...until a law may be had ...For in a co-ordinate and mixt government, one part's refusal exempts not the other from its duty, nor must it defraud the whole of its safety...this being the very end of... co-ordination".⁹⁰ Parliament, consequently, was no mere council of advisers, for then the king rather than the electors would have selected them. Indeed, the Houses had been "assigned to him by the first constitution of the government, from the very same consent of the people that first made the king, and by succession him i.e. Charles that king, in whom the first king still lives as in a corporation...which dies not".⁹¹ Parliament was in fact "the great centurion of the kingdom,"⁹² with the Houses ("supplying" Charles's deficiencies) seen by Herle as springing to its rescue when ruin threatened.⁹³

The importance of representative institutions for Henry Parker has already been referred to.⁹⁴ In combination with a

moderate prince, they produced what Parker called a "well-balanced...monarchy",⁹⁵ enabling a society to govern itself without relapse into either anarchy or tyranny. For Parker, two main consequences followed from this position. In the first place, he viewed any attempt to undermine the status of Parliament as a disastrous departure from the traditional framework of English politics. Now the 1630's, a decade without Parliaments, had seen just such an attempt, and Charles's refusal to summon the representatives of the state was in Parker's view perfectly deplorable, "the grievance of all grievances...the mischief which makes all mischiefs irremediable".⁹⁶ What had made the situation in England "almost hopeless" was the fact that Parliaments were "clouded and disused, and suffered to be calumniated by the ill-boding incendiaries of our state".⁹⁷ Equally disturbing for Parker had been the ruling in the Shipmoney case, a ruling whereby Parliament's traditional control over taxation had been circumvented in such a way as to indicate that our "well-balanced" monarchy would shortly be replaced by an absolute monarchy wherein representative institutions would be unknown and the estates and liberties of the subject would be at the king's disposal: "If we grant Shipmoney...we grant all besides"⁹⁸ was Parker's desperate comment in 1640.

The second consequence was that in a situation of potentially ruinous constitutional impasse, such as had arisen in 1642, it was the representative body, acting upon the overriding maxim salus populi suprema lex, which should exercise sovereign power over society. Parliaments, Parker went so far

as to declare, were "infallible",⁹⁹ and it was the will of Parliament that should be asserted in order to rescue a deadlocked polity. For the time being, therefore, our mixed monarchy must give place to the sovereignty of Parliament and ordinary legality must give place to the higher legality of necessity, just as Fawkes's ordinary legal right to a fair trial would have had to give place to the necessity of running him through if one had come upon him in the act of lighting the match.¹⁰⁰

According to William Bridge, the authority of both Parliament and the king arose originally from popular delegation and has as its objective the safety and wellbeing of the state. When the king himself became a threat to that safety and wellbeing, the duty of preserving the state devolved upon the Houses, and the proper performance of this duty depended ultimately upon an ability to take up arms against the miscreants who supported and encouraged the prince ("those that are malignant about the King's person").¹⁰¹ Bridge is thus able to suggest that the Parliamentary army could be likened to the Sergeant-at-arms whom Parliament, as the highest court in the land, could send to apprehend public enemies. It is in The Wounded Conscience Cured that Bridge explores the "Sergeant-at-arms" theory most fully: "seeing the king is to look to the safety of the kingdom, and because he is trusted therewith by the people, and the parliament are as well trusted by the people with the safety of the land, it is their duty in case of danger to look to it, which they are not able to do, and make good their trust, unless they have power to take up arms against an enemy when the prince is misled

or defective...It is out of doubt agreed on by all, that the parliament hath a power to send a sergeant-at-arms to bring up such an one as is accused before them, and if they have a power to send one sergeant-at-arms, then twenty, if twenty be accused...then ten thousand, if there be ten thousand accused; and so more or less as occasion serves...".¹⁰²

Charles Herle's doctrine of "supply", referred to above, is very similar to the justification given by William Prynne for Parliament-led armed resistance. Where a public trust had been originally committed to three agencies, a violation of trust by one laid an obligation on the others (even where they were in formal terms "inferior trustees")¹⁰³ to assume the governance of the state, even if this involved armed resistance to the supreme magistrate. Prynne explained that "the care and safety of our realm by the original politic constitution of it, hath always been...committed jointly to the King, the Lords and Commons in Parliament, by the unanimous consent of the whole kingdom".¹⁰⁴ A failure on the part of the Houses to govern the state when the king reneged upon his political obligations, as well as destroying the commonwealth, would also be against "their very allegiance to the king himself, by encouraging him in, and consenting unto these proceedings, which would make him not to be a king, but a tyrant, and destroy him as a king...".¹⁰⁵

The theories of Herle and Prynne both appear to be expanded versions of one propounded by the Houses themselves on May 19, 1642. On that occasion, Parliament maintained that "the

kingdom must not be without a means to preserve itself", and that normally king and Parliament had jointly provided "in an orderly and regular way" for "the good and safety of the whole"; but as the monarch was but one individual who might for a variety of reasons be unwilling or unable to discharge his trust, in an emergency the nation's constitution provided for the devolution of the whole duty of self-defence upon the Houses. Thus "the wisdom of this state hath in these circumstances intrusted the Houses of Parliament with a power to supply what should be wanting on the part of the prince...".¹⁰⁶

Philip Hunton's stance in the Treatise of Monarchie is professedly that of a conciliator, "endeavouring a thankless moderation 'twixt two extremes".¹⁰⁷ It is certainly true that the "sergeant-at-arms" theory, the doctrine of supply and their like find no support in this quarter, and that Hunton has sufficient detachment to point out that Herle's Fuller Answer gave to the Houses the same sort of absolute power that the king's opponents complained about so bitterly when it was apparently given to him as a consequence of the Shipmoney decision.¹⁰⁸

At the same time, however, there can be no doubting either Hunton's sympathy with Parliament's cause or his advocacy of armed resistance. It has already been seen that for Hunton rulers other than those directly appointed by God owed whatever degree of political power they exercised to the consent of the governed. Some nations (such as the Turks and the Persians) had chosen to "resign up themselves" to an absolute ruler, although even an absolute ruler was not immune from resistance if his rule

degenerated into a "monstrous tyranny",¹⁰⁹ and David had been prepared to resist Saul when such a degeneration overtook his government. English government, however, had always been limited, and took the form of a mixed monarchy, that is to say, it was a regime of three Estates which took its designation from its primary element. The leading characteristic of mixed government (of whatever form) was that the sovereign power (essentially for Hunton the legislative power) was shared by monarchic, aristocratic and democratic elements, the concurrence of all three being necessary for law-making. It was Hunton's contention that with such a regime there could, by definition, be no constitutional way of adjudicating between the claims of the Estates when "exorbitancies" threatening the frame of government itself were alleged, for if such a power of adjudication were to be vested in any one of the Estates, it would necessarily assume the sovereign power leaving the others as mere onlookers. Therefore the final appeal in such an exigency lay, not to a constituted authority, but to the people at large, and "every person must aid that part, which in his best reason and judgement stands for public good, against the destructive".¹¹⁰

Thus while Hunton denied that the Houses could constitutionally claim to "supply" the king's shortcomings, he held that it was the duty of the Estates to preserve the frame of government within which they operated, and that the evidence indicated that the individual's support should be given to the Houses. Putting forward this recommendation, he drew attention to "the long and purposed disuse of Parliaments" and to the fact that those about the king

harboured "a grand intention and plot of altering the government of this kingdom, and reducing it to an arbitrary way".¹¹¹

Hunton's treatment of the crucial militia question is especially interesting: he does not urge the legality of Parliament's Militia Ordinance, but nevertheless regards it as "justified in the circumstances, for "in case the king should misemploy that power of arms to strengthen subverting instruments; or in case the laws and government be in apparent danger...in this case the two Estates may by extraordinary and temporary Ordinance assume those arms wherewith the King is entrusted, and perform the King's trust".¹¹²

In neither its philosophical nor its constitutional phase could the "ascending" theory accept that naked force might in itself create or sustain a legitimate political establishment. Legitimacy was the product of consent, given originally at the institution of a government and renewed in various ways thereafter. At best, conquest could only reassert a right that already existed, but had been lost in some way. It was this view of conquest that caused Charles Herle to react so sharply to Henry Ferne's suggestion that the title of the king of England could owe something to an act of conquest; it was, he claimed, an "unchristian, inhuman... barbarism...to talk of a right of conquest in a civil, Christian, state".¹¹³ Conquest might constitute a claim to dominance in "a land inhabited by wolves and tigers",¹¹⁴ but never among men, with whom consent was the rule. Now conquest, as the Parliamentarians saw the matter, not only thrust consent out of doors, but also pointed unequivocally in the direction of absolutism, for "if

conquest may create a title where there was none before, certainly it may make that title as absolute and arbitrary as the conqueror pleases, for what should let, where there needs no consent or covenant...?"¹¹⁵

For the Parliamentarians, therefore, the events of 1066 were far from being the mere forceful possession of the country depicted in some Royalist writings. Given their belief in an immemorial pluralistic constitution, the Parliamentarians could not permit any radical discontinuity in English constitutional history with the advent of the Normans, and they attributed the survival of the essentials of the traditional English polity to the determination of the Anglo-Saxons who (devoted as they were to their political inheritance) would not accept William until the appropriate guarantees had been given. William Bridge tells us that though in 1066 "William I had gotten the field, yet was not he brought to the Crown, but with the consent and choice, though much overpowered and overawed, of the people. So says Speed expressly..."¹¹⁶ According to this author (and he was here following a substantial historiographical tradition)¹¹⁷ it was the men of Kent who took the leading part in securing from the Normans the undertaking to respect the native political traditions. Thus "even William the Conqueror did not come to the Crown without all conditions: for the Kentish men would not receive him but upon condition...that he accept their ancient laws formerly used. If these be denied, they are here presently to await the verdict of battle, fully resolved rather to die than to depart with their laws, or to live servile in bondage, which...is...not to be endured. The Conqueror, driven to these straits, and loth

to hazard all on so nice a point, more wisely than willingly granted their desires".¹¹⁸

Bridge held that rulers could either be appointed for life, or, as in the English case, the "trust of the state" could be committed to an individual for life, thereafter "to descend upon his posterity" in such a way that on succeeding the posterity "hath both a right of election and inheritance; it being the right of inheritance as it is left by their forefathers, and the right of election in regard of its principle from whence it flowed; and thus we do estate our king in his throne, hereby establishing him more sure therein...than the opposite opinion of conquest doth".¹¹⁹ This "opposite opinion" was hateful to the Parliamentarians because of their insistence that political legitimacy involved some form of consent, and in criticising Henry Ferne, William Bridge wondered if his adversary, in crying up force in order to make the English king "a king by conquest" and in (apparently) resolving legitimacy into military success, had adequately thought the matter through. For in making "our prince to have the Crown...by right of conquest", Ferne seemed to make it follow that "if any man's sword be...stronger than his, he may quickly have as much right to the Crown as the king; which opinion...I must abhor...for what danger will it not expose our dread sovereign to?".¹²⁰

Conclusion

The "ascending" theory of politics, we have so far observed, enabled the Parliamentarians to recognise a tyrant (or misled king

acting as tyrant) when he violated the limits. placed upon his actions by the original (and continuing) constitution, as devised by "the people". The theory also provided a justification for defensive resistance when these violations by "the people's creature"¹²¹ became intolerable and he became the destroyer of those whose interest he was trusted to protect. Furthermore, the theory gave to the Parliamentarians a clear indication of who should initiate and lead this resistance, for Peers and MPs were also "the people's creatures", inferior magistrates appointed (and in the case of MPs also elected) to safeguard the general interest, even to the extent of resisting the supreme magistrate when he was misled by malignants into tyrannous courses.¹²²

It was, of course, the Parliamentary case that the identity between the nation and the Houses was virtually complete, even though many Peers and MPs had left to join the king. Having locked the king out of Hull, Sir John Hotham thus told the local gentry that to disallow what had been decreed for the commonwealth's security by "that pious and judicious Council whom you in particular, and all the Kingdom in general have chosen", would be "to condemn yourselves to folly, that you have chosen men in whom you cannot confide".¹²³ MPs, another advocate of resistance declared, "are chosen by us, and stand for us...are entrusted by us with all we have ...they being no other than ourselves, and therefore we cannot desert them, except we desert ourselves".¹²⁴ No doubt there had frequently been antipathy, Henry Parker reported in the Observations, between Court and Country (and that was all to the credit of the Country), but "never any...betwixt

the Representatives, and the body of the kingdom represented". For, as he wrote elsewhere, "that which is the judgement of the major part in Parliament, is the sense of the whole Parliament, and that which is the sense of the whole Parliament, is the judgement of the whole kingdom", and as such was infinitely preferable to the judgement of the king or of any "clandestine council" around him.¹²⁵ Unusually among the Parliamentarians (whose wont it was to protest about the "arbitrary" policies of the 1630s), Parker asserted that every state (like every individual) contained an "arbitrary power over itself",¹²⁶ and argued that in the current emergency, this power must be exercised by the Houses: "If the state entrusts this power to one man or few, there may be danger in it; but the Parliament is neither one nor few, it is indeed the state itself".¹²⁷

Thus while Parliamentarians at this juncture proclaimed themselves to be adherents of mixed monarchy, the evidence suggests that such was their emphasis upon the representativeness and authority of Parliament and upon its dutiful shielding of the community from danger, that their idea of mixed monarchy tended to reduce the king to the role of little more than the executor of the behests of the Houses. The king, it seemed to follow from the various Parliamentarian pronouncements, could only act legitimately in significant areas of public policy when he acted through Parliamentary channels; otherwise his acts had no legal or moral standing, though for the time being his opponents charitably attributed his policy misadventures to the advice of papists and

other malignants within his entourage. Thus the king's power to appoint his own ministers was denied,¹²⁸ his Negative was effectively removed by interpreting his Coronation Oath so as to commit him to approve not only laws already chosen by the people through Parliament, but also those laws which would be so chosen;¹²⁹ and he was allowed a share in the control of the Militia only during normal times when (a Royalist might have been excused for suspecting) the issue of control was somewhat less than crucial, with the Houses putting what they took to be the king's non-fulfillment of his trust in the same category as the "nonage, natural disability, and captivity"¹³⁰ of the prince as circumstances justifying their exercise of sole power in this vital area. All in all, it seems that Samuel Rutherford was hardening the Parliamentary position only marginally when he wrote in Lex Rex that as the Parliament represented the community, they could effectively revoke the king's misdeeds "because he acteth nothing as king, but united with his great or lesser council, no more than the eye can see, being separated from the body. The peers and Members of Parliament have more than the king, because they have both their own power, being parts and special members of the people, and, also, they have their high places in Parliament, either from the people's express or tacit consent".¹³¹

Parliamentary resistance was therefore an ordered, constitutional resistance, in fact probably a "legal" resistance for most of those undertaking it. And as such it was clearly distinguishable from a rebellion of mere private men. Indeed, commented William Bridge, "if the subjects as private men, strengthened with no

authority, should gather together in a rude multitude to oppose laws and governors, then that work should strike immediately at the order...and life of a state; but that the state should send out an army to bring in delinquents...is rather to confirm and strengthen the order and power of authority; and so it is in our case".¹³² Charles Herle was equally insistent on this point: he did not hold "that the private man may resist; no, the magistrates and established courts of the kingdom are to enforce and command resistance...as well as obedience, else the inconvenience will be great".¹³³ Now the Parliamentarians were not entirely agreed among themselves about what circumstances, if any, would justify the private man in resisting the magistrate (or tyrant acting as magistrate) on his own initiative,¹³⁴ but during the earlier period of the Great Rebellion this was for them a relatively unimportant question, resistance being (for the moment at least) firmly under the control of the inferior magistrates at Westminster. Prior to 1640, it was argued, there had been no suggestion that governmental abuses should be met with armed resistance: "Before this Parliament, how many oppressions were there upon the people, both in their estates and in God's worship, by those who had unduly gotten authority from the king; and yet we saw no forcible resistance made, but every man quietly subjecting himself under that suffering condition".¹³⁵ But now, in 1643, "we take not up arms...as private men...but as subjects united and joined in the representative body of the kingdom, which never yet was counted unlawful by any divines..."¹³⁶

FOOTNOTES

1. John Goodwin, Anti-Cavalierism (1642), p.1.
2. Henry Parker, Rejoinder of HP...to Mr. David Jenkins Cordial (1647), reprinted in W.H. Terry (ed.) Judge Jenkins (London: Cayme Press, 1929), p.103.
3. Orders of both Houses for bringing in Money and Plate, June 10th, 1642, reprinted in Clarendon The History of the Rebellion and Civil Wars in England (1888), II, p.179.
4. Such misgivings are well expressed, albeit ex post facto, in Sir Roger Twysden's Journal. Sir Roger did not join the King (his disposition being rather to leave the country) but he was nevertheless treated as a delinquent by the Parliamentarians because he rejected their proceedings as illegal: "the leading men in the Houses had an intent...to govern the nation by votes...and Ordinances...which if...any...oppose, they would force obedience by the sword" (Archeologia Cantiana, I, 1858, p.214).
5. Conscience Satisfied: that there is no warrant for the Armes now taken up by Subjects (1643), p.30.
6. For an excellent expression of this feeling that enough was enough, see the Humble Petition of the Officers and Soldiers of the Army (1641), reprinted in Clarendon, op.cit. I, pp.323-4.
7. 1643, p.3.
8. William Prynne A Sovereigne Antidote to prevent, appease and determine our unnatural and destructive Civill Wars and Dissentions (1642), pp.3,5,5-6.
9. Vox Populi: or the People's Humble Discovery of their own Loyalties and His Majesties Ungrounded Jealousie (1642), reprinted in the Harleian Miscellany (1744-46), VII, p.456.
10. A Discourse upon the Questions in debate between the King and Parliament (1642), p.3. Well over a year after the attempted arrests, a Royalist reported sadly that although Charles had apologised for the incident, and dropped all charges, the incident "hath been and is still charged upon him for so great a crime, as if he had thereby forfeited all duty, credit and allegiance, which was due to him from his people" (A Letter to a Gentleman in Leicestershire /1643/, p.37). On the whole subject of Charles's trustworthiness, see J.W.Daly "Could Charles I be trusted? The Royalist Case, 1642-46" (Journal of British Studies, VI, 1966).
11. A Letter of Spiritual Advice written to Mr. Stephen Marshall (1643), pp.9,10; on Charles as an untrustworthy crypto-papist, see Vox Populi, op.cit. p.454.
12. The Third Part of the Sovereigne Power of Parliaments and Kingdomes (1643), pp.70,84,72.

13. See Observations upon some of His Majesties late Answers and Expresses (2nd.ed.1642), p.44.
14. Ibid. p.16.
15. See C.V. Wedgwood The King's War (Glasgow:Fontana,1966),p.49.
16. Op.cit. II, p.276.
17. Op.cit. p.2.
18. The Subject of Supremacie (1643), p.31.
19. See ibid. p.75.
20. p.30.
21. 1642, p.17.
22. Ibid. p.18.
23. Ibid.
24. A Briefe Answer to Dr. Fernes Booke (1643), appended to Jeremiah Burroughs Two Sermons (1643), p.144.
25. Ibid. p.145.
26. Parker, Observations upon some of His Majesties Late Answers and Expresses, p.4; Prynne The Third Part of the Sovereigne Power of Parliaments and Kingdomes, pp.21,9-10,17-18; A New Plea for Parliament, p.17.
27. The Resolving of Conscience (1642), p.3.
28. A Treatise of Monarchie (1643), p.62.
29. The Subject of Supremacie, p.11.
30. Lex Rex (1644); Edinburgh,1843 ed., p.34.
31. Op.cit. pp.124,125.
32. The Third Part of the Sovereigne Power of Parliaments and Kingdomes, p.5.
33. A Copy of a Letter...to a Friend of his in the City (1643),p.11.
34. Ibid. p.14.
35. See ibid.

36. Op.cit. p.9.
37. 1643, p.3.
38. Ibid. p.6.
39. Op.cit. p.113.
40. Ibid.
41. Op.cit. p.141.
42. Ibid. p.144.
43. Ibid.
44. Animadversions Animadverted (1642), p.6.
45. The idea that the king had a "double capacity" became, quite apart from the context of Romans 13, an important constituent of the Parliamentary case. It was employed by the Houses to defend Sir John Hotham from the charge of high treason when he locked the King out of Hull. The treason statute of Edward III, Charles was told, referred to "the levying of war against his laws and authority" (and by this juncture, the Houses regarded themselves as in effect the sole agency through which this authority should be mediated) and not to "the levying of force against his personal commands, though accompanied by his presence" (Remonstrance of the Two Houses, May 16 1642; reprinted in Clarendon op.cit. II, p.130). The Houses were thus able to conclude that what Sir John had done at Hull, far from being a defiance of Charles's authority, "was indeed in obedience to His Majesty, and his authority, and for his service, and the service of the kingdom, for which use only all the interest is that the King hath in the town, and it is no further his to dispose of than he useth it for that end" (ibid.).
46. p.10.
47. Op.cit. p.145.
48. Ibid. p.14.
49. The Third Part of the Sovereigne Power of Parliaments and Kingdomes, p.124.
50. Ibid. pp.6-7.

51. See, e.g. John Maxwell's Sacro-Sancta Regum Majestas (1644) where in discussing the reaction of Parliamentmen to what he took to be the clear anti-resistance imperative in Romans 13, the author deplored the "many ways they have coined to themselves to elude it" (p.30). Maxwell wondered if a conquering Parliamentary party might issue a Bible from which Romans 13 would be omitted (see ibid.), but on the evidence of this chapter, this was an expedient of which the Parliamentarians had no need.
52. Stephen Marshall A Plea, pp.18-19.
53. p.168.
54. On Hotham as David, see Burroughs, op.cit. p.113ff.
55. The Subject of Supremacie,p.43.
56. Henry Parker Rejoinder of H.P....to Mr. David Jenkins,op.cit., p.100.
57. Ibid. pp.100-1.
58. Philip Hunton, op.cit. p.4.
59. A Fuller Answer to a Treatise written by Dr. Ferne (1642)pp.4-5.
60. (1642) reprinted in Bridge's Works (1845),V,p.224.
61. p.54.
62. (1644), p.24.
63. Ibid. pp.29-30.
64. For an exposition of the abstract/specific distinction that takes as its starting point another "Royalist" text, Proverbs 8, 15 ("By me kings reign"), see Prynne The Third Part of the Sovereigne Power of Parliaments and Kingdomes, p.116; for this distinction in Oliver Cromwell's thinking, see his letter to Robert Hammond in Thomas Carlyle Oliver Cromwell:Letters and Speeches, (1894),II, p.84.
65. Rutherford, op.cit. p.6.
66. p.121.
67. Op.cit. p.45.
68. William Prynne The Third Part of the Sovereigne Power of Parliaments and Kingdomes, p.122.
69. Op.cit., p.70.

70. Ibid. p.80.
71. J.P.Kenyon, (ed.) The Stuart Constitution: Documents and Commentary: (Cambridge University Press, 1966), p.196.
72. Clarendon, op.cit. II, p.122.
73. pp.1-2.
74. Ibid. p.20; cf. John Goodwin Os Ossorianum: a bone for a Bishop to pick (1643), p.10 where Charles is described as "the great fiduciary of the kingdom".
75. Observations upon some of His Majesties Late Answers and Expresses, p.20.
76. Ibid. p.37.
77. The Truth of the Times Vindicated (1643), Works, V, p.315.
78. p.8.
79. Marshall, A Plea, p.8.
80. The Third Part of the Sovereigne Power of Parliaments and Kingdomes, p.70.
81. Fundamental Law in English History (Oxford University Press, 1961), p.83.
82. Speech at Manwaring's Impeachment, in Kenyon, op.cit. pp.16-17.
83. S.R. Gardiner (ed.) The Constitution Documents of the Puritan Revolution (3rd.ed.1947), pp.156-7.
84. Ibid. p.206.
85. Ibid. pp.206,217,215.
86. A Fuller Answer, p.6.
87. An Answer to Mis-led Dr. Fearne (1642), p.16.
88. A Fuller Answer, p.2.
89. Ibid.
90. Ibid. pp. 7,8.
91. Ibid. p.10.
92. Ibid. p.15

93. Some Parliamentarians held that there was an analogy between the current proceedings of the Houses and the Conciliar actions taken against Papal absolutism in the first half of the fifteenth century (see, e.g. Marshall, A Plea, p.9; The Power of the Laws of a Kingdom over the Will of a Mised King /1643/ reprinted in the Harleian Miscellany, op.cit. IV, p.527). It was noted that the churchmen at the Council of Basel had also seen the analogy between political and ecclesiastical affairs; and according to William Bridge it had been held that "the pope is in the Church, as the king is in his kingdom; and for a king to be of more authority than his kingdom, this were too absurd; ergo, neither ought the pope to be above the Church" (The Wounded Conscience Cured, op.cit. V, p.209). Milton subsequently used the Conciliarist analogy to justify the Rump's judgement of Charles (see Eikonoklastes, Prose Works /Bohn Library, 1848-53/ I, p.488.) On the origins and history of Conciliarist theories of politics, see Francis Oakley Council over Pope? Towards a Provisional Ecclesiology, (Herder & Herder, New York, 1969)
94. See above, p.30.
95. Observations upon some of His Majesties Late Answers and Expresses, p.22.
96. The Case of Shipmoney Briefly Discoursed (1640), p.24.
97. Ibid. pp.24-5.
98. Ibid. p.2.
99. Ibid. p.22.
100. See Rejoinder of HP...to Mr. David Jenkins, op.cit, p.116.
101. Bridge, The Wounded Conscience Cured, op.cit. V, p.202.
102. Ibid. pp.204-5; cf. A Political Catechism (1643) where Charles's Answer to the Nineteen Propositions is used to support the Parliamentarian belief in mixed government, and where it is asserted that Parliament must have the wherewithal to guarantee the integrity of the mixed regime against allcomers. Thus if "delinquents" had misled the King into protecting them against the judgement of Parliament, "then...the two Houses have power by the /fundamental/ law to raise not only the posse comitatus of those counties where such delinquents are, to apprehend them, but also the posse regni, the power of the whole kingdom..." (Appended to C.C.Weston The House of Lords in English Constitutional Theory /London: Routledge, 1965/p.276.)
103. The Third Part of the Sovereigne Power of Parliaments and Kingdomes, p.81.

104. Ibid. p.82.
105. Ibid.
106. Declaration of the Houses of May 19, 1642, reprinted in Clarendon, op.cit. II, pp.99-100.
107. Preface.
108. See ibid. p.70.
109. Ibid. pp.6,9.
110. Ibid. p.73.
111. Ibid. p.75.
112. Ibid. p.62
113. A Fuller Answer, p.10.
114. Ibid.
115. Ibid.
116. The Truth of the Times Vindicated, op.cit. V, p.279.
117. On this tradition, see Richard T. Vann, "The Free Anglo-Saxons: a historical myth" (Journal of the History of Ideas, IXX, 1958).
118. The Truth of the Times Vindicated, op.cit. V, p.279.
119. The Wounded Conscience Cured, op.cit. V, p.233.
120. Ibid. p.231. Professor J.G.A.Pocock's discussion of the place of the Norman Conquest in the political thinking of the Civil War period (see The Ancient Constitution and the Feudal Law, Cambridge University Press, 1962, chapter 2) somewhat, it seems to me, misses the mark. He remarks upon the hectic Parliamentarian insistence that no full-blooded conquest had taken place in 1066, an insistence which seems at first sight strange in view of the fact that the Royalists conspicuously refrained from citing the absolutism of William as a precedent for Charles's regime (and Christopher Hill, in his controversy with Pocock, has been unable to produce many convincing examples of its use in this context /see "The Norman Yoke" in his collection of essays Puritanism and Revolution (London: Secker & Warburg, (1958) pp.62-3/). What was in question here, surely, was not the destruction of a precedent of possible use to Charles, but the viability of the "ascending" theory upon which Parliamentary thinking relied so heavily.

121. This phrase comes from John Canne's pro-regicide work The Golden Rule (1649), p.28.
122. It was the elective character of most of these "inferior magistrates" which led William Bridge to dismiss Ferne's fear (see below, p.103) that Parliamentary resistance to the monarch might be but the prelude to popular resistance. to Parliament, there being "not the same reason why the people should be so ready to think that the Parliament do neglect their trust, being they are very many chosen out of the whole kingdom for their faithfulness, approved every way for their goodness and wisdom". Our hereditary, non-elected monarch, on the other hand, may well "be vicious" (The Wounded Conscience Cured, op.cit., V, p.238).
123. Speech of May 23, 1642, p.3-4.
124. A Vindication of Parliament and their Proceedings (1642), in the Harleian Miscellany, op.cit. VIII, p.50.
125. Observations upon Some of His Majesties Late Answers and Expresses, p.11; Some few Observations upon His Majesties Late Answers to the Declaration...of the Lords and Commons (1642), p.5.
126. Observations upon Some of His Majesties Late Answers and Expresses, p.34.
127. Ibid. Parker was also unusual (and instructive) in frankly recognising the sense in which Parliament did not represent the lower orders: while reasserting in 1644 that Parliament "is...the very people itself artificially congregated", he added that "Tis true, in my understanding, the Parliament differs many ways from the rude bulk of the universality, but /at the same time/ in power, in honour, in majesty, in commission, it ought not at all to be divided, or accounted different as to any legal purpose" (Jus Populi /1644/, pp.18-19). Cf. Observations upon Some of His Majesties Late Answers and Expresses, p.23, where he speaks of the role of Parliament to "sweetly arbitrate between the prince and his poorest vassals... declining tyranny on the one hand and ochlocracy on the other." Perhaps it is not without significance that the apparent disjunction between the idea of Parliament as representative and the idea of Parliament as arbitrator did not elicit further explanation from Parker.
128. See The Nineteen Propositions, reprinted in Clarendon, op.cit. II, p.91.
129. See the Remonstrance of the two Houses of May 26, 1642, reprinted in Clarendon, op.cit. II, p.125.
130. See Declaration of the Two Houses against the King's Proceedings, May 19, 1642; reprinted in Clarendon, op.cit. II, p.100.
131. p.35.
132. The Wounded Conscience Cured, op.cit., V. p.216.

133. An Answer to Mis-led Dr. Fearne, pp.5-6.
134. Thus, as against Bridge and Herle, William Prynne, Jeremiah Burroughs and (probably) Stephen Marshall, held that the private man could in principle resist the tyrant and his henchmen (see The Third Part of the Sovereigne Power of Parliaments and Kingdomes, pp.18,83; A Brief Answer, p.113 ff; A Plea,p.9).
135. The Wounded Conscience Cured, op.cit, V, p.234.
136. Ibid, p.235.

ROYALISM AND RESISTANCE

A Defensive, Scriptural Cause

Like the Parliamentarians, the Royalists insisted that it was they who were on the defensive in the Civil War, that it was their party which was the victim of an unscrupulous attack by men bent upon the destruction of the status quo. Accordingly, it was to be a salient theme of Royalist writing that a merciless onslaught was being made upon a well-meaning king, anxious only for the well-being of his subjects. This theme was to appear strongly in the two best known contemporary pieces of Royalist writing, Eikon Basilike and Clarendon's History of the Rebellion. More immediately, the author of A Letter of Spiritual Advice... to Mr. Stephen Marshall reflects the concern of several other contemporary pamphleteers in calling for an unbiased judgement as to the aggressors in the current hostilities: "... for God's sake let the King be styled in this war not an invader, but only, as it is apparent he indeed is, a defender". Was he fighting, this author wanted to know, to secure "any new additions to his former prerogatives, or any new laws to the prejudice of his subjects' liberties, or for any new articles of religion, which he has a mind to introduce by the sword?". Rather was it not his opponents who had "forced him to unsheath his sword merely to prevent innovations in all these? Which is then the invading and which is the defending side?"¹

Dudley Digges also believed that the facts clearly established the identity of the aggressors. The very behaviour of

the Parliamentary leadership towards the King was, in Digges's view, of itself sufficient to confute their supposed fears of him. They professed to be "afraid of his power, and yet answered their own jealousies by showing to the world, they were able to take it from him. He was so far from being in a condition to invade their rights, [that] he had not wherewith to defend his own".² Having tried his best to reach a reasonable accommodation with his opponents which did not involve the surrender of "the necessary means whereby he is enabled to protect his people", the King is portrayed by Digges as retreating to York, where he intended to remain "till such time as the abused people should recover their understandings, and these clouds should be dispelled by a clear apprehension of his innocence, and undeserved sufferings". But his opponents pursued him still, declaring those who ventured to succour "their naked Sovereign" delinquents and malignants, and endeavouring to wrest from him those vestiges of sovereignty which he yet retained: "accordingly all his arms (and those of the Kingdom besides, lest the people should prevent their own wrong by a timely revenge of his) are seized on, and they possess themselves of his forts, castles...and navy".³

While standing by their King in 1642, few Royalist theorists were, apparently, prepared to assert that Charles had been a blameless king: some of the facets of his Personal Rule and his attempt to arrest the Parliamentmen in January 1642 clearly disturbed many who nevertheless felt constrained to follow him when hostilities began.⁴ Indeed, the King himself was responsible for several remarkably frank admissions that all had not been well

during the pre-war period, that the complaints of Long Parliamentarians had been far from groundless. In his Declaration to All His Loving Subjects of August 12th 1642, for instance, he speaks of "the inconveniences and mischiefs which had grown by the long intermission of parliaments, and by the parting too much from the known rule of the law to an arbitrary power", claiming that it had been his intention in summoning Parliament to restore confidence in his rule by returning "all things... to the order of the time (the memory whereof is justly precious to this nation) of Queen Elizabeth", even putting from his mind all thought of supply until the grievances concerning the liberties and property of the subject were dealt with. Star Chamber, Charles confessed, had by the exercise of arbitrary power invaded the law of the land and the liberty of the subject; and the High Commission, far transcending its legal competence, had fined and imprisoned "our people" for "matters unpunishable by the law". The consequence of his perception of these malpractices had been his willing consent to the abolition of both courts; and he had consented also to the Triennial Act because "we really did believe most of the mischiefs then complained of proceeded from the too long intermission of parliaments".⁵

Conceding Charles's (former) fallibility was one thing, but countenancing rebellion was quite another. And this was the point at which the Royalists felt confident in drawing the line. For them, in the first place, the Scriptures quite simply forbade armed resistance. As indicated in our discussion of Parliamentary political thinking, it was Romans 13 and 1 Peter 2 that the Royalists

had principally in mind when they asserted the inviolability of the public authority on Scriptural grounds. These texts, it was argued, protected existing authorities. For the Royalists the assertion that the powers were "of God" therefore had a more immediate and tangible impact than it did for their opponents who (as we have observed) while agreeing that political power in the abstract was "of God", wished at the same time to move on to an exposition in respect of specific regimes and magistrates of the "ascending" theory of politics, a theory which enabled them to distinguish circumstances in which resistance (at least against those assisting a miscreant supreme magistrate) was appropriate. The divinity of public authority was consequently taken very seriously by the Royalists, and for them it was an important characteristic, not (as with their opponents) to be swiftly set aside in the case of an accumulation of discontents. The burden of Royalist thinking is thus neatly expressed by Francis Quarles: "God joined the king and his power...who dare separate them?"⁶

Even where malpractice was admitted, then, the word of God was understood by the Royalists to protect the powers that be. It was clear to Henry Ferne, for example, that the prohibition of resistance contained in Romans 13 "concerned all times, because the Apostle's reasons against it, being drawn from the institution of the power, and the end or benefit of it, are perpetual and concern all governments".⁷ It was further pointed out by some writers that the Apostle was doubly to be relied upon in this particular context, because he wrote (as one of them put it) "at a time when

the world was governed by such prodigious tyrants, as no history mentions the like either before or after them".⁸ It seemed, indeed, as if God's word had here been specifically intended to eliminate permanently all doubt about the impropriety of resistance.⁹

A number of hostile writers told the Parliamentarians that the true Christian would be glad (following Christ's example and St. Paul's word) to suffer for his faith rather than contemplate resistance. Thus when St. Peter, "like a hot-headed Puritan",¹⁰ had met with violence the soldiers who came to take Christ, he had been rebuked by our Saviour, who knew that resistance was forbidden. Christ, Parliamentarians were informed, "came not to put the sword into the hands but into the bowels of his servants".¹¹ To be a follower of Christ therefore required (it was said) the sort of courage which the early Christians had displayed in the face of savage persecution, but which was so obviously wanting in the modern resisters. Even when "devil worship" was enjoined upon the early Christians, they had not countenanced resistance, nor betaken themselves "to any other refuge but fervent prayers to Almighty God, whom they acknowledged to be the prince's only superior, and patient suffering of what disgrace or punishment soever should be imposed upon them".¹² This line of argument was well expressed in Henry Hammond's comments on John Goodwin's Anti-Cavalierism. Martyrdom, Hammond observed acidly, was now "no desirable thing, nor taking up Christ's cross, nor following of him. We are resolved to have no more to do with martyrdom, thinking 7

that the thousand years for the Saints to reign on earth are now at hand, and so suffering, or conformity to the image of Christ, no longer the thing we are predestined to, rather we must set up a new trade of fighting, destroying, resisting, rebelling, leave enduring to those Christians which were furnished with extraordinary strength from Heaven". For his part, Hammond would have been (he said) content to have been crucified with his Christ, thereby sealing with his blood the Christian doctrines "of meekness, patience, non-resistance, peaceableness, and charity".¹³

Royalist thinking reinforced the injunctions to peaceableness and non-resistance which it found in Romans 13 and I Peter 2 by referring to the fifth Commandment, which it invariably took to cover all superiors (not merely natural parents), thus making them the objects of obligatory honour, and also making them immune from resistance even when they oppressed their inferiors. Noting that the Parliemantarians regarded resistance as a proper response to kingly oppression, Henry Ferne wanted to know in which Scriptural passages God had given authority to parents or masters to use unjust violence to their children or servants. Notwithstanding the absence of such passages, it was clear that God had still commanded children and servants to bear with oppression when inflicted. "The like may be said of kings and subjects; for has not God put kings, fathers and masters all in one Commandment and enjoined this duty and reverence to them under one word, Honour?"¹⁴ Governors (both public and private), Ferne believed, had always been secured by God from the violence of those under them; and the

likeness between king and father was made especially significant in this context because of the strongly patriarchal character of early monarchy. Thus in the case of both fathers and monarchs Ferne wrote that "we see the security is still upon the governing part; parents are secured from the force and violence of children; and as unto the first rule of fathers, the government of kings did succeed, so unto kings is honour commanded under the name of fathers, that we might conceive the unnaturalness of war and forcible resistance against them"¹⁵. The fifth Commandment, widely understood, was also crucial to the non-resistance stances of the author of The Grand Question Concerning Taking Up Arms Against the King Answered ("is it not unnatural to unsheath the sword against father or mother?")¹⁶ and of the sermons of Robert Mossom. The latter's approach is strongly reminiscent of Sir Robert Filmer: "To apprehend the strict tie in which the subject is bound to his sovereign, we must know that kings are the successors of the Patriarchs, both in the right of their fatherhood, as fathers of the country, and in the rule of their government as governors of the commonwealth. The difference seems to be only this, that the Patriarchs were kings of their families, and kings are the fathers of their countries. So that jus regium cometh out of jus patrium, the king's right from the father's; and both held by one Commandment moral, and one bond natural. So that as the son by the same Commandment of God is bound to obey his father, so the subject is to obey his king, so by the same bond of nature the subject is to obey his king, that the son is to obey his father".¹⁷

Disrupting the "Ascending" Theory

The "ascending" theory of politics which (as we have seen) was for the Parliamentarians an accompaniment of their reading of Romans 13, had long been a target for the well-wishers of monarchy who saw in it the potential for deposition and regicide which was soon to become reality in English politics. In the early period of Charles's reign, for example, Roger Manwaring had enraged Parliamentarians (one of whom held that he shared with Guy Faux an ambition to destroy Parliament)¹⁸ by his uncompromising rejection of this theory of politics. In a notorious sermon he had claimed that "Royalty is a pre-eminency wherein monarchs are invested immediately from God; for by Him do they reign". Kingly power, again, was "not a derivation, or collection of human power scattered among the many, and gathered to one head; but a participation of God's own omnipotency, which He did never communicate to any multitudes of men in the world, but only, and immediately, to His own Vicegerents". Kings for Manwaring were far from being the ordinary human beings, elevated by the consent or election of their fellows, depicted by the "ascending" theory. Only in the event of a manifest contradiction between the king's command and the word of God should we fail to obey the former: apart from this exceptional circumstance we should never meddle with regal decisions, nor "search into the high discourse, and deep counsels of kings; seeing their hearts are so deep, by reason of their distance from common men, even as the heavens are in respect of the earth". Thus it was not the function of Parliament to restrain or challenge the monarchy: its task was rather to secure "the more equal imposing, and more easy

exacting of that which unto the king doth appertain by Natural and Original law and Justice".¹⁹

The most sustained and extreme English onslaught on the "ascending" theory during the immediate pre-war period came, however, from the pen of Sir Robert Filmer, whose manuscript Patriarcha: A Defence of the Natural Power of Kings against the Unnatural Liberty of the People circulated amongst the country houses of Kent after 1635. Sir Robert hated the "ascending" theory because he believed in the rule, untrammelled from "below", of a single male individual; and because he believed that the power of the commonwealth's ruler was in principle the same as that exercised by Adam over the small (but expanding) commonwealth of his family, with the supreme magistrate no more depending upon the suffrages of his subjects than Adam had depended upon the suffrages of his children. This monarchical principle had been embodied not only in Adam, but also in Noah and the Patriarchs, in other kings such as Charles I, and (on a more limited scale) in "inferior fathers" who ruled privately over their households. Thus all kings were (or should be) monarchs, but not all monarchs were kings.²⁰

Unlike Adam, modern rulers were not the literal fathers or grandfathers of the ruled: nor were they necessarily the nearest descendants of such fathers, but Filmer nevertheless declares that they are "to be reputed, as the next heirs of those progenitors who were at first the natural parents of the whole people, and in their right succeed to the exercise of

supreme jurisdiction".²¹ And however a monarch comes to power, whether by hereditary descent, by conquest or usurpation (both of which, being successful, Filmer regards as providential), or even, in the event of escheating of the royal line, by some sort of election by patriarchs, he is to be accepted as "the parent paramount" who rules absolutely over his patrimony, deriving his power "from the original dominion of Adam", which is indeed "the fountain of all government and property".²² To Filmer, both God's bestowal of political power on Adam and the early history of the politics of mankind as related in the Old Testament revealed the fatuity of the "ascending" theory, although he recognized both the popularity of this theory and "the desperate inconveniences"²³ that could be attendant upon that popularity.

Filmer's main point was that men had never been free in the way presupposed by the "ascending" theory, for they had always been within the ambit of some patriarchal/political authority, whose power only God Himself could take away. There could thus be no opportunity for "the people" to take the initiative in providing themselves with a form of government or in empowering their governors; and the mendacious distinction between political power in the abstract and political power in specific circumstances fell to the ground: "I see not...how the children of Adam, or of any other man else, can be free from subjection to their parents. And this subordination of children is the fountain of all regal authority, by the ordination of God Himself. From whence it follows that civil power, not only in

general is by Divine institution, but even the assigning of it specifically to the eldest parent. Which quite takes away the new and common distinction which refers only power universal... to God, but power...in regard of the special form of government to the choice of the people. Nor leaves it any place for such imaginary pactions between kings and their people as many dream of".²⁴

Because the "ascending" theory misunderstood the nature of politics in general, its application to politics in England could lead to nothing but dangerous misapprehension. In particular, it led to the misapprehension that the Houses of Parliament had an autonomous role to fulfil. Filmer did not doubt that "a well-ordered Parliament"²⁵ (advising, drawing attention to grievances, consenting) could assist the king considerably and thereby make a useful contribution to English political life; but anything beyond this would be a threat to the position of the "parent paramount". Filmer's reduction of Parliament to a completely subordinate position was intellectually ruthless: its history and activities, as interpreted by Filmer, gave no comfort whatsoever to the exponents of the "ascending" theory. In fact in the entire annals of Parliament there was "not to be found the usage of any natural liberty of the people. For all those liberties that are claimed in Parliament are the liberties of grace from the king, and not the liberties of nature to the people. For if the liberty were natural it would give power to the multitude to assemble themselves when and where they please, to bestow sovereignty and by pactions to limit and direct the exercise of it, whereas the liberties of

favour and grace which are claimed in Parliament are restrained... for time, place, persons, and other circumstances, to the sole pleasure of the king".²⁶ And just as the Houses could not in any sense control their sovereign ("They are only members and a part of the body, whereof the king is the head and ruler", writes Filmer, switching images for a moment)²⁷, neither could the electors (and still less the multitude) control those whom the king had summoned to assist him with his fatherly care of the nation. Filmer had not heard, he declared, that electors had ever issued instructions to an MP, or called an MP to account in respect of his conduct at Westminster: "If the people had any such power... then we might have some colour to call it the natural liberty of the people. But they are so far from punishing that they may be punished themselves for intermeddling with Parliamentary business".²⁸

No doubt reflecting the reality of a situation in which the Parliamentarians had taken the initiative away from the king, Royalist theory in the Civil War period tended to be less extreme than that expounded by Manwaring and Filmer. At the same time, contentions that the Scriptures made the king's position inviolate and that the "ascending" theory was to be rejected, reappear strongly. Henry Ferne, probably the leading Royalist writer of the period, conceded the propriety of "personal defence" against "sudden and illegal assaults" of the king's agents, and even of the king himself, provided that his person was not endangered;²⁹ but general resistance (raising an army, seizing munitions, etc.)

was quite out of the question, with those participating in it being murderers destined by the terms of Roman 13 for damnation. He consequently warned the uncommitted against the blandishments of the Parliamentarians, for their aim was "to rule and secure your conscience against the express words of the Apostle forbidding resistance".³⁰ Ferne seeks to disrupt the "ascending" theory, which he regarded as "a seminary of tumults and sedition",³¹ by drawing attention to the fact that political power has much more frequently been achieved by hereditary succession and conquest than by any sort of elective process. Thus he writes that where, as in England, "the crown not only descends by inheritance, but also has so often been settled by conquest in the lines of Saxons, Danes and Normans", it is preposterous to speak in terms of a re-assertion of power by the people.³²

Ferne's account of politics turns upon his ideas of what might be called the general and specific providence of God. Like the Parliamentarians, he believed in a general providential provision of political power to safeguard the well-being of society; but equally important was God's specific providence, whereby rulers were provided for particular societies at particular times: this is (Ferne tells us) "that providence which translates kingdoms", which "sets up and pulls down...and governs the whole world".³³ Conquest and (as with Charles I) hereditary descent from a conqueror featured much more prominently in national political histories as means whereby regimes were "translated" (Ferne believes) than election. His discussion of the operation of God's specific providence in English history was most offensive to the Parliamentarians,

for not only did he recognize the unmitigated nature of the Conquest of 1066 and of the absolutism of William I's government, but he also wrote of Danish and Saxon conquests, and even of a "Saxon yoke".³⁴ These historical facts swiftly gave the lie, in Ferne's view, to the "fancies" of Hunton et al that our government had always been limited and that consent had invariably been the presupposition of its legitimate operation. "Is there no way [Ferne asked rhetorically] for that providence which translates kingdoms to discover itself, but by the consent of the conquered people? Could it be that God's setting up a king by conquest over...a people shall be no [legitimate] institution or ordinance?"³⁵ Such suppositions were clearly nonsensical, and Ferne held that the consent of a conquered people merely recognizes the legitimacy of a providentially-provided regime, rather than creating it, as the Parliamentarians held. And even where there had been some kind of election, the electors apparently only "design" the individual who is to rule without conferring any power upon him, for power comes from God alone: elected rulers (we learn) "have ...their power not from the people (to whom it belongs to be governed, and do by choosing a governor seek a benefit safely) but from God, by virtue of His institution of Government".³⁶ People resisting an elected prince consequently "usurp a power that God has not given them...if they depose him, they take away that power which God, and not they, placed in him, for although they elected and designed the person, yet he is the minister of God, and from God he has his power and commission".³⁷

A similar argument appears in A Discourse Concerning Supreme

Power and Common Right where the electors, in the case of the "escheating" of the royal line of descent, are said to "hold forth the person [elected] to the power".³⁸ They do not confer the power upon him because it is not theirs to confer: they are thus said to act as a "pipe" rather than as a "spring".³⁹ The position of an elected king was also explored in a tract of 1645 said to have been written by Edward Hyde. The author states that God alone ("the only potentate")⁴⁰ can provide an individual with regal power, but sometimes he allows the people to choose the particular individual to exercise it. The relationship between the elected monarch and the people who elect him is likened by the author to that between a mayor and those who elect him: the authority of the mayor is derived solely from the king's charter, which not only invests the mayor with such power as he has, but also gives to the corporation the power of electing him.⁴¹

Similar scepticism about the "ascending" theory of government is a strong theme of Bishop John Bramhall's Serpent-Salve: or a Remedy for the Biting of an Asp. Bramhall complains bitterly of this theory ("the masterpiece of our modern incendiaries")⁴² by means of which the revolutionary leaders had been able "to prick forward the heady and raging multitude" and "to break open... [the] cabinet of state".⁴³ As against the magnification of the power of "the people", the Bishop emphasized (as Ferne had done) God's direct bestowal of authority, the patriarchal character of early "petty kingdoms", and the ubiquitous role of conquest in establishing regimes. Thus for Bramhall, as for Ferne, Charles I's title dated from William's conquest of 1066.⁴⁴

Sir John Spelman was also insistent upon the part played by violence in establishing polities. In Certain Considerations upon the Duties both of Prince and People he makes significant distinctions between states originating naturally, states originating violently and states having a martial origin.

"Natural" here refers to patriarchal monarchies, such as that established by Abraham; violent government appears after a conquest; and it is only in a state of martial origin that popular choice features significantly. In the case of such a state it would appear that an unhappy multitude "distrusting their present condition, served themselves on the wit, spirit and courage of some notable man, to whose command...they subjected themselves, and then falling into [military] action, prospered even into a kingdom".⁴⁵ The conclusion which Spelman draws from his examination of "the original of kingdoms" is that "we must rectify that misapprehension, that in all kingdoms the first derivation of authority was from the people".⁴⁶

The Royalist writer who sets out most single-mindedly to "rectify that misapprehension", and who thereby probably succeeds in bringing out most clearly what was at issue in philosophical terms between Charles's orthodox supporters and his adversaries, is the Scot John Maxwell, author of Sacro-Sancta Regum Majestas, published at Oxford in 1644. Maxwell's starting point is, as he puts it, that "all kings whatsoever have their freehold from Almighty God alone", and he elaborates this belief in such a way that the "ascending" theory is entirely thrust out of doors.⁴⁷ Maxwell understands that God has not only decreed man's existence, but also

his conservation ("creation is begun conservation: conservation is a continued creation")⁴⁸: and conservation necessarily involves order, together with the obligation to obey authority. It is therefore unthinkable "that God hath left it to the simple consent and composition of man, to make and establish a heraldry of sub and supra, of one above another, which neither Nature nor the Gospel doth warrant".⁴⁹ Accordingly, God has not only decreed political power in the abstract, but has also provided concrete rulers to minister to men's needs within the several nations.

Maxwell proceeds to distinguish the sovereign power ("the specific and formal assence...of a king"),⁵⁰ the person who exercises this power, and what he calls "the application of royal power... to the person". As we now have no Samuel to inform us of God's specific providence, the "designation" of the person who is to exercise sovereign power (whether by hereditary succession, conquest or election) is a matter to be settled by "humane" agency, with the outcome being accepted as God's "ordinary providence". But the provision of the sovereign power itself, and its application to the person designed are properly matters for God alone, though Maxwell bemoans the propensity of men to "jostle" God out of the exercise of these divine prerogatives by means of resistance and deposition.⁵¹

Sacro-Sancta Regum Majestas characterises the relationship of sovereign and subject by the use of a number of analogies. We are told in the conventional manner, for example, that the king is a "father surrogated".⁵² But in the present context, the most significant of these analogies compare the king with a minister

designated for ordination by his bishop and with a husband chosen by his wife. In both cases, "humane" agency is deeply involved, but it cannot be said that either the minister or the husband owes his power to the process of ordination or choosing involved. The minister, we learn, has his "designation" from man, but his "endowment" with the "supernatural power" necessary to undertake his duties "is immediately from God and Christ".⁵³ Of the husband's power, we are told that while "a woman by her choice and consent designeth her husband,...the marital power and dominion is only from God; for how can she confer or transfer that power which was never fixed in her, nay by God and Nature she is to be ruled by her husband? It is...then...manifest that an humane act may design the person of a king, and that the power is conferred by God alone".⁵⁴ In particular, Maxwell makes the familiar point that the power of life and death does not belong to men as such and has therefore to be conferred upon "God's deputy" from above. He also reminds the Parliamentarians that man's power over the brutes is conveyed to him immediately by God, and asks why they found it inconceivable that the power of rulers should be similar.⁵⁵

Making the power of rulers depend on "compact and contract", as the Parliamentarians did, produced an intolerable equivocation at the very heart of sovereignty. For at the same time that authority was conveyed to the ruler by the people, such conditions were placed upon its employment as to make it of very doubtful utility. Thus, as a consequence of the "ascending" theory, "the king is censurable, deposable at the pleasure of the multitude, as they fancy him to have transgressed...The meanest...of subjects may arrest, cite, convent, the king before the underived majesty of the

community, he may be judged by the arbitrary law that is in the closet of their hearts... and deposed upon fancied, apprehended fears and jealousies..."⁵⁶ Little wonder that in Maxwell's eyes such a ruler "becometh a monster, an hermaphrodite, composed of a sovereign and a subordinate, of a king and a subject."⁵⁷

Moreover, Maxwell did not hesitate to tell Parliamentarians that, in principle at least, the "ascending" theory put the sovereign power at the disposal of the populace, "who are the weakest in judgement, the most instable in their resolutions and conclusions, ready to cry today 'Hosana', and tomorrow 'Crucify'."⁵⁸ At least the Jesuits (who had for their own sordid monarchomach purposes embraced the "ascending" theory) did not allow the people to act against a ruler before the Pope had given the word. And Maxwell surmised provocatively that, given the choice, a prince would rather see the Pope set over him than the people, preferring "to submit and subject his crown to the Pope's mitre, than to the fury and violence of an untamed beast"; for the Pope's avarice and ambition were "sooner satisfied, than is imaginable of that insatiable beast of the community".⁵⁹

Finally, Maxwell argues that the "ascending" theory is only capable of yielding what might be called a pseudo-theory of political obligation. For him, plainly, a mere agreement (made either with the magistrate or with your fellow subjects) falls well short of imposing a genuine obligation. For him, indeed, kings were gods on earth and the sovereign power was "a ray of divine glory"⁶⁰; and, as St. Paul had sharply reminded us, our obligation to it is not merely conditional, the result of some voluntary agreement, "but

necessary, and imposed upon us by God". Both Scripture and Nature (an ordered Nature) thus taught "that disobedience to sovereign power is not only [a] violation of truth, [a] breach of covenant, but also high disobedience and contempt".⁶¹

From the attempts of the Royalist writers to disrupt the "ascending" theory of politics emerged their own "descending" theory. The consistent and aggressive use by their opponents of the "ascending" theory obliged many Royalists to make an examination of the nature and origins of political power. The circumstances of the period, with Royalists for the most part reacting to the ideological initiatives of their opponents, meant that the trumpet of the "descending" theory is somewhat less certain than the trumpet of the "ascending" theory, but it is nevertheless clearly to be discerned when Charles's aggrieved supporters took up the pen in his defence. For them the power of princes, however they came to office, was conferred downwards by God, who was understood to be solely responsible for the empowering (but not in modern times for the "designation") of princes, and through them of lesser magistrates. It followed from this notion of a downward conferring of power that both the person and the authority of the prince were sacred and that it was not within the competence of subjects (even if they were lesser magistrates) to strip the prince of any part of it, still less to depose or kill him. His person (even in the event of misconduct) and his authority were "inseparable, they live and die together, they are of God's conjunction...and though man may sever what himself hath joined, yet what God hath joined no man must sever".⁶²

Where did this "descending" schema leave inferior magistrates, the Peers and MPs who were now claiming the exercise of sovereign power as their own? Emphatically it left them as subjects, whether considered as individuals or as gathered together in their respective Houses. No doubt they had certain rights not possessed by other subjects, and no doubt they could be said to enjoy a certain trust from these other subjects, but these rights could not possibly include an ability to resist the supreme magistrate or to depose him, nor could they be entrusted to do what the trustors could not.

At its strongest the "descending" theory reduced inferior magistrates to the level of the king's "delegates",⁶³ covered (most Royalists thought) by Romans 13 and I Peter 2 and certainly sent by God, yet (as Edward Symmons had it) "more remotely...by the mediation of the supreme, even as the lesser stars have their light from God, by the mediation of the sun".⁶⁴ Therefore, as the King was the image of God, so "inferior powers in regard of their dependence upon him, are the images of the King".⁶⁵

Parliamentarians were told that Peers and MPs could not pretend to any jurisdiction over their prince for it was from him that all authority proceeded and they were reminded that the very format of Parliament's proceedings gave the lie to their rebellious pretensions (they do ill to petition when they might command⁶⁶). Moreover, if Peers and MPs "like ungrateful vapours, that cloud the sun which raised them...in the least manner employ that strength which you have received from His Majesty when he called you together, against His Majesty, it will be an ugly spot and a soul blemish,

both for yourselves and all your posterities".⁶⁷ In fact, as Robert Mossom observed, such a notion was quite preposterous. As "the king's creature", the lesser magistrate could not conceivably exercise any jurisdiction over him, for the king, "being the fountain from whence the lesser magistrate's power doth stream, how against nature is it, for the stream to run backwards into the fountain, for the power derived from the king to be exercised against the king?".⁶⁸

Most Royalists were less forthright in putting down the pretensions of the Houses. As we shall see, the Royalists often spoke of "mixed" monarchy, and implied thereby a more positive role for Peers and MPs than mere "delegates" of the king. Yet still there was the belief that successive kings, including Charles I, had themselves been responsible for creating whatever degree of "mixture" our system of government exhibited, and that even when English princes were being restrained from "excess" by the Houses, the restraining agencies existed on account of regal grace, perhaps even on account of regal sufferance.

The Philosophy of Monarchy

The Royalists believed that not only did the Scriptures speak explicitly in favour of monarchy as "exemplo divino" (God's appointment of Saul, David et al), but that Nature itself implicitly indicated the preferability of non-resistible monarchy as a form of government. These writers may therefore be seen as arguing in terms of what W.H. Greenleaf has called the political theory of Order, which

postulated an ordered, hierarchical, universe, and sought to show by analogy (or "similitude", as the men of the seventeenth century tended to put it) with non-political areas of reality the desirability of monarchy and the impropriety of resistance which overthrows good "Order".⁶⁹ For John Bramhall, for instance, the ubiquity of the monarchical principle was an unmistakable indication that it was both natural and God-ordained. He found one God in the universe, one sun in the heavens, one master in each family and one monarch in each civil society.⁷⁰ And the Bishop endeavoured to display the preposterousness of the "ascending" theory by asking whether it could be applied to the relationships between father and family, master and servant, shepherd and sheep ("when the greatest part of the sheep dislike their shepherd, must he presently put up his pipes and be packing? Take heed what you do; for if [the] people be greater than the king, it is no more a monarchy but a democracy").⁷¹ Confronted by Henry Parker's assertion of the primacy of Parliament over the monarchy, the Bishop further wondered whether his adversary had also "devised some hierarchy of angels in heaven to overtop God, as you have found out a court 'paramount' over His vicegerent in earth".⁷² Edward Symmons' point in A Loyal Subjects Beliefe was similar. For him the representative institution could have no legitimate grounds for coercing the king: MPs were "but the representations of us, our images; and how they can pull down the image and representation of God, I cannot see".⁷³ For Bramhall the claims of the Parliamentmen had produced a thoroughly unnatural, not to say monstrous, commonwealth, with the conscience of the poor

subject put upon the rack of contrary demands. And he lamented that of all wrong-headed politicians, "they are the most dangerous which make the commonwealth an amphisbaena, a serpent with two heads; who make two supremes without subordination one to another, the King and the Parliament".⁷⁴

Meanwhile, Henry Ferne wondered if it was sensible for the other parts of the body to make war upon the head,⁷⁵ and James Ussher likened the supreme governor to the breath of the natural body.⁷⁶ For Bishop Henry King, on the other hand, it was God himself ("the God of Order")⁷⁷ who provided the model for monarchical government. No other governmental form, he tells us, comes "so near His own, which is the archetype, the first and best pattern of all others, as the monarchical; when a state is governed by a king as sole commander over all. For in this singularity of power, that person who is...the lively image of God, will some way represent the unity of his Maker too...".⁷⁸ This sort of argument led to the conclusion that those who were resisting the king were also resisting God: as another member of the episcopate put it, "Monarchomachoi are Theomachoi".⁷⁹

John Maxwell's Sacro-Sancta Regum Majestas also saw the king as God's image. The work argued that creation and order were in fact synonymous, and for Maxwell order emphatically meant monarchical order. Thus in speaking of a universal principle of subordination (whereby within both the microcosm of each plane and the macrocosm of the world, "from the lowest we ascend to a superior,

from one superior to another, till at last we come to one supreme, which receiveth nothing to better it from any inferior at all, but only due reverence and obedience, and...hath a... benign influence upon all beneath it")⁸⁰ he asks: "From whence I pray you, is this but from the sacred and inviolable God of Nature?"⁸¹ The impartial, recognizing the ubiquity in creation of the monarchical principle, would also recognize (Maxwell was confident) "how much this pleadeth for the excellence of monarchy"⁸² in civil society, and how much democracy violated the principle of Order which God had instituted.

A Discourse Concerning Supreme Power and Common Right is replete with arguments of the theory of Order. God, we learn once more, "is a God of Order",⁸³ and His providence acts "by setting up a kind of hierarchy and regiment amongst all the several societies of His creatures, even from the lowest to the highest... (so that levelling is contrary to His design) and by a sweet subordination...preserves the whole".⁸⁴ The author finds both hierarchy and sovereignty in the heavens (with sun and moon ruling by day and night respectively) and among the brutes (the bees having "a most perfect policy of monarchical government", and behaving as dutiful subjects).⁸⁵ But God's principle of "sweet subordination" is imposed particularly upon His rational creatures; and this is achieved by "centring all power (of families, societies, kingdoms) in one supreme and paternal head, both for perfection and permanence".⁸⁶ It followed that all other governmental forms "argue not only weakness in, but tend to the...subversion of the

fabric...because not agreeing to the model, which God first erected in Adam".⁸⁷ What men were guilty of, therefore, in endeavouring to transform a monarchy into some other (basically unnatural and "counterfeit")⁸⁸ governmental form, was "not suffering God, that made the house, to order it".⁸⁹ The author's consequent attitude towards rebellion is strikingly set out at the very outset: "As God is a spiritual king, so kings are human gods, His picture drawn in little, and the most express image of His power, receiving (as the wax from the seal) all the parts and proportions of the print, in the largest character, in which He shows himself in civil administrations. So...the endeavour of effacing any part of that just power, where God hath engraven it in His Deputies, is a spiritual treason and rebellion against God Himself".⁹⁰

"Spiritual treason": this phrase conveys the import of the Order theory's attitude towards resistance, which it understood as a blasphemous violation of "Order" bringing the most serious consequences if pursued in a sustained manner. The fact that the "spiritual treason" of 1642 was led by inferior magistrates did not make it any the less reprehensible in the eyes of the Royalists. They did not usually exclude inferior magistrates, in normal circumstances, from the ambit of Romans 13; but when a confrontation between the supreme magistrate and an inferior occurred, the King's supporters tended to believe that the latter became a mere private man, no more entitled to draw the sword against his Sovereign than the meanest subject. The author of, Rebels Catechism thus spoke

of "a golden chain in politics...every link thereof hath some relation and dependence upon that before"; inferior magistrates, about God's work, should unquestionably be obeyed, "yet God expects that they should yield obedience to the powers above them, especially to the highest of all, than which there is not any higher".⁹¹ Resisting instead of obeying, inferior magistrates forfeited their status and became unmitigated rebels.

Concerning the consequences of "spiritual treason", Bramhall complained in 1643 that through the application of the supposed "remedy" of resistance, the kingdom had been obliged to endure more suffering in one year than it had done since the union of the Roses.⁹² In 1661 he grieved especially over the confusion of social ranks which the turmoil had occasioned: "kings, dukes, bishops, knights and pawns, are all confusedly mixed together in one bag". The task of the survivors, he urged, was "to fix every man in his proper station, wherein he is to serve his king and country".⁹³ Now according to Henry Ferne, it was precisely God's foreknowledge of these disastrous consequences which had led Him to forbid the use by subjects of the "remedy" of rebellion: "This power of resistance in subjects, would be a remedy against the exorbitancies of princes worse than the disease, and more subversive of a state, than if they were left without it. This the wisdom of God, the God of Order, did foresee, who put His people under kings, without such ā power".⁹⁴

Broadly, there were two Parliamentary responses to the Royalist emphasis upon Order. First, the Parliamentarians wanted

to question the appropriateness of the conceptual framework involved. Henry Parker, for instance, was suspicious of a political theory whereby princes were called gods, fathers, husbands, lords, heads, etc. Arguably these "similitudes" were useful in suggesting the importance of the public trust resident in the supreme magistrate; but even here it was not for himself, but rather for the "extrinsical end" of the safety of the people, to which magistracy itself was but the means. Otherwise, the analogies (as used by the Royalists) were highly misleading; thus, though "the father is more worthy than the son in nature, and the son is wholly a debtor to the father, and can by no merit transcend his duty, nor challenge anything as due from his father; for the father doth/hold all his offices meritoriously, freely and unexactedly. Yet this holds not in the relation betwixt king and subject, for it's more due in policy, and more strictly to be challenged, that the king should make happy the people, than the people make glorious the king".⁹⁵ Samuel Rutherford's Lex Rex argued that at most the king could be regarded as an "adopted father"⁹⁶, because the distinction between domestic and civil society (although blurred by the Royalists) was fundamental; he found it "an undeniable truth, that as domestic society is natural, being grounded upon nature's instinct, so politic society is voluntary, being grounded upon the consent of men".⁹⁷ Subsequently, John Milton was to pursue a similar theme when, in a striking passage he sharply disabused his French antagonist, Salmasius, of the idea that "when you had called kings fathers of their country, [you] could fancy that with that metaphor you had persuaded

us, that whatever is applicable to a father, is so to a king. Alas ! There is a great difference betwixt them. Our father begot us. Our king made us not, but we him. Nature has given fathers to us all, but we ourselves appointed our own kings. So that the people is not for the king, but the king for them".⁹⁸

Similarly with the king as "head": the natural head and body had an equal dependence one upon the other such that they must live and die together: "but it is otherwise with the Head Political, for that receives more subsistence from the body than it gives, and being subservient to that, it has not being when that is dissolved, and that may be preserved after its dissolution".⁹⁹ The body politic clearly had a certain integrity quite apart from any particular "head" and this fact meant that political heads could be elected and, if necessary, replaced: "The head natural is not made...by the free election and consent of arms, shoulders, legs ... fingers, &c. The king is made king only by the free election of his people".¹⁰⁰ And in any case, while the head was no doubt more honoured than any other member, "yet in a frenzy, if it be not held by hands, the furious man may knock out his brains against his own bed posts".¹⁰¹ As for the idea that kings were "earthen gods", Herbert Palmer observed that while God's rule over Creation could not be less than perfect, kings "oft times need to be governed so far as not to be suffered to undo all by their governing, or else this question had never been in the world, which our hearts bleed to be forced to dispute, concerning the power of resisting monarchs".¹⁰² Finally in this context, it was left to Samuel Rutherford to point out that in so far

as Royalist theory relied upon the idea of conquest, the analogies became confusing even in that theory's own terms, for surely a conqueror, a Nimrod, could hardly be likened to (say) a father or a head: "Can he be a father, a guide and a patron to us against our will, and by the sole power of the bloody sword?... Will he by the awesome dominion of the sword be our father, and we unwilling to be his sons - an head over such as will not be members?".¹⁰³

Secondly, it was suggested by some Parliamentarians that tyranny was itself a grave disorder. Consequently, on the assumption that a prince was "bent to subvert religion, laws and liberties", Herbert Palmer wanted to know "what order or good will then be in force when these are subverted? And whether this tyrant that attempts to subvert these, intends not to dissolve that order, for which his power and himself were set up of God? And how then the Apostle's reasons given in Romans 13 can possibly reach to forbid resistance to such attempts or practices ?" For Stephen Marshall likewise, the Royalists were simply begging the question when they alleged that resistance jeopardized the whole frame of order: "As if ^{the} hindering the pilot from dashing the ship against the rock, tended to dash the ship against the rock..."¹⁰⁵

The English Constitution

The Royalists, then, believed in an ordered society, and found good philosophical reasons for preferring monarchy to preside over it. At the same time, these writers tended to believe in the primacy of monarchy as opposed to its absolute supremacy. Monarchy was usually seen as one element (albeit the primary element) in a

mixed form of government. Thus the author of A Letter to a
Gentleman of Leicestershire wrote of "this well-tempered monarchy",¹⁰⁶
 Bishop Bramhall of a "mixture of governments",¹⁰⁷ Charles himself
 of a "regulated monarchy" in which "the balance hangs even between
 the three Estates",¹⁰⁸ Dudley Digges of "tempered...government"¹⁰⁹
 and Sir John Spelman of a "composite form...of government".¹¹⁰
 The general import of phrases such as these was that the king's
 authority was located within a constitutional system which also
 contained aristocratic and popular elements, and that in the
normal course of events these several elements acted in such a
 way as to check overweening ambition within any one of them:
 "The end of this mixture", as Henry Ferne put it, "is to
 restrain from excess".¹¹¹

Thus in Digges's first pamphlet we read that in England
 the subject owes his security not (as Henry Parker had alleged)
 to the fact that the Parliament could be identified with the
 nation, but to the fact that the final determination of public
 policy was "not in one, nor two houses, but the joint consent
 of the three Estates is necessary".¹¹² Similarly, Spelman
 clearly had the example of English politics in mind when he
 declared that the well-being of society "depended...on the well-
 regulating of the sovereign monarchical power, by a reasonable
 interposition of some power committed into the hands of the two
 other potent limbs. So it became an experimented principle
 among the statistes, that the composite...was the only firm and
 durable form..."¹¹³ And, more famously, Charles I urged in his
Answer to the Nineteen Propositions that as the Houses of Parliament
already had more than enough power to prevent tyranny, he saw himself

as being under no obligation to concede any of the further accessions of power demanded on their behalf in the Nineteen Propositions of June, 1642.¹¹⁴ Clarendon tells us significantly in his Life that in his view the Answer to the Nineteen Propositions, which had been composed by Lord Falkland and Sir John Colepepper, conceded too much to the Parliamentarians by making monarchy merely one of the three Estates. For him the clergy were the third Estate (notwithstanding the outrageous extrusion of the Bishops from the House of Lords) with the King "being the head and sovereign of the whole".¹¹⁵ Thomas Hobbes also complained about the King's propaganda, featuring as it did the silliness of mixed monarchy, and found it not without significance that much of it had been written for him by renegades (such as Falkland and Colepepper) from the other side, "such ... as having been Members of this Long Parliament, had declaimed against Ship-money and other extra-parliamentary taxes as much as any, but when they saw the Parliament grow higher in their demands than they thought they would have done, went over to the King's Party."¹¹⁶

On the matter of how the English had come to enjoy this system of mixed government, the Royalists usually referred to a process of historical evolution whereby the absolutism of the immediate post-Norman Conquest situation had been substantially and irrevocably modified. This modification consisted, the Royalists tended to believe, in gracious concessions made by successive kings who had been prepared to limit, in a way thought beneficial to their subjects, the manner in which the sovereign power operated. Thus while Spelman probably, and Digges, Bramhall and Ferne certainly, regarded 1066 as a date of great significance in English history, for none of them was the absolutism of the post-Conquest regime a precedent for

the manner in which Charles I might conduct himself. His Majesty's "original title to this kingdom", the Serpent-Salve asserts, certainly did not derive from any kind of election, but rather from the Conquest of 1066. But by granting the reality of the Conquest, Bramhall did not intend to reduce the English to the status of conquered vassals, "as if so many good laws, so many free charters, so many acts of grace, in so long a succession, had operated nothing"¹¹⁷. Ferne also treats the matter very clearly in A Reply to Several Treatises. He categorically denies that Charles could properly have been an absolute ruler or that he (Ferne) had "urged the entrance of the Saxons and Normans as an argument to prove it by". His references to these conquests had rather been "by way of answer to what was spoken by them [i.e. the Parliamentarians], touching a right in the people by virtue of... [an] election at first, as they suppose to have given beginning to this monarchy... These conquests are not mentioned to win an arbitrary power to the king, but only to exclude resistance... [upon the ground of] such a supposed election".¹¹⁸ Granting the authenticity of the Norman and Saxon conquests was thus for the Royalists not a way of arguing about the way in which government should now operate, but it did demonstrate the intellectual poverty of the "ascending" theory as expounded by the Parliamentarians.

Though Ferne found no question but that William had exercised absolute power after the Conquest (having disposed of Harold, the only elected king in English history), he accounted for the current mixed regime by referring to a process of what he called

"after-consent", whereby successive kings had bound themselves to certain mitigations of absolutist rule.¹¹⁹ By far the most important of these "after-consents" was the king's agreement not to legislate without the consent of the Estates represented in Parliament, and it was this undertaking which had been primarily responsible for producing the degree of mixture which our government now exhibited. But the monarchy, while ceasing to be absolute, had clearly retained its supremacy, for in other areas of government (the conduct of foreign relations, the appointment of ministers, etc.) the king could still proceed as he saw fit without securing the concurrence of any of his subjects.¹²⁰ Ferne's account of English history in terms of the mitigation of post-Conquest absolutism by a succession of voluntary royal concessions accords well with what appears to be the general direction of Royalist thinking. In the Serpent-Salve John Bramhall held that for the greater well-being of his subjects, a king could graciously "part with any of those jewels which do adorn his royal diadem", and the Bishop urged his readers not to disesteem such irreversible concessions as were made in Magna Carta ("the fountain and foundation of our freedom")¹²¹ or the king's undertaking not to legislate without the concurrence of the Estates, because they were princely gifts rather than deductions from an "ascending" account of government; gifts, he insisted, were just as valuable and useful to us as objects purchased with our own money.¹²²

William Ball's A Caveat for Subjects contains very similar assertions. Though they have "but ordinary succession", kings such as Charles I, who had not been directly appointed by God still have

"their power immediately from God" and Ball argues that we are quite mistaken in regarding the rights enjoyed by English subjects as a confirmation of the view that political power lay originally with the people and that they had alienated only such parts of it as they thought fit, retaining the remainder as a guarantee of their own safety.¹²³ These rights were in fact "mere donatives of grace proceeding from the [conqueror] prince or his successors to the people, touching certain immunities and privileges, for that the prince's power is the efficient cause of them, and such immunities and privileges are but as material effects. Now as it is most improper to say, that the effect should cause its own cause, so it is to say, that a privileged people should cause the prince's power, or that power should remain originally in such a privileged people".¹²⁴ In Ball's view, the "donatives of grace" had culminated in the concessions made at the beginning of the Long Parliament: "as the continuation of this present Parliament, the abolishing of the Star Chamber and High Commission censures, and the like".¹²⁵ But none of these concessions was to be understood as returning any part of the sovereign power to the English people (who had never possessed it anyway) or as placing enforcible limits upon the king's power. Like Ball, the author of A Discourse Concerning Supreme Power and Common Right also remarks upon the way in which the exercise of monarchical power varies from state to state, and also attributes this variation to "the free determination" of the wills of the princes concerned. In England it is thus now the case that except in the case of direst necessity, "extraordinary impositions cannot...legally be laid upon us... without the consent of both Houses of Parliament; it having been

the wisdom of our predecessors (by the indulgence of good kings) to keep the purse and the power...divided to prevent all tyranny and exorbitancy in the use of either".¹²⁶

Also like William Ball, Henry Ferne complained of the way in which the Parliamentarians misunderstood the origins of mixed government in England. Ferne held that in pursuit of a claim through the Saxon kings, William had conquered the country in 1066 but that subsequent royal concessions had produced the system of mixed government which Englishmen now enjoyed. This government was emphatically not the product of the people's "precontrivement at their making of the first king", as Parliamentarians fancifully believed, but had rather emerged through successive agreements between an originally absolute monarch and his people: "For a government may receive a change and qualification by consent of king and people, from more absolute to mixt"; and in the case of England the king had, for instance, agreed "that he will not impose any laws upon his people without their consent".¹²⁷

In the context of this notion of self-limiting monarchy, Peter Heylyn's The Stumbling Block of Disobedience and Rebellion is particularly interesting for while he alleges at one point that the English king is, if anything, more absolute than the kings of France and Spain, and recoils from the idea that the monarchy is merely one "estate" among others, he ultimately comes much closer to the realities of mid-seventeenth century English politics by recognising the departure from absolutism on the part of kings of England by dint of voluntary limitation. Heylyn had no doubts as to the reality of

the Conquest of 1066: "When the Norman Conqueror first came in, as he won the kingdom by the sword, so did he govern it by his power. His sword was then the scepter, and his will the law. There was no need...of an Act of Parliament; much less of calling all of the Estates together, to know of them after what form, and by what laws they would be governed".¹²⁸ When Englishmen subsequently found the "yoke" of Norman government "too heavy and insupportable", they succeeded in some degree in having the laws of Edward the Confessor reintroduced by petitioning their kings. But there was never any question of Englishmen having a right to have the Confessor's laws restored, "it being left wholly to the king's grace and goodness whether he would give ear or not to their petitions, or harken unto such advice as the Lords or other great men gave him in behalf of his people". While insisting that English kings retained full sovereign power, Heylyn concedes that the king could not legislate without the concurrence of Peers and Commons, and that, quite apart from the question of legislation, there was a considerable number of "concernments" which "having been formerly recommended by the kings of England, to the care and counsel of their people convened in Parliament, are not now regularly dispatched but in such conventions: as are...[the] raising of subsidies and taxes...". And it seems arguable that in the particular context of the English constitution, Heylyn ends up, for all his talk of absolutism, merely defending the king's Negative, for he tells us that the co-operation of Lords and Commons "would be lost and fruitless, did not the king by his concomitant or subsequent grace produce their good intentions into perfect Acts".¹²⁹

The Royalists sometimes conceded (or at least hinted) that they recognised the threat to the system of mixed government which had been inherent in the period of Personal Rule. John Bramhall thus insisted that Royalists held Parliament in high esteem: "the very name of a Parliament was music in our ears; at the summons thereof [i.e. in 1640] our hearts danced for joy"¹³⁰. The Royalist lawyer, David Jenkins, also expressed his "love" of Parliaments, and hastened to disassociate the Royalists from the policies of the 1630's: "We of the King's party did and do detest monopolies and ship money and all the grievances of the people as much as any men living. We do know well that our estates, lives and fortunes are preserved by the laws, and that the King is bound by his laws"¹³¹. But on the other hand, the Royalists all asserted vigorously the threat to the traditional constitution posed by the Parliamentarians, bent as they were on fastening a new despotism upon society. It was of the utmost significance for the Royalists that the King's opponents had not scrupled to lay claim to the King's undoubted legal rights, from his "Negative" (veto on legislation) to the possession of his munitions as Kingston-upon-Hull: if this was how they treated their sovereign, it was asked, what would they do to mere subjects?¹³²

In the duel of "official" propaganda which preceded the commencement of hostilities, Charles re-iterated that he would obey the law, and that he expected everyone else to do so. God and the law had given him certain prerogatives to exercise for the safety and well-being of his subjects, and he had gone as far as possible to meet criticism concerning the operation of these prerogatives. Indeed, he had resolved on summoning the present Parliament "that

the measure of our justice and favour, by way of reparation, should far exceed the proportion of the sufferings our good subjects had undergone by us".¹³³ His concessions, however, had merely caused further demands, the outcome of which (if granted) would be his reduction to the role of a mere spectator with respect to the arena of politics ("we shall have nothing left for us but to look on").¹³⁴

The aim of the turbulent spirits at Westminster was, Charles and his supporters believed, the substitution of a majority vote in both Houses (or perhaps even a majority vote in the Commons) for the law of the land. And the King argued that such a substitution could not but be profoundly dangerous to the property and liberties of all Englishmen, king and subject alike: "Where is every man's property, every man's liberty? If the major part of both Houses declare that the law is, that the younger brother shall inherit, what is become of all the families and estates in the kingdom?"¹³⁵ The King could not believe that the electors had entertained any notions of this kind when they had sent MP s to Westminster in 1640: "Were they trusted to alter the government of Church and State, and to make themselves perpetual dictators over the king and people? Did they i.e. the electors intend that the law itself should be subject to their votes, and that whatsoever they said or did should be lawful because they declare it so?"¹³⁶

Parliamentmen ("these terrible reformers", as Clarendon was to call them) nevertheless pressed on, and clearly hoped to deprive

the King of his most important powers, including the Negative, the right to appoint major public office-holders and to control the militia. In terms of the traditional practices of English politics, their demands, as embodied in the Nineteen Propositions upon which Parliament went to war in 1642, were truly revolutionary; and there can be little doubt that Charles spoke no less than the truth when he protested that the Propositions entailed a complete subversion of "the ancient, equal, happy, well-poised and never enough commended constitution...of this kingdom", and his own reduction to the position of a Duke of Venice.¹³⁸ The unheard of nature of the Parliamentary demands must have contributed substantially to the King's ability to sustain a long war, and his supporters were quick to exploit what they saw as the weakness of their opponents in this respect. Had it previously occurred to anyone, asked a pamphleteer (who claimed to be one of the MPs who had joined the King at York) in 1643, to question the existence of the royal veto on legislation: no one had "so much as whispered to any friend" that the King was acting improperly in exercising his Negative; and who had ever heard before of the armed forces being controlled by Parliament?¹³⁹

Regarding the Negative, Charles angrily repudiated the notion that he was obliged by his Coronation Oath to pass bills insisted on by the two Houses: the Oath did bind him to honour the existing laws, but with respect to proposed new laws, Charles asserted that he was for purposes of legislation "still a part of the Parliament, and should be, till this well-tempered monarchy was turned to a democracy".¹⁴⁰ For John Spelman, the High Court

of Parliament resembled a three-legged stool, of which legs the Houses made only two "which without the third is lame and useless...but with the third becomes a firm and useful seat, and makes that sacred Tripod from whence the civil oracles of our law are delivered".¹⁴¹ Meanwhile, another of the King's supporters reminded the Parliamentarians of a number of bills (e.g. bastardizing Elizabeth under Henry VII, restoring the Pope's authority under Mary) to which they themselves would have wanted the royal veto applied.¹⁴² Regarding the militia, Charles and the Royalists argued that its control was essential to a king who guaranteed protection to his subjects: "It is a part of the King's Coronation Oath to protect the laws, to preserve the peace of his people; this he cannot do without the power of the kingdom, which he challengeth not as a partner but solely as his own by virtue of his seigniority".¹⁴³ No Parliament had previously laid claim to this power: some indeed had "expressly disclaimed it, and acknowledged that by the law of the land it is a jewel or a flower which belongs to the Crown; therefore it is His Majesty's undoubted right, and may not be invaded by any Parliament".¹⁴⁴ Rather than make further concessions the King erected his standard and called upon his faithful subjects to support him: enough was enough.¹⁴⁵

New Dictatorships?

So it came about that Charles and his ideological supporters were able in some degree to reverse the terms of the original debate: now it was the "terrible reformers" who were accused of aiming at arbitrary power and of posing a threat to the traditional balanced constitution and to the law itself: "Whoever is a friend to the Constitution of the Kingdom", Charles declared, "must be an enemy to these men".¹⁴⁶ Thus the King, locked out of Hull, was able in protesting to quote from a speech of John Pym's against the Earl of Strafford on the subject of the majesty of the law: "So said that gentleman, and...very well, in defence of the law and against arbitrary power".¹⁴⁷ But it was in the King's Declaration to all his Loving Subjects of August 12th, 1642, that the royal propagandist made his most sustained attempt to exert leverage at this point: no doubt there had been before 1640 some oppression by arbitrary power, but had not "these men doubled those pressures in the latitude and unlimitedness of their proceedings...?"¹⁴⁸ And in this context, the treatment by MPs of the Kentish petitioners (who were censured and imprisoned when they recommended an adherence by all to the law of the land) seemed to give the King all he needed to convict the Parliamentarians of an intention to tyrannize the commonwealth: "Let all the decrees, sentences and judgements of the High Commission Court and Star Chamber be examined, and any found so unjust, so illegal, as the proceedings against the gentlemen of Kent, for preparing and presenting a petition agreeable in form and matter to the rules of law and justice, by which men are to

be informed to ask anything..."¹⁴⁹

Similarly with the "malignant party", whose machinations had featured so strongly in the current Parliamentary literature: the King reported that he could discover no such party within his own entourage, but elsewhere there were indeed "persons disaffected to the peace and government of the kingdom...who, neglecting and despising the law of the land, had given themselves other rules to walk by, and so dispensed with their obedience to authority". And it was they who constituted, in Charles's view, the true "malignant party"; and "of those persons, as destructive to the commonwealth, he should take all possible caution".¹⁵⁰

The Royalists were naturally hard to convince that the Parliamentarians were merely resisting the King's "evil counsellors", and meant no harm either to the person of the monarch (whom, indeed, it was hoped to "rescue" from those who had "seduced" him) or to the institution of monarchy. For the Royalists these claims were a transparent hypocrisy, the sort of hypocrisy whereby (Bishop Bramhall declared) treason had traditionally sought "to hide its deformity from the world".¹⁵¹ The author of The Rebels Catechism also had no doubt that the destruction of the monarchy was the real aim of the Parliamentarians. The Earl of Essex's father (justly executed in the reign of Elizabeth) had claimed that his fatal rebellion had been directed against the Queen's counsellors, and so had Wat Tyler, who nevertheless "did not stick to say that, within four days, all the laws of England should proceed from his mouth".¹⁵²

Now the theme of a clique of would-be dictators, who also wanted to make the law come out of their mouths, attacking a well-intentioned monarch taking his stand upon the law of the land, was clearly a potential winner for the Royalists, and its exploitation figures prominently in their works.¹⁵³ Sir John Spelman's The Case of our Affaires thus offered to its readers two possible scenarios in the event of a Parliamentary victory. Conceivably the king would be left with the sovereign power and Parliamentary grievances remedied by him in consultation with the Houses (and in effect this was what Charles was still offering); or else the Houses would seize the sovereign power, and "then shall we lose our old legal government, and be governed by the absolute arbitrary and tyrannical way of their votes, and they, to secure themselves in that new and uncouth way of government that they must institute, must...keep the kingdom under perpetual garrisons".¹⁵⁴ To Bishop Bramhall, likewise, the great innovation of the Parliamentarians (whose wont it had been to protest so strongly against supposed innovations) was the endeavour to establish in themselves an arbitrary power over the commonwealth; but with the publication of Henry Parker's Observations upon some of His Majesty's Late Answers and Expresses (in which the right to exercise "arbitrary" power was claimed for Parliament in respect of its representative character), the mask of Parliamentary hypocrisy was removed: "Is this the end of all your goodly pretenses? If this be your new learning, God deliver all true Englishmen from it. We choose you to be our proctors, not be our lords. We challenge the laws of England as our birthright and inheritance, and dislike arbitrary government much in one, but twenty times worse in more".¹⁵⁵ To the author of

A Vindication of the King, the failure of the Parliamentarians to reach an accommodation with a king whose benevolence and trustworthiness had been proved beyond doubt by the reforms of 1640-41 strongly suggested that there were some at Westminster "that intend the alteration of our government". And the attempt to rule by means of ordinances of no legal standing confirmed that the worst was to be feared from that quarter. "Who carries not now his life in his hand lamented this authorl, managed by an exact power of a bare vote, which if any contradicts, he must suffer under the name of a malignant party". Was this the way, he wondered, that our rights were to be secured?¹⁵⁶ In a similar vein, Digges pointed out that to be trampled on by equals was much less bearable than a kingly despotism, and that (worse still) a Parliamentary dictatorship was likely to be immortal: thus "There may be continued supply of torment; new and hungry flies may succeed in the room of the old, and suck strongly, not regarding many have already been glutted".¹⁵⁷

While the Royalists regarded a dictatorship from Westminster as bad enough, it was not (as they read the situation) the worst fate that could overtake the commonwealth. They saw a distinct possibility that "the cabinet of state", having been violated by a Parliamentary faction, would subsequently succumb to the intrusions of the lower orders. The Order theorists knew how prone men were to disorder, with what facility they sought to rise above their stations and to dictate to their betters. Thus while God had ordained a natural hierarchy for men (as for His other creatures), the desire to be free from the restraints imposed by hierarchy was apparently

equally natural: "howsoever Nature dictates, that government is necessary for the maintenance of the society, for happiness...and protection, yet every singular and individual person, by corruption and self-love, hath...a natural averseness and repugnancy to submit to any...the lowest bramble willingly will not submit to the tallest cedar".¹⁵⁸ And to stimulate this repugnancy, by the theory or practice of resistance, was to the Royalists perfectly despicable.

The populace had first shown their teeth to Peers and MP s in demonstrations around Westminster itself, which Royalists (deeply resentful) took to have been organised by the Parliamentary leadership and their tame preachers. Subsequently, the publication of The Grand Remonstrance, correctly seen as an appeal for the support of a much wider public than normally concerned itself with politics, was condemned by Charles, "it being the first appeal to the people, and of a dangerous consequence to Parliaments themselves".¹⁵⁹ Bramhall made the shrewd general comment that those who expected obedience from their servants had better not deny it to their king;¹⁶⁰ while Charles in his Answer to the Nineteen Propositions predicted that the lower orders would not be satisfied merely to be manipulated by the Parliamentary radicals, and would instead "set up for themselves, call parity and independence liberty, devour that Estate which had devoured the rest, destroy all rights and properties, all distinctions of families and merit, and by this means this splendid and excellently distinguished form of government end in a dark, equal chaos of confusion, and the long line

of our many noble ancestors in a Jack Cade or a Wat Tyler".¹⁶¹
 Henry Ferne had a more philosophical way of making the same point. If the "ascending" theory of politics justified Parliamentary violence in the event of a princely violation of trust, what would happen, the Doctor wondered, in the event of a Parliamentary violation of trust: "then may the multitude by this rule and principle now taught them take the power to themselves...and as Cade and Tyler, boast themselves reformers of the commonwealth [and] fill all with rapine and confusion".¹⁶²

At this point, the Parliamentarians could only hope that the lower orders would not find it necessary to explore all the implications of the "ascending" theory of politics and that, taking a lead from lesser magistrates, the popular disaffection would be channelled through the institutions of Parliament. Henry Parker held that distrusting Parliament was almost as unthinkable as distrusting God himself,¹⁶³ but many of his colleagues must have wondered if the Royalist prognostications on this score were entirely mistaken.

FOOTNOTES

1. 1643; pp.16-17, emphasis in original.
2. The Unlawfulness of Subjects taking up Arms against their Sovereign in What Case Soever (1643), pp.154-5.
3. Ibid., pp.155-6.
4. Cf. Henry Ferne's Conscience Satisfied: that there is no Warrant for the Armes now taken up by Subjects, (1643), where we learn that Charles, "though commended by many virtues", had nevertheless "invaded some liberties granted to the subject upon agreement". (p.53).
5. Charles I, Works (1766), II, pp.104,105,108,109, 107.
6. The Loyal Convert (1643), The Complete Works (1880), I, p.141.
7. A Reply to Several Treatises (1643), p.8.
8. A Letter of Spiritual Advice...to Mr. Stephen Marshall (1643),p.6.
9. Ibid.
10. Griffith Williams Vindiciae Regum (1643), p.23.
11. A Letter of Spiritual Advice...to Mr. Stephen Marshall, p.5
12. James Ussher The Power Communicated by God to the Prince, and the Obedience Required of the Subject (c.1644), Works (Dublin, 1847-64), XI, p.358. The non-resistance of the early Christians was naturally a troublesome point for the Parliamentarians, who endeavoured to account for it by various hypotheses. Unlike the supporters of Parliament, it was suggested, the early Christians did not have the strength to resist, for they formed only a fragment of the Roman Empire. Moreover, they received no invitation to resist from inferior magistrates (see John Goodwin, Anti-Cavalierism [1642], p.26ff.) More ingeniously John Goodwin suggested that their non-resistance had been part of God's plan to set up Antichrist in the world so that she could (very shortly in Goodwin's view) be overthrown and the millenium instituted (see ibid. p.30). Royalists rejected all these points, the last (which involved a providential hiding by God of what was supposed to be His own edict) inciting their particular scorn (see Henry Hammond Of Resisting the Lawful Magistrate under Colour of Religion, 3rd.ed.1644,p.23).
13. Henry Hammond Of Resisting the Lawful Magistrate under Colour of Religion, p.25.
14. A Reply, p.72.
15. Ibid., p.87.
16. 1643; p.5.

17. Two Sermons preached...in York (1642) · p.15. Royalists sometimes held that the fifth Commandment applied more to "the common father of all" than to the natural father, for without the order and justice provided by the king "our father can neither bring us up in peace, nor teach us the faith of Christ" (Griffith Williams, Vindiciae Regum, p.82). Thus a son would be justified in denouncing his treasonous (private) father to the public father (see ibid.) Cf. John Maxwell Sacro-Sancta Regum Majestas (1644), p.161.
18. Quoted by H.F. Snapp "The Impeachment of Roger Maynwaring", Huntington Library Quarterly, XXX (1966-7), p.221.
19. Oatlands Sermon (1627), pp.14,11,17,26.
20. Patriarcha and other Political Works of Sir Robert Filmer (P.Laslett ed., Oxford,1949), p.84 ff.
21. Ibid, p.61.
22. Ibid. pp.72,71.
23. Ibid. p.71.
24. Ibid. p.57.
25. Ibid. p.114
26. Ibid. p.118.
27. Ibid. p.120.
28. Ibid. p.119.
29. See The Resolving of Conscience (1642), p.9.
30. Ibid. p.3.
31. Conscience Satisfied, p.54.
32. The Resolving of Conscience, p.15.
33. Conscience Satisfied, pp.32, 7.
34. A Reply, p.22.
35. Ibid. p.20.
36. Conscience Satisfied, p.65; A Reply, p.13.
37. Conscience Satisfied, p.65.

38. p.26. It would appear that the Discourse was written by Sir Robert Filmer in the early 1640s, though published only in 1680 (see Gordon Schochet, "Sir Robert Filmer: some new bibliographical discoveries", The Library, XXVI, 1971). The political theory of the Discourse is strikingly similar in many respects to that expressed in Patriarcha and in Sir Robert's other known works. At the same time the reader who takes him to be the author of the Discourse will occasionally be pulled up by an anomaly (cf. the use of "arbitrary" as a term of disapprobation /p.33/, the assertion that the English enjoyed "a mixed government" /pp.52-53/, with each Estate exercising a veto over legislation /p.47/ and the condemnation of "neutral men" who stood by while their sovereign was despoiled /pp.110-117/. The Discourse is one of the most significant Royalist works of the period, but its rediscovery and definitive ascription to Filmer will not facilitate the task of making his works intelligible.
39. p.3
40. Transcendent and Multiplied Rebellion and Treason, p.1.
41. See ibid. p.2.
42. 1643. Works (1843-45), III, p.323.
43. Ibid.
44. See ibid. pp.318-19.
45. (1643) Somers Tracts (1809), IV, p.317.
46. Ibid.
47. pp.33-4, emphasis added.
48. Ibid. p.81.
49. Ibid. p.83.
50. Ibid. p.22.
51. Ibid. pp.22,89,24.
52. Ibid. p.87.
53. Ibid. p.22.
54. Ibid. p.23.
55. See ibid. pp.52,130, 46.
56. Ibid. pp.48, 105.
57. Ibid. p.105.
58. Ibid. p.10.

59. Ibid. p.11.
60. Ibid. p.48.
61. Ibid. pp.190, 48.
62. Edward Symmons, A Loyal Subjects Beliefe, expressed in a letter to Master Stephen Marshall (1643), p.10.
63. Ibid. p.2.
64. Ibid.
65. Ibid. p.3.
66. Griffith Williams, op.cit. pp.37,64.
67. Ibid. p.68, emphasis in original.
68. Op.cit. p.9.
69. See Order,Empiricism and Politics (Oxford University Press,1964), chapters 2-5. Greenleaf (p.56) regards monarchical absolutism as the characteristic conclusion derived from the use of the Order theory, but the evidence of the Civil War period suggests that the theory could comfortably be the accompaniment of what John Bramhall called "moderated" monarchy. The Order theory could tolerate potent Estates of aristocracy and democracy checking monarchy; what it could not tolerate was resistance.
70. Op.cit. pp.319-20.
71. Ibid. p.326.
72. Ibid. p.378.
73. p.48. Symmons appears to have been the only Royalist to accuse his opponents of violating the first Commandment by their idolatry of Parliament (see ibid. p.68).
74. Op.cit. p.297.
75. See The Resolving of Conscience, p.9.
76. Op.cit. XI, p.276.
77. Sermon preached at St.Pauls (1640), p.14.
78. Ibid.
79. Robert Mossom, op.cit .p.11.
80. p.83.
81. Ibid.

82. Ibid.
83. p.4.
84. Ibid.
85. Ibid. p.5
86. Ibid. pp.6-7.
87. Ibid. p.7.
88. Ibid. p.11.
89. Ibid. p.15.
90. Ibid.pp.1-2.
91. 1643; Harleian. Miscellany (1744), VII, p.441.
92. See op.cit. p.355.
93. Ibid. V, p.141.
94. A Reply, p.90.
95. Observations upon Some of His Majesties Late Answers and Expresses (1642), pp.18,19.
2nd.ed.
96. 1644 (Edinburgh, 1843), p.59.
97. Ibid. p.52.
98. Prose Works (Bohn Library, 53) I, pp.20-21.
1848-
99. Parker, op.cit. p.19.
100. Rutherford, op.cit. p.71.
101. The Subject of Supremacie (1643), p.56.
102. /Herbert Palmer et al. 7 Scripture and Reason Pleaded for Defensive Armes (1643), p.32. Milton was to make a similar point in confronting Salmasius: a God-like power could only be rightly exercised by "such a person as does infinitely excell all other men, and both for wisdom and goodness in some measure resemble the Deity" (op.cit. I, p.114); Christ himself was the only conceivable candidate (see ibid.)
103. Op.cit. p.47.
104. Scripture and Reason Pleaded for Defensive Armes, p.25.
105. A Plea for Defensive Armes (1643), p.21.
106. 1643; p.58.
107. Op.cit. III, p.380.

108. Answer to the Nineteen Propositions (1642), Rushworth, Historical Collections, V, p.731.
109. An Answer to a Printed Book (1642), p.50.
110. Op.cit. p.327.
111. A Reply, p.30. In Serpent-Salve, John Bramhall uses a cosmological similitude to illustrate these ideas: part of the subject's duty is "to pray for the like consent among the several orders of this kingdom that is supposed to be among the several orbs of heaven. His Majesty is undoubtedly primum mobile...The two Houses of Parliament...are the lower spheres, which by their transverse yet vincible motions, ought to allay the violence of the highest orb for the good and preservation of the universe" (op.cit. III, pp.403-4).
112. An Answer, p.36.
113. Op.cit. p.327.
114. See op.cit. p.732.
115. Life (1817), I, p.111.
116. Behemoth (New York: Burt Franklin, 1962), p.147.
117. p.319.
118. pp.21-22.
119. Conscience Satisfied, p.68.
120. Parliament had itself recognised this supremacy in the Restraint of Appeals Act (24 H.8 c.12) the preamble to which affirmed that England was, and always had been, "an empire governed by one supreme head and king...unto whom a body politic ... ought to bear, next to God, a natural and humble obedience: he being...furnished, by the goodness and sufferance of Almighty God, with plenary, whole and entire power, pre-eminence, authority, prerogative and jurisdiction" (see Ferne, A Reply, p.25). This preamble was much quoted by Royalists, and appeared to give them rather more than most of them thought necessary to thwart their opponents in 1642.
121. pp.338,366.
122. See p.321.
123. 1642; p.5.
124. Ibid.p.3.
125. Ibid. p.6.

126. pp.43,92.
127. Conscience Satisfied, pp.32,11,11.
128. 1644; Historical and Mscellaneous Tracts (1681), p.720.
129. Ibid. pp.721-723. Two exceptions must be noted to the contention that the royal concessions were taken by the Royalists as irrevocable: the outspoken Bishop Griffith Williams (who confidently expected to die for his outspokenness) argued that if Peers and MPs abused the powers acquired in this way, the king would be justified in reclaiming them from his opponents, "which being but lent them, hath been so misapplied against him" (Vindiciae Regum, p.96); Sacro-Sancta Regum Majestas takes a similar view (see pp.141-144).
130. Op.cit. III, p.299.
131. Lex Terrae (1647), reprinted in W.H.Terry (ed.) Judge Jenkins (London, 1929), p.47; See also Digges's Answer to a Printed Book, (pp.43-44) where the arbitrariness implicit in Shipmoney is compared with the arbitrary power explicitly claimed on behalf of Parliament by Henry Parker: Charles had graciously relieved us of the burden of Shipmoney, but all the signs were that the men at Westminster would not be so lenient.
132. Regarding the munitions at Hull, the King declared that "he would fain be answered what title any subject of his kingdom had to his house or land that he had not to his town of Hull? Or what right any subject had to his money, plate or jewels, that His Majesty had not to his magazine...there?...And he doubted not but that all his good subjects would easily discern in what a miserable insecurity and confusion they must necessarily... be, if descents might be altered, purchases avoided, assurances and conveyances cancelled, the sovereign legal authority despised and resisted, by votes or orders of either or both Houses" (Answer to the Votes of Parliament /May 1642 / reprinted in Clarendon, History of the Rebellion and Civil Wars in England /1888 /, II,p.53). Charles tried to make the same point at his trial: "I am not suffered for to speak. Expect what justice the people will have". (C.V.Wedgewood /ed./ The Trial of Charles I, Folio Society /1959/, p.115).
133. Declaration to all His Loving Subjects (August 12,1642),Works, op.cit. II, p.105.
134. Answer to the Nineteen Propositions, op.cit., p.732.

135. Answer to the Declaration of May 19, 1642, reprinted in Clarendon History of the Rebellion, II, p.145. Cf. Charles's Answer to the Nineteen Propositions (op.cit., p.732) where he notes the threat to the Lords which he found inherent in the direction which the nation's affairs were currently taking; if the monarchy collapsed as a result of his acceptance of the Nineteen Propositions, "the second Estate would in all probability follow the fate of the first, and by some of the turbulent spirits jealousies would soon be raised against them", as they were now being raised against him. Then, "all power being vested in the House of Commons", "some close committee" of that body would take control of the nation, though Charles wondered if they, in their turn, might not be swept away by the common people.
136. Answer to the Remonstrance of May 26, 1642, reprinted in Clarendon, History of the Rebellion, II, p.154.
137. Ibid. I, p.136.
138. Answer to the Nineteen Propositions, op.cit. p.731.
139. A Letter from a Gentleman, once a Member of this House of Commons to his friend (remaining a Member of the same House) in London, (1643), in Three Letters (1643), p.17.
140. Answer to the Petition of May 23, 1642, reprinted in Clarendon, History of the Rebellion, op.cit. II, p.80.
141. The Case of our Affaires, in Law, Religion (1643), p.10.
142. Jenkins, op.cit. p.38 ff.
143. Bramhall, op.cit. III, p.362.
144. Ibid.
145. What is now probably the best-known Royalist treatment of English constitutional history, Sir Robert Filmer's The Freeholders Grand Inquest touching our Sovereign Lord the King and his Parliament (1648) must be admitted to be more absolutist in tone than those upon which this discussion is based. It is, however, once more the king's grace which accounts for whatever mitigations of absolutism Filmer is prepared to concede. A study of Parliamentary writs clearly displayed to Filmer the advisory nature of the deliberations of the Houses of Parliament, and advice could in no sense be understood as mandatory ("counsellors have no power to command their consultations to be executed, for that were to take away the sovereignty from their prince" /Laslett ed., op.cit., p.152/). Once Parliaments had sat in the king's privy chamber, and Peers, along with the Commons (who had entered the Parliamentary scene at a relatively late stage /see ibid. p.136/), were still essentially his "guests" (ibid. p.153), enjoying such privileges (e.g. freedom from arrest) as the king had thought necessary to grant to enable them to fulfil their appointed role.

146. Declaration to all His Loving Subjects, op.cit. II, p.162.
147. Answer to the Petition of April 9, 1642, reprinted in Clarendon, History of the Rebellion, op.cit. II, p.32.
148. Op.cit. II, p.162.
149. Ibid. p.163; Cf. the similar objections of the author of A Vindication of the King (1642) to the manner in which the Parliamentarians dealt with unwelcome petitions, "as if all our wisdom were shut up in so narrow limits, and these the only men in England /who are/ infallible". (p.5). On the Kentish Petition and the fate of its protagonists, see F.W.Jessup Sir Roger Twysden, 1597-1672 (London, 1965), p.44 ff.
150. Answer to the Votes of Parliament Concerning Hull (1642), reprinted in Clarendon, History of the Rebellion, II, p.53.
151. Sermon of January 28, 1643, Works, V, p.106.
152. 1643; Harleian Miscellany, op.cit. VII, p.441.
153. Cf. the interesting assessment of the situation in 1643 by the author of A Letter from a Gentleman, once a Member of the House of Commons, to a friend (remaining of Member of this same House) in London, who claims that it was only the aggressive and dictatorial conduct of the Parliamentmen themselves which enabled the King to raise an army. The author, alienated by the despotical ways of Pym et al., had himself joined the King at York, believing that either his principles or the House had to be abandoned; and he saw the same process of alienation in progress throughout the nation, with honest men going over to the King wholesale: "They were you leavies that made his, it was you that raised him an army when you gave him the law on his side, and he will not be able to raise another, if he have once disbanded this, till you give him again the same advantage" (p.24).
154. p.31.
155. Op.cit. III, p.381.
156. 1642, p.2.
157. An Answer, p.45.
158. Maxwell, op.cit. p.91.
159. Declaration to All His Loving Subjects, op.cit. II, p.123.
160. See op.cit. III, p.326; cf. p.494: "By this new learning, when a master shall correct his servant, without sufficient ground in the servant's conceit, he may take the rod by the other end, and give his master some remembrances, to teach him his office better".

161. Op.cit. p.732.

162. The Resolving of Conscience, p.18.

163. See Observations upon some of His Majesties Late Answers and Expresses, p.16.

THOMAS HOBBS AND THE POLITICS OF COMPULSORY MODERATION.

Thomas Hobbes's The Elements of Law, Natural and Politique (1640) and De Cive (1642), though overshadowed by his masterpiece, the Leviathan, are clearly works of great intellectual power, the products of a well-matured mind reflecting upon an alarming situation in which "a wonderful distemper" had seized his native land, as a consequence of which, he reported sadly, "innumerable learned men afterwards perished".¹ He had previously (1629) published a translation of Thucydides's History of the Peloponnesian War in order, through the medium of the historian, to warn his fellow countrymen of the dangers of listening to the rhetoric of democracy.² But the events leading to the outbreak of hostilities in 1642 plainly called for a more positive, and a more philosophical, response.³

We must not, of course, expect the writer of great intellectual power to conform to the patterns established by his less-gifted contemporaries, and from the standpoint of the present work the most immediately striking thing about Hobbes's politics is that he uses the presuppositions and structure of the "ascending" theory to demonstrate the more extreme conclusions to be derived from the "descending" theory, a seemingly eccentric concatenation of circumstances which did not escape the notice of his critics.⁴ The Hobbes of the early 1640s is thus a writer of dazzling originality when set in the context of the contemporary resistance debate. His investigation of the "ascending" theory and his assertion

of the creativity of the people in establishing civil government is more profound than that of his contemporaries. By comparison the Parliamentarians, who shared his premises, remained irrevocably at the pamphleteering level. The Royalists, whose conclusions he to some extent shared, nevertheless lived in a different intellectual world, a world where God had other things to do besides the initial act of creation and the final act of judgement. Small wonder they found his company uncomfortable.

To follow Hobbes's "ascending" theory, it is necessary to trace the development of his argument whereby a state of "pre-political" liberty and equality is first posited (after the manner of the Parliamentarian "ascending" theory), and then transmuted into a civil society, ruled by an absolutism so uncompromising that it left, at least in Hobbes's view, no toe-hold for the pretensions of the Parliamentarians. The clue to this process is provided by Hobbes's methodological statement in the Preface to De Cive, where he claims to take his beginning "from the very matter of civil government... then proceeding to its generation"; and he followed this "Resoluto-Compositive"⁵ method because "everything is best understood by its constitutive causes. For as in a watch, or some such small engine, the matter, figure and motion of the wheels cannot be well known, except it be taken in sunder, and viewed in parts; so to make a more curious search into the rights of states, and duties of subjects, it is necessary (I say not to take them in sunder, but yet that) they be so considered, as if they were dissolved". And this will involve, he tells us in the same passage, a consideration

of "what the quality of human nature is, in what matters it is, in what not, fit to make up a civil government, and how men must be agreed among themselves, that intend to grow up into a well-grounded state".⁶

What Hobbes is setting before us, therefore, is (at least in part) an imaginative experiment whereby, with the use of certain "materials" which are (he says) "by experience known to all men",⁷ a pre-political and substantially pre-social "state of nature" is posited by the resolution of civil society into its constituent elements, and the absolutist conclusions which Hobbes derives are pressed home upon minds loath (he concedes) to receive them. What is "known to all men", if they can be brought to consider the matter with the aid of introspection, is the quality of the human individuals who are observable (at least to Hobbes's imagination) in action in the state of nature and who will make up the Hobbesian commonwealth, the quality which makes necessary the overwhelming "power to keep them all in awe" described by Hobbes.⁸

Hobbes's analysis of human nature, to which he was committed by his method, makes it clear that he differed radically from the bulk of Royalist thinking in removing man from the framework of "Order" which Royalists believed he shared with the beasts and all other planes of Creation. Hobbes was especially insistent that human behaviour could not be likened to that of the brutes, and he must have been undeterred when told, as he was by John Bramhall,⁹ that his political ideas were unconvincing because of their

disconsonance with the affairs of the animal kingdom. The beasts, Hobbes reports, experience neither controversies about right and wrong, nor "contestation of honour and preferment"; their desire for "the common good...differs not from their private"; and being without reason, the creatures "see no defect...in the administration of their commonweals". Furthermore, because the brutes do not have speech, they lack that "trumpet of war and sedition" which is the human tongue.¹⁰ The overall point of Hobbes's comparisons of men and animals is that human society cannot be natural, as is animal society, and must therefore be artificial: "Natural concord", he writes, "such as is amongst those creatures, is the work of God by way of nature; but concord amongst men is artificial, and by way of covenant. And therefore no wonder, if such irrational creatures as govern themselves in multitude, do it much more firmly than mankind, that do it by arbitrary institution".¹¹ Hobbes does not deny (indeed, he asserts) that we desire the proximity of other men, but for him this desire could not be taken as evidence of our natural sociability and fitness for society: "We do not...by nature seek society for its own sake, but that we may receive some honour or profit from it; these we desire primarily, that secondarily".¹²

Hobbes's men were then (pace Aristotle) decidedly unpromising material for a socialized life. And they did not have available to them the sort of natural governance which was provided by the queen bee and her like among the other creatures of the earth. Men had indeed, a certain natural equality, one with another, which indicated that political inequality, like society itself, would have to be an

artifact of their own contrivance. Roger Manwaring's kings, with their "hearts...so deep, by reason of their distance from common men, even as the heavens are in respect of the earth"¹³ are not, therefore, the rulers upon whom Hobbes's reliance is put, for Hobbes's rulers are men not fundamentally different from their fellows, but are, rather, equals elevated above their contemporaries for utilitarian purposes.¹⁴ The equality of men is thus a vital assumption of the Hobbesian theory of politics. This equality fundamentally concerns the fact that each man had only one life to preserve (or to lose) and also the similarity of human endowment with physical capability and cunning. "If we look on men full grown", Hobbes writes in an important passage, "and consider how brittle the frame of our human body is...and how easy a matter it is, even for the weakest man to kill the strongest, there is no reason why any man trusting to his own strength should conceive himself made by nature above others: they are equals who can do equal things one against the other; but they who can do the greatest things (namely, kill) can do equal things".¹⁵

Men must use these approximately equal mental and physical endowments in their several pursuits of self-preservation, and they can also be used to secure gratifications above and beyond those involved in mere preservation. In what Hobbes calls "the state of nature" (i.e. the pre-political condition to which he reduces men by his mental resolution of existing society) this equality finds expression in the exercise of what he termed "the right of nature",¹⁶ that is, the right to do and possess all things which in the judgement of the individual were conducive to his self-preservation. And it was the extremely limited efficacy of this

(apparently grandiose) right of nature which brings men, however fleetingly, to a recognition of this natural human equality, a recognition which Hobbes regards as basic to any settled human existence. "Men considered in mere nature", he writes, "ought to admit amongst themselves equality: and he that claimeth no more, may be esteemed moderate".¹⁷ The misery of Hobbesian men was caused by the extreme difficulty which most of them experienced in giving, in the absence of the promptings of public sanctions, any kind of sustained acknowledgement to the fact of human equality. Thus for the majority it was only with the greatest reluctance that they could be brought to put themselves imaginatively in the place of other men, perceiving that they too had ends to be realised and lives to be lived. Aristotle, Hobbes consequently believed, had done men a considerable disservice by insisting that a natural inequality was to be observed amongst them, an insistence which encouraged them to ruin their chances of a civilized life, for "as long as men arrogate to themselves more honour than they give to others, it cannot be imagined how they can possibly live in peace: and consequently we are to suppose, that for peace sake, nature hath ordained this law, that every man acknowledge other for his equal. And the breach of this law...we call pride".¹⁸

The degree of Hobbes's departure from the theory of Order is seen clearly in his image of human life as a race. He concedes that this image is not exact, but for him it does capture the impact of our competitiveness and of our equality-despising pride upon our condition. "The comparison of the life of man to a race", he writes, "though it hold not in every part, yet it holdeth so well

for this our purpose...and this race we must suppose to have no other goal, nor other garland, but being foremost..."¹⁹.

Hobbes's conclusion was, of course, that because pride and competitiveness ruled out unforced "moderation", compulsory moderation would have to serve.

If Hobbes's use of the "Resoluto-Compositive" method led him to embrace the "ascending" theory's assumptions of free and equal men outside civil society, the conclusions which were consequent upon his use of this method were of a severely absolutist kind, much more akin to those of Manwaring than to those of Henry Ferne, John Bramhall et al.²⁰ And the distaste with which he viewed the antics of John Pym et al ("ambitious and hellish spirits"²¹) is perfectly clear from the two works under consideration: no doubt he was exaggerating his own importance when, fearful of the revenge of Long Parliamentarians, he left the country in 1640 ("the first of all that fled"),²² but as a matter of abstract principle his absolutism was, or would have been, every bit as obnoxious to MPs as that of the Earl of Strafford, whom they resolutely brought to execution.

The human organism, as isolated and analysed by Hobbes's use of the "Resoluto-Compositive" method, is fundamentally oriented towards self-preservation, in the pursuit of which it seeks to appropriate pleasurable objects and experiences while recoiling from painful ones. By taking civil society apart (like a broken watch), we have observed that Hobbes is able imaginatively to place his men in a non-political condition where the restraints imposed upon individual

behaviour by the various controlling agencies of a large-scale society have been removed. In their uninhibited (in this sense) search for pleasurable objects, men find that they have competitors who are similarly engaged, and these competitors must be subdued. Thus, Hobbes tells us that "the most frequent reason why men desire to hurt each other, ariseth hence, that many men at the same time have an appetite to the same thing; which yet very often they can neither enjoy in common, nor yet divide...; whence it follows that the strongest must have it, and who is the strongest must be decided by the sword".²³ In the state of nature the individual head of the family must shift for himself, and (as we have seen) he has a right to do and possess all things which he takes to be conducive to his and his family's preservation. But this almost limitless right exercised by the individual in the state of nature turns out to be an exceedingly small comfort: "it was the least benefit for men thus to have a common right to all things; for the effects of this right are the same, almost, as if there had been no right at all. For although any man might say of everything, this is mine, yet could he not enjoy it, by reason of his neighbour, who having equal right, and equal power, would pretend the same thing to be his".²⁴

Now the competition for scarce goods was bad enough for men to bear; but what sets the seal of misery upon their pre-political existence (as pictured by the Hobbesian hypothesis) is the propensity of some men to take a pleasure in subduing others for its own sake, quite apart from the enjoyment by the victor of any goods which he might seize thereby. The man who thus lords

it over others is the proud man who, in thrusting himself forward, cannot reconcile himself to that basic fact of human equality which Hobbes held to be so important. Hobbes thus discerns two types of men active in the state of nature: moderate, realistic, men (such as himself) who recognised basic human equality and who would have been satisfied with an equitable share of the good things of life; and vainglorious men, possessed of "a fiery spirit",²⁵ claiming pre-eminence and hating equality. Vainglorious men were, in Hobbes's view, guilty of a disastrous (both for themselves and others) over-estimation of their own physical and mental capacities, but they were nevertheless able in an important sense to impose their own behaviour patterns universally in the state of nature. Moderate man could only await a favourable moment to offer reciprocity to his fellows, but for the time being he had to look to himself, plundering the plunderer (Hobbes tells us) and generally being almost as ready to hurt as his vainglorious neighbour.²⁶ In consequence, moderate man is virtually indistinguishable from vainglorious man in the state of nature, where "there is a necessity of suspecting, heeding, anticipating, subjugating, self-defending, ever incident to the most honest and fairest-conditioned".²⁷ The proud man's "will to hurt" arises, Hobbes tells us, "from vain glory, and the false esteem he hath of his own strength": the moderate man, on the other hand, asserts himself "for the necessity of defending himself, his liberty, and his goods, against this proud man's violence".²⁸

By his imaginative creation of an anarchic state of nature, Hobbes is able to reveal the more dramatically to his readers the

ultimate consequence of weakening the public power. His point is that with human nature as it is, life in the state of nature (i.e. without absolute authority) is in effect a contradiction in terms: "he...that desireth to live in such an estate as is the estate of liberty and right of all to all", Hobbes declares bluntly in the Elements of Law, "contradicteth himself".²⁹

Fortunately, as well as being short-sightedly self-seeking and proud, men are also capable of using their reasons, and it is reason which shows men how they can release themselves from the hell of the state of nature.

It is reason which suggests to men, put under severe pressure by the incommunities of the state of nature, what Hobbes calls "the laws of nature", and these are, we are told in De Cive, nothing less than "the conditions of society",³⁰ "there can...be no other law of nature than reason, nor no other precepts of natural law, than those which declare unto us the ways of peace, where the same may be obtained, and of defence where it may not".³¹ God, as the creator of nature (both non-human and human) is taken by Hobbes to be also the author of these laws of nature and he says that damnation awaits those who, in rejecting the promptings of God-implanted reason, violate them. How seriously Hobbes took these assertions (crucial to his declared doctrine) about the divine authorship of, and backing for, the laws of nature, will probably remain a matter of considerable controversy; but we can be sure that Hobbes wanted his readers to take them seriously, thereby producing an invaluable stiffening for his more secular arguments.³²

These God-ordained laws of nature should, then, govern human conduct in all circumstances. All men may discover them by the use of reason: Christians find the intimations of reason confirmed by the scriptures.³³ The laws of nature prescribe (as the foregoing quotation indicates) self-defence by the exercise of the right of nature when peace with other men could not be had, and humble accommodation with them when it could. The rational Hobbesian man would, therefore, look to himself in the state of nature (while eschewing drunkenness, contempt, and all hurt beyond what was necessary for self-preservation, for these were forbidden by the laws of nature) while being at the same time prepared to reach an accommodation with his (erstwhile) enemies. With such an accommodation, the full range of the laws of nature (hitherto largely in abeyance, for in the state of nature observers of all the laws of nature would make themselves "but a prey to them that should neglect them")³⁴ comes into operation, and indeed the laws of nature will be the foundation for the laws of civil society to be made and enforced by the sovereign authority which Hobbes imagines men creating. In the Elements of Law, he sums up the human predicament by using the idea of charitableness to characterise the less prominent part of human nature which helps us to respond to the non-self-defence provisions of the law of nature: "For seeing the causes of war and desolation proceed from those passions, by which we strive to accommodate ourselves, and to leave others as far as we can behind us, it followeth that passion by which we strive mutually to accommodate each other, must be the cause of peace. And this passion is that of charity...".³⁵

The eventual reward of the rational, would-be moderate, Hobbesian man, is therefore a widespread realisation that there is an alternative to the anarchy of the "hostile state",³⁶ and this alternative is a civil society with a degree of order and civility, within which men can enjoy what Hobbes calls significantly a "peaceable and virtuous conversation".³⁷ However, it is Hobbes's major contention as a theorist of civil society that this "conversation" cannot be self-sustaining. It needs to be underpinned by the creation of an absolute sovereign power, consisting either of one man or of a number of men. For although men may be brought, as it were in a flash of rational insight, to agree upon the destructiveness of the hostile state with its "unfruitful liberty",³⁸ and on the necessity of escape from it, as such this agreement could only be temporary and would inevitably succumb to a re-assertion of man's uncharitable, self-accommodating nature: "It is not enough... that every one...do covenant with the rest, either by words or writing, not to steal, not to kill, and to observe the like laws; for the pravity of human disposition is manifest to all, and by experience it is too well known how little (removing the punishment) men are kept to their duties, through conscience of their promises. We must therefore provide for our security, not merely by compacts, but by punishments".³⁹ He insists upon consent as strongly as any Parliamentarian ("no man hath a supreme power which is not bestowed on him by our own consent")⁴⁰ in order to tie the reluctant subject more securely to his sovereign's acts: in a very real sense they are (Hobbes tells him) his acts. In so far as the physical integrity of himself and his family are not put at risk, the individual may be

assumed to have agreed to take the sovereign's acts as his own, as though he had himself composed the proclamation or drafted the Act.

The essence of the social contract which Hobbes's men make, one with another, is the individual's pledge to support, with wealth and strength, the man or men chosen to exercise sovereign power against other individuals, excluding his parents or guardians. Hobbesian man cannot, of course, be required to harm himself at the sovereign's behest (that could not have been part of any conceivable contract : "no man is tied to impossibilities"⁴¹) and the patriarchal idea had enough of a grip on Hobbes's mind for him in this context to put killing one's parent in the same category as killing oneself ("a son will rather die, than live infamous, and hated of all the world")⁴². But these exceptions did not, in Hobbes's view, prejudice the viability of sovereignty, for the sovereign should never lack agents to kill me or my father if he should deem such acts unavoidable. Men, Hobbes explains, submit themselves to the will of one man or of one council "when each one of them obligeth himself by contract to every one of the rest, not to resist the will of that one man, or council, to which he hath submitted himself; that is, that he refuse him not the use of his wealth and strength against any others whatsoever (for he is supposed still to retain a right of defending himself against violence) and this is called union".⁴³

Hobbes speaks in De Cive of the government being "upheld by a double obligation".⁴⁴ He understands the individual as being

obligated not only in respect of the contract which he makes (or may be supposed to make) with all of his comperes in civil society ("I convey my right on this party, upon condition that you pass yours to the same"),⁴⁵ but also in respect of his transference of right to the sovereign, a "donation of right which every man is bound to ratify to him that commands".⁴⁶ The citizen (who had previously been instructed by God to be ready for peace even while defending himself as best he could in the state of nature) now in addition owes it both to his fellow subjects and to his sovereign to obey the laws and to refrain from disruptive behaviour: "if the subject yield not obedience to the supreme [power], he will in propriety of speech be said to be injurious, as well to his fellow subjects, because each man hath compacted with the other to obey, as to his chief ruler, in resuming that right, which he hath given him..."⁴⁷

This idea of "double obligation" corresponds to Hobbes's account of precisely how civil society is instituted, for he tells us that the original meeting of persons ready for union first constituted itself a democratic authority before (in so far as they did not retain a democratic sovereignty in themselves) conferring the sovereign power upon some man or body of men. "An aristocracy or council" thus "received its original from a democracy"; and as with aristocracy, "so also a monarchy is derived from the power of the people, transferring...its authority on one man... [therefore] by a plurality of voices the whole right of the people is conveyed on him, insomuch as whatever the people could do before he were elected, the same in every respect may he by right now do, being elected".⁴⁸ This, in the term used by Hobbes in the Preface

to De Cive, is the "generation" of civil government: Hobbes is putting the parts of the watch together, showing his readers what the full extent of the strength of the main spring must be to ensure its proper functioning.

The subject's consent to the establishment of a sovereign power and (in a sense) to the succeeding acts of the sovereign, is relatively straightforward in the case of an instituted commonwealth emerging from the state of nature (which is clearly the Hobbesian paradigm), and in the case of a conqueror sovereign, to whose rule people may properly consent when their previous sovereign has been driven from the field and is no longer in a position to offer protection: "For when it cometh to pass, that the power of a commonwealth is overthrown, and any particular man thereby lying under the sword of his enemy, yieldeth himself captive, he is thereby bound to serve him that taketh him, and consequently discharged of his obligation to the former. For no man can serve two masters".⁴⁹ That conquered people consent through fear does not, of course impair the validity of such consent for Hobbes, fear of mutual slaughter being the causal factor for quitting the state of nature in the case of an instituted commonwealth.

Less straightforward is the case of what Hobbes calls variously "a body politic by acquisition" or a "patrimonial kingdom".⁵⁰ Such a kingdom evolves from the state of nature by the enlargement of a particular family unit. When the unit attains a capacity for self-defence, it becomes a bona fide body politic with the public power exercised by a patriarchal king. While this part of Hobbes's discussion of the origins of civil societies may at first sight

appear as a concession to the more orthodox Royalist position, it transpires that even here, power is based upon consent, albeit upon what might be called a presumed consent. Parents, Hobbes tells us, gain authority not through generation but through the protection which they afford to their offspring, and it is in respect of this protection that the child may be presumed to have given his consent to the exercise of parental power over him. Thus we may take it that the father (and also the mother, though "for the most part the woman yieldeth the government" to the male)⁵¹ has "received a promise of obedience in consideration thereof. For else it would be wisdom in men, rather to let their children perish, while they are infants, than to live in their danger or subjection, when they are grown".⁵²

However he comes to office (by contract, conquest or acquisition), the sovereign's power was in effect the power of the individual in the state of nature writ large. Unlike that individual, he has (or should have) no competitors within his own area, but like him he is justified in taking whatever steps he regards as necessary to the posited end, in this case the defence of the society from both external aggression and internal subversion. And just as Hobbes held that it was unreasonable to withhold from the individual in the state of nature the exercise of any power which he regarded as necessary to his own preservation, so Hobbes believes that no power should be denied to the sovereign in his search for the security of the society. He must (directly or indirectly) control the armed forces, administer justice, appoint "all magistrates,

ministers and counsellors",⁵³ and make the laws for his society. Any pretended inhibition on these powers will tend to release errant human nature, thus endangering the society by threatening a return to the state of nature. And it is usually the case with Hobbes that he sees very little by way of an alternative to life under an absolute sovereign apart from the hellish natural condition of man. Absolutism or anarchy is the choice which Hobbes holds out to his sceptical readers: you either have a society with absolute sovereignty or the right of nature - you cannot have both, and you cannot (it would appear) have neither.

These truths notwithstanding, Hobbes perceived that he lived in a period wherein men were especially prone to the pernicious error of believing that they could enjoy the benefits of civil society without at the same time having to submit themselves to that sovereign power which Hobbes held to be the necessary guarantor of that society, and to the actions of which power we should (he urged) take ourselves as having consented. He thus saw a likeness between what he called "injury", which he defined as going back in some way upon a contract, and an absurdity in philosophical disputation: "he who through weakness of mind does or omits that which before he had by contract promised not to do or omit, commits an injury, and falls into no less contradiction than he who in the Schools is reduced to an absurdity".⁵⁴

In this situation of ubiquitous political "absurdity", Hobbes was thus put to the necessity of refuting the various anti-sovereignty doctrines by means of which this basic self-contradiction

maintained itself, and his abhorrence of them emerges almost instantly in his first published work of political theory where the catastrophic consequences ("slaughter...throats...cut... bloodshed") of such doctrines as "a tyrant might lawfully be put to death", "kings are not superior to, but administrators for the multitude", and "the knowledge whether the commands of kings be just or unjust belongs to private men", are bemoaned by Hobbes.⁵⁵ And soon after he tells us that he is writing not to secure praise, "but for your sakes, readers, who...when you should rightly apprehend...this doctrine I here present you with, would rather choose to brook with patience some inconveniences under government...than self-opinionatedly disturb the quiet of the public".⁵⁶

He scorned the characteristic contention of the Parliamentarians that men had set fundamental law limits upon the operations of that man or council to whom civil power had originally been given, "that a commonwealth may be constituted in such manner, as the sovereign power may be so limited, and moderated, as they shall think fit themselves".⁵⁷ Civil laws, he says, cannot pre-date the sovereign power whose very task it is to make civil laws. And because law-making was the function of the sovereign, it was similarly absurd to suppose that his acts could be unlawful or that he who enjoyed "a universal impunity" could properly be punished by his subjects.⁵⁸ Hobbes also had a swift way of dealing with the controversy concerning the sovereign's access to his subjects' property, a vexed topic in the 1620s and 1630s brought to a head by the Shipmoney decision of 1637. The King's opponents,

Hobbes writes, "when...commanded to contribute their persons or money to the public service...think they have a propriety in the same distinct from the dominion of the sovereign power".⁵⁹ This opinion however, was simply a misunderstanding, for while in the state of nature there was "the community of all things"⁶⁰ in which all heads of families (and some others) had an equal right to seize what they thought they needed, it followed that an effective property right could appear only in the wake of sovereignty itself. And the sovereign had of course been appointed to use whatever resources he deemed necessary for the external and internal defence of the commonwealth: "Before the yoke of civil society was undertaken, no man had any proper right; all things were common to all men. Tell me therefore, how gottest thou this propriety but from the magistrate? How got the magistrate it, but that every man transferred his right on him? And thou therefore hast also given up thy right to him".⁶¹

Also of direct relevance to contemporary English affairs were Hobbes's comments on the idea of mixed sovereignty and on its consequences. Once again, this idea was quite simply a misunderstanding: the sovereign power could not be divided, for whether it lay with an individual or a council, its task was to make unequivocal and obligatory pronouncements upon matters of public concern. He readily conceded the propriety of the idea that governments should be "moderated", that is, that magistrates should "contain themselves within the limits of the natural...laws",⁶² for these were laws which all men should obey; but "moderated" government was quite different from "divided" government, for in the case of the latter, the several

elements were understood to check one another, thereby, as Hobbes saw the matter, frustrating completely the very object of having sovereign power.⁶³ He protested against the ruinous impact of the idea of mixed government in the Elements of Law, where Bodin is cited in support of the proposition that commonwealths "wherein the rights of sovereignty...are divided ...are not rightly to be called commonwealths, but corruptions of commonwealths".⁶⁴ For where particular groups exercised what amounted to a veto on public acts, the decisive action which a society needed from its rulers would be severely inhibited, thus putting the society at risk. A mixed monarchy was thus for Hobbes a contradiction in terms, and a contradiction which had often led to the deposition of kings: "And though monarchies stand long, wherein the right of sovereignty hath seemed so divided, because monarchy of itself is a durable kind of government, yet monarchs have been thereby divers times thrust out of their possession".⁶⁵

As against some of the more orthodox Royalist thinkers, Hobbes holds that, properly speaking, sovereignty is also inalienable. In the Elements of Law, he (somewhat unexpectedly) uses the example of popular sovereignty in Rome to make this point, but its contemporary significance could hardly have escaped his readers. The truth was, he wrote, "that the right of sovereignty is such, as he or they that have it, cannot though they would, give away any part thereof, and retain the rest".⁶⁶ The people of Rome, he reports, possessing "the absolute sovereignty of the Roman state", could not delegate the power of making laws to a senate, though such a mischievous

contradiction might "easily happen amongst them that see not the inseparable connection between the sovereign power, and the power of making laws... [Therefore] this grant of the people to the Senate is of no effect...and passed by error".⁶⁷ Subsequently, in A Dialogue between a Philosopher and a Student of the Common Laws of England (written about 1666), Hobbes argued in a rather similar manner that those statutes whereby the king of England had agreed not to levy taxes without Parliament consent were, if taken as absolutely binding, against reason, for "if a king find that by such a grant he be disabled to protect his subjects...he sins [in abiding by it]".⁶⁸ He "therefore may, and ought to take no notice of the said grant: for such grants as by error, or false suggestion, are gotten from him, are...void and of no effect, and ought to be recalled".⁶⁹ The Parliamentarians of 1642 had vehemently opposed absolutist doctrines of this kind, but to Hobbes this was hardly surprising: "For who shall suppress rebellion, but he that hath right to levy, command and dispose of the militia? The last long Parliament denied this. But why? Because by the major part of their votes the rebellion was raised with design to put down monarchy, and to that end maintained".⁷⁰

The idea that when kings became tyrants, commanding things "hurtful to the people", they could be checked or deposed was also a monstrosity which Hobbes sought to banish. He does not deny that princes do on occasion despoil their subjects in ways which no pretence of attending to the peace and defence of the society could justify. But such a prince was said by Hobbes to be like other

sovereigns in that he was exempt from the civil laws (for he was their author) and in that he was in receipt of the "implicit" consent of his subjects;⁷¹ but by his conduct he would plainly fall foul of the laws of nature and of God, who was their author.⁷² Hobbes explains that any sovereign needs absolute power if protection of the citizen body is to be achieved, and absolute power always carried with it the potentiality of misuse, because "he that hath strength enough to protect all, wants not sufficiency to oppress all".⁷³ But the risk of tyranny is, for Hobbes, one which the rational man would be prepared to take: the consequences of deferring to the clamour for liberty to the extent of allowing the government only a limited power might eliminate the threat of tyranny, but it would also mean that that government would be too weak to sustain itself, and "that same natural state would return again, in which all men may by right do all things; which if they [i.e. those who demand liberty]⁷ knew, they would abhor, as being worse than all kinds of civil subjection whatsoever"⁷⁴. Moreover, for Hobbes there was a sense in which the risk of tyranny arises in respect of the citizens rather than in respect of the government, "for if men could rule themselves, every man by his own command, that is to say, could they live according to the laws of nature, there would be no need at all of a city [i.e. a civil-society]⁷, nor of a common coercive power".⁷⁵

Hobbes, then, implored his fellow subjects not to weaken the power which protected them by heeding the Parliamentarian and moderate Royalist humbug. But the most painful nettle for him to grasp was that produced by a contradiction between the command of

the sovereign and God's law, a circumstance in which the subject's obedience to his sovereign might threaten his chances of salvation. Now Hobbes could not but agree that a man's salvation was much more important to him than any earthly calamity, but the injunction to obey God rather than man clearly threatened to open a gap in the Hobbesian system which its author had to close, for what could be more pernicious to any state "than that men should, by the apprehension of everlasting torments, be deterred from obeying their princes, that is to say, the laws; or from being just?".⁷⁶ Hobbes's conclusion is that unless the subject is in receipt of a direct instruction from God, he must take his sovereign as the interpreter of God's word in the scriptures, as he is also to be taken as the interpreter of the laws of nature. Hobbes adds that while private interpretation is unavoidable in the state of nature, its re-assertion in the commonwealth would be disastrous. He claims that no credence can be granted to what he calls this "private knowledge of good and evil" without "the ruin of all governments".⁷⁷ Yet he found the propriety of such knowledge widely confirmed in his own society and elsewhere in Europe: "This opinion hath spread itself so largely through the whole Christian world, that the number of apostates from natural reason is almost become infinite". Its exponents were "sick-brained men, who having gotten good store of holy words by frequent reading of the Scriptures, made such a connection of them in their preaching, that their sermons, signifying just nothing, yet to unlearned men seemed most divine; for he whose nonsense appears to be a divine speech, must necessarily seem to be inspired from above".⁷⁸ Hobbes comforts the troubled reader, in dread of damnation for obeying his sovereign rather than his God, by assuring him

that the responsibility for sinful acts ordered by his sovereign will rest squarely with the sovereign. Such a transference of moral responsibility on the part of the subject is infinitely preferable, Hobbes believes, to his refusing obedience on the ground that his (private) moral knowledge is to be preferred to the sovereign's, for that is the path to anarchy.⁷⁹

Salvation, Hobbes argued, would be the outcome of obedience to God's laws (which in civil society become the sovereign's laws), and of faith, specifically faith that "Jesus is the Christ", i.e. that he was the Son of God who in accordance with the prophecies of Moses and the prophets of Israel came into the world to institute the Kingdom of God and to judge all men.⁸⁰ This extremely narrow understanding of what the irreducible minimum of the Christian faith was enabled him effectively to insulate Christian sovereigns (who, whatever their other misdeeds, would scarcely^{deny} that "Jesus is the Christ") from the opposition of men, who upon the basis of a more extended concept of what Christianity involved, might claim to know God's will better than they did. Vis-a-vis non-Christian sovereigns, the Christian subject's situation is rather less straightforward; and Hobbes, in the traditional manner, allows disobedience where the subject is pressed to an unchristian act, but advises that the subject must then await the sovereign's punishment. For disobedience must be strictly distinguished from resistance: "Must we resist princes when we cannot obey them? Truly, no; for this is contrary to our civil covenant. What must we do then? Go to Christ by martyrdom". A "hard saying", Hobbes readily concedes, for the man who is not

a sincere Christian; but for the true believer "to be dissolved, and to be with Christ" is by no means an unacceptable fate.⁸¹

The various anti-sovereignty doctrines (though sometimes hypocritically propounded by ambitious men who find themselves excluded from "the steerage of the commonwealth")⁸² were extremely dangerous because, in coinciding with short-sighted desires, they told many men what they wanted to hear. Such men found it difficult to believe that acceptance of an absolute politics was implicit in any kind of social life which transcended the limits of the family, and gladly embraced theories which warded off this uncongenial truth. Hobbes thus urged that the sovereign should take it as his duty to keep such theories from the ears of his subjects (paying special attention to the universities, where schoolmasters and preachers were trained), so that "no opinions or doctrines be delivered to citizens, by which they may imagine, that either by right they may not obey the laws...or that it is lawful to resist him the sovereign, or that a less punishment remains for him that denies, than him that yields obedience".⁸³ These doctrines in themselves were damaging enough but Hobbes found that they tended to be fatal when expressed with eloquence, for a certain type of eloquence⁸⁴ was inherently opposed to good order and is consequently condemned in his works on a number of occasions, for (as he tells us) "folly and eloquence concur in the subversion of government".⁸⁵ This subversive eloquence, Hobbes remarks significantly, was frequently to be found in great assemblies, where ambitious orators employ "the best and smoothest language" in working on the passions of

their audience for treasonous purposes. Eloquence of this kind, Hobbes complained, involved "a certain violence of the mind", its end being "not truth,.. but victory, and whose property is not to inform, but to allure".⁸⁶

Both the inspiration and the outcome of the anti-sovereignty doctrines was, in Hobbes view, treason. For him treason was much wider than simply threatening the sovereign's life; for him it was treasonous to disobey a law, for this involved a renunciation of the contract (which "contains in itself all laws at once")⁸⁷ and a violation of the natural law, which enjoins honouring contracts. 'Treason was therefore "a word or deed whereby the citizen... declares that he will no longer obey that man or court to whom the supreme power...is entrusted".⁸⁸ And it seems likely that Hobbes had Pym and the Parliamentarians in mind in giving in De Cive examples of treasonous doctrines; here we are told that the traitor is "he who should say, that he [the sovereign] had no right to wage war at his own will, to make peace, enlist soldiers, levy monies, electing magistrates and public ministers, enacting laws, deciding controversies, setting penalties, or doing aught else without which the state cannot stand".⁸⁹

FOOTNOTES

1. The autobiography of Thomas Hobbes (translated by B.Farrington), The Rationalist Annual, 1958 (London, Watts), p.26.
2. See ibid. p.25.
3. The manner of appearance of these works does not, however, indicate that their author's intention was to maximize the impact of his ideas. The Elements circulated only in manuscript until 1650, while De Cive was published in only a limited latin edition. A further edition (with explanatory notes and an important "Preface to the Reader") followed in 1647, to be followed in turn by Hobbes's own translation into English in 1651. This translation forms the basis for Sterling P.Lamprecht's edition (New York: Appleton-Century-Crofts, 1949), to which all subsequent references in this chapter, unless otherwise indicated, will be made.
4. See e.g. Sir Robert Filmer Observations on Mr. Hobbes's 'Leviathan' in P.Laslett (ed.) Patriarcha and other Political Works of Sir Robert Filmer (Oxford: Blackwell, 1949); see also J.W.N.Watkins Hobbes's System of Ideas (London: Hutchinson, 1965), p.74.
5. What Hobbes is describing, as several authors have indicated, is the "Resoluto-Compositivo" method, or method of resolution and composition, which had been elaborated by the Paduan School of scientific method in the fifteenth and sixteenth centuries and employed contemporaneously by Galileo and by Hobbes's friend William Harvey. Briefly, the method involved an attempt to understand a given effect by taking it apart, resolving it into its elemental parts (causes), ascertaining the nature of these parts and finally reassembling it. Originally a medical and an anatomical technique, it was taken into mechanics by Galileo. For a fuller account of this tradition of methodological speculation, see J.H. Randall The Career of Philosophy (New York: Columbia University Press, 1962), I, Chapters 11 and 13. For Hobbes's assimilation of this method, see J.W.N. Watkins, op.cit. chapter 3.
6. p.11.
7. Ibid.
8. The Elements of Law, Natural and Politique, reprinted in R.S.Peters (ed.) Thomas Hobbes: Body, Man and Citizen (New York: Collier, 1962), hereafter referred to as 'EL', p.307.
9. See The Catching of Leviathan (1659), Works (1843), IV, p.596.
10. pp. 65-66.
11. EL. pp.308-9.

12. p.22.
13. Oatlands Sermon (1627), p.17.
14. Cf. Hobbes's own assertion of the preferability of monarchy to aristocracy and (still more) to democracy in De Cive (p.116) where he sets aside examples of orthodox Royalist thinking on this point ("that the whole universe is governed by one God...that in the beginning of affairs and of nations, the decrees of princes were held for laws; that paternal government, instituted by God Himself in the creation, was monarchical; that other governments.../only arose/ out of the ashes of monarchy, after it had been ruined with seditions; and that the people of God were under the jurisdiction of kings") as not being based upon "solid reason" derived from experience, but rather upon mere example and testimony.
15. p.25.
16. pp.13, 28.
17. EL. p.277.
18. Ibid. p.295.
19. Ibid. p.224.
20. Cf. Bramhall's The Catching of Leviathan, where "moderated" government, partaking "of all the advantages of aristocracy and democracy without partaking of their inconveniences" is preferred to Hobbes's reckless absolutism. Specifically the Bishop wanted to know what had become "of all our Coronation Oaths, and all our liberties and great charters" by means of which the king had placed important limits on his power (Works, op.cit., IV, pp.564, 560).
21. p.9.
22. Considerations Upon the Reputation of Thomas Hobbes (1680) Works (Molesworth ed., 1839₄₅), IV, p.414.
23. p.26.
24. pp.28-9.
25. p.25.
26. See p.56.
27. p.12.
28. pp.25-6.
29. EL. p.280.
30. p.21.

31. EL. p.282.
32. On this aspect of Hobbes's thought, see R.W. Hepburn, "Hobbes on the Knowledge of God" (in M. Cranston & R.S. Peters /eds./ Hobbes and Rousseau: a collection of critical essays /New York: Anchor Books, 1972-7). and W.B. Glover "God and Thomas Hobbes" (in K.C. Brown /ed/ Hobbes Studies /Oxford, Basil Blackwell, 19657).
33. See De Cive, Works, op.cit, II, chapter 4.
34. EL. p.299.
35. Ibid. p.292.
36. p.40.
37. EL. p.305.
38. p.114.
39. pp.72-3.
40. p.167
41. p.39.
42. p.79.
43. p.67.
44. p.86.
45. Ibid.
46. Ibid.
47. p.94.
48. pp.92-3.
49. EL. p.329.
50. Ibid. p.330
51. Ibid. p.336.
52. Ibid. p.335.
53. p.84.
54. p.44.
55. p.9.

56. p.15.
57. EL. p.317.
58. Ibid. p.372.
59. EL. p.371.
60. De Cive, Works, op.cit, II, p.53.
61. p.134. M.M. Goldsmith reports the existence at Chatsworth of an early manuscript of The Elements of Law which speaks of a genuine property right which is both enjoyed in the state of nature and retained on entering civil society ("A Case of Identity" in P.King & B.C. Parekh /eds./ Politics and Experience: essays presented to Michael Oakeshott /Cambridge University Press, 1968/, p.83). In the works which Hobbes published, this view is denounced as ruinous.
62. p.90.
63. In the event that several elements concurred and dissention was avoided, Hobbes shrewdly observed that the supposed advantages were nullified, and "each single citizen is as much subject as possibly he can be" (p.89).
64. EL. p.373.
65. Ibid. While the sovereign power itself cannot be mixed, Hobbes allows that "the administration thereof" may be (EL. p.319); by which he apparently means that the sovereign can act with the advice of, and through, various subordinate agencies. Thus in a monarchy "there may be a council aristocratical of men, chosen by the monarch; or democratical, of men chosen by the consent, the monarch permitting, of all the particular men of the commonwealth" (ibid.). If, as seems likely, this was a reference to England, the similarity of Hobbes's views to those of Filmer in Patriarcha and The Freeholders Grand Inquest is evident (see above, p.117-118).
66. EL. p.373.
67. Ibid. pp.373-4; see also p.98.
68. University of Chicago Press (1971), p.63.
69. Ibid.
70. Ibid. pp.63-4.
71. EL. p.379.
72. See especially ibid.

73. p.77.
74. p.121.
75. pp.77-8.
76. p.133.
77. Ibid.
78. pp.133-4.
79. Here Hobbes appears to be trying to have it both ways: his usual emphasis is upon the necessity of subjects regarding their sovereign's acts as their own; but where the possibility of damnation might lead the subject to rebel, Hobbes contrives to insulate the sovereign so as to leave him with the sole responsibility for sinful acts.
80. See EL. p.348ff; p.200ff.
81. p.208.
82. p.121.
83. p.75.
84. See p.138 for Hobbes's distinction between this type of emotive rhetoric and a cooler, more philosophical type of eloquence, such as he himself practised.
85. p.139.
86. p.123.
87. p.169.
88. Ibid.
89. Ibid.

DUDLEY DIGGES

Thomas Hobbes apart, probably the most striking of Charles I's literary supporters was Dudley Digges. He was the author of two pamphlets criticising Henry Parker's Observations, An Answer to a Printed Book (1642) and A Review of the Observations (1643), and of The Unlawfulness of Subjects Taking up Arms against their Sovereign in what case soever (1643).¹ The Answer and the Review make a number of shrewd observations against Parker, but it is in the much longer Unlawfulness that something approaching a coherent theory of politics is developed. The Unlawfulness is in fact one of the outstanding documents of the period, and its author warrants extended treatment in any consideration of the ideologies of the Civil War period.

Like Hobbes, Digges is anxious to press upon his readers the idea that they had consented to the government of Charles I and that his government was, in an important sense, their own creation which they must not destroy, even though some of its manifestations had proved to be less than perfect. Digges's reasoning appears to be that as peace and order are essential to all but the most uncomfortable existence, and as sovereignty guarantees peace and order, the individual must be deemed to have consented implicitly (if he has not done so explicitly) to the government under which he finds himself. And this consideration also applies where sovereignty has degenerated into tyranny, for the tyrant at least provides "a certain way of ending controversies".² The individual thus has the same pressing reasons for giving his consent as the heads of families who in the first instance banded themselves together to create an extended state.

That almost all government was an artifice, involving some kind of consent, did not lead Digges (as it had led the Parliamentarians) to the supposition that it was still in some degree at the disposal of "the people". His conclusion was rather than the sovereign power which had been contrived was invulnerable in that, though its commands were not invariably to be obeyed, it was never to be the object of domestic armed resistance.

The creation of sovereign power was originally the outcome, Digges tells us, of the highly undesirable state of affairs produced in the distant past by the anarchic competition of family units. Before the institution of sovereign power, heads of families exercised "an unlimited power to use...their abilities, according as will did prompt"³ to secure the safety and prosperity of themselves and their families. But this "unlimited power" was, it transpired, self-defeating, possessed as it was by all other patriarchs: "For whilst everyone had right to all, nobody could with safety make use of anything; since when some would take to themselves what others delighted in, their desires and right being equal, there was no title but that of greater force, which could determine to whom it ought to belong, and this could not be known but by fighting, and this right reason abhorred"⁴. In this hostile state, even the most powerful patriarch had "his mind... distracted with continual fears" because it was eminently possible for a weaker man "by subtlety and watching advantages"⁵ or by combining with others, to destroy him. Digges's anarchy is thus the product of having too many states ("every family was a kingdom")⁶ and too many rulers. And although these rulers had absolute power, "yet it was confined within a narrow compass, and if they exercised any jurisdiction, or made use

of their liberty to the prejudice of neighbour states, this begot controversies, and both parties having right to be judges in their own causes, they made force the measure of decision, and who was strongest could not be known, but by the issue of the war".⁷ Men's understandings were quickened by this calamitous state of affairs to devise a remedy: "the ready cure was to make themselves one, because no body is at variance with itself". There being, Digges tells us, no way to do this naturally, men must perforce "reduce themselves into a civil unity by placing over them one head, and by making his will the will of them all, to the end there might be no gap left open by schism to return to their former confusion".⁸

Extended states were thus, Digges tells us, "framed upon a sinister opinion of men", viz, that they were incapable of living together peaceably without some kind of sovereign power; but within states men can nevertheless not only subsist but flourish, for submission is the mother of plenty.⁹ The sovereign power which men instituted could be monarchic, aristocratic or democratic, provided that the power to decide public issues was located somewhere within the state. Digges nevertheless plainly regarded monarchy as the most convenient form of rule, analogous as it was to a father's rule over his family and God's rule over the whole of Creation. We thus find Digges pointing to the literally patriarchal character of early monarchy,¹⁰ and to the appropriateness of the subsequent alienation to a general father of the power of each particular father: "For the king is pater patriæ, a common father to all without a metaphor...And though we should join together, and call ourselves the commonwealth, we can no more lawfully disrespect, give law to, resist upon hard usage, or say he is less honourable than all we, than children by agreement may dispense with their duty to their parents. It was our own act

which united all particular paternal powers in him, and that these are truly transferred, and now really in him, is very evident, because else we should be bound to obey our father's commands, before those of the king".¹¹

Our author supplements this "ascending" theory of politics by asserting that God is also the founder of states in that it is He who dispenses with the Commandment not to kill with respect to those magistrates appointed by the people to exercise sovereign power. The right to take away the lives of recalcitrants is essential to the operation of the sovereign power, but it is a right which the people, who do not possess it, cannot confer upon the magistrate. It has therefore to be of divine provenance, and those who receive it must receive in addition the deference appropriate to those who as well as being appointed by the people, also act as God's agents: "Not anyone having jus gladii, a right to take away the life of man, it follows they could not bestow it upon another, for what is not cannot be alienated. And therefore the supreme magistrate hath more power than the whole people, and is vice Deus, God's Vicegerent".¹² And in a significant passage, Digges tells us that while political obligation (unlike the natural obligation to a father) "can only flow from our consent", the consent of the governed constitutes only "a necessary qualification" which renders the magistrate capable of receiving "a larger commission from God". Without this commission "the sword of justice is blunt, the people's agreement could not put an edge upon it to cut off offenders, this... [being] done by the magistrate as God's delegate".¹³

God had made it clear, especially through the words of St. Peter and St. Paul, that the magistrate was to be honoured as God's viceregent and not under any circumstances resisted: if he forgot his duty, and behaved badly, it did not at all follow that his subjects were absolved from theirs. Digges was thus able to argue that the taking up of arms against Charles not only put the rebels' lives and estates legally at his disposal (i.e. as traitors), but also endangered their immortal souls in that they had ignored God's explicit command: "by shooting at him [Charles], by attempting to kill him, they are lost temporally; their goods and chattels, lands and tenements, and lives are forfeited in law, and what is most lamentable, their souls are eternally ruined. Disloyalty to their king is disobedience to God...the Apostle's eloquence is most powerful, They that resist shall receive to themselves damnation".¹⁴ And even resisting the ruler who (unlike Charles I) really was a murderous tyrant could at best achieve only a prolongation of an earthly life which tended to be miserable even in good circumstances ("our days are cloudy, and overcast with melancholies")¹⁵ and which was in any case of little consequence compared with the loss of eternal life which resistance involved.

It was clear to Digges (as it was to Hobbes) that the consent of the people, their abandonment of their natural right to judge for themselves in all causes ("this hurtful liberty")¹⁶, was irrevocable, and that consequently all talk of a resumption of natural freedom or of a forcible renovation of an allegedly defective magistracy was completely misconceived. The people "cannot retain what they have parted with, nor have what they gave away...a thing cannot retain a

a fullness, after it hath emptied itself".¹⁷ Digges was willing enough to concede that no political arrangement would give perfect security against tyrannous acts, but he repeatedly urged upon his readers the view that ultimately in politics the trust of the individual must find some repository. In replying to the Parliamentary contention that to allow the invulnerability of the king would be to make slaves of ourselves, Digges thus tells us that someone must be trusted: "It is no discretion to prevent a possible mischief by probable inconveniences; if you will not trust one, you must trust more, that is, if you are weary of monarchy...under which your forefathers enjoyed happy times...you know the way to cast it off by placing so many guardians over your prince, but have you any greater assurance than before? Quis custodiet ipsos custodes?"¹⁸ As Digges saw the matter the logical outcome of this unwillingness to trust the sovereign was that "you will be forced at last to trust the giddy multitude, who are always weary of the present government, because there are still some unavoidable defects...Thus you have no better security against a civil war, than that the greater part of the people will be discreet".¹⁹

While urging his readers to trust Charles I, however, Digges recognised a constant tendency for men to want to go back upon the original agreement, persuading themselves in the face of the inevitable shortcomings of any political system that what was needed was more liberty, and ignoring the fact that it was precisely the task of government, any government, to curtail liberty. "The restraint of our freedom is that which is most valuable amongst the benefits of government. For this preserves peace between men, that their hands are tied up from doing injuries".²⁰ In particular it was "the giddy

multitude"²¹ who were always eager for innovation and were consequently ready to be manipulated by ambitious men who found themselves excluded currently from the conduct of the nation's affairs. That just such a manipulation of the populace had been and was taking place in England was evident to Digges: "if things prosper not according to their wishes, crafty men persuade them, the fault lies in those who have the managery of the public, and if these be not removed, and honest and wise men (meaning themselves) put in their places, their miseries will daily grow upon them... This opens a gap to all confusion, civil war and most unnatural distractions are the certain issue of it. Our own lamentable experience confirms this sad truth".²² Thus it seemed to Digges in 1642 that the disorderly tumults around Parliament itself ("there was a kind of discipline in disorder, tumults being ready at command, upon a watchword given")²³ were clearly the result of manipulation, and possibly an augury of even graver events to follow.

The fact was that both "giddy multitude" and "crafty men" were too shortsighted to perceive what the ultimately disastrous outcome of their activities was likely to be: as Digges put it, they saw the bait, but not the hook. And the only way to avoid the "hook" of confusion and anarchy was to honour what Digges took to be the subject's dual obligation to the sovereign as God's deputy, and as (in a significant sense) his own appointee. Honouring this obligation involved a recognition that the human condition without the sovereign was unacceptable, and that the subject had transferred to the sovereign his right to decide how he was to conduct himself in serious disputes with other men: "By his own deed, and consent, he passeth it away...And equity and prudence both dictate, that it was a most honest

and reasonable agreement, as conducing to public peace, and the quiet of mankind, that persons publicly constituted...should put an end to all debates".²⁴ Digges was totally opposed to the idea that the original contract contained conditions in respect of which coercive sanctions could be applied against the sovereign in the event of non-performance: "this pernicious principle", he declared flatly, "unkings the sovereign".²⁵ Similarly, the safety of the people, wrongly taken by the Parliamentarians as a principle justifying armed resistance to the sovereign power, indicated for Digges its complete renunciation: "Populi salus suprema lex, is the engine by which the upper rooms are torn from the foundation, and seated upon fancy only, like castles in the air. For the safety of the people is really built upon government, and this destroyed, the other...will be soon swallowed in common confusion".²⁶

The Parliamentarians could not accept the idea of an irrevocable transfer of the right to defend ourselves: rational human beings, it was argued, would not at any time entertain such a dangerous idea, an idea which would leave them helpless before a sovereign power which had become a tyranny. For his part, Digges never denied that some of the consequences of instituting sovereign power might be unfortunate; but he held that such consequences would be a trivial matter when compared in an overall view with the consequences of any re-assertion of a right to shift for ourselves. For him the abandonment of this right was eminently sensible, a move which we were well-advised to take in face of the hostility of other families or in face of a conqueror who had it in his power to dispose of our lives and goods as he thought fit. In the former case, Digges

tells us, we abandon our "hurtful liberty" by choice in electing a ruler or rulers, while in the latter we abandon it of necessity and submit ourselves to the conqueror's will.²⁷

This resigning up of "hurtful liberty" was indeed for Digges the best means of self-protection: he thus found it "a more prudent course, to oblige some to sit down, though wronged, than to open a certain way for schism in the body by indulging a most pernicious freedom of righting themselves".²⁸ And he was able to close an obvious gap in his argument by assuring his readers that those who suffered tyrannical deprivations here on earth would receive heavenly reparation hereafter, provided that they stuck to their promise and endured the tyrant with patience.

The application of Digges's political principles to the situation in England led him to examine the constitutional history of the nation prior to the recourse to arms of 1642, the motives of those who were resisting their sovereign, and the theories whereby their resistance was justified.

In common with other Royalists, Digges believed that William had conquered England in 1066 in the fullest sense, and that the English had seen fit to consent to his rule rather than prolong the agony of resistance. "The Duke of Normandy", we read in the Unlawfulness, "invaded England with a potent army, and made himself king; what our laws were under the Danes or Saxons (by whom we were likewise conquered) doth not much concern us to examine (no more indeed than it doth to know the ancient British laws and privileges, which were taken away by them...) for he inverted the government, altered the laws, disposed of possessions to his Norman followers...and made all, as well English as his native

subjects, feudaries²⁹ to him, so that he remained directus dominus, Lord Paramount or overlord in the whole land...However we state his entrance, whether by the sword, or to avoid the envy of that title, by a voluntary submission of all to him...the conclusion cannot vary, because the duty of non-resistance arises from their own act, they taking an oath to be his true and loyal subjects".³⁰ Conquest, Digges explains, does not of itself confer a right to govern, but may well be "the mother"³¹ of such a right: "Because when the people are in ā conqueror's] power, for fear of harder usage, they pass their consent to be his faithful subjects, and to be peaceably governed by such laws as he shall, or hath, given them. This subsequent act gives him a full right to the Crown".³² It is evident that Digges did not subscribe to the common Parliamentary view that our English laws and liberties had (in John Pym's word) "overlived" the Conquest, which event seemed to him the outstanding discontinuity in English history.

Digges's insistence upon the absolutism of William did not lead him to claim a similar power for Charles. For English constitutional history since the Conquest had been characterised by a number of regal acts of grace whereby the prince had undertaken to use his sovereignty only in certain ways. Digges hastened to explain that these acts of grace did not involve the return to the people of any part of their original power, nor did they lend any credence to the idea that the king could be resisted or otherwise brought to book if he appeared to go back upon these undertakings, although he was morally obliged to stand by them. "Many of King William's successors", Digges

tells us, "did enlarge the subject's privileges by divers acts of grace, which they swore to maintain, but never gave them such security as should alter the nature of monarchy, by granting authority to their subjects to force them to observe promises, and to make satisfaction for true or fancied violations".³³ Monarchy in England thus ceased to be absolute, and became "tempered",³⁴ tempered to such an extent that in the Answer Digges could extoll its virtues in similar terms to those used of classical mixed government: "The several goods of each form of government are here united; we have great democratical advantages, and yet may avoid the evils of a popular state, as long as monarchy is kept up in its due height, and tumultuous insolent multitudes are not protected from legal trial. We have the good of aristocracy, counsel of the best experienced...nor yet are we acquainted with the disease of it, faction amongst the Nobility... at the same time monarchy provides a judge to determine... which is nevertheless so restrained by some power proper to the Houses, it cannot generate into a tyranny".³⁵ Digges did not want to speak in terms of a "mixed monarchy", which he took to be contradiction,³⁶ suggesting an over-ambitious role for the Houses, but spoke of "a restrained and limited monarchy"³⁷ in which the prince had ceased to be absolute while retaining his supremacy, retaining (for example) his power to summon and to dismiss the Houses.³⁸

The most significant of the royal acts of grace mitigating the absolutism of 1066 involved the provisions that new laws should not be made, nor old ones annulled, without the consent of the Houses, and that taxation should be similarly approved.³⁹ With regard to legislation, we learn from the Unlawfulness that the King

"hath not divided his legislative faculty, but tied himself from using it except by the advice and consent of the Peers, and at the request of the Commons, their rogation must precede his ratification".⁴⁰ And not the least important of these princely exercises in self-limitation were the concessions of 1640-41:

"For certainly he [Charles] hath granted so much in this Parliament...as put all his Royal Ancestors' Acts of Grace together, they fall much short of his ..." ⁴¹ : in particular the Triennial Act "like physic well-timed, may preserve the body of this state in health and strength, by not suffering ill-humours to grow to any head".⁴²

In the context of the dire developments subsequent to the "Constitutional Revolution", Digges had three main points to make. He flatly denied, in the first place, that the king had in any sense alienated or weakened his monopoly control of the armed forces. In fact, he could hardly take such a step without undermining the whole basis of his sovereignty. And without the complete control of the armed forces he would be unable to offer that protection to which he was sworn and which had been the presupposition of the consent given by the English after the Conquest. The very rationale of entering an extended state is to secure the protection which sovereign power can afford; and to reclaim a power of self-defence (as the Parliamentarians purported to) was thus a complete folly which ruptured what the Review called the "mutuality of relation betwixt protection and subjection"⁴³ and which promised untold miseries: "The evils which would flow from this license to resume our power against contracts, are infinite".⁴⁴ Whatever their pretensions, those who took up arms against the king could

not avoid the stigma of rebellion, for there could be no "just war" against the sovereign power: the Houses could no more legitimately raise an army (for any purpose, but especially to oppose the king) than they could legitimately coin money or conduct relations with foreign powers.

In the second place, what Englishmen needed currently was not protection against their prince, who had offered them no violence whatsoever, but to have their eyes opened concerning their self-proclaimed defenders who, in the course of their activities, had already violated the rights of sovereign and subject alike. Indeed, Digges upbraids his fellow countrymen for having fallen victim so readily to the persuasions of these "crafty men": "After you had obtained a perfect confirmation of all your ancient rights and liberties, with a gracious enlargement of them by new grants, and with such security as your forefathers were not acquainted with, you are frightened with the possibility of a relapse. To prevent which, it was thought fit to take away the King's power, with which our laws had invested him, as the necessary means for our protection, because it was not impossible he might use it for our oppression. Accordingly the King's navy, his forts, magazines and the arms of the Kingdom are put into such as you would call safe hands".⁴⁵

The lawlessness of these proceedings (and therefore their dishonesty, for they involved reneging upon an original promise) was patent. And along with dishonesty went, for Digges, imprudence: "Are not your sufferings infinitely multiplied? Are you not extremely sick of your remedy?".⁴⁶ And who, amidst the confusion and anarchy of civil war, were the aspiring tyrants now? To speak of Magna Carta and the Petition of Right caused one to be denounced as a

Royalist, while "to quote our good and ancient laws, is interpreted a breach of privileges of Parliament".⁴⁷ Moreover, how well did the House of Commons discharge its much-vaunted representative function in respect of the Kentish petitioners, whom it imprisoned when they called for moderation and an adherence to the law of the land?⁴⁸ The truth was that Parker and the Parliamentarians aimed to destroy the regime of balancing Estates which the English had evolved over a period of six hundred years. The monarchy was to be broken by making the king's concurrence in legislation automatic, thus reducing him to the level of the Duke of Venice. At one blow, it was claimed in the Review, "the fundamental law and frame of Parliaments" would be overthrown; for "if from any of the three formal parts of the Parliament we take away the freedom of voting, to assent or dissent, we break the threefold cord of the state, we cast away the balance of it and even dissolve the very frame itself".⁴⁹ Digges feared, as he wrote shortly afterwards, that "the tripartite frame of a Parliament of three Estates... was a vanishing apparition: there being really nothing, but a mere popular assembly, not of subjects, but sovereigns".⁵⁰

It was surely (Digges believed) to a perception similar to his own of the tyrannical ambitions of the Parliamentarian leadership that Charles would owe much of his support in the war that was now on foot. Of what was bound to be, in Digges's view, "a very considerable party"⁵¹ supporting their sovereign, many would do so 'but of conscience' (that is, from a belief that both God and their concurrence in civil society forbade rebellion), but

more, Digges tells us, would rally to the King "out of discontent and envy towards their fellow subjects, prosperous treason, endeavouring to restore their injured sovereign to his undoubted rights and prerogative".⁵²

In the third place, Digges was far from convinced that the community, or indeed its representatives in Parliament, were as far-sighted as Henry Parker supposed in confidently urging the Houses to exercise sovereign power in 1642. Putting aside God's admonitions to obedience, "we are too confident of ourselves, as if our own natural providence...were beyond any other means of safety",⁵³ not realising that while the body can feel, it was only the head that had eyes to discern. To Digges, this analysis indicated that even the body's representatives could claim no infallibility and that they were better employed in communicating felt grievances than in attempting to direct public policy. For matters of policy were "not only unfit and dangerous to be publicly managed by so numerous a body as our representative is", but also "the greater part are so little experienced or able to manage them as that in Edw.the third's time, the House of Commons themselves...desired they might be spared from giving advice in those matters...of which they had not the cognisance".⁵⁴

Now just as Digges found the actions of the King's opponents pernicious, so he found their reasonings spurious. The Parliamentarian interpretation of Romans 13 ("Their conclusion... is plainly this: a bad magistrate is no magistrate...and therefore no honour is due to him, no resistance is forbidden")⁵⁵ he rejected entirely, for the abuse of power did not at all void our obligation

to respect it and to refrain from resisting it. The Apostle's instruction regarding non-resistance reflected the undoubted fact that resistance as a remedy produced evils far surpassing those produced by the disease. The Apostle's consideration had thus been given to "that happiness which we have reason to promise ourselves from the preservation of order, the end of which is public tranquility. This is enjoyed under very bad princes, which will abundantly recompense some particular sufferings, whereas if we should go about to right ourselves when power is abused...the contrivance of our calamity... [is] very visible".⁵⁶

Furthermore, Digges insisted that the Apostle's prohibition of resistance applied to inferior magistrates as well as to private men. In an aristocracy, senators could properly resist the attempts of an individual to make himself king, but in the English situation lesser magistrates became private men vis-a-vis their Sovereign, for they were essentially his assistants ("delegates and ministers")⁵⁷ appointed or summoned by him to help with the running of the nation's affairs. Indeed, we are told that God "hath appointed a convenient subordination in all authorities"⁵⁸ such that an inferior must give place to a superior. Thus, "as a private man must not oppose a constable, nor a constable a justice of the peace, nor he a judge, so common soldiers cannot punish a lieutenant...nor a colonel the general, they being but private men in reference to one above them...so kings in monarchies... are not judicially accountable to any because they are the highest".⁵⁹ Thus there could be for Digges no question of St. Paul's injunction to obey the "higher powers" posing a moral dilemma for the subject when the commands of the king conflicted with those of lesser

magistrates. No man, he wrote, could be expected to obey two masters - hence God's "convenient subordination in all authorities". This subordination meant that while the king's commands were to be disregarded when they conflicted with those of God,⁶⁰ inferior magistrates below the king could not be his competitors for the subject's allegiance.

Digges was clearly careful to keep abreast of the resistance literature: he wrote two detailed rebuttals of Parker, and he had also read Goodwin, Bridge and Herle. Goodwin's attempted explanation of the non-resistance of the early Christians⁶¹ Digges found contemptible: his own explanation was quite simply that the early Christians (who really were confronted, unlike the disaffected subjects of Charles, with a persecuting tyranny) 'knew what their duty was. "Those holy men, who submitted their bodies to the flames, looked upon martyrdom, not as a thing of choice, but of duty. They might have pleaded the law of nature, and the injustice of their persecutors, whose office was to be a terror to the evil, and to countenance doing that which is good; but such sophistry could not prevail upon religion, which had bound up their hands from revenging themselves upon private men, and much less upon the magistrate".⁶²

The doctrine of "supply" and the "sergeant-at-arms" theory also find specific rebuttal in The Unlawfulness. The doctrine of supply assumed what Digges categorically denied, that sovereign power in England was "mixed" in that it was shared by the king and the two Houses of Parliament, who could confront their prince as equals. The English monarchy for Digges was indeed "restrained"

(as we have observed), and partook also of the advantages of aristocracy and democracy; but he vigorously denied that it was "mixed" in the sense presupposed, and he pointed to the paradox that the king could both summon and dismiss his supposed "equals". Our author observed mischievously that prior to 1642 any suggestion that the king and the Lords could "supply" the shortcomings of the House of Commons would have been clamorously denounced as a gross violation of the privileges of that House. More positively, he noted that the most significant implication of the doctrine of supply was that it took away the king's negative. This not only reduced the king to a status below that of a forty shilling freeholder ("for he governs by proxy, whereas the king is represented by none and yet must not speak for himself and for his own interest, which is altogether the same with the public")⁶³ but in Digges's view took away "the greatest security"⁶⁴ the individual had against the arbitrary rule of his fellow subjects. Digges not implausibly regarded the hegemony of a House of Commons majority as the likely effective outcome⁶⁵ of the doctrine of supply, and he had reasons for suspecting that the edicts of such a majority would be contrary to the public interest.

He was concerned about the over-representation of urban interests in the lower house, and feared that "the privileges of cities and towns, may be enlarged...to the great discouragement and loss of the honest farmer and painful husbandman".⁶⁶ The over-representation of the West Country Digges also found disquieting, but most alarming of all was the threat which a Commons majority might pose, by dint of the doctrine of supply, to the upper classes in Stuart society.

A long period of inflation had effectively lowered the forty shilling franchise qualification,⁶⁷ and he found it easy to imagine a situation in which "the major part of the lower House may be very mean men chosen to make more profitable laws for the poorer sort, and to keep the Gentry under by laying subsidies and all burdens of the Commonwealth upon them, not without a specious pretense, that they spend more in superfluties than would discharge all public expenses, and exempting themselves from all payments, as being such, who take great pains and work very hard, even for necessaries".⁶⁸

The "sergeant-at-arms" theory similarly fell foul of both English law and the very rationale of government. It was, in Digges's view, a singularly inappropriate doctrine for the House of Commons to embrace, given that the judicial powers of the House extended beyond its own members only in cases of privilege.⁶⁹ Moreover, this theory equally gave judges in inferior courts the authority to raise an army to bring delinquents to justice, but to Digges this conclusion was ridiculous: judges might well send a sergeant-at-arms and a small number of assistants, but the responsibility for raising an army lay solely (and very properly) with the king. Thus "when a few are sent out, the administration of justice doth not endanger the common peace. But...a war doth put the whole kingdom in manifest peril of being ruined. Therefore when either real delinquents, or pretended to be so, are so many as to make the trial doubtful, the liberty and right of inferior magistrates to fetch them in by force is in this case restrained by express laws, which provide very prudently that no war shall be made except as authorized by the supreme governor".⁷⁰

FOOTNOTES

1. All references, unless otherwise indicated, are to The Unlawfulness.
2. p.29.
3. p.2.
4. p.3.
5. ibid.
6. p.15.
7. ibid.
8. p.4.
9. See p.101.
10. See An Answer, p.2
11. pp.61-2.
12. p.63.
13. p.77.
14. p.84, emphasis in original.
15. p.41.
16. p.63
17. An Answer, p.5
18. p.69
19. pp.69-70; on the necessity to trust someone in politics, see also The Unlawfulness.pp.71,73,119,160.
20. pp.25-6.
21. p.69.
22. p.70.
23. An Answer, p.25.
24. p.8.
25. p.65.
26. p.7.
27. See p.63
28. p.72.

29. On the Norman introduction of a new system of land tenure, see p.118.
30. p.116.
31. ibid.
32. ibid.
33. p.118
34. An Answer p.50.
35. ibid.
36. See pp.138-9.
37. p.139.
38. See p.140.
39. See p.69.
40. p.140.
41. An Answer, p.32.
42. An Answer, p.16.
43. p.7.
44. p.6.
45. p.70.
46. ibid.
47. p.71.
48. See An Answer, p.16
49. A Review, p.15.
50. ibid., p.16.
51. p.137.
52. ibid.
53. A Review, p.16.
54. A Review, p.21.
55. pp.134-5.
56. pp.135-6.
57. p.86.
58. p.127.

59. p.47.
60. Digges also argued that the English king's commands should not be obeyed when they conflicted with the law: "We do our duty in submitting to his legal will, though against his letters or word of mouth, for he hath obliged us to do so, and by his own grant restrained his right to recall and abrogate laws, except by advice and consent of both Houses in Parliament" (p.128). But here, as in the case of an ungodly command, patient suffering rather than resistance, was the appropriate response.
61. See above, p.101 n.12.
62. p.106.
63. p.143.
64. ibid.
65. See p.145 on bypassing the Lords.
66. p.143.
67. Digges thus hoped that the franchise qualification might effectively be restored to its original level by raising the forty shillings to a higher sum (see p.143).
68. p.143.
69. See p.130.
70. pp.130-1.

JOHN MILTON: 'ASCENDING' POLITICS VERSUS ELITISM

To trace the development of John Milton's political thinking is one way of exploring the pathos of the English Revolution. He appears to us in the Civil War years as a confident opponent of the Stuart regime, cherishing almost millennial expectations from its destruction. In 1659 he appears as a desperate ideologue, hectoring his fellow countrymen (in whom he had once placed such faith) in The Readie and Easie Way to Establish a Free Commonwealth in order to prevent what he had come to regard as the ultimate catastrophe of a restoration of the monarchy. The bulk of his theoretical writing on politics, however, lies so to speak in between these two extremes, and concerns itself with a defence of Pride's Purge and of the trial and execution of the king. Having been, as H.R. Trevor-Roper remarks,¹ the defender of a cause, Milton now emerges as the proponent of a faction, the "Independents"², who in deposing and executing the king were, in Milton's eyes, merely pursuing the logic of the Revolution of 1642.

Milton's professed concern was always with liberty, and he saw liberty as under a more or less continuous seige during the years of the Great Rebellion. He concerned himself first with a violent attack upon the despotical ambitions of the bishops of the Church of England. He regarded episcopacy itself as an entirely unscriptural relic of Roman Catholicism, and an indication of a half-completed reformation, with ordinary Christians being both

oppressed and bamboozled by the prelates. The ultimate aim of the prelates would probably be the restoration of the Papal supremacy in England; but for the time being they busied themselves with urging that power be concentrated upon the monarch, to whom they owed everything and to whom they looked for protection against the inherent thrust of Protestantism towards a thoroughgoing Reformation, a Reformation which "must undress them of all their gilded vanities"³ and reduce them to the rank of mere ministers. It followed from the fact of this prelatical devotion to monarchy⁴ that "if it should happen that a tyrant...should come to grasp the sceptre, here were his spearmen and his lances, here were his firelocks ready, he should need no other pretorian band...than these, if they could once with their perfidious preachments awe the people".⁵

Evidently in 1641 Milton was not yet prepared to denounce Charles I himself as a tyrant, but at the same time it was clear to him that tyranny in England had both a civil and a religious guise, having (as he put it) "grown an ambiguous monster",⁶ represented by the Earl of Strafford and Archbishop Laud respectively. But the interconnected nature of religious and civil oppression meant that upon the banishing of superstition, the achievement of "all honest and legal freedom of civil life cannot be long absent".⁷ In consequence, the "prelacy" strained every nerve to keep the people in all respects in an abject condition, so that "like another Midas...whatsoever...they touch or come near either in ecclesiastical or political government...should turn, not to gold ...but to the dross and scum of slavery, breeding and settling both in the bodies and the souls of all such as do not in time, with the

sovereign treacle of sound doctrine...fortify their hearts against...their hierarchy".⁸ Milton naturally applauded the incarceration of Laud and the execution (a "public triumph ...so reviving to the fainted commonwealth")⁹ of Strafford, and enthusiastically embraced Parliament's cause when war came in 1642. Like many another English Puritan, he believed that England had a special role to play in the unfolding drama of history (a role involving a special responsibility to cut down God's enemies and to establish His rule upon earth) and that 1642 would probably be a decisive moment in that drama.¹⁰

Doubtless the English had been in a benighted condition when Strafford and Laud, supported by Charles, had held sway; but Milton saw the Long Parliamentarians as a moral elite who were rescuing the country from this condition, and returning it (as in the days of Wycliffe) to the van of Christian civilisation.¹¹ The Long Parliament was for Milton scarcely less than a providential visitation, its members (he tells us) chosen by both man and God to rescue a decaying Commonwealth: "God and man consenting in joint approbation to choose them out as the worthiest above others to be both the great reformers of the church, and the restorers of the commonwealth"¹². And, Milton reports with enthusiasm, "we may be confident that what they do proceeds neither from uncertain opinion nor sudden counsels, but from mature wisdom, deliberate virtue, and clear affection to the public good".¹³

So immoderate were the hopes entertained by Milton in 1642 (moderation he identified at the juncture with "lukewarmness and

sloth")^{13a} that their disappointment could only have been a matter of time. It is in his Aeropagitica of 1644 that the disappointment of Milton's hopes begins, albeit in a small way, to express itself. A short while previously he had published a heterodox work advocating divorce and emphasizing psychological incompatibility as one pressing justification for the dissolution of a marriage. It has often been assumed that the break-down of Milton's own marriage to a pro-Royalist lady half his age was not unconnected with his pronouncements on this topic ("two opinions do not well on the same boulder",¹⁴ remarked John Aubrey); but in our context the main significance of the work is that it excited the hostility not only of divines, but also of the Stationers Company, which angrily drew the attention of Parliament to the way in which the appearance of such unlicensed tracts as The Doctrine and Discipline of Divorce was violating the Ordinance of June 1643 for the regulating of printing.

To the would-be censors Milton replied famously in Areopagitica. He asserts that it is papists and crypto-papists (such as the Laudian bishops) who are so afraid of the truth that they must practise censorship, and he finds it hard to believe that the Long Parliamentarians, the moral elite whom he had previously eulogised, really wanted to follow these detestable precedents. Surely, he asserts, MPs will listen to "the voice of reason", and be "as willing to repeal any act of your own setting forth, as any set forth by your predecessors".¹⁵ In repealing the Licensing Ordinance, Milton promises MPs that "men will then see what difference there is between the magnanimity of a triennial

parliament, and that jealous haughtiness of prelates and cabin counsellors that usurped of late, whenas they shall observe ye in the midst of your victories and successes more gently brooking written exceptions against a voted Order than other courts, which had produced nothing worth memory but the weak ostentation of wealth, would have endured the least signified dislike at any sudden proclamation".¹⁶

Milton's argument is that men have been given the gift of reason by their Creator and that to be denied the full use of it (this being the effect of censorship) was to keep men in what he called "a perpetual childhood of prescription", and necessarily involved "an undervaluing and vilifying of the whole nation".¹⁷ For Milton, then, censorship was an affront to God-given reason and took away from men (in so far as it was successful) that choice which was essential to morality. Milton did not deny that some works of literature were utterly pernicious (indeed, he was to rebutt some of them himself); but the good Christian could not be insulated from evil; rather, he had to know how to counter it when it confronted him.¹⁸

Areopagitica can be seen, then, as representing a small reverse to the hopes of 1642. Much more cruel were the reverses which followed Parliament's decisive military victory in the first and second Civil Wars. As our author saw the matter, what happened was that a substantial group of those whom he had counted as heroes in 1642 turned out to be degenerates, and this Presbyterian faction insisted upon negotiations with a king whom Milton regarded as incorrigible, with the apparent object of restoring precisely the

the corrupt and slavish condition which the Wars had been fought to banish. Milton defended the proceedings against the king and poured contempt upon the Presbyterians who had desired an accommodation with him in four main works: The Tenure of Kings and Magistrates (1649), Eikonoklastes (1649), A Defence of the People of England (1651) and The Second Defence of the People of England (1654). In these publications we recognise the classical "ascending" theory though now the theory is deployed to justify not (as in 1642) the armed preservation of mixed monarchy against the ambitions of a misled monarch and his evil advisers, but to justify the removal of both king (now seen to be malevolent rather than misled) and the Lords by an aggrieved and exasperated people.

Though his conclusions are more radical, the main features of Milton's argument are precisely those with which a reading of the earlier Parliamentary literature has made us familiar. First we are told by Milton that it is necessary to distinguish political power in the abstract from political power as it appears in specific circumstances, the former being of divine provenance, while the latter is the gift of the people: "So that the institution of magistracy is jure divino, and the end of it is that mankind might live under certain laws, and be governed by them. But what particular form of government each nation would live under, and what persons should be intrusted with the magistracy, without doubt, was left to the choice of each nation".¹⁹

Secondly, it was clear to Milton that the several systems of magistracy were the consequence of the perceived shortcomings of life

without civil government. Once men had exercised a God-given liberty, but because of the imperfections which arose "from the root of Adam's transgression" they had found it convenient "for ease, for order, and lest each man should be his own partial judge" to come together in civil societies, delegating political power to magistrates chosen from amongst their number.²⁰ Therefore, it was manifest that the power of magistrates was "nothing else but what is only derivative, transferred, and committed to them in trust from the people to the common good of them all, in whom the power yet remains fundamentally, and cannot be taken from them, without a violation of their natural birthright".²¹ For Milton, as for the theorists of Parliamentary resistance, there could be no question of a permanent or total alienation of liberty to the magistrate, such as had been envisaged by Hobbes and Digges. To invest any man with power on such terms would be "extreme madness" and he could not imagine that any group of people would be so "miserably silly" as to contemplate a ruinous arrangement of this kind.²² Magistrates were therefore the people's revocable "deputies and commissioners", who were to execute "by virtue of their intrusted power, that justice which else every man by the bond of nature...must have executed for himself, and for one another". And, Milton continued, "to him that shall consider well why among free persons one man by civil right should bear authority and jurisdiction over another, no other end or reason can be imaginable".²³

The fundamental law of all politics thus decreed that power should be exercised for the common good of all. And the immediate

corollary of this law was that where magistrates deserted the common good as their end, they became enemies to be resisted as an external enemy would be resisted.²⁴ Indeed, from the standpoint of the "ascending" theory, there was good reason for holding the internal destroyer more detestable than the external invader: "It is equally prejudicial and destructive to the commonwealth Milton wrote in A Defence 7, whether it be their own prince... or a foreign enemy, that spoils, massacres and enslaves them. And questionless, being both alike enemies of human society, the one, as well as the other, may lawfully be opposed and punished; and their own prince the rather, because he, though raised to that dignity by the honours that his people have conferred upon him, and being bound by his oath to defend the public safety, betrays it notwithstanding all".²⁵

Even Old Testament rulers such as Saul and David came to office substantially in respect of popular choice²⁶ and all post-biblical rulers owed their authority entirely to popular choice, an assertion which for Milton held good even in the case of William the Conqueror, whose intrusion (he asserts in the now traditional Parliamentary manner) had occasioned no fundamental rupture in English political history. After Harold's defeat, we learn from A Defence, the English "chose rather to accept of a king, than to be under a conqueror and tyrant; they swear therefore to William to be his liegemen, and he swears to them at the altar to carry himself towards them as a good king ought to do in all respects. When he broke his word, and the English betook themselves again to their arms, being diffident of his strength, he renewed his oath upon

the Holy Evangelists to observe the ancient laws of England."²⁷

Thirdly, Milton claimed in the traditional manner that Romans 13 and 1 Peter 2 protected only the righteous magistrate in some sense chosen by his nation, bearing not the sword in vain, and acting in pursuit of the ends of political power as envisaged by God and man. On Romans 13, for example, Milton writes that because St. Paul defines what a magistrate is, "he cannot possibly define a tyrant, the most contrary thing imaginable, in the same words. Hence I infer that he commands us to submit to such magistrates only as he himself defines and describes, and not to tyrants, which are quite other things".²⁸ Indeed, the tyrant was not a magistrate at all: rather he was a public enemy, "a man in a vizor"²⁹, masquerading as a magistrate, the Devil's agent rather than God's. And because there could be no arbiter between such an enemy and the people whom he oppresses, the people themselves must undertake the correction of the commonwealth's disordered affairs. The power of the tyrant must "revert to the people, from whom it was first derived, and conferred upon one of themselves; and the power...[is thus] transferred from him that abused it, to them that were prejudiced and injured by the abuse of it; than which nothing can be more just, for there could not well be an umpire in such a case..."³⁰

Finally, Milton amplified the principal contentions of the Parliamentarians with respect to the role of the monarch within the English political framework. In effect, Charles's proper function became for Milton that of chief executive, trusted to do little else than to put into execution the decisions of Parliament.

Thus by means of the "ascending" theory, Charles's legitimate role in politics was reduced to little beyond the prompt execution of laws made by the nation through its representatives at Westminster. The contemplation of the "first original and institution" of civil society was thus said to reveal that kings "were at first chosen and installed only by the consent and suffrage of the people, to govern them as freemen by laws of their own making".³¹ This plainly indicated the propriety of the emasculating interpretation of the king's Coronation Oath, for it was clear that any talk of the king's Negative was simply a mistake ("nor was he set over us to vie wisdom with his Parliament, but to be guided by them")³²; nay more, it was a disastrous mistake, for "grant him this, and the Parliament hath no more freedom than if it sat in his noose, which when he pleases to draw together with one twitch of his Negative, shall throttle a whole nation, to the wish of Caligula, in one neck".³³ And more generally, any account of the English constitution and its history in terms of self-limiting monarchy was quite preposterous and would only be endured by abject sub-humans. The political community was to be regarded, rather, as "a society sufficient of itself" and thus able to provide itself with "all things conducive to well-being and commodious life". And if it was said that these things cannot be had "without the gift and favour of a single person...it [the community] cannot be thought sufficient of itself, and by consequence no commonwealth, nor free...[but on the contrary] a multitude of vassals in the possession...of one absolute lord, and wholly obnoxious to his will".³⁴

It was because Charles had so plainly revealed himself as an enemy to the English people that Milton found his trial and execution justified. During his reign he had, in Milton's view, all along intended to make himself an absolute ruler, and his eventual fate was certainly no more than he deserved. Milton speaks of him as having "trampled upon the laws of the nation", and as having begun "to rule at his own will and pleasure".³⁵ Like all tyrants, Charles had hated the godly and had persecuted them unmercifully, for the Saints loved liberty and would not countenance the license and moral decay by which tyranny was perennially accompanied. On this account tyrants, "by a kind of natural instinct",³⁶ feared the Saints; and blackguarding them as subversives had been "the perpetual cry of Courtiers and Court Prelates" before the Wars began.³⁷ Defeated by his own subjects "who had undergone a long slavery under him.../and giving/ no ground, either by words or actions, to hope better things of him, he was finally by the Supreme Council of the kingdom condemned to die, and beheaded before the very gates of the royal palace".³⁸ And because the evidence pointed unequivocally in Milton's view to the fact that Charles was an enemy, he was able to sweep aside the legal considerations which caused many an erstwhile Parliamentarian to doubt the validity of his trial and execution. Milton reminded Salmasius that in considering the king's fate, they were discussing not a member of society who could claim the protection of its laws, but an enemy, indeed a prisoner-of-war: "An enemy to a state", Milton asserted confidently, "made a prisoner-of-war, cannot be looked upon to be so much as a member, much less a king in that state. This is declared by the sacred law of St. Edward, which denies

that a bad king is a king at all, or ought to be called so".³⁹

The "ascending" theory which legitimized both resistance and regicide also went some way to legitimizing the specific manner of Charles's condemnation. It was, of course, the House of Commons which established the High Court of Justice which tried and condemned him. The Lords had virtually ceased to exist by this time and were shortly to be formally abolished; but in any case its members were merely, according to Milton, the king's creatures, ("shadows of him")⁴⁰ and as such of little significance, though Milton does complain that while the Lords "were not deputed to sit...by any town or county", they had nevertheless frequently opposed the people's freedoms.⁴¹ The people were, both logically and historically, prior to both monarchy and House of Lords; and this consideration gave the House of Commons (where the people were represented) its undoubted constitutional primacy, a primacy which Milton indicated by giving it the title of "Senate".

Thus it was the people's representatives who brought Charles Stuart to justice; and for our author the fact that a majority of MPs had recently been forcibly prevented from taking their seats by Colonel Pride plainly did not prejudice the propriety of the proceedings against the King. For the authority of the people rested with those whom Milton called "the better and sounder part" of the Senate;⁴² and in his view it was obvious that MPs who refused to draw back from their original commitment to resist tyranny were "the better and sounder part". The rest, the

"royalized Presbyterians",⁴³ were despicable renegades who preferred treating with an incorrigible tyrant to Godly punishment and reform. For them the logic of the "ascending" theory did not involve regicide: rather, it pointed to Charles's restoration with diminished powers by agreement with his (unpurged) Long Parliament. Milton and the Independents, on the other hand, pressed on. For Milton, regicide was the logical outcome of resistance in the event of the magistrate's tyrannous propensities proving incorrigible; and he denounced the Presbyterians (the "malignant backsliders") for what he regarded as the shameful illogicality of their conduct following upon the military defeat of the Royalists. Thus in the Tenure we read that "He who but erewhile in the pulpits was a cursed tyrant, an enemy to God and the Saints, laden with all the innocent blood spilt in three kingdoms, and so to be fought against; is now, though nothing penitent or altered from his first principles, a lawful magistrate, a sovereign lord, the Lord's anointed, not to be touched, though by themselves imprisoned".⁴⁴ Milton now perceived that it was lust for the financial gain to be had by superseding the Arminians in their benefices which had at first drawn the Presbyterians to the side of the Godly in opposing the Stuart regime. But the Presbyterians had now withdrawn, leaving their erstwhile comrades-in-arms in an exposed position.

Our author professed to see little significant difference between taking the field against a tyrant and putting him to death. That the Presbyterians had effectively unkinged and destroyed Charles by their military action against him (the Covenant sophistries about

protecting his person notwithstanding) Milton found not open to question. For "it must needs be clear to any man not averse from reason, that hostility and subjection are two direct and positive contraries; and can no more stand together in respect of the same king, than one person at the same time can be in two remote places. Against whom therefore the subject is in act of hostility, we may be confident that to him he is in no subjection; and in whom hostility takes place of subjection to him the king can be not only no king, but an enemy".⁴⁵ Thus Milton was led to assert in the Second Defence that in giving battle to Charles, his opponents had "already morally put him to death".⁴⁶

Milton concluded in A Defence that the Independents were "the only men that from first to last, kept to their point, and knew what use to make of their victory. They refused...to make him [Charles] king again, being then an enemy, who, when he was their king, had made himself their enemy; nor were they ever the less averse to a peace, but they very prudently dreaded a new war, or a perpetual slavery under the name of a peace".⁴⁷ He is prepared to concede that the extinction of two of the three Estates had not been envisaged when resistance commenced in 1642; but he finds in this no reason to criticise the extension of the war aims of the people's representatives in the light of their experience that the king and his "sha dows" were incurably opposed to the liberties of the people.⁴⁸

The Long Parliament as such had palpably failed to live up to the standards set by our author for a moral elite. His allegiance had therefore to be transferred to the Independents -

that is to say, Rumper MPs ("the better and sounder part" of the Senate), together with the leading figures of the victorious Army who had declined to follow a previous Parliamentary majority in its search for a dishonourable and slavish settlement with the King. Thus Milton became spokesman for, and indeed an employee of, the English Commonwealth. The Rump in due course revealed itself to be a broken reed, procrastinating and preferring private to public interest.⁴⁹ Internal dissention prevented the subsequent Barbone's Parliament from achieving anything; and Milton, in his search for an elite of virtue was left with Cromwell and officers such as Lambert and Fleetwood, together with such radical politicians as Bradshaw, Sidney and Whitlocke. These people he eulogizes in The Second Defence. His discussion of Cromwell's role in the collapse of the Barbone's Parliament is especially significant: "In this state of desolation, to which we were reduced, you, O Cromwell! alone remained to conduct the government, and to save the country. We all willingly yield the palm of sovereignty to your unrivalled ability and virtue, except a few amongst us..."⁵⁰ These "few" were either men who saw their ambitions thwarted by Cromwell's rise, or men "who do not know that nothing in the world is more pleasing to God, more agreeable to reason, more politically just, or more generally useful, than that the supreme power should be vested in the best and wisest of men".⁵¹

Here we have probably arrived at the centre of the Miltonic theory of politics: he asserts on the one hand the eminent

compatibility between God and the rule of the wise and virtuous; on the other hand he has no doubt about the incompatibility between God and other forms of rule, especially of course, between God and tyranny. "Absolute lordship and Christianity" Milton declares confidently, "are inconsistent".⁵² The tyrant is the natural enemy of those who follow God and who seek to guide their conduct by the use of their God-given faculty of reason, and not according to the tyrant's arbitrary will. Thus it was that Milton's Englishmen had found themselves confronted in the period before 1642 by an "ambiguous monster" of tyranny, with religious oppression welded to the destruction of their civil liberties. True religion and "native liberty" were therefore two elements "which God hath inseparably knit together", as Milton reported in his Apology for Smectymnuus of 1642; and as a corollary he also believed "that they who seek to corrupt our religion, are the same that would enthrall our civil liberty".⁵³ The tyrant was, then, the enemy of both God and man. The English had gloriously deposed and punished their own tyrant (thereby setting a precedent which other nations would do well to follow), but Milton found that cutting off a tyrant was one thing, but securing the rule of a virtuous elite was quite another. And as the English turned from one constitutional expedient to another, Milton knew that the return of the monarchy was a real (albeit a shameful) possibility.⁵⁴

Now the other side of the coin of Milton's elitism is his distrust of the competence and moral standing of the common people, and he believed that those working for a restoration would

find ample support among those who he called in Eikonoklastes "the blockish vulgar".⁵⁵ Once, of course, Milton had been more optimistic. In Areopagitica, for instance, in arguing that England had nothing to fear from an open market in ideas, he had urged the Lords and Commons to "consider what nation it is whereof ye are, and whereof ye are the governors: a nation not slow and dull, but of a quick, ingenious and piercing spirit; acute to invent, subtle and sinewy to discourse, not beneath the reach of any point the highest that human capacity can soar to".⁵⁶ Subsequently, however, the deference and slavishness of so many Englishmen aroused in Milton a profound contempt, and a reluctance to countenance any suggestion that mere numerical superiority had any moral significance whatsoever. Thus, A Defence praises "the English nation", which had won "everlasting glory" in the heroic struggles of the decade past, but separates the "nation" from "the common people" by whose "superstitious persuasions" these struggles had been hampered.⁵⁷ The work conceded to Salmasius that "the rabble" were "blind and brutish, ignorant of the art of governing", but emphatically maintained that this could not be said "of the middle sort, amongst whom the most prudent men, and most skilful in affairs", diverted neither by poverty nor by luxury, were to be found.⁵⁸ Arguably his strongest statement in this context occurs, however, in the Second Defence: "Who denies that there may be times in which the vicious may constitute the majority of the citizens, who would rather follow Cataline or Antony, than the more virtuous part of the Senate? But are not good citizens on this account to oppose the bad with vigour and

decision? Ought they not to be less deterred by the smallness of their numbers, than they are animated by the goodness of their cause?"⁵⁹

To come to distrust "the people" (in the sense of the electorate as well as in the sense of the unenfranchised adult population) was a grave matter for the "ascending" theorist who desired some sort of empirical validation (i.e. the following of a recognised procedure or procedures) for the notions that magistrates are "the people's creatures" and that the tyrant might be properly resisted by "the people". Milton's recognition that the Independents were a mere fraction of the political nation (the majority of whom almost certainly wanted Charles's restoration) indicates that for him the king's destruction had been providentially accomplished by the Saintly "uprighter sort" (in whom "faction hath least prevailed above the law of nature and right reason")⁶⁰ in the people's name rather than by the people themselves. At one point Milton comforted himself with the thought that however small the number of the virtuous minority, they would attract to their cause the erstwhile numerical majority;⁶¹ but his oft-repeated fears of a restoration of the monarchy (with all that such an eventuality would imply concerning the slavish immaturity of a nation which allowed it to happen) suggest that the comfort was, at best, intermittent.

It was at this point of the collapse of the "ascending" theory into blatant subjectivism that Milton fell foul of Sir Robert Filmer. The latter pointed out that there had been

considerable confusion in the Parliamentary literature concerning who "the people" were: "come to our modern politicians, and ask them who the people is, though they talk big of the people, yet they take up and are content with a few representors (as they call them) of the whole people...or even argue that the major part of these representors must be reckoned for the whole people". With Milton's Defence, however, the confusion had become intolerable: "nay, JM will not allow the major part of the representors to be the people, but the sounder and better part only of them...If the sounder, the better, and the uprighter part, have the power of the people, how shall we know, or who shall judge who they be?" ⁶²

There can be no doubt that Milton's suspicions about his fellow countrymen found confirmation in the truly phenomenal success with the reading public of Eikon Basilike, the King's book, which made its appearance soon after Charles's execution and within a year had gone through thirty-six editions. Its reception showed, Milton remarked bleakly, "what a miserable, credulous, deluded thing that creature is, which is called the vulgar". ⁶³ Although Dr. John Gauden, Bishop of Exeter, almost certainly had a hand in preparing Eikon Basilike for the press, the book may well have been substantially the work of His late Majesty. Whatever the exact truth about its authorship, Eikon Basilike is, of its kind, a remarkably effective political document. ⁶⁴

Charles represents himself throughout as a well-meaning, if perhaps badly-advised, monarch who simply sought the well-being of his subjects, but was laid low by an unscrupulous and fanatical

minority who did not hesitate to put at risk the whole social fabric in their endeavours to seize the sovereign power. The king is thus an innocent cut down by a clique of would-be dictators who thought nothing of thrusting out of doors the laws and traditions of the English polity. The ambitions of these people, we are told, forced them "to fly to the shifts of some pretended fears and wild fundamentals of state, as they call them, which actually overthrow the present fabric of both church and state; being such imaginary reasons for self-defence as are most impertinent for those men to allege, who being my subjects were manifestly the first assaulters of me and the laws, first by unsuppressed tumults, after by listed forces".⁶⁵ The real object of these hypocritical "first assaulters" gradually became clear to Charles. His many concessions would have satisfied reasonable men, but his opponents were not reasonable men, being possessed of an "hydraptic insatiableness [which] had...learned to thirst the more by how much the more they drank, whom no fountain of royal bounty was able to overcome, so resolved they seemed either to utterly exhaust it, or barbarously to obstruct it". One way or the other, these men would have "the sun of sovereignty".⁶⁶

Eikonoklastes is Milton's ferocious reposte to Eikon Basilike. The events of the 1630s and 1640s are so interpreted by him as to transform the innocent of Eikon Basilike into a monstrous tyrant whose ambitions were halted only by the combined and unstinted efforts of the decent men in Britain. Milton shows all his characteristic moral and political self-assurance in blasting the

King's book (thereby possibly confirming for some readers one of its principal contentions); but at the same time, he does not conceal his distress at the reception of the work. "The people he complains bitterly, exorbitant and excessive in all their motions, are prone oftentimes not to a religious only, but to a civil kind of idolatry, in idolizing their kings: though never more mistaken in the object of their worship". He further complains of "a besotted and degenerate baseness of spirit" seemingly affecting all "except some few who yet retain in them the old English fortitude and love of freedom".⁶⁷ The rest, Milton tells us angrily, "are ready to fall flat, and give adoration to the image and memory of this man, who hath offered at more cunning fetches to undermine our liberties, and put tyranny into an art, than any British king before him". Milton hoped that this "low dejection and debasement of mind" was not the natural disposition of Englishmen, and attributed it to the enervating effect of prelatical and Presbyterian teaching and to what he called "the factious inclination of most men divided from the public by several ends and humours of their own".⁶⁸

Whatever the cause of this baseness, Milton saw in it an ever-present factor presaging the return of the monarchy, a return of the Israelites to "the Egyptian slavery".⁶⁹ He found such a conclusion to the gallant strivings of the 1640s and 1650s almost unthinkable, and yet he could not ignore those deplorable dispositions evidenced by so many of his contemporaries which pointed unequivocally in the direction of a restoration. Thus

while in the Second Defence attributing to Cromwell almost superhuman talent and virtue, he warned Englishmen of "the deepest abyss of shame"⁷⁰ which would await them if, through moral deficiency, they allowed the republican form of government to fail. Not even a Cromwell would be able to deliver them if they persisted in the sort of self-interested factiousness which would ensure that "not wisdom and authority, but turbulence and gluttony, would...exalt the vilest miscreants from our taverns and brothels...to the rank and dignity of senators".⁷¹ At the very end of the Second Defence, Milton seems to be making the point that if Englishmen behave like children, then they must expect to be ruled "like a nation in a state of pupilage",⁷² which in this context implies for Milton the return of the Stuarts. In this particular passage he expounds a theory of positive liberty, claiming that in the first instance "to be free is the same thing as to be pious, to be wise, to be temperate and just, to be frugal and abstinent...to be magnanimous and brave". To be unfree, conversely, meant that "people...cannot govern themselves...but crouch under the slavery of their lusts", and their failure to govern themselves would bring in its train a more obvious form of servitude. Milton thus urged his fellow countrymen to conduct themselves rationally: "bid adieu to your dissensions, your jealousies, your superstitions, your outrages, your rapine and your lusts"; for the alternative would surely be an end to the republican regime and a return to baseness.⁷³

FOOTNOTES

1. "The Elitist Politics of Milton", Times Literary Supplement, June 1, 1973.
2. The use of inverted commas here indicates the difficulties of distinguishing in terms of ideological commitment the main Parliamentary factions contesting for supremacy in the second half of the 1640s. Conventional wisdom, following much contemporary usage (including that of John Milton) saw a division between the Independents and the Presbyterians, with the Independents seizing control at Pride's Purge. Modern research has tended to undermine this comfortable division (see especially J.H. Hexter, "The Problem of the Presbyterian Independents" reprinted in his book of essays Reappraisals in History /London: Longmans, 1961/ and David Underdown Pride's Purge /Oxford University Press, 1971/), leaving the non-specialist with little alternative but to stumble on with the conventional terminology while at the same time being aware of its serious pitfalls. The distinction offered in Chapter 7 between "Regicides" and "Old Parliamentarians" corresponds closely to the old distinction between Independents and Presbyterians, but is based entirely upon an examination of the contemporary pamphlet literature. For an excellent analysis of the complexities of the situation circa 1648, see Blair Worden The Rump Parliament (Cambridge University Press, 1974).
3. The Reason of Church Government urged against Prelaty (1641), Works (Bohn Library ed., 1848-1853), II, p.503. All subsequent references to Milton's writings will be to this edition of his works.
4. This devotion, while it involved an endeavour "to thrust the laity under the despotical rule of the monarch", was tempered by the ambition of the bishops "that they themselves might confine the monarch to a kind of pupilage under their hierarchy" (Of Reformation in England /1641/, II, p.406).
5. The Reason of Church Government, II, p.502.
6. An Apology for Smectymnuus (1642), III, p.147.
7. The Reason of Church Government, II, p.503.
8. Ibid.
9. An Apology for Smectymnuus, III, p.143; cf. Eikonoklastes (1649), I, p.331.
10. See Areopagitica (1644), II, pp.91-2.
11. See An Apology for Smectymnuus, III, p.104.
12. Ibid. p.147

13. Ibid. p.145.
- 13a. An Apology for Smectymnuus, III, p.95..
14. Aubrey's Brief Lives (O.L.Dick ed: Harmondsworth: Penguin,1962), p.272.
15. Areopagitica, II, p.53.
16. Ibid. p.51.
17. Ibid. pp.66,80.
18. It needs to be reported that Milton drew the line at popery, "open superstition" and what was "evil absolutely": these no society could permit without putting itself at risk (see ibid.p.97).
19. A Defence, I, p.71.
20. He seems to suggest at one point that a small minority of wise individuals could subsist without magistracy (see ibid.p.32); at the same time, however, they and the great majority have chosen to live under magistrates, "but yet they would have them just ones" (ibid. p.33).
21. The Tenure, II, p.11; cf. Milton's Brief Notes on Dr. Griffith's Sermon (1660), where it is asserted that no form of government was ever accounted rational but what was "at all times in the choice of every free people, or their representers. This choice of government is so essential to their freedom, that longer than they have it, they are not free" (II, p.359).
22. A Defence, I, p.144.
23. The Tenure, II, p.10.
24. Milton went further than his predecessors in holding that the people could dispense at their pleasure with the services of non-tyrannous rulers, for "since the king or magistrate holds his authority of the people...then may the people...retain him or depose him, though no tyrant, merely by the liberty and right of free-born men, to be governed as seems to them best (The Tenure, II, p.14.).
25. A Defence, I, p.42.
26. See ibid. p.46.
27. Ibid.p.163. Milton clearly regards William as a would-be conquering absolutist, and this attitude is presumably the rationale of his reference to Charles in The Tenure as "our William the Conqueror" (II, p.20).
28. A Defence, I, p.74; see also ibid. pp.68-9, 72-3.
29. Ibid. p.10.

30. Ibid. p.86. He could not forbear to tell Salmasius that on the latter's (Royalist) interpretation of Romans 13, he should have been a supporter of the English Republic (see ibid. p.72).
31. Eikonoklastes, I, p.417.
32. Ibid.
33. Ibid. p.481.
34. Ibid. p.498.
35. A Defence, I, p.3.
36. The Tenure, II, p.21.
37. Ibid. p.20.
38. A Defence, I, p.3.
39. Ibid. p.197.
40. Ibid. p.190.
41. Ibid.
42. Ibid. p.143.
43. The Readie and Easie Way to Establish a Free Commonwealth (1660) II, p.131.
44. The Tenure, II, p.7.
45. Ibid. p.29.
46. The Second Defence, I, p.280.
47. A Defence, I, p.193.
48. See ibid. pp.202-3.
49. See The Second Defence, I, p.288.
50. Ibid. p.288.
51. Ibid.
52. A Defence, I, p.66.
53. III, p.146.
54. See, e.g. A Defence, I, p.209.
55. Eikonoklastes, I, p.309.
56. Areopagitica, II, p.90; cf. ibid. p.81.

57. A Defence, I, p.28.
58. Ibid. p.155.
59. The Second Defence, I, p.274.
60. The Tenure, I, p.7.
61. See The Second Defence, I, p.265.
62. Observations upon Mr. Milton against Salmasius (1652) reprinted in Patriarcha and other Political Works of Sir Robert Filmer (P.Laslett, ed. Oxford, 1949), p.252.
63. Eikonoklastes, I, p.373.
64. For an up-to-date discussion of the authorship of Eikon Basilike, see P.A. Knachel's Introduction to the Cornell University Press edition, 1966.
65. Ibid. p.118.
66. Ibid. pp.25,49.
67. I, p.313.
68. Ibid.
69. A Defence, I, p.209.
70. I, p.289.
71. Ibid. p.297.
72. Ibid. p.299
73. Ibid. pp.298-9; for an account of positive liberty (doing the right thing) contrasted with negative liberty (absence of restraint) see Sir Isaiah Berlin Two Concepts of Liberty.(OUP, 1958).The strictly republican element in Milton's writings should not be exaggerated. In his early works he had accepted the monarchy (in the conventional manner) as part of a "balanced" and "harmoniously tuned" English constitution (Of Reformation in England, II, p.408). Subsequently, while he dismissed Charles as a public enemy, he maintained that tyranny rather than monarchy was the target of his polemics (see I, pp.223-4, 249; cf.ibid, pp.249-50, for his eulogy of the Queen of Sweden), though the facility of the descent from the latter to the former was apparently seldom far from his mind. His definitive republican statement comes in The Readie and Easie Way to establish a Free Commonwealth, where he seeks to dissuade Englishmen from a restoration of the monarchy by presenting them with what he took to be a decisively superior alternative wherein the executive would be a council of state which

would in itself be a committee of the senate of the republic. All actual elites (the Long Parliament, the Independents, even the soldiers), having failed to sustain the level of civic virtue demanded by Milton, he provided (see I, p.126) for an electoral process the thoroughness of which would ensure that only persons of moral excellence would become members of the senate of the republic. The evidence of The Readie and Easie Way (see ibid. pp.120,121) indicates the retention of the "ascending" theory of politics, accompanied (paradoxically) by an acknowledgement that a majority now desired to see the back of the Republic. Milton had little doubt that the government which a majority wished to (re)create was a monarchy, yet he unflinchingly rejects their right to do so, denying quite specifically that "because a greater part by far of the nation will have it so, the rest must therefore yield" (ibid. p.132). Reason and what he calls "the trial of just battle" (ibid.) have taken away the majority's right: they must be forced to be free (see ibid.p.133). So just as previously a rational minority had put Charles to death in the people's name, so now the Republic was to be renovated by a rational minority (the majority having disfranchised themselves) also in the people's name.

LEVELLERS AND ANTI-LEVELLERS

Levellers of Tyranny.

It will be the contention of this chapter that the Levellers were men who, like the Parliamentarians of 1642, accepted the "ascending" theory of politics, but who were led by an exploration of its implications into areas of both action and speculation which those who may be called the men of 1642 found overly democratic and preferred to see closed. Levellerism may therefore be characterised as an exercise in "ascending" politics which, had it been successful, would have destroyed the society which the Parliamentarian leadership of 1642 believed themselves to be defending. Thus, whatever their subsequent intramural disagreements, the men of 1642 were to concur in their dislike of Leveller politics.

Because they accepted the "ascending" theory, those who were to be known (mainly by their opponents) as Levellers took their part (sometimes, as with John Lilburne and Thomas Rainsborough, a distinguished part) in the struggle against the Cavaliers.¹ But their experiences both during and after the Civil Wars impressed upon them the fact that there were other tyrannies besides the regal variety to be cut down, and it was for their unrelenting hatred of any kind of tyranny that the Levellers should primarily be noted. Richard Overton's defiance when his opposition to its tyrannous practices caused him to be dragged before the Council of State in 1649 may thus be

taken as typical of the Leveller approach to politics: "I have opposed tyranny [he told Bradshaw et al.]¹ wherever I found it; it is all one to me under what name or title soever oppression be exercised, whether under the name of king, Parliament, Council of State, under the name of this, or that, or anything else; for tyranny and oppression is tyranny and oppression...and wherever I find it, I shall oppose it, without respect of persons".² John Lilburne's reaction to the name "Leveller" is also instructive in this context: he complained that the name had been given to his party by its opponents in the hope of discrediting its members with imputations of enclosure-breaking and communism; and while he hotly rejected these imputations, he was more than willing to concede that he and his colleagues would do their utmost to level all tyrannies, for they would "endure tyranny, oppression and injustice no more in...Cromwell and Ireton...than in Mr Holles, Sir Philip Stapleton & c., nor than in the Earl of Essex, the Earl of Manchester, &c. nor in the king and his Cavaliers, nor in the...Star Chamber, High Commission, &c., but desire that all alike may be levelled to, and bounded by the law".³

It was the years following the defeat of the king in the first Civil War that saw the emergence of the Leveller movement and its struggle with four forms of tyranny, two traditional and two novel. The Leveller movement maintained its opposition to any suggestion that the monarchy should be reinstated in anything other than a ceremonial capacity, and even this was probably further than most Levellers usually wanted to go. Having made

the familiar distinction between political power in the abstract (decreed by God) and political power as it appears in specific contexts, a Leveller author thus argued in 1649 that particular regimes were "a humane ordinance...not...by peculiar and immediate command from God, but elected by a people, so that the same power which sets up, may pull down..." . What needed pulling down now was the monarchy, for we had seen that the ambition of successive monarchs "mounts them up so high, that nothing will content, unless all must be their slaves".⁴ As early as 1646 Richard Overton had told MPs that not only should they speedily "declare and set forth King Charles's wickedness openly before the world", but they should also "show the intolerable inconveniences of having a kingly government, from the constant evil practices of those [kings] of this nation; and so to declare King Charles an enemy, and to publish your resolution, never to have any more, but to aquit us of so great a charge and trouble for ever".⁵

At the same time, Levellers came to believe that the tyranny of the Lords was every bit as vexatious as that of Charles I. The conduct of the aristocracy vis-a-vis the Stuart absolutism of the 1630s had shown its members to be no principled opponents of tyranny ("What patents and projects did you suppress?...What fearful enemies were you to Shipmoney, and to the proceedings of the High Commission, Star Chamber...?")⁶ and their subsequent half-hearted participation in the war had been almost fatal to English liberties. Unelected and unbetrusted, the Peers were bereft of all legislative authority and their

intrusions into this area were nothing less than a monstrous usurpation. Both kings and Lords had contrived, John Lilburne wrote, "to rob us of our native and undoubted liberties and rights (which is to choose and empower all our lawmakers, and to be bound by no law imposed upon us by those that never were chosen and betruſted by us, to make...laws".⁷ The long-standing nature of the Lords' usurpation of legislative power could be no mitigation: an inveterate usurpation was still a usurpation. Nor could the Lords defend themselves by claiming that their legislative power had been conferred upon them by the king, for according to the Leveller version of the "ascending" theory, the king himself had had no legislative power (having been at most chief executive) and therefore could not have conferred any upon others.⁸ The Levellers were also scornful of the idea that legislative power could properly be exercised by an individual for life ("considering the corruption and deceitfulness of man's heart"),⁹ an idea surpassed in absurdity only by that of an hereditary succession to legislative power: "the claim of the Lords is not only to have...power inherent in themselves for life, but also to have it hereditary in their sons, and son's sons, for ever, be they knaves or fools; which is the highest vassalage in the world".¹⁰

Characteristic of the Lords' usurpatious high-handedness was the seven-year prison sentence imposed by them on Lilburne, a commoner not at all subject to their original jurisdiction, in July 1646.¹¹ Unavailingly, the Levellers appealed to the House of Commons to put the Peers in their place, both in the particular

matter of Lilburne and as a matter of general political principle. But, in turn, the acts of the House of Commons revealed to the Levellers that MPs were also would-be tyrants, forgetful of the political principles which they had propounded in 1642. The subsequent Leveller critique of MPs prominently featured the assertion that their misbehaviour made them vulnerable to the very "ascending" principles which they had used to justify their war against Charles. In 1646 Lilburne quoted several passages from Henry Parker in which the "ascending" theory was expressed, reminding him that if power was "secondary and derivative in princes", so it must be in Parliaments also.¹² The following year, Lilburne's tone was more beligerent: what else were MPs doing, he demanded of them, but giving the electorate "cause to look upon you, as you have this four or five years looked upon the king...and even to wage war against you, for betrayers of your trust, which they and the whole kingdom reposed in you, who are now degenerated from a just House of Parliament...into a conspiracy...of lawless, unlimited and unbounded men, that...will have no rule to walk by but their own corrupted and bloody wills, and thereby have set up the highest tyranny...against which, by your own principles, the kingdom may justly rise up in arms..."¹³

Arguably worst of all, however, was the military dictatorship which the leadership of the New Model Army (and in particular Oliver Cromwell) had imposed upon the nation following Pride's Purge and the execution of Charles. Rumper MPs, Lilburne declared, were nothing other than "a factious company of men traitorously combined together with Cromwell, Ireton and Harrison, to subdue

the laws, liberties and freedoms of England...and to set up an absolute and perfect tyranny of the sword, will and pleasure"¹⁴. And like the MPs whom they had displaced, the military dictators were guilty of reneging upon their former principles: once, with their declarations and remonstrances against the Westminster tyrants, they had been "the hope of the oppressed, the joy of the righteous", but subsequently (as Richard Overton reported sadly) "such glorious and hopeful beginnings...had vanished into tyranny"¹⁵. And it was a tyranny which, unlike that of the House of Commons before Pride's Purge, could advance no semblance of legitimacy. The nation, Lilburne declared, had given Colonel Pride no authority to issue writs or to constitute a Parliament,¹⁶ and the Council of State was similarly devoid of all legal or moral standing ("I know not what more to make of you, than a company of private men")¹⁷ and its members were sustaining themselves by means of naked coercion. The people, protested disaffected Leveller soldiers, had "had no share at all in the constitution" of the new regime, for it had been forced upon them "by mere conquest". And conquest, the great men of the Republic were reminded, had been condemned by their own spokesman, John Cook, as "more fit for wolves and bears than amongst men".¹⁸

At this juncture, Lilburne saw that some shadow of legitimacy (entirely removed by Colonel Pride) could be restored to English political life by a restoration, on strict terms, of the monarchy. Much more satisfactory, however, would have been the constitution of a new polity by means of an "Agreement of the People". As it was, neither of these eventualities came to pass.

Rather, a small minority of MPs proceeded (quite beyond their remit from the electors) to abolish the other two Estates. Anyone who stooped to support the new regime, Lilburne held, was "as absolute a traitor both by law and reason, as ever was in the world, if not against the king, yet against the people's majesty and sovereignty, the fountain of all power on earth".¹⁹ Paradoxically, Lilburne did take the Engagement which was offered by the new regime, but his eccentric understanding of the document's terms (he pledged his loyalty to "the Commonwealth" interpreted as "all the good and legal people of England", ruling themselves in the way Lilburne wanted) quite nullified any suggestion of obligation to the post-regicide regime.²⁰

The Persistence of Tyranny: Disillusion.

Of a piece with the Levellers' hatred of tyranny was their continuing disillusionment at the outcome of the Civil Wars. What they had expected from a successful prosecution of the war against the Cavaliers was very different from what the leaders of resistance in 1642 had expected. The men of 1642 had wanted a more secure mixed polity with the balance of power (including power to order matters of faith) swinging heavily in favour of the Houses of Parliament: the Levellers were in effect demanding a secular republic characterised by a substantial degree of social and political equality. Thomas Edwards therefore spoke scarcely less than the whole truth when he identified the Levellers, in several striking passages, as mortal enemies of the ancient constitution which the men of 1642 had loved so dearly. The Levellers, he declared in one of these passages, desired to

overthrow "the fundamental constitution of the three Estates, King, Lords and Commons...yea, indeed, destroying all the three Estates, taking away all the power and authority from King, Lords and Commons, and placing it in the universal people, giving them power to do what they will...as being the Creator of all..."²¹

Neither the Levellers nor the men of 1642 were to get what they wanted, but it would be fair to say that the disappointment of the Levellers, with their heightened expectations, was the more cruel. William Walwyn remarked in June 1647 that his contemporaries lived in "an age of wonders" in which tyrants were put down by political leaders who themselves immediately became tyrants.²² The events of the following year merely added to his disillusionment and in his August 1648 pamphlet The Bloody Project he is seen to be close to despair. His readers had taken up arms six years previously, he claims, to eliminate the political power of the king and of the Lords (thereby leaving their own deputies with all lawful authority), to eliminate tithes and compulsion in religion, and to eliminate the remaining restraints upon trade. None of these objects had been achieved, while the Excise was (he reports) ten times as ruinous as the old monopolies and Shipmoney combined. The only question now seemed to be which of the competing sinister interests in the nation would finally establish itself as the new tyrant. "The king, Parliament, great men in the City and Army, have made you but the stairs by which they have mounted to honour, wealth and power. The only quarrel that hath been, and at present is is but this,

namely, whose slaves the people shall be".²³ Notwithstanding that all political power is "but a trust conveyed from you to them, to be employed by them for your good", these wretches had "misemployed their power, and instead of preserving you, have destroyed you, all power...being perverted from the king to the constable".²⁴

In fact, there are distinct indications in the literature that the general Leveller view was that the various post-1646 tyrannies were, if anything, worse than the Stuart tyranny against which the Levellers had battled so vigorously. When the erstwhile tyrant was put to death at the behest of an extrapolated "ascending" theory,²⁵ the Levellers did not rejoice, as John Milton rejoiced: for them the king's execution (though not undeserved) was a poor consolation for the failure of Englishmen to extrapolate the "ascending" theory in another direction so as to produce the more open and egalitarian society for which the Levellers took themselves to have been fighting in the years up to 1649. Indeed, the manner of dealing with the king (by a specially appointed High Court of Justice) was seen by the Levellers as arbitrary and also as threatening in that it stood outside the normal English practice of jury trial. It was conceded that in this instance the Court had been used to dispose of a notorious public enemy; but who (it was asked) would be safe from its "justice" if it were allowed to establish itself?²⁶

The theme of disillusionment appears strongly in the Putney debates of October/November 1647. The debates were held at a juncture between the first and second Civil Wars when, apart

from the Levellers, the most significant groups (Royalists, "Presbyterians" and "Independents")²⁷ were anticipating a negotiated restoration of the 1642 constitution, with appropriate modification of the royal prerogative. For the Independent Grandees (represented at Putney by Oliver Cromwell and his son-in-law Henry Ireton) such an outcome would at this particular time have been eminently acceptable: for them, as Ireton made clear at Putney, the Civil War had been fought principally to frustrate the despotical ambitions of a single individual and to secure the essentials of the traditional English mixed polity, under the auspices of which the control of affairs in England lay with those propertied persons who had what Ireton called "a permanent fixed interest" in the country.²⁸ Propertied persons with such an interest and non-propertied alike had, according to Ireton, good reason to defend this constitution against Charles's absolutist ambitions. The danger in 1642, Ireton explained, "was that one man's will must be a law"; but it was the right of the people "that they should not be concluded but by the Representative of those that had the interest of the kingdom. Some men fought in this, because they were immediately concerned and engaged in it. Other men who had no other interest in the kingdom but this, that they should have the benefit of those laws made by the Representative, yet fought that they should have the benefit of this Representative".²⁹

For the Levellers who confronted Cromwell and Ireton at Putney, this was a serious misunderstanding of the purpose of the war: "There are many thousands of us soldiers Ireton was told by

Edward Sexby⁷ that have ventured our lives; we have had little property in the kingdom as to our estates...But it seems now, except a man hath a fixed estate...he hath no right in this kingdom. I wonder we were so much deceived".³⁰ Thomas Rainsborough's reaction was the same: "But I would fain know what the soldier hath fought for all this while. He hath fought to enslave himself, to give power to men of riches, men of estates, to make him a perpetual slave".³¹ For Rainsborough, a restoration of the Constitution of 1642 would simply bring about a situation in which "one part shall make hewers of wood and drawers of water of the other five, and so the greatest part of the nation will be enslaved."³²

Political Theory.

The Levellers were opposed to all manifestations of tyranny and disillusioned by its persistence because they believed that magistracy was created by people in order to protect their several birthrights. It was the Leveller supposition that the only sort of regime which would satisfy this criterion was a limited, libertarian one, in the affairs of which much (if not all) of the adult male population could participate.

Levellers believed that God alone was entitled to rule according to His will, and that all other forms of rule by human beings, created as they must be by equals seeking their own preservation and benefit, should be strictly limited and regulated in their operations. John Lilburne tells us that because the descendants of Adam are "by nature all alike in power, dignity,

authority and majesty", no magistrate could rightfully govern except by the suffrages of those subject to him. And the consent of these people would only be given for their "good, benefit and comfort," and not "for the mischief, hurt or damage of any", it being "unnatural, irrational, sinful, wicked and unjust for any man or men...to part with so much of their power as shall enable any of their Parliamentmen, commissioners, trustees, deputies, viceroys, ministers, officers and servants, to destroy and undo them therewith". To exercise such a destructive power was therefore quite illegitimate, "and whosoever doth it...do thereby as much as in them lies, endeavour to appropriate and assume unto themselves the office and sovereignty of God, who alone doth...rule by His will and pleasure".³³ Such an assumption of God-like sovereignty was, for instance, precisely the offence of the leading military and political figures of the Republican regime who were (Lilburne would have us believe) guilty of "holding ...God's sovereignty amongst the sons of men". And because their arbitrary rule could not but meet with God's disapproval (for amongst His creatures only He could properly rule in this manner) Lilburne could confidently defy them, even though they planned to cut him "in ten thousand pieces therefore".³⁴

There was thus in the case of all human authority an inescapable correlation between obligation on the one hand and consent and participation on the other. The "poorest he that is in England", Rainsborough reminded Cromwell and Ireton at Putney, had his life to live just as had "the greatest he"³⁵; and for Rainsborough the logical outcome was that any native who was

obliged to obey a society's laws should not only consent to enter that society but should also participate in the law-making process. In the same debate, John Wildman declared it to be an "undeniable maxim" that "all government is in the free consent of the people"; therefore no person could be obligated to a government "unless he by his own free consent be put under that government".³⁶ Rainsborough found it anomalous in the extreme that a lord should choose twenty MPs, a gentleman two and a poor man none at all, when all inhabitants were bound by the laws which MPs made. "Every man born in England", he concluded categorically, "cannot, ought not, neither by the law of God nor the Law of Nature, to be exempted from the choice of those who are to make laws for him to live under, and...for aught I know, to loose his life under".³⁷

Now the Leveller view was that English history from the Norman Conquest up to (and including) the Protectorate, has seen a more or less continuous violation of these political requisites. They tended to have a favourable view of the pre-Conquest polity,³⁸ but at the Conquest the intruders enslaved the native population with the king and his leading supporters ruling as they saw fit, without any question arising of the consent of the governed. Although they were William's creatures, the military aristocracy eventually became strong enough to overawe his successors, giving laws to the throne rather than receiving them from it;³⁹ and it was to counterbalance this tendency that kings promoted the authority of the Commons, in the hope that the knights and burgesses would "by joining with them be able to curb their potent and insolent

lords...which was all the end they first called the Commons together for". Nevertheless, in participating in the struggles between Crown and nobles, the Commons "by degrees...came to understand...their rights and to know their own power and strength";⁴⁰ and the by-products of these struggles were the liberties which John Lilburne, at least,⁴¹ valued so much and cited so often in the face of his oppressors.

Even the House of Commons, which the Levellers intermittently addressed with some show of respect as the "supreme authority",⁴² was completely hostile to their schemes and had, like the monarchy and House of Lords before and the Council of State and Protectorate after, to be written off as just one more essay in oppression. The House of Commons, purporting as it did to represent the people, was the nearest thing to the sort of legislative authority favoured by the Levellers, who therefore on occasion accorded it a moral standing, especially in the period immediately following the end of the first Civil War when it seemed that the Commons might place themselves between the subject and the arbitrary practices of the Lords. At this stage, even Richard Overton promised that he would "live and die" with the burgesses at Westminster who appeared there "by the voluntary choice, and free election of the people"; and he undertook to "tread upon the hottest coals of fire and vengeance that that parcel of men, entitled the House of Lords, can blow upon me for it".⁴³ But "the nearest thing", it became apparent, was still removed by a great distance from the acceptable, and the Levellers' communications with the Commons almost invariably had the object of recalling

erring MPs to the duties imposed upon them by the Leveller-interpreted "ascending" theory of politics. Thus in one of the most famous of all Leveller publications, Richard Overton's A Remonstrance of Many Thousand Citizens of 1646, the MPs are called "to an account [concerning] how they have discharged their duties to...the people, their sovereign lord, from whom their power and strength is derived, and by whom ad bene placitum it is continued".⁴⁴ MPs were to remember, according to the Remonstrance, that their power was a trust from the people: "We are your principals, and you our agents... [consequently] if you or any other shall assume, or exercise any power, that is not derived from our trust and choice thereunto, that power is no less than [an] usurpation and an oppression, from which we expect to be freed, in whomsoever we find it".⁴⁵

That MPs needed to be recalled to their duty was clear to the Levellers as early as 1646. They suspected that the majority in the House had battled Charles simply in order to make themselves sole masters of the commonwealth. They had summoned the people to their assistance with talk of grievances and of the "ascending" politics, but their subsequent misbehaviour revealed in what small degree they were to be regarded as the people's representatives. Not only had they ignored calls for a dissolution and for a new election, but they had also imposed a new censorship, sought to put an intolerant Presbyterianism in the place of an intolerant Arminianism, and were now seeking to restore King Charles ("as if it were impossible for any nation to be happy without a king")⁴⁶ who was known by all honest men to be a public enemy. Consistent with their misbehaviour had been

their treatment of protestors: "Ye have long time acted more like the House of Peers than the House of Commons. We can scarcely approach your door with a request or motion, though by way of petition, but ye hold long debates, whether we break not your privileges; the king's, or the Lords' pretended prerogatives never made a greater noise, nor was made more dreadful than the name of [the] privilege of the House of Commons".⁴⁷

The most searching attack upon the new "compulsive master-ship" of the Westminster tyrants was delivered in Richard Overton's two pamphlets An Arrow against all Tyrants and An Appeale from the degenerate Representative Body of the Commons of England assembled at Westminster: to the Body Represented, of 1646 and 1647 respectively. Here, perhaps more clearly than in other Leveller works, the intellectual foundations of their version of the "ascending" theory of politics are revealed. Man's God-given reason is held by Overton to be the measure of the rectitude of all things human, and being a human thing, magistracy must submit itself to the imperatives of rationality. As Overton saw the matter, the first imperative of rationality was self-preservation: "First then...it is a firm law and radical principle in Nature engraven in the tables of the heart by the finger of God...for every...thing...to defend, preserve, award, and deliver itself from all things hurtful, destructive and obnoxious, thereto to the utmost of its power".⁴⁸ And while it followed that the creation of magistracy was a joint exercise in human self-preservation (with the powers of the magistrate originating not immediately from God, but "mediately...from the represented to the representators")⁴⁹ any man was authorised to resist and to overthrow

them. Salus populi was thus "the supreme law of all commonwealths" to which the Levellers could appeal with as much propriety as Henry Parker and the Parliamentarians in 1642.⁵⁰ It was thus vain for MPs to think that "you have power over us, to save us or destroy us at your pleasure, to do with us as you list, be it for our weal, or be it for our woe.../Therefore/ the edge of your arguments against the king...may be turned upon yourselves, for if for the safety of the people he might in equity be opposed by you...even so may you by the same rule of right reason be opposed by the people in general, in the like cases of destruction and ruin by you upon them, for the safety of the people is the sovereign law, to which all must become subject...".⁵¹

It is clear that Overton and the Levellers were not merely thinking of physical integrity when they demanded that they be protected by their magistrates; for the Levellers men had certain natural rights, among which were religious freedom, freedom of thought and publication, freedom from compulsory military service and freedom to consent to government and to participate in its operations. Now a tyrannous regime was a destroyer of both the people and their liberties. Such destructiveness had the effect, Levellers believed, of dissolving civil society itself. This was the offence that the men of 1642 were guilty of in Levellers eyes, with both Lords and Commons providing ample justification for Charles's original contention that his opponents were aspiring dictators. "You are so far from punishing the criminous /Lilburne told some of their number in 1648/, that you justify the wicked,

and condemn the righteous, break all your oaths, protestations and covenants, that you have taken to maintain the laws and liberties of the kingdom, and dissolve the whole frame and constitution of the civil polity and government of this kingdom into the original law of nature...yea , and thereby become destructive to the being of the commonwealth, and the safety of the people, the preservation of which is the chief end of the law, and the institution of all government..."⁵². Thus was produced a state of affairs in which men, vulnerable to the assaults of the stronger (tyrants and probably others also), must seek to protect themselves as best they can. In the period 1647-50 the Levellers held that English men could best protect themselves by means of An Agreement of the People.

An Agreement of the People.

It has been observed that the Levellers took it upon themselves to defend the birthright of Englishmen against the various tyrants who appeared in the fifth decade of the seventeenth century. To these various tyrannies, the Levellers opposed the image of an open, liberal regime, which image they offered to their fellow countrymen in An Agreement of the People. An Agreement of the People (of which there were successive versions in 1647, when it constituted much of the agenda for the Putney debates, 1648 and 1649) was in effect a written constitution or "law paramount,"⁵³ and in adhering to it Englishmen would stand an excellent chance of avoiding any repetition of the desperate circumstances of the 1640s. Ultimately, the Agreement

was seen by the Levellers as the only alternative to the "lawless sword" of military dictatorship.⁵⁴

Predictably the Agreement is the outcome of an "ascending" theory of politics for it insists that all authority exercised by specified individuals should rest with a Representative (i.e. assembly) composed of members elected at frequent intervals. The power of this representative is to be inferior only to that of the people, and it can legislate "without the consent or concurrence of any other person or persons".⁵⁵ Thus, in under a dozen words, the mixed monarchy of 1642 was decisively thrust aside: the people were to rule themselves without the intrusion of either monarchy or aristocracy.⁵⁶ At the same time, the Levellers had become so distrustful of human nature in the presence of opportunities to oppress that they provided in the Agreement a number of devices which would reduce to a minimum the danger of the Representative itself becoming tyrannous. The third Agreement expressed the Levellers' distrust quite frankly: "We have found by sad experience, that generally men make little or nothing, to innovate in government to exceed their time and power in places of trust, to introduce an arbitrary and tyrannical power, and to overturn all things into anarchy and confusion...".⁵⁷ Even more severe had been a footnote to a Leveller petition of 1648: "It hath been a maxim amongst the wisest Legislators [constitution-makers], that whosoever means to settle good laws, must proceed in them with a sinister, or evil opinion of all mankind; and suppose that whosoever is not wicked, it is for want of opportunity, and that no state can be wisely

confident of any public minister continuing good longer than the rod is over him".⁵⁸ And the Leveller leaders, being human, did not exempt themselves from these strictures: having experienced the "defections of so many men as have succeeded in authority" and the "exceeding difference...in the same men in a low, and in an exalted condition", the Levellers could not even trust themselves.⁵⁹ What they could do, however, was to contain human waywardness by a number of constitutional arrangements. Thus elections in the proposed new commonwealth were to be much more frequent than had hitherto been the case in England, with a new Representative being elected at least every second year, and members being ineligible to sit in two successive Representatives.⁶⁰ Similarly, the electorate was to be much wider than most Englishmen had been accustomed to, and this franchise arrangement would help to prevent the oppression of the poor by the rich, the continuance of which had seemed so threatening to Wildman and Rainsborough at Putney.

No specific franchise proposal is made in the first Agreement but it appears to have been the assumption of both the Leveller spokesmen and their opponents at Putney that manhood suffrage was implicit in the document's injunction that parliamentary representation "ought to be more indifferently proportioned according to the number of the inhabitants" of the various localities.⁶¹ Rainsborough declared that he had heard "nothing at all that can convince me, why any man that is born in England ought not to have his voice in election of burgesses",⁶² while Wildman's hearers were urged to disregard the constitutional

status quo and to accept the justice of the proposition that "every person in England hath as clear a right to elect his representative as the greatest person in England".⁶³ Equally forthright was Captain Lewis Audley, who upheld "the right of every free-born man" to elect his representative, according to the rule that "that which concerns all ought to be debated by all", he being unable to see why a law should be thought to oblige him "when he himself had no finger in appointing the law-giver",⁶⁴ To all appearances, Cromwell and Ireton concur with the Levellers in regarding manhood suffrage as the subject under consideration. And they recoil from the notion which they regard as being incompatible with private property in that it would lead either to communism or to anarchy.⁶⁵

Subsequent to the Putney debate, the second and third Agreements explicitly reject manhood suffrage in favour of a franchise which excludes alms-takers and servants (and in the case of the second Agreement, wage-earners also). C.B. Macpherson has argued that a degree of consistency can be brought to the Leveller franchise proposals by regarding the explicit exclusions of the second and third Agreements as being implicit in the earlier period of the first Agreement. While this view has a certain aesthetic attraction, it appears to be incompatible with the evidence of the Putney debate and of The Case of the Armie Truly Stated of October 1647 (the forerunner of the Agreements) which recognised only "delinquency" (i.e. Royalism) as a disbarment from the franchise, which was otherwise given to "all the freeborn at the age of 21"⁶⁶, But those rejecting the Macpherson argument

have the problem of providing a convincing account of the metamorphosis of Leveller views in the period 1647-49, and it seems that this has not been a straightforward matter.⁶⁷ What may well have been the "pristine" Leveller position was that adult males had a right to political participation, and such a position would conform with the logic of the "ascending" theory. Of course, the men of 1642 also embraced this theory, yet drew back well short of any suggestion of a wide franchise; but the Levellers appeared in 1647 to regard a wide franchise as a desirable element in any political settlement, and their subsequent modification of this position seems at first sight somewhat anomalous.⁶⁸ Whatever the exact truth about this episode, the opposition between the traditional freeholder franchise and the much wider franchise demanded by the Levellers is patent at Putney, and it is plain that Leveller spokesmen in the debate regarded an enlarged franchise as a way of securing ordinary people from the tyranny of those with a "permanent fixed interest" in society.

As the new legislature was to be the people's Representative, so the executive had to be strictly responsible, appointed by the Representative and acting only on instructions received from it. The second Agreement refers to a "Council of State", for which the members of the Representative were to be ineligible. Probably in the light of their experience of the actual Council of State, such a body is explicitly forbidden by the Levellers in the third Agreement, which speaks instead of a committee of the Representative itself which would, under strict

instruction, manage the nation's affairs when the Representative itself is not sitting.⁶⁹ The principle of the separation of powers had thus been abandoned, but almost certainly this had taken place as a result of a continuing search for political responsibility.

Finally, all three Agreements contained a list of acts forbidden to the people's Representative. It was to establish no religion upon a compulsory basis (though a purely voluntary "public faith" is referred to as allowable in the first and second Agreements), nor was it to punish in order "to restrain any person from the profession of his faith".⁷⁰ There was to be no conscription; no pursuit of individuals for acts performed during the Civil Wars; no extra-legal punishment, either by the Representative or by any other agency; no one was to be exempt from the rule of law; and (according to the second and third Agreements) the Representative was neither to level men's estates nor "to make all things common".⁷¹

Pre-eminent among these prohibitions, from the Leveller standpoint, was that concerning religion. It is not too far from the truth to say that Levellerism had its roots in that period in the middle of the 1640s when the so-called "Presbyterian" MPs at Westminster had given every indication that they intended to fix upon the nation a religious discipline every bit as strict as that sought by William Laud and his Arminian associates in the 1630s. The right of the unmolested individual to serve his God in his own way being thus once more under siege, the Levellers

declared it to be central to the struggles of the revolutionary decade: "Let's have that or nothing" was Overton's demand in the Whitehall debate of December 1648.⁷² The Leveller position was that to leave the civil magistrate in possession of a power to compel or to prohibit in the area of faith was quite simply to invite him to "destroy the world".⁷³ It could not be imagined that the people would convey such a power to the magistrate, and even should they feel disposed to do so, they would have found such a step forbidden by God, for God was the preserver of Creation, and could not be supposed to want the magistrate (fallible and liable to corruptions of power as he was) to have such a potentially destructive license.⁷⁴ A man's faith should spring from one source only - the reason with which he had been endowed by his Creator. To coerce men in this respect was thus to "constrain them to put out the candle of God within them that is the light of their own understandings", and to oblige them (contrary to the "inward consent" of their understandings) to a religious profession and practice for totally extraneous reasons, such as safety or worldly advancement.⁷⁵

Anti-Levellerism: the reaction of the Men of 1642.

Whether they subsequently became regicides or old Parliamentarians,⁷⁶ it may be said with some confidence that the men of 1642 had not risen against Charles I to institute the sort of regime demanded by the Levellers. And the appearance of the Leveller movement led to a sharp reaction from those who felt that a familiar and to a degree comfortable society (which they had

successfully defended against the Cavaliers) was now being put at risk by a challenge from a quite different direction. The response to this challenge may be seen as having four main themes.

In the first place, it was the virtually unanimous opinion of the critics of the Levellers that they were a threat to most, if not all authority; and many of the critics believed that the only authority to satisfy the Levellers would be that which they themselves exercised. Even a group of Baptist ministers (with whom the Levellers had some affinity) felt constrained in 1649 to disassociate themselves from the Levellers for fear that their own ideas might also be condemned as "the fountain and source of all disobedience...contempt for rulers, dignities and civil government whatsoever".⁷⁷ In The Levellers Levelled, William Prynne was concerned primarily with the Leveller threat to the monarchy and the House of Lords resulting from the proposal that the representative chamber should exercise political hegemony, a proposal which Prynne believed would lead (even perhaps with the existing franchise) to "a popular anarchy".⁷⁸ The House of Lords was the more ancient part of our constitution, and its members had always been (as with the Earl of Essex and Lord Brooke) our "principal bulwarks" against princely invasion.⁷⁹ As for the idea that they should seek election and become MPs, this would be like "reducing the head and shoulders of the natural body into the belly or legs, which would make a monster and destroy the man".⁸⁰ More fundamental was Henry Parker's scathing

critique of the Levellers in A Letter of Due Censure: to...

John Lilburne touching his triall at Guildhall: "Humane rules and precedents", Parker complained, "are all liable to your condemnation; if you say they are irrational...that's sufficient to overrule them..."⁸¹ Lilburne, Parker asserted, was a mere private man, yet his pretensions could scarcely be matched, "taking upon you a...Praetorian power over all laws and law-makers" and raising himself above all God's deputies on earth.⁸² To Walter Frost, it appeared that the Levellers would only countenance the authority of Parliament (which they so often petitioned) when MPs did exactly what the petitioners demanded. Indeed, the Leveller petitions were not petitions at all, but rather edicts from superiors.⁸³ The author of Walwyns Wiles (probably the Independent minister John Price) also took up the matter of the "peremptory" Leveller petitions, urging his readers to consider what sort of magistracy would be provided by their authors, in whom a hyper-critical attitude towards existing authority was combined with an inflexible conviction of moral and political rectitude. The Levellers could endure no dissent whatsoever, especially from those in authority, who had in consequence to bear with Leveller accusations that they were knaves and rascals: "Could you bear contradictions having power in your hands, and cannot endure the same...when you stand upon the lower ground?...Can you tread upon the necks of princes and rulers, while you are upon the dunghill, and would not do the like even to peasants if you sat upon the throne?"⁸⁴

Another critic compared John Lilburne to King Jan of Leyden, commenting that the German Anabaptists (like the Levellers)

had proclaimed themselves peaceable men "till they got the reins of government into their hands, and then what devils incarnate ever acted such villainies?".⁸⁵ Already, according to William Ashurst, the Levellers' arbitrariness had been clearly revealed when as an insignificant segment of the people, they purported "without any colour of law or right...to alter the present government",⁸⁶ inter alia stripping certain boroughs of their right to be represented in Parliament and (worse still) excluding those who could not subscribe to the Agreement from politics altogether. Not only would delinquents and Papists be penalized by this provision, but also many "who have been most faithful to the Parliament".⁸⁷ It appeared that non-subscribers were to have laws and taxes thrust upon them "by those to whom they give no consent or trust", and this at the behest of "them who for number are the least party in the kingdom".⁸⁸ A more tyrannous arrangement it was difficult for Ashurst to imagine.

No doubt, wrote the author of A Sectary Dissected, the people who were now called Levellers had in common with many decent men the fact that they had been denounced and punished by the bishops as schismatics: but this did not prejudice the truth that they were schismatics, were a thorn in society's side, who "out of a pure spirit of contradiction...shake the foundations of all authority".⁸⁹ A number of Socinians had shared with good Protestants the burden of Catholic persecution and accusations of heresy in Queen Mary's reign: but this should not cause us to forget that the Socinians were heretics and deserved persecution.⁹⁰

It was this sort of attitude towards the Levellers which

made it possible for Walter Frost to speak for all the critics when he urged upon the Levellers a new attitude towards authority: "Be persuaded to study to be quiet, and do your own business, to live in peace, and the God of love and peace shall be with you; and leave the public affairs to those to whom God and the kingdom hath committed them...charge no more, nor undertake any further to practice till you be a great deal better studied in...that very important, and yet very little known art of statizing".⁹¹

The trouble-makers of 1642 and their pamphleteers could urge quiescence upon the trouble-makers of 1646-50 with some degree of plausibility because the leaders in 1642 had been magistrates, firmly within the "political nation" and entitled in their view to take the initiative in saving the state.⁹² The Levellers, on the other hand, spoke for large sections of the population emphatically excluded from the political nation but who would (under Leveller auspices) have gained admission. The critics viewed this possibility with extreme distaste, and this is the second theme to be distinguished. An Anatomy of Lieut.Col.John Lilburne's Spirit and Pamphlets contemptuously announced of the Levellers themselves that they had "as little of the true religion as they have of estates and fortunes in this nation",⁹³ while Marchamont Nedham feared the worst from a Leveller-initiated intrusion of the lower orders into politics. It was the latter's view that those to whom the Leveller leadership appealed were nothing other than a "rude multitude" who cared little for what was appropriate or just in politics, understanding "no more of the

business than that it may prove a hopeful way to mend their own out of other men's fortunes, and /to/ satisfy their natural appetites of covetousness and revenge upon the honourable and wealthy". Enfranchising the "self-opiniated multitude" would clearly be a catastophic mistake, for at the hustings they would "from arguments...proceed to cuffs, and so, in the end, the club /would/ carry the election".⁹⁴

Walwyns Wiles also expressed alarm at the prospect of "butchers and cobblers" achieving, with Leveller encouragement, a share in government along with their betters: the "plausible discourses" of the Levellers were "very pleasing, and take much with discontented men that are poor and weak in estate, and withal shallow and injudicious". Already such people had begun "to swell, and be much conceited in, and of themselves", and a situation was being created in which the Levellers could "turn the world upside down".⁹⁵ For William Ashurst, similarly, it was very likely that the world would be turned upside down by the Agreement's provision that the ordinary individual would have to decide when his representatives were exceeding their authority. In 1642 resistance had been led by the society's representatives, and this had kept matters within reasonable bounds; but what would be the outcome, he wondered, if the initiative were to lie with the populace, seeing "by how much they are acted by fancy... according to their sudden and present apprehensions, rather than by principles, reason or judgement?"⁹⁶ It was also the view of Samuel Shepherd that the Leveller demands for lower-order participation in government were nothing less than insanity. He foresaw a "hurly burly" of weavers and mechanics arguing the pros

and cons of public policy, a sphere quite beyond their ken.⁹⁷
 Shepherd contended that the populace should simply enjoy the
 benefits which would be brought to them when the "destructive
 courses" into which Charles had been misled had been resisted
 by the Houses: certainly the persistence of small difficulties
 should not lead the populace to take seriously the Leveller
 98
 ideas which encouraged them to rise above their station.

Henry Parker's discussion of John Lilburne's conduct
 at his trial for sedition in 1649, when the defendant made
 much of his characteristic contention that the jury were judges
 of the law as well as of fact, is also extremely revealing
 in this context. Lilburne's defiance of the Court, and the
 way in which the jury were at once flattered by him and menaced
 by "your myrmidons behind in ambuscado",⁹⁹ were thoroughly
 offensive to Parker for they indicated the presence of a crude
 (but dangerous) class jealousy. This jealousy was indeed the
 substance of the "levelling philosophy" and was plainly revealed
 by Lilburne's assault upon the judges: "The judges, because
 they are commonly gentlemen by birth, and have had an honourable
 education, are to be exposed to scorn. But the jurors, because
 they commonly be mechanics, bred up illiterally to handicrafts,
 are to be placed at the helm. And consequently learning and
 gentle extraction...must be debased; but ignorance and sordid
 birth must ascend the chair, and be lifted up to the eminent
 offices, and places of power. Cobblers must now practise physic
 instead of doctors; tradesmen must get into pulpits instead of
 divines, and ploughmen must ride to the sessions instead of

Justices of the Peace. The pretense of levelling Parker concluded⁷ is to put all men upon an equal floor, by adding to the inferior so much as may match him with his superior, and taking from the superior so much as may match him with his inferior".¹⁰⁰ The Leveller enterprise was tantamount to putting the foot in the place of the head, and was all too reminiscent of Cade and Tyler.¹⁰¹

A similar argument was deployed by an opponent of the Leveller petition of March 1647. The authors of the "ochlocratical" document would not recognise, it was claimed, the arbitrariness of both tyrannical and licentious government: in the first, the insolent have too much sway, in the other, the foolish. For this author tyranny was, of the two, to be preferred; for a tyrannous prince might well be succeeded by a moderate one, whereas the domination of government by the lower orders promised only "a never dying succession of confusion".¹⁰² In fact this author believed that there was "a lively analogy" between the sea and the multitude, who needed only "their flattering orators to blow up their waves...which roar and rage till the mast cracks under the sails, the rudder deceives the hand of the pilot, and anon the whole ship of the commonwealth is split against the rocks of their inconsiderateness".¹⁰³

The image of a society split on the rocks of Leveller and plebian inconsiderateness was also strongly imprinted on the minds of Cromwell, Ireton and Colonel Nathaniel Rich when they defended the traditional franchise against the Leveller assault in

the Putney debates, the locus classicus for the confrontation of the principles of 1642 and the Leveller extrapolation of those principles. For Henry Ireton, society was designed to secure peace rather than any generalised liberty, and social life pre-supposed an implicit covenant on the part of individuals to live in peace with one another. It was the general adherence to such a covenant that produced a situation in which property could safely be acquired and transmitted by inheritance; but this was a situation which could not survive the pursuit (encouraged by Leveller constitution-mongering) "of what in every man's conception is just or unjust",¹⁰⁴ a notion so anarchic that "I... do tremble at the boundless and endless consequences of it."¹⁰⁵ Ireton did not entirely discount the concept of natural rights: individuals had a right to expect the freedom of the highway, "air and place and ground", that "we should not seclude them out of England",¹⁰⁶ and that they should enjoy the protection of the law.¹⁰⁷ But there was in Ireton's view no such thing as a natural right to the franchise, for a society which allowed men having "no interest but the interest of breathing" (Cromwell's telling phrase)¹⁰⁸ to be on an equal footing with those who had "a permanent fixed interest" was inviting communism and even anarchy. And this was precisely the tendency of the Agreement of the People, a document which would both encourage propertyless men who were "here today and gone tomorrow"¹⁰⁹ in the belief that natural economic rights were the logical sequel to natural political rights, and provide them (being a majority) with an opportunity to implement their disastrous predilections through the democratic political process.

Colonel Rich, while less determined than Ireton to exclude the lower orders entirely from the political process,¹¹⁰ nevertheless saw the central issue very clearly: "If the master and the servant shall be equal electors, then clearly those that have no interest in the kingdom will make it their interest to choose those that also have no interest. It may happen, that the majority may by law...destroy property; there may be a law enacted that there shall be an equality of goods and estate".¹¹¹ Such an outcome the Grandees found impermissible: Ireton agreed that the "power...of determining what shall be law in the land, does lie in the people", but for him "the people" were those "that are possessed of the permanent interest in the land".¹¹²

Thomas Edwards' Gangreana contains the most philosophically substantial discussion of this particular anti-Leveller theme. Like the other critics, Edwards feared that Levellerism would give power to "that beast of many heads, the common people",¹¹³ and he disputed the accompanying Leveller contention that political power was only properly exercised over those who had expressly consented by participating in the electoral process. If this principle were to be accepted, Edwards complained, "The House of Commons should have no power over me, nor over many thousands more in the kingdom, and we might all say the same things to the House of Commons which Lilburne and Overton...say to the House of Lords; for we never chose them, had no voices in their elections, they are not our chosen ones, as the Sectaries Levellers say of the Lords".¹¹⁴ Not only would "all non-freeholders" be exempted from obligation, but

also all women and minors. And indeed, strictly speaking, even the freeholders could on this principle confer legitimacy only upon the MPs from his own constituency, remaining unobligated to other MPs. The Leveller version of the "ascending" theory was thus seen by Edwards to be too mechanistic, too literal, too radical. He sustained, of course, the idea of the upward conferring of authority, but had a much more conservative way of applying it, so that men were not cut off from their past (as they tended to be by the Levellers) and could still pride themselves on their enjoyment of an ancient, mixed, constitution, containing monarchical and aristocratic elements as well as a popular element. Thus Edwards was able to ask whether a constitution "made by the wisdom of ancestors some hundred years before, though not by election of the people once in every year...but founded upon such and such good laws, and in succession of persons by birth and inheritance, may not bind a people to obey...as well as if chosen by them?"¹¹⁵ Such a government might, Edwards conceded, be less than perfect, "yet...is not a people's submitting, and accepting that form of government many years together, a consenting to it, and equivalent to a formal election?"¹¹⁶

Gangreana's complaints about the Levellers were almost exactly paralleled two years later by The Paper called the Agreement of the People taken into Consideration, published by a number of Lancashire Presbyterian ministers, including Edward Gee.¹¹⁷ The ministers did not challenge the contention that political authority was the consequence of a delegation from below, but they insisted that in England the process of delegation

was over that far from needing the new populist regime proposed in the Agreement, the English already had a polity of outstanding merit to which they were bound both by moral obligation and by prudence. Moral obligation had been undertaken by various oaths (not least by the Solemn League and Covenant); but almost equally pressing were prudential considerations: "We are a constituted kingdom, a settled state, and under a lawful government, which is very ancient...and deeply rooted in men's affections, both by long-habituated exercise, and the well-approved benefices of it". Moreover, this government "is good, wholesome, equitable for the constitution of it, fitly balanced and proportioned, being reduced to the golden mean, lying between monarchical tyranny and popular anarchy...[and being] one of the moderateest and best-tempered governments in Europe".¹¹⁸ It was this wholesome government which the ministers had defended in arms in 1642 and which they would continue to defend against the Levellers.¹¹⁹ The ministers found no logic to commend the Levellers' suggestion that the existence of faulty governors (such as Charles I) justified wholesale changes in the government itself, and feared that divine retribution would follow the destruction of the regime which they were covenanted to preserve.¹²⁰

The third theme discernible in the anti-Leveller literature is the conservative's hostility to a political theory which undermines the status quo by judging it in terms of a set of abstract principles, and by contrasting it with an imagined superior society in which these principles have somehow found

expression. The Lancashire ministers thus protested that the Levellers were encouraging a people already possessed of a sound polity to regard themselves as "a company of men...newly landed in this island, free and ready to elect and set up a frame of a commonwealth, such as we should like best".¹²¹ The first Agreement of the People met a similar sort of response from Cromwell when it was discussed^{at} Putney. The Agreement contained, Oliver observed, "very great alterations of the very government of the kingdom, alterations from that government that it hath been under...since it was a nation".¹²² Some of the document's provisions would have been "very plausible" (though many equally plausible models could no doubt have been manufactured), on the assumption that "we could leap out of one condition into another"¹²³: and in considering the Agreement one had in particular to ask whether "the spirits and temper of the people of this nation are prepared to receive and to go on along with it".¹²⁴

In heaping odium upon the current regime, Walter Frost complained in the following year, the Levellers had contrived to "mistake the present state of things, as if all were an unformed matter, or abrasa tabula fitted for the projection of a new model, or for the compiling of a new body of laws". An architect desiring to build the city that will "exemplify the best ideas his mind offers him" had better start upon an open plain, but "he that would re-edify or beautify an old one, will meet with many things that will not submit to pure technical rules; and where it will not, it is not presently to be pulled down, or set on fire".¹²⁵ The dispute, the Levellers were told by Frost, "is not now of what is absolutely best if all were new, but of

what is perfectly just as things now stand". It was not Parliament's task "to set up an Utopian commonwealth, or to force the people to practise abstractions, but to make them as happy as the present frame will bear".¹²⁶ Leveller utopianism was also a target for John Price in Walwyns Wiles, where it is argued that "a perfect freedom from all kind of pressures and grievances" was possible for man only before he had sinned. Today's men had no such option. Rather they had to endure with Christian fortitude and patience the many afflictions which must preface their entry into God's Kingdom: "here we have no continuing City, but we look for one that is to come..."¹²⁷

Finally we have in this body of literature the repeated suggestion that Leveller assaults upon their erstwhile colleagues could only assist the Royalists who, though defeated, could still hope to retrieve their political fortunes if their enemies fell to quarrelling amongst themselves. From the divisions between Parliament and people which the Levellers were busy opening up in 1648, Walter Frost complained, the "Common Enemy"¹²⁸ would know how to take advantage: the "dividing distempers" of the Levellers could therefore easily have the effect of returning the country to slavery.¹²⁹ Indeed, according to Walwyns Wiles, the Levellers with their "mad and furious proceedings" against the Council of State were the "only hope"¹³⁰ of the Royalists. Such was also the burden of A Declaration of the Parliament of England of September 27th 1649. This document complained of "unthankful men", erstwhile allies whose unfulfilled "exorbitant

desires" for liberty had caused them to calumniate the government daily, "as if...nothing had been done toward... just liberty, nor that anything would be done, unless they...could bring themselves into power, and undertake the work according to those wild principles of theirs..."¹³¹ Only the Royalists could gain from the disruption of Army discipline that was the present handiwork of the Levellers, or from a dissolution of the present (Rump) Parliament, following which the electorate might either be coerced by malignants or (being confused and exasperated) voluntarily give away its liberty by returning a Cavalier Parliament.¹³²

Though there seems to have been no truth in the suggestion of one hostile author that Lilburne might have been corrupted by the Royalists during his captivity in Oxford in 1643, the hypothesis of a subsequent Leveller-Royalist connection can now be amply documented. Being confronted by powers which both parties regarded as usurpatious tyrants, the Levellers were prepared to offer some co-operation to the Royalists. And while the King was alive, Lilburne pragmatically saw him as a counterweight to the military men whom he suspected of an ambition to seize total power.¹³³ The politicians of the Republic had good reason to curse the Levellers as the "only hope" of the Royalists, but the association of the two groups, such as it was, had very little to do with the principles of either. But they are by no means the strangest bedfellows that wayward reality has produced.

FOOTNOTES

1. For the assertion of "ascending" politics by the Leveller newspaper The Moderate, see Nos.14 & 20, quoted by R.Howell & D. Brewster "Reconsidering the Levellers: the evidence of The Moderate" (Past & Present, No.46, 1970), pp.71,73.
2. The Picture of the Council of State (1649), reprinted in W. Haller & G.Davies (eds.) The Leveller Tracts, 1647-1653 (New York: Columbia University Press, 1944), hereafter referred to as "H. & D.", p.225.
3. A Whip for the Present House of Lords (1648), p.3.
4. William Cokayne /Richard Overton?/ The Foundations of Freedom Vindicated (1649), p.4.
5. A Remonstrance of Many Thousand Citizens (1646) reprinted in D.M.Wolfe (ed.) Leveller Manifestoes in the Puritan Revolution (London: Frank Cass, 1967), p.116.
6. William Walwyn, A Pearle in a Dounghill (1646), p.3.
7. A Whip for the Present House of Lords, p.16.
8. See ibid., pp.16-17.
9. Ibid. p.17.
10. Ibid.
11. For a good account of the events leading to Lilburne's imprisonment by the House of Lords, see M.A.Gibb, John Lilburne, the Leveller (London: Lindsay Drummond, 1947), p.143 ff.
12. Innocency and Truth Justified (1645), p.57.
13. Rash Oaths Unwarrantable (1647), pp.6-7; Cf. William Walwyn's assertion in The Poore Wise-mans Admonition (1647) that "the same necessity and public safety that justifieth the Parliament against the king, will also justify the Army against them, by the same rule of right reason, and law of equity, as the soldiers of an army may oppose the general, when he turneth the mouth of his cannon upon them" (reprinted in A.L.Morton /ed./ Freedom in Arms /London: Lawrence & Wishart, 1975/ p.132). In particular there was in Leveller eyes no justification for the perpetuation of the Parliament elected in 1640, a perpetuation which contradicted both the Triennial Act and the historic right of Englishmen to elect a fresh Parliament at frequent intervals (see John Lilburne The Legall Fundamentall Liberties of the People of England /1649/, pp.48-49, 58-59).
14. The Picture of the Council of State, H & D., p.206.

15. Ibid. p.227.
16. See Legall Fundamentall Liberties, A2. Only a purge designed to secure an early election would have secured Leveller support (see ibid. p.56.).
17. The Picture of the Councel of State, H & D., p.196.
18. In the speech which, as prosecutor, he had intended to make at the trial of King Charles, and which was published soon after as King Charles His Case (1649); see below, pp.240,242.
19. Legall Fundamentall Liberties, p.57.
20. The Engagement Vindicated (1650),pp.2, 5-6.
21. Gangreana (3rd.ed.,1646), p.216.
22. The Poore Wise-mans Admonition, op.cit., p.130.
23. H & D., p.145.
24. Ibid.
25. See above, p.240ff.
26. See Englands New Chains Discovered (1649), H & D. pp.161-2; Legall Fundamentall Liberties, pp.42-3.
27. On the contemporary political groupings, see below, p.189 n.2.
28. A.S.P.Woodhouse (ed.) Puritanism and Liberty, (London: Dent,1965) p.54.
29. Ibid. p.72.
30. Ibid. p.69.
31. Ibid. p.71.
32. Ibid. p.67.
33. Regal Tyrannie Discovered (1647), pp.6-7.
34. Legall Fundamentall Liberties, p.73.
35. Woodhouse, op.cit. p.53.
36. Ibid. p.66.
37. Ibid. p.56.
38. See, e.g., Regal Tyrannie Discovered, p.25.
39. See ibid. p.96

40. Ibid.
41. The Levellers took what advantage they could, in judicial proceedings and in more general political discourse, of the English heritage of legal rights. To the movement's end, Lilburne regarded these rights as an important heritage of liberty, albeit emanating from a generally dark and tyrannical period (see his 1653 work The Just Defence of John Lilburne, H & D., pp.453-5); while Overton and Walwyn were less enthused by contemplating them, believing that the degree to which "ascending" principles had already been embodied in the English polity was much less than Lilburne supposed and that consequently the task of bringing the rules of that polity into conformity with reason and equity was more formidable than he supposed. Thus for Overton Magna Carta was "but a beggarly thing" (A Remonstrance of Many Thousand Citizens, Wolfe, op.cit. p.124) while for Walwyn it was no more than "a mess of pottage" (Englands Lamentable Slaverie /1645/, p.4). Contemporaries may probably be forgiven for suspecting that Levellerism could both appeal to history and repudiate it (see e.g. /Henry Parker/ A Letter of Due Censure to...John Lilburne touching his triall at Guildhall /1650/, p.22).
42. See e.g. the Petition of March 1647, Wolfe, op.cit. p.135.
43. A Defiance against all arbitrary Usurpation /1646/ , p.5.
44. Wolfe, op.cit. p.112.
45. Ibid. p.113.
46. A Remonstrance of Many Thousand Citizens, Wolfe, op.cit. p.115.
47. Ibid. pp.120-1.
48. An Appeale from the Degenerate Representative Body of the Commons of England assembled at Westminster: to The Body Represented, Wolfe, op.cit. pp.159-60.
49. An Arrow against all Tyrants, p.4.
50. An Appeale, Wolfe, op.cit. p.176.
51. An Arrow against all Tyrants, p.5.
52. Legall Fundamentall Liberties, p.7. Therefore, it was not the Levellers, but the Parliamentarians, who were destroying civil society (see John Lilburne & Richard Overton The Out-Cryes of Oppressed Commons, 2nd.ed. /1647/ p.14.)
53. The Case of the Armie Truly stated (1647),reprinted in Wolfe op.cit. p.212.
54. The Levellers (Falsly so called)Vindicated (1649),reprinted in Morton, op.cit. p.297; cf. pp.242,316.

55. 1st. Agreement, reprinted in Wolfe, op.cit. p.227.
56. On the absurdity of mixed regimes, see also ibid. p.132 and /William Walwyn/ The Bloody Project, H & D.,p.141.
57. Wolfe, op.cit. p.409.
58. Wolfe, op.cit. p.270
59. A Manifestation from Lieutenant Col.John Lilburne, Mr.William Walwyn, Mr. Thomas Prince, and Mr. Richard Overton (1649) reprinted in Wolfe, op.cit. p.394.
60. See ibid. pp.227,404; the ineligibility provision appears in the third Agreement, see ibid. p.403.
61. Ibid. p.226.
62. Woodhouse, op.cit. p.55.
63. Ibid. p.66.
64. Ibid. p.81.
65. See ibid. pp.57,63.
66. Wolfe, op.cit., p.212.
67. Few assertions can be made with confidence in the debate about the Leveller franchise proposals, though a number of distinguished scholars have entered the lists since the publication of C.B. Macpherson's The Political Theory of Possessive Individualism (Oxford Univ.Press) in 1962. While it seems to me very likely that the first Agreement was (and was seen by Rainsborough, Wildman and Sexby as) a document involving manhood suffrage, there can be no doubting the exclusions from the franchise made in the second and third Agreements. The most likely hypothesis, skilfully argued by Iain Hampsher-Monk ("The Political Theory of the Levellers: Putney, Property and Professor Macpherson" /Political Studies, XXIV, 1976 /), to explain the modification of Leveller views is a desire to compromise with the Army Grandees and leading Independents, though to my knowledge there is no direct evidence of motivation by such a desire, and a reversion to the manhood suffrage position in the third Agreement (which was issued from prison by an embittered Leveller leadership) would have been more consistent with this hypothesis than what actually happened. Perhaps a willingness to compromise on this issue was encouraged by the perception that at this stage there were some adult males such as servants and alms-takers who, like apprentices, were not in a position to exercise the franchise freely because they were dependent upon the wills of others. This perception was expressed by Maximillian Petty at Putney (see Woodhouse, op.cit. p.83).

68. The difficulties engendered by this debate remain unresolved by a reading of The Grand Designe (1647), a post-Putney document of considerable interest, which discusses and explains the current state of Leveller thinking on the franchise. The author argues that the freeholder franchise has ensured the election (largely by their friends or tenants) of privileged persons who could then aspire to receive some degree of royal patronage ("which hath been one main reason that the lost liberties of the kingdom have been...no better vindicated and preserved" /p.117). A much wider franchise was clearly called for, "it being pure equity, that as all persons are bound to yield obedience to the decrees of the Representative...so they should have a voice in electing their Representatives..." (p.12). Nevertheless, servants and beggars are explicitly excluded (ibid.) without any attempt being made to explain how they come to be "non-persons" for electoral purposes. It is disturbing that the passage just quoted is very similar to those Rainsborough/Wildman/Sexby assertions at Putney which I have taken to indicate a manhood suffrage position.
69. Wolfe, op.cit. p.405.
70. Ibid. p.405; cf. ibid. p.300.
71. Ibid. p.409, cf. ibid. p.301.
72. Woodhouse, op.cit. p.139.
73. Ibid. p.161.
74. See especially Wildman's argument, ibid.
75. See The Leveller (1659), quoted by Iain Hampsher-Monk, op.cit. p.415.
76. See below, p.240ff.
77. The Humble Petition and Representation of Several Churches of God in London, commonly (though falsely) called Anabaptists (1649), reprinted in E.B. Underhill (ed.) Confessions of Faith, 1611-1688, Hanserd Knollys Society, (1854)p.289.
78. (1647), p.12.
79. Ibid. p.2.
80. Ibid. p.12.
81. p.34.
82. Ibid. p.28
83. A Declaration of some Proceedings of Lt.Col.John Lilburne (1648), H & D. pp.116,118.

84. (1649), H & D, p,313, The Discoverer (1649) (sometimes attributed to John Canne) (Pt.1, p.1) also spoke of "Munster Levellers", and (p.25) held that in the face of such dangerous subversives, Cromwell had been abundantly justified in telling his colleagues on the Council of State that the Levellers must be broken before they broke the Council of State (this was an episode overheard by the Leveller leaders and recounted in The Picture of the Council of State). For further comparisons of the Levellers and the Munster Anabaptists, see Thomas Edwards, Gangreana, op.cit. p.151; and Lieut.Col.John Lilburne Tryed and Cast (1653), p.36. For further suggestions that Levellers were incorrigible trouble-makers, see ibid. pp.22-3; and Hugh Peter A Discourse betwixt Lieut.Col.John Lilburne and Mr.Hugh Peter (1649), quoted by P.R.Stearns The Strenuous Puritan: Hugh Peter, 1598-1660 (Urbana: University of Illinois Press, 1954), p.349.
85. A Sectary Dissected (1647). p.18.
86. Reasons against agreement with a late printed paper, entituled... The Agreement of the People (1648), p.2.
87. Ibid. p.4.
88. Ibid. p.5.
89. p.32.
90. See p.23 ff.
91. A Declaration of some Proceedings of Lt.Col.John Lilburne, op.cit. p.134. Cf. The Just Defence of John Lilburne against such as charge him with turbulency of Spirit, for Lilburne's rebuttal of the repeated criticism to the effect "that if there were none in the world but John Lilburne, rather than want one to strive withal, forsooth John would certainly quarrel with Lilburne" (H & D. p.451).
92. Cf. the most significant passage in the anti-Leveller tract The Essex Watchman's Watchword (1649), where several local clergymen affirmed that in 1642 they had joined the resistance to a king deaf to legitimate grievances, "being called to it by a lawful authority, the two Houses of Parliament being the ordinance of God unto this nation for the preventing of tyranny, and the regulating of the exorbitancies of regal power" (p.4). Since then, virtually everything had gone wrong, for the war that was supposed to rescue the king and protect Parliament had ended in the death of the one and the violation of the other. And on top of everything came the Agreement of the People which, by taking away the magistrate's power to coerce in religion, would release the floodgates of licentiousness and popery (pp.5-10). On the Agreement's release of "damnable heresies" which endangered both civil and religious authority, see also the Lancashire Ministers' The Paper called the Agreement of the People taken into consideration (1649), p.13 ff.

93. (1649); Preface.
94. The Case of the Commonwealth of England Truly Stated (1650) (P.A. Knachel, ed. University of Virginia Press, 1969), pp.99, 103. Nedham was, of course, a notorious renegade, and to classify him with the men of 1642, given his 1647 conversion to Royalism, may be thought misleading. It may be said, however, that Nedham was a man of 1642 in that he had been a Parliamentarian during the first Civil War, and that by the time of The Case he was, in defending the Republic, in a sense reverting to his former political allegiance. For Nedham's career, see Knachel's Introduction to The Case.
95. H & D. pp.300-301.
96. Op.cit. p.6.
97. The Famers Famed (1646), p.27.
98. Ibid. pp.22, 27-8.
99. Op.cit. p.37.
100. Ibid. pp.22-3
101. See ibid. p.22.
102. A Sectary Dissected, p.11.
103. Ibid.
104. Woodhouse, op.cit. p.27.
105. Ibid.
106. Ibid. pp.54,55.
107. Ibid. p.55.
108. Ibid. p.59.
109. Ibid. p.58.
110. See ibid. pp.63-4.
111. Ibid. p.63.
112. Ibid. p.67.
113. Op.cit. p.198.
114. Ibid. p.154.
115. Ibid. p.160.
116. Ibid.

117. On Gee, see below pp.283-5.
118. Op.cit. p.4.
119. See ibid. p.5.
120. See ibid. pp.6,10.
121. Ibid. p.4.
122. Woodhouse, op.cit. p.7.
123. Ibid.
124. Ibid. p.8.
125. Op.cit. p.119.
126. Ibid. p.120.
127. Op.cit. p.312.
128. Op.cit. p.117.
129. Ibid.
130. Op.cit. p.314.
131. pp.14,15.
132. See ibid. pp.21,25; on the Leveller-Royalist connections, see also Lieut.Col.John Lilburne Tried and Cast, p.49.
133. On the evidence concerning Leveller-Royalist connections, see P. Gregg Free-Born John (London: Harrap,1961), chapter 21; H.N. Brailsford The Levellers and the English Revolution (London: Cresset Press,1961), chapter 29. On Charles as a counter-weight, see Legall Fundamentall Liberties, pp.29-30.

A MEMORABLE SCENE, AND AFTER

Regicides.

No one, claimed John Cook, the prosecutor at Charles's trial, had deserved death more than the King: even those who had crucified Christ had done so in ignorance, a mitigation clearly unavailable to the royal prisoner. From the very outset of his reign, Charles had worked to make himself an absolute ruler, worked with a resolution that "all the Machiavells in the world" could not match.¹ And following many tyrannous acts in the period up to 1642, he had been prepared to wage a bloody war upon his subjects in order to retain control of the Militia, which control he absurdly and wickedly claimed as part of his royal birthright. The blood shed in the course of this war therefore demanded vengeance: "If King Ahab and Queen Jezebel, for the blood of one righteous Naboth...were justly put to death, what punishment does he deserve that is guilty of the blood of thousands, and fought for a pretended prerogative that he might have any man's estate that he liked, without paying for it? This blood hath long cried: How long, Parliament, how long, Army, will ye forbear to avenge our blood...When will ye take the proud lion by the beard, that defies you with imperious exultations?"² In a similar vein, Rumper MPs justified the proceedings against Charles by claiming that his people, who had looked to him for protection, were instead "by himself in person, pursued with fire and sword, imprisonments, tortures, death, and all the calamities of war and desolation". So outrageous was his conduct, indeed, that it could only be accounted

for by the fact that he was a foreigner.³

It can be said with some confidence that the monarch accused thus was in his death a victim of the "ascending" theory of politics. Substantially, the regicides believed that the people, being "under God, the original of all just power,"⁴ had trusted Charles "with a limited power...being obliged to use the power committed to him for the good and benefit of the people and for the preservation of their rights and liberties". But Charles, "out of a wicked design to erect and uphold in himself an unlimited and tyrannical power to rule according to his will", had sought to expand indefinitely his powers and to this end had made aggressive war upon "the present Parliament, and the people therein represented."⁵ Rumper MPs went so far as to declare it undeniable that "the first institution of the office of king...was by agreement of the people", and that he was to act for their good and protection "according to such laws as they did consent unto". History revealed how almost all of our kings had reneged upon this trust; and of the long list of royal miscreants, Charles had been the worst.⁶

Henry Ireton's crucial Remonstrance of the Army of November 16th 1648 (the document in which he made clear the Army's intention of dealing with Charles as a capital malignant, whatever lesser magistrates at Westminster might wish) premised its animosity to Charles precisely upon the "ascending" theory. When a supreme magistrate, trusted to protect the rights and liberties of the people, perverts that trust by "the assuming of hurtful powers which he never had committed to him", and seeks "to swallow up all into his own absolute will and power", his people are released from all obligation

to him and may indeed proceed against him as a public enemy, the "covenant...betwixt him and them" being wholly dissolved by his tyrannous acts.⁷

The political theory of both Prosecutor and Court at the King's trial was essentially similar to that which had informed Ireton's Remonstrance. Cook had intended to tell Charles and the others present at the Westminster Hall on that occasion that "all governors are but the people's creatures",⁸ for as "power...is originally in the people...so it is given forth for their preservation, nothing for their destruction".⁹ But their destruction was precisely what Charles Stuart had attempted, and even if there was doubt as to whether the King could be condemned by the written law of the land,¹⁰ there could be no doubt that he had grievously fallen foul of the fundamental law of the English polity (and indeed of all other polities), viz. that a man trusted with certain powers should not go beyond them. Thus "when any man is intrusted with the sword for the protection and preservation of the people, if this man shall employ it to their destruction... by the fundamental law of that land he becomes an enemy to that people, and deserves the most exemplary and severe punishment that can be invented".¹¹

The thrust of the "ascending" theory is also plainly visible in the trial itself. Charles had imagined himself to be above the law, the President of the Court, John Bradshaw declared; but in fact he was firmly beneath the law. Indeed, only the people as a whole acting through Parliament could properly claim to be superior to the existing law; the people were in fact "the parent or author

of the law" and "as they are those that at the first did choose to themselves this form of government, even for justice sake, so ...they gave laws to their governors, according to which they should govern".¹²

The very law of hereditary succession to which Charles owed his throne was of the people's making.

Bradshaw believed that the people would be perfectly within their rights to deny the succession to anyone deemed unworthy, and the possibility of such a denial (which in turn sprang from the notion of a people-created polity) was surely the rationale of his rather startling references to Charles as an "elected" king.¹³

Even where a king had safely succeeded (or, in this sense, been "elected") his retention of office depended upon good behaviour, for "there is a contract and a bargain made between the king and his people...and certainly...the bond is reciprocal...The...one bond, is the bond of protection that is due from the sovereign; the other is the bond of subjection that is due from the subject...

And if this bond be once broken, farewell sovereignty!"¹⁴ It followed for Bradshaw that there was no misconception in the accusation that Charles was a traitor, for a traitor was he who was guilty of breaching the trust of a superior, and "when you did break your trust to the kingdom, you did break your trust to your superior: for the kingdom is that for which you were trusted. And therefore, Sir, for this breach of trust when you are called to account, you are called to account by your superiors".¹⁵

John Canne's The Golden Rule also drew a major part of its regicidal inspiration from the "ascending" theory, which is apparent throughout the pamphlet,¹⁶ but which is especially noticeable

in the author's poignant distinction between the Israelites vis-a-vis Pharoah and the English vis-a-vis Charles: unlike the Egyptian king, Charles and his predecessors "have had their crown by the voluntary and free choice of the people, and no otherwise but conditionally...the English are natives, not beholding to their kings for their possessions, nor ever held the same as gratis from them. The supreme and sovereign power of the kingdom is in their hand; the which Israel in Egypt never had, nor could lawfully challenge".¹⁷ Thus while the Israelites needed a God-appointed prince-deliverer (Moses) to break out of bondage, the English could free themselves and strike down their would-be slave-master.

Apart from the regicide tracts of John Milton, the most substantial justification of the proceedings against Charles was John Goodwin's Defence of a Sentence; and appropriately the author of Anti-Cavalierism and Os Ossorianum draws blood with the potent weapon of the "ascending" theory. He makes use of the familiar distinction between political power in the abstract and political power as it appears in concrete circumstances. Government, we are told, is undoubtedly "God's appointment" in the sense of being decreed by God for the welfare of His creatures, but from this proposition it did not follow "that all men...collectively taken in their respective communities were not naturally free to choose, by what kind or form of government they would be governed, as whether by kings or by Council of State, or by popular suffrage,&c". Indeed, communities had the right to choose their own governors and forms of government, provided only that in making their choices "they have a

due respect unto, and make a competent provision for, the due and just end of government, which is, the...civil welfare and good of the governed".¹⁸ Goodwin pursues this line of argument as far as the contention that God allowed the Israelites to put aside His own government and to establish in its place the monarchical form of government which they desired. In "condescending" to the wishes of the Israelites, God was in effect consenting to "His own dethronization", an occurrence which "avoucheth the lawfulness of power in the people to alter their present frame of government, whatsoever it be, when they see cause".¹⁹ Therefore, while the King's supporters (both old and new) were correct in claiming that a magistrate was God's minister, there was a strong sense in which he was the people's minister also, for it was the people who both created the constitutional framework within which he operated and created him as magistrate by laying upon him certain duties (together with the appropriate rights which enabled him to perform these duties) in respect of the community's well-being. The community's superiority over its rulers is repeatedly stressed in A Defence. It is akin to Adam's precedence over Eve, for the Apostle Paul writes (1 Corinthians 11.8) that the man is not of the woman, but the woman of the man: "the same foundation is as pregnant to bear the superiority of the people above the king. The people are not of, sprang not from kings, but kings of, and from the people". And again, "the king bears the relation of a political servant, or vassal, to that state...and people over which he is set to govern",²⁰ and the creator must plainly take precedence over the creature.²¹ The magistrate is seen by Goodwin as an ordinary individual, and although

he performs a God-ordained function in ruling his people, he is no more invulnerable to punishment in the event of delinquency than the meanest shoemaker. The "ascending" theory of politics was not, he insisted, an invitation to individual or collective licentiousness, nor did it imply that men could choose to live without any kind of government; but it did mean "that no governor, whether supreme or subordinate, hath any just power beyond what he hath been invested with by that community of men which he governeth".²²

The bitterness against Charles of A Defence was rivalled by The True Portraiture of the Kings of England, a work which (unusually for this debate) sounded a specifically republican note. The True Portraiture featured an attack upon Charles only as a supplement to a critique of the institution of hereditary monarchy itself, an institution which seriously violated the "ascending" principles which the author took as his point of departure. He deplored the fact that hereditary monarchy has come to be widely regarded as the ideal or natural form of government while other political forms were seen as aberrations, "nothing being accounted more...glorious than to have the prince high and the subjects beggars...and the fee-simple of all the liberties of the people...sold to maintain its state". Princely ambition, which sought to monopolize political power in the hands of a single family, was clearly one cause of this state of affairs; but public ignorance was certainly another: "Did the people but know that their choice and election is the foundation of just authority, and that none can rule over them but whom they appoint, they would not then be drawn into controversies and debates, whether

it be treason in them to cast off a bad governor, who have the only power of choosing a good one". In fact it had become a fashionable nonsense that kings gave an account to none but God "from whom they challenge an immediate title" as if they "had not their roots in the earth as all other magistrates besides".²³ The author of The True Portraiture saw men as being ruled either legitimately through consent or illegitimately through usurpation of some kind. Foremost among usurpatious governments was hereditary monarchy, which involved the twin absurdities that some men were born to be magistrates, and that the people must be "irreparably content"²⁴ with the ruler produced for them by the lottery of descent. It was to be greatly questioned whether God could have intended His creatures to be ruled in this fashion, for He must surely want them to be well looked after, and an hereditary regime 'virtually ensured that this will not be the case.

In England, the crooked line of hereditary succession could be traced back to the Conquest of 1066 when William the Norman "made himself the principal of that divine succession we now stand upon, and all our kings have no other pretence than by the succession of his sword; and certainly if the fountain and head-spring be corrupt, the stream cannot be crystal and pure".²⁵ For the author of The True Portraiture, Charles's death was thus "usurpicide": he saw the king not merely as an individual tyrant, but as a ruler damned by an ancestral seizure of power as well as by his own misconduct.²⁶ Incredibly, some of the population loved "our last tyrant Charles", but the Parliament had with complete justification taken the steps necessary to restore proper political relationships by "cutting off

that race of usurpers and tyrants, and reducing affairs to their first natural and right principle".²⁷ Thus had the father, who had 'lived an enemy to the commonwealth', died "a martyr to the prerogative"²⁸; now the son had appeared threateningly in Scotland - but surely the English would not tolerate another tyrant from abroad?

For the regicides, then, the "ascending" theory of politics left Charles as "the people's creature", the servant of the community who had so grievously abused his office as to deserve death at the hands of his superiors. And in The Golden Rule John Canne cut off any possible Royalist escape via what might be called the Hobbes/Digges version of the "ascending" theory. It was, he wrote, "a thing neither probable nor credible that any free people, when they voluntarily incorporated themselves into kingdoms, and of their own accord set up an elective king over them, that there was such a stupidity and madness in them as absolutely to make away their whole power to the king and his heirs for ever, and to give him an... uncontrollable supremacy over them, and so make the creature superior to the creator...and for their more safety to be more enslaved".²⁹

As always, the "ascending" theory had it that the supreme magistrate was by nature no different from any other individual: he was simply an equal elevated by the choice of his comperes. But now (unlike previously) it was he as well as his "evil counsellors" who must give satisfaction for their misbehaviour: the counsellors after all, were as such simply his creatures. As early as 1646 the somewhat eccentric Henry Marten had asked how the deaths of Strafford and Laud could be justified "if he escape that set them on work, and

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hath infinitely transcended them in treasons against the commonwealth":
 by 1648-49 the most powerful faction in the commonwealth was prepared
 to ask the same question. To grant Charles any kind of immunity
 would be both inequitable, and in a double sense dangerous.
 Magisterial invulnerability meant that kings would escape punishment
 for the very same crimes that brought humbler men to the gallows,
 would mean that judicial processes would be "like 'a spider's web,
 which serves to catch smaller flies, but hornets break through and
 escape".³² All men were the sons of Adam and made in God's image;
 thus all without exception (even the supreme magistrate) were liable
 to the sentence of Genesis 9.6 for shedding the blood of man.³³
 Kings might suppose themselves "altogether unlike other men", but when
 they found themselves brought to the bar of justice, they would
 discern the error of this supposition.³⁴

The rejection of magisterial invulnerability is probably
 seen most clearly to be a consequence of the "ascending" theory of
 politics in A Sad and Serious Discourse by WC. The author proceeds
 by a means of a series of rhetorical questions. Could it be, he
 asks, that there is one God-ordained political form ("the divine
 proto-type of government") which all men must embrace? Was it not
 rather the case that "God did so own the issuings...of natural
 wisdom and policy in particular societies of men, endeavouring after...
 their own good, as to stamp a ray of majesty upon it, consecrating
 it as a positive good to all living under the jurisdiction of the same...?"
 Given that magistracy was the product of "natural wisdom and policy",
 could it be just "that any power or person should so encircle itself in
 the conjuration of privilege or prerogative, that from thence it might

issue out to the destruction of many thousands of people, equally heirs to the divine image, and retire again...as a sacred thing, not to be touched...?³⁵ John Goodwin argued that human judges of such magisterial destruction should endeavour to approach as nearly as possible the judgements of God Himself (as though He were sitting at their side), and to imagine that God would judge according to the political status of the accused was nothing less than blasphemous. Moreover, the advocates of magisterial immunity would create a situation in which the king was judged only once (i.e. by God) whereas his fellow-humans had to face two tribunals, one earthly and one heavenly.³⁶

To allow Charles to escape judgement was considered dangerous on two counts. First, the regicides made the obvious point of the encouragement which a re-affirmed invulnerability would give to Charles himself and to future kings with the same absolutist ambitions. As Ireton had it in his Remonstrance, a failure to punish Charles would "proclaim the like perpetual exemption to him and his posterity, whatever they shall do, or in whatever case (since none can be imagined more...ripe for justice than this already is) and would therefore give the most authentic testimony and seal that ever was, to all these destructive Court-maxims concerning the absolute impunity of kings, their accountableness to none on earth, and that they cannot err, do wrong, &c."³⁷ The same prospect was deeply disturbing to John Goodwin: for him justice would be transformed into a "deformed monster" if the tail of wickedness was cut off while the head was left in its place on the body. "Should justice seize upon inferior delinquents

only Goodwin wanted to know, and such who have less of the evil done...and pass by him, who hath been the Grandee and deeper in wickedness than they all? Such an administration...would be so far from securing the nation against such bloody attempts against it for the future that it would rather be a means, or occasion to provoke...the same spirit of wickedness the second time".³⁸ Rumper MPs expressed similar fears about what would have been implied by the personal treaty upon which their purged colleagues had been intent: "as if the King's party should be an hundred times beaten, they must be an hundred times indemnified; but, on the other side, if the Parliament's party should happen to be at the loss but once, all the godly people in the land should have been destroyed...and the very cause of liberty and religion itself endangered to be lost irrecoverably for the future".³⁹

Secondly, it seemed to many regicides that to allow such a notorious enemy of God as Charles Stuart to escape now that they had him in their power would be punishable in God's eyes in so far as it indicated a slackening of the individual's dutiful resolve to suppress evil in the world. Almost all of the pro-regicide publications exhibit to a greater or lesser degree this attitude, which at its strongest suggested (following Numbers 35.33) that the blood which had been shed during the Civil Wars could only be cleansed by the shedding of the blood of him who was responsible.⁴⁰ The men in whom this attitude is most pronounced called themselves Saints, members of God's Elect charged by Him above others with a responsibility for the affairs of the world. They read in the Psalms of the need for the Saints to possess "a two-edged sword" in order to be able "To hind

their kings with chains and their nobles with fetters of iron" (Psalm 149).⁴¹ In 1649 such enterprises did not seem too extreme.

John Cook, in his intended prosecution speech, recalled that in addition to all Charles's other sins, he had been an enemy to the Saints, "whom you have...maliciously opposed, mocked, and persecuted, and still scorn and jeer at, as heretics and sectaries, [so that] there is no more hopes for you ever to see God...than for me to touch the heavens with my finger".⁴² Cook thus believed that the High Court of Justice was nothing less than a foretaste of the Day of Judgement, "when the Saints shall judge all worldly powers".⁴³ In 1648-49 the Saints were in a position to destroy their oppressor and providence had presented them with an opportunity from which it would be culpable negligence to turn aside. The widow of one of those responsible for sentencing Charles thus reminds us that because the regicides saw Charles as an incorrigible enemy of God and man, they had to concern themselves not only with the hurt which he has already done, but also with that which he would do if allowed to escape; consequently, "it was upon the consciences of many of them that if they did not execute justice upon him, God would require at their hands all the blood and desolation which should ensue by their suffering him to escape, when God had brought him into their hands".⁴⁴

From the standpoint of the formal authority structure of the state, it was hard to see the Saint, as such, as anything other than a private man; and what was probably the preponderant current of seventeenth century opinion held that the private man needed the summons of the magistrate before he could intervene legitimately in the commonwealth's affairs. Nevertheless, by 1648 not a few Saints had arrived at the point where any disqualification of this

kind could be disregarded, and Sainthood itself could be seen as a sufficient qualification for the exercise of magisterial powers. Now this was an audacious position in terms of conventional theorizing about authority, and it was an audacity funded by the fear that God's wrath would be visited upon those members of the Elect who negligently allowed the Man of Blood to survive.

This audacious approach to the problem of dealing with Charles is strongly represented in Thomas Collier's The Armie-Remonstrance Vindicated and in William Sedgwick's Second View of the Army Remonstrance, truly works to make the blood of the magistrate run cold. While Collier might be classed as an "ascending" theorist,⁴⁵ it is primarily as a Saint-in-arms, capable of dismissing the majority of the people as mere worldlings, that he confronts his king in this pamphlet. It was, Collier announced, "the day of the Lord, and who can stand up when He appeareth?". Certainly not Charles Stuart and his sin-ridden supporters, who were destined for swift destruction: "Why, the Lord will come with fire, and with His chariots like a whirlwind, to render His anger with fury, and His rebuke with flames of fire, for by fire and ^{by} sword will the Lord plead with all flesh, and the slain of the Lord shall be many...and all the proud shall be as stubble, they shall be burnt up".⁴⁶ To undertake at least some of the burning and slaying was the responsibility of the Saints, for God "always hath, and yet doth make use of men as instruments in His hand, and they are His battle axe and weapon of war".⁴⁷ To decline God's commission, to decline to be His battle axe, was a dereliction of duty which no true Saint would want to contemplate.

A critic of Collier's who had supported the war, but who was now temporarily afflicted by second thoughts, urged (rather as Henry Hammond had done against Stephen Marshall in 1643), that the task of the Saintly man confronted by evil was to endure impassively.⁴⁸ Replying, Collier did not doubt that if the Saints were called by God to suffer, then suffer they would while God sustained them. But God, the critic was reminded, "hath called them to other things", and "if the way and purpose of the Lord be now to subdue the powers of the earth that are contrary to Him, who shall then contradict Him? If He lead His people in untrodden paths, making His name glorious there, let us submit unto Him".⁴⁹

For Collier, the events of December 1648 and January 1649 were not (as they were for Milton's "malignant backsliders") a perversion of the purposes for which armed self-defence had been undertaken in 1642: regicide was seen rather as the providential culmination of the victories of Parliament's Army against the unspeakable Cavaliers. He wanted to know how God's presence could be confirmed in respect of the victories of 1642-48, yet denied in respect of the act of justice which these victories made possible: "Is the first good, and the second bad? Is the first of God, and the second of man? Let all men read and judge what spirit of contradiction here appears, and know that...this second work, viz. setting up righteousness in the kingdom, will crown all their i.e. the Parliamentarians' former victories and successes: and the higher God carrieth them in this, the more is He to be seen and acknowledged in it, for the righteous God loveth righteousness".⁵⁰ On being accused of separating king and people (whom God had bound together),

Collier replied quite simply that the division between king and people had been of God's making, "and those whom God separates shall no man join together".⁵¹ Moreover, where a king had clearly been condemned by God (as Charles, like Agag before him, had been) there could be no question of men dealing charitably with him: "Can they bless where God curses, and speak good of those who are enemies to God...Can you thus flatter and bely the creature? Ought you not rather to deal faithfully with him, and let him know his sin?"⁵²

Arguably even more extreme than Collier in its vindication of the Army's destruction of existing authorities was William Sedgwick's Second View of the Army Remonstrance. Sedgwick tells his readers that God bestows power in society on whomsoever He pleases, disposing the hearts of the people in various ways and thereby changing the magistracy at His pleasure: "'Tis a great sport and pleasure the Lord takes to set up and pull down, to bring great things to nothing, and to exalt nothing to be all things; it's excellent justice to pour contempt upon princes, to tread upon them as mortar, to bring them under as the basest, vilest creatures, and to pour riches, honour and greatness upon mean and base men...This He hath said He will do, and this He doth do, and 'tis His prerogative".⁵³ Sedgwick appears to have held that God's interventions regarding magistracy were not capricious, but rather followed a pattern of taking power away from those who had been corrupted by high position and privilege and bestowing it elsewhere. Thus, in England, dominion had passed from the King, who was guilty of ignoring God and of "tyranny, covetousness, oppression, and...

self-pleasure", to the Parliament, which likewise ignored God and sought only "their own and a wordly good".⁵⁴ Finding no satisfaction among the Westminster men, God "blasts and withers their glory",⁵⁵ and the outcome of this blasting is that the lesser magistrates are obliged by^a situation which they find uncontrollable to appeal to the people, indeed they are obliged in effect to concede authority to them. As Sedgwick saw the matter, power had been "translated" from the representatives to the body represented,⁵⁶ and such a "translation" was said by him to be characteristic of the old age of a body politic during which political power, expelled from the higher regions of society by "storms of wrath, malice and mischief", "naturally returns to its centre, and retires for its own safety... to...the roots of the earth, the people".⁵⁷ Now for Sedgwick, the people and the Army were synonymous, or at least (as he tells us) the Army represented all that was best in the people and could therefore legitimately act on their behalf: "So that they the Army are rightly and truly the people, not in a gross heap, or in a heavy, dull body, but in a selected, choice way. They are the people in virtue, spirit and power, gathered up into heart and union, and so most able and fit for the work they have in hand. The people in gross being a monster, an unweildy rude bulk of no use; but here they are gathered together into one pure, excellent life, and so useful and active for... the people's good and safety."⁵⁸

It plainly followed from Sedgwick's view of how authority was "translated" in society that the Army need feel no embarrassment in cutting off the Man of Blood or in displacing Parliament whose servants

the soldiers, in formal terms, had been. The truth was that God, who had previously been prepared to take His seat among the MPs, had now betaken Himself to the Army and any hesitation (based on a remembrance of formal relationships) to suppress evil should be speedily put aside by the soldiers⁵⁹ who are urged to action by Sedgwick in the most forthright terms: "Cut off all evil things and persons, separate the precious from the vile in the Commonwealth, and let nothing that is particular or hurtful interests remain, but be a merciless grave to all tyranny, oppression, to all ungodliness and unrighteousness...Know the Lord is upon His throne amongst you, and every one, and every thing that is not His must be rejected. Every plant that He hath not planted must be pulled up."⁶⁰

The audacious Saint, who knew that he was about God's business and that God's business must take precedence over all other, was thus prepared (along with Thomas Collier) to take "untrodden paths". And ultimately, he was prepared to modify the "ascending" theory of politics so drastically as to signal its near-abandonment as a theory the propriety of which could be established by means of checks against recognised procedures. We have already noticed that for John Milton, the regicides acted in the people's name and acted in violation of what were manifestly their wishes. A similar outcome can be seen in Thomas Collier's The Army-Remonstrance Vindicated, in the pamphlet Salus Populi Solus Rex, and in John Goodwin's Right and Might Well Met. In justifying Pride's Purge, Collier writes that MPs were "trusted with a power from the people, to do good for them, to bring forth righteousness, justice and equity to them, not to

destroy or undo them".⁶¹ The MPs who had sought a compromise with Charles had shown thereby that they were opposed to the good of the people, even though they were almost certainly (Collier effectively concedes) reflecting the wishes of a majority of both the electorate and population: "the interest of the Saints hath ever been too narrow for men of the world...[but] when God gives them [the] opportunity of deliverance...must they still give up all, to satisfy the lusts of men of the earth?"⁶² The desires of the worldly majority could thus be set aside with a damning reference to the desires of 'the generality' of the Israelites to return to the Egyptian captivity.⁶³ The rationale of Collier's argument appears to be his assertion that the Saints, as well as being God's elect chosen for salvation, are also in a position to offer temporal guidance to society, for "those who are saved spiritually know best what is good for the nation's temporal well-being, for they seek not their own, but others' good".⁶⁴ Collier is instructive in making quite explicit the implications of Saintly politics: the Saints could act in the people's name, even against their wishes, because they knew what was best for them.

The author of Salus Populi Solus Rex deplored the fact that the generality were turning away from Parliament and towards the King, threatening "to gratify Caesar in crucifying their saviours".⁶⁵ Thus, while not disputing that "everywhere...the greater party are for the King",⁶⁶ he did dispute that the minority must be overruled by the rest. Indeed it was "too palpable, that the most of men are not the best of men, and their votes and sayings are like themselves, tending to the

gratifying of their own personal lusts, and not common benefit, righteousness and truth".⁶⁷ For this author, rational men must not be subject to sensual men, sober men to mad men, and for Parliament to follow the sensual and irrational majority would soon produce an insane world: "then must the Gospel be spurned out of the kingdom, all true religion and religious people suppressed... goodness, and good men must go to wrack, because the major vote of the people will have it so...Jesus Christ...must quit his government in the world, and his great adversary the Devil and his viceroys must sit upon the throne, for this would please the major party of most kingdoms in the world...It is not vox, but salus populi that is the supreme law".⁶⁸

John Goodwin, writing about the diabolical alliance of the Royalists and the Presbyterian majority in the House of Commons, reminds his readers of the propriety of discharging a lawyer or a tutor in the event of malpractice. A like liberty, he maintained, could not be denied to a people or a nation for removing the persons whom they had chosen as guardians of their estates and liberties. where a tendency to betray these had been discerned.⁶⁹ At the same time, Goodwin could not put out of his mind the fact that the apostacy of the Presbyterian MPs had not been widely recognised, and the fact that calls for their removal were heard only from a minority. At this point, Goodwin introduced another analogy: doctors called to the aid of a distempered person (we are told) "need not much stand upon the consents of such persons... about what they administer to them". And Goodwin even goes so far as to suggest that a depraved people may be saved even against their wills:

"they forfeit their power in this behalf unto those who are good, though but a few".⁷⁰

A "few" good men were, thus, for writers like Milton, Collier and Goodwin, in effect to save the nation from itself. The few numbered amongst them several MPs, but the legitimacy of what they did depended fundamentally not upon procedures and standing within a recognised institutional framework (as had arguably been the case with the men of 1642) but upon the fact that they agreed with people like Milton, Collier and Goodwin.

The King, then, was seen by the regicides as an incorrigible enemy to both man and God. But before his death could be fully justified, two especially awkward matters had to be disposed of. There was the matter of the previous Parliamentary pronouncements, culminating in the Solemn League and Covenant, disavowing any intention to hurt either Charles's person or authority; and there was the matter of Pride's Purge. Henry Robinson conceded that there was an apparent discrepancy between the declared war aims of 1642 and the "present actings" of 1648-49. For him, however, the honest party had been providentially led to an extension of their "first motions and intentions", and to an appropriate response to a situation in which their enemy had hardened his heart against them. Consequently, "if anything have been acted, that seems heterodox to our first intentions and engagements, it hath been but to follow the King, who... grew to be so dangerous and implacable...that he left us no other remedy but his death".⁷¹ Regicide was therefore the logical outcome of what had been revealed to the Parliamentarians during the course of the Civil Wars. And emphatically, it was not prohibited by the

Covenant.

It was pointed out that Charles himself had not subscribed to the Covenant (and therefore could draw no benefit from it)⁷² and that subscribers to the Covenant undertook also to defend and preserve "the true religion and liberties of the kingdoms",⁷³ and for the regicides there could be no question but that these were prior obligations to that concerning the King.⁷⁴ Thus if the preservation of his life turned out to be incompatible with the defence of the kingdom's liberties and true religion, then the obligation to him was at an end. This "hierarchy of obligations" argument appears in Ireton's Remonstrance, in Goodwin's Defense of a Sentence, and in Milton's Tenure of Kings and Magistrates. The first of these documents had it that subscribers were committed "primarily and absolutely" to public liberties and true religion, and only "after that" to the preservation of Charles's person and authority: a Cavalier might question this interpretation, Ireton conceded, but no rational man could doubt "that the preceding matters of religion and public interest are to be understood as the principal and supreme matters engaged for, and that of the King's person and authority, as inferior and subordinate to the other".⁷⁵ The second maintained that no rational man would have taken the Covenant if there had been any suggestion that the King's life was to be preserved at the expense of liberties and religion. And it was clear to Goodwin that the preservation of Charles's life had already brought England's liberties and religion to the very edge of ruin: "It was the preservation of his person that gave life, and breath and being, to those dangerous insurrections in Kent, Essex, London, Surrey and Wales, &c., by means whereof there was but a step

between the liberties of the Kingdom and perpetual enslavement. It was the preservation of his person...that administered strength unto Scotland to conceive the conquest of England...by invading it with an army of...30,000 men".⁷⁶ In the third document, Milton found that the clause in question had probably been inserted by "some dodging casuist with more craft than sincerity to mitigate the matter in case of ill success",⁷⁷ but averred that in any case no honest man would have subscribed to it "but as a condition subordinate to every the last particle that might more concern religion, liberty, or the public peace".⁷⁸ The Covenant, it was finally pointed out, promised "condign punishment" for malignants, and this was the category into which Charles was now placed by the more extreme of his opponents.

What, however, could be said in mitigation of Pride's Purge? This drastic mutilation of the legislature enabled the King to be brought to trial with some semblance of propriety in terms of the "ascending" theory of politics: by excluding MPs who favoured a negotiated settlement with Charles, it was possible for the remaining MPs (still claiming the title of a Parliament and still claiming to represent the people) to establish a High Court of Justice to deal with the Grand Delinquent. Thus they could boldly assert that in cutting down England's enemy they were "intrusted and authorised by the consent of all the people thereof, whose representatives, by election, they are".⁷⁹ But the Purge was an unhappy event, and even the regicides must have felt the lash of the almost automatic criticism that Charles's attempted arrest of the five Members in 1642 shrank to insignificance compared with the work of Colonel Pride.⁸⁰

The fact of the matter was that the Purgers and their supporters found it inconceivable that any right-minded person could countenance the sort of outcome which the excluded MPs had in mind for England and which, but for the intervention of the soldiers, would certainly have instituted. For Charles to reappear at Whitehall on terms (as the General Council of Officers put it in their official Answer to the protests of the excluded MPs) "destructive to the public"⁸¹ and armed with boundless opportunities for mischief, was simply unacceptable: it was unacceptable, a regicide officer was reported to have told MPs, "that the King, having been exasperated, vanquished and captived, would be restored to that power which was inconsistent with the liberty of the people, who for all their blood, treasure and misery would reap no fruit, but a confirmation of bondage; and that it had been a thousand times better never to have struck one stroke in the quarrel than, after victory, to yield up a righteous cause; whereby they should not only betray the interest of their country and the trust reposed in them, and those zealous friends who had engaged to the death for them, but be false to the covenant of their God..."⁸² What other way had there been of dealing with the king, another regicide pamphleteer wanted to know, once it had become clear that "our liberty and his life were grown to be incompatible and inconsistent"? Had it not become obvious that Charles was "our grand enemy" bent upon the destruction of the whole nation?⁸³

As a first step to preventing the unacceptable, the majority of intransigent Presbyterian MPs favouring the fatal personal treaty with Charles had to be removed from their seats. Thus, in the eyes of

the Purgers, it was an overwhelming public necessity which drove Colonel Pride to Westminster with his list of personae non grata in December 1648: a necessity, so it was said, more pressing than that which had indicated the propriety of resistance in 1642.⁸⁴

In their own defence, the officers further pointed out that acquiescence was the only alternative to an Army initiative against the apostate majority at Westminster, for there was no possibility of a legal appeal either within the political system, or to a future (and less unreasonable) Parliament, for MPs had shown every intention of continuing their authority indefinitely.⁸⁵

The Purge was thus necessary to save the nation from a renewal of tyranny under the auspices of a wounded and vengeful monarch⁸⁶ and a group of apostate MPs. To the Purgers, these apostate MPs were latterday Hothams⁸⁷ who had been about to sell the nation's heritage of liberty for "a mess of pottage so that they may enjoy a slavish peace"⁸⁸ and were consequently guilty of abusing the powers with which they had been entrusted by the people. For if the people were considering the matter carefully, they would regard the scenario favoured by the purged MPs as intolerable: secluded Members, John Goodwin wrote in a leading defence of the Purge, had "manifestly turned head upon their trust" by extending "the right hand of fellowship to that most barbarous, inhumane and bloody faction amongst us".⁸⁹ According to Goodwin, it was not too much to say that the renegade MPs had become deranged, being "struck with a political frenzy...they acted as men bereaved of their senses, that had quite forgotten the business committed unto them and...understood

nothing of the matters relating to the peace or wellbeing of the kingdom, or of those who had entrusted them with their power".⁹⁰

Incredibly, they smiled upon the "most inveterate enemies of the kingdom, but...looked glastly upon their friends, and those

[soldiers] that had constantly guarded them with their lives and estates".⁹¹ It was not the authority of Parliament that was in

question, therefore, but the frenzied misuse of that authority

by a self-interested and despotical faction.⁹²

Justifying the Purge, William Potter made a most unusual distinction (albeit within the general framework of the "ascending" theory) between the people's "trustees" and their "governors".

Trustees (e.g. MPs before January 1642) are "the sole judges of what concerns the people's freedoms", and cannot act tyrannously for

they must soon return to their homes "to be ruled by the laws [which] they demanded".⁹³ Governors , permanently responsible for the

enforcement of public policy, can act tyrannously, and it is Potter's contention that when Parliament took over executive authority after

Charles fled the capital, MPs became governors and the possibility

of a London-based tyranny returned - a possibility which Presbyterian MPs were swiftly turning into an actuality in 1648. MPs in fact had no

"trustees" to guide them in their exercise of executive powers and

had collectively become a new council of state acting upon its own

authority without the consent of the governed. From this framework

Potter was able to conclude that by the Purge, Parliament had been

"restored unto a capacity to preserve us; whose preservation is the only

end of our fighting, and of their [MPs] government".⁹⁴

The Purgers, then, were acting so as to preserve the interests of the people⁹⁵ by enabling the House of Commons to resume its care of these interests, a care temporarily abandoned under the evil influence of the Presbyterian or "old Parliamentarian" backsliding faction. The Army, it was said, had received a commission from the people through the agency of Parliament to destroy tyranny. This had involved the soldiers in the first place in subduing the Royalist forces in the field; but when, in the second place, MPs themselves turned tyrannous, they became appropriate targets for the exercise of New Model power. The Army had been commissioned "to suppress by strong hand all such persons, whom upon rational grounds they should judge enemies to the peace and welfare of the kingdom"⁹⁶ and if Presbyterian MPs insisted on placing themselves into this category, then they too would be victims of the "strong hand".⁹⁷

Moreover the strong hand of 1648 was seen by its supporters as being justified by the precedent of the strong hand of 1642 which had also prevented the imposition of tyranny upon the nation. Indeed, the two situations were analagous, with the soldiers seen to be correcting the abuses of the inferior magistrates just as the inferior magistrates had earlier corrected the abuses of the supreme magistrate. Thus it was argued that the King had as good a right to the militia as the purged Members had to their seats,⁹⁸ and that those very analogies whereby William Prynne and other expelled MPs had justified themselves in 1642 when the King was discomfited could now be used for their own discomfiture.⁹⁹ Samuel Richardson, for example, reminds his readers of the miscreant authority: the magistrate

is pictured as steering the ship of state towards the rocks and as setting the whole country on fire.¹⁰⁰ But it was not only the supreme magistrate who could be resisted in these circumstances, for it would be absurd to claim that while Charles could properly be cut down to size by the action of inferior magistrates, the people could have no redress when the inferior magistrates themselves became a menace to society.¹⁰¹

Anti-Regicides: Old Royalists.

Those who opposed the trial and execution of the King can be broadly classified as "old Royalists" (his traditional supporters who, though mightily discouraged,¹⁰² stood by him still) and "old Parliamentarians" (men of 1642 from whom the revolutionary process had gone too far with the emergence of the New Model army as an autonomous power, with Pride's Purge, and with the proposal to treat Charles as a capital enemy).

Old Royalism was characterised by an interpretation of the events of the 1640s according to which Charles had been the victim of ambitious and fanatical aggressors, aggressors who all along intended to deprive him of his sovereignty, to subvert the fundamental laws of the English polity, and to install themselves as the new rulers. The intentions of the aggressors are summed up in Eikon Basilike: "But some men thought that the government of this Church and State, fixed by so many laws and long customs, would not run into new moulds till they had first melted in the fire of a civil war; by the advantages of which they resolved, if they prevailed, to make myself and all my subjects fall down and worship the images they should... set up".¹⁰³

Thus, just as the regicides found that Charles had always been a scheming and unscrupulous tyrant, so he and the more long-standing of his 1648-49 supporters found that the regicides had all along been plotting to seize control of the society and that they remained undeterred by the vast bloodshed which had already been involved. In the period directly preceding the outbreak of war, Charles's desire for an amicable solution to his differences with some of his subjects had enabled his opponents (whom he had mistakenly taken as having a similar motivation to his own) to extract from him a number of important concessions, concessions which at the time he had been ready to grant in order to appease his subjects: "I still counted myself undiminished by my largest concessions, if by them I might gain and confirm the love of my people". Moreover, the real aim of his opponents remained as yet unperceived: "but I could not easily...suspect such ingratitude in men of honour, that the more I granted them the less I should have and enjoy with them".¹⁰⁴ And it was these concessions which gave the lie to the image of a stop-at-nothing aggressor found in the regicide literature. For "our peace and quiet", it was said, he had given way almost to the extent of dethroning himself.¹⁰⁵ But when he called a halt and refused to allow the militia (without which he could not protect his subjects, as he was pledged before God to do) to be taken away from him, the King's opponents had not hesitated to subdue him and his supporters by main force and in 1646 had made him their prisoner. Thus by 1648, "all England are become like sheep without a shepherd, wandering on the mountains" in the company of thousands of wolves who had appointed themselves to take the shepherd's place.¹⁰⁶

The most emotive issue in the regicide debate was, of course, that of who had been responsible for the bloodshed of two civil wars: Eikon Basilike reported that Charles found the accusation that he was responsible "the injury of all injuries",¹⁰⁷ and a sympathiser compared what had been done to him in 1649 with what Nero had done to the Christians, for the regicides had "used the King with the same justice the Christians received from Nero, who having set Rome on fire himself, a sacrifice to his own wicked genius, laid the odium of it on the Christians, and put them to death for it".¹⁰⁸ The old Royalists were able to recreate the picture of a king driven from his capital, at first almost bereft of support but obliged nevertheless to do what he could to defend himself and his subjects against a rapacious enemy. In King Charles I No Man of Blood, this picture appears with particular vividness. For most of 1642 Charles had "neither men, horse, arms, ammunition, ships, places of strength, nor money"; and so effective had been the Parliamentary propaganda against him that "not any of his party or followers... could come single or in small numbers through any town or village, but ^{either} were openly assaulted, or secretly betrayed". Thus "no man could adventure to serve or own him, but must expose himself and his estate" to ruin or sequestration.¹⁰⁹ And it is in King Charles I No Man of Blood that we find repeated one of the favourite Royalist stories of the war, that at Edgehill with Parliament's army "pouring in from all quarters of the Kingdom upon him", Charles's heels had been grazed by a cannon ball as ^{he} knelt at prayer.¹¹⁰ Indeed, according to this author, he had much need of prayer, for his opponents "had all the money, arms, ammunition and strength of the kingdom in their hands,

and multitudes of deluded people to assist them; and so hunted and pursued him from place to place, as it was come to be a saying... among the apprentices and new levied men at London [that] they would go a king-catching".¹¹¹ In his scaffold speech Charles returned to the same assertion of innocence, "for all the world knows that I did never begin a war with the two Houses...and I call God to witness, to whom I must shortly make an account, that I never intend to encroach upon their privileges; they began upon me".¹¹²

Given that this was the old Royalists' account of the Civil Wars, it followed that the deposition and death of Charles were not particularly unexpected, though the opportunity to make capital from the contrast between his fate and the earlier professions of loyalty to his person and authority did not go entirely unexploited.¹¹³ The King's fate was the culminating infamy of a long series of infamies, possibly beginning as far back as Charles's first Parliament, wherein a critic of prosecutor Cook detected "this humour of innovation... [soon] to...grow to an itch in the Commons for the alteration of government".¹¹⁴ According to King Charles I No Man of Blood, Charles had been "arraigned and little less than deposed"¹¹⁵ by the Grand Remonstrance and old Royalists knew that Charles's death on the field of battle had always been an eventuality which could be faced with equanimity, if not actually welcomed, by the Parliamentarians. For the old Royalists, therefore, as well as for the regicides, the "memorable scene" of 1649 was the almost logical culmination of the victories of 1642-48. Certainly it had been the continuing aim of his opponents to reduce him to total insignificance, and in Eikon Basilike's account of the Nineteen Propositions the King is compared

to Sampson required by the Parliamentarian Philistines to cut off his own hair and put out his own eyes so that his opponents "might with the more safety mock and abuse him".¹¹⁶

It plainly followed from the Royalist political thinking exhibited in the earlier period of the Civil Wars that the idea of arraigning the King was a monstrous and blasphemous absurdity, though it conformed only too well to what Royalists knew about the self-confident fanaticism of some of their adversaries. Royalist theory, it has been observed, held that the powers of the supreme magistrate were God-given. "We believe", wrote the author of The Charge against the King discharged, "that the king's power is fiduciary, and that the kingly office is a great trust; but that he is entrusted as he is empowered by God, and only by God".¹¹⁷ Not only the King, but God himself was therefore affronted by the regicides' "ascending" theory of politics, for "when of God's lieutenant...you would make the king only the people's chief officer, your quarrel is not with the king only...but with God Himself also, the author of political order, power and government".¹¹⁸

Although the king might agree with his subjects that some of his powers should be used only in certain ways (e.g. with the consent of a majority in both Houses of Parliament), there could be no question of him being responsible to his subjects for their use or misuse. According to Independency Stript and Whipt "it behoves the people to take notice that the King's authority is jure divino. He is set over us by God himself, he hath not the crown by our favour. He is God's substitute and vicegerent, and therefore if never so wicked, not to be

dealt withall according to his deservings".¹¹⁹ The author quoted Jeremy 27, 5-11, on Nebuchadnezzar: "You see how strictly God commands this proud tyrant to be honoured, for no other reason but because He hath given him the kingdom; he obtained it therefor by the divine decree which it is unlawful to violate. It... follows from hence, that even the worst kings of all are established by the very same decree, that the best kings are; and if we keep this continually in our minds, it will easily banish such sedition... as that a king is to be dealt withall according to his deservings, or that we are discharged from being subjects to him who sheweth not himself a king to us".¹²⁰

While the old Royalists hotly rejected the idea of a supreme magistrate responsible to his subjects for his conduct, they denied the "ascending" theorist's assertion that a God-bestowed power unaccompanied by the possibility of popular redress would necessarily be arbitrary and unlimited. The old Royalists reaffirmed that the powers of the supreme magistrate were to be used only in accordance with God's own laws (which were designed to secure the wellbeing of His creatures)¹²¹ and that these powers could be limited (and in England had been limited) in their operation by the supreme magistrate's agreement that they should be used in certain ways only. Henry Hammond, criticising John Goodwin, gives an excellent account of self-limiting monarchy, distinguishing in the familiar manner between the power itself and its exercise: "Mr. Goodwin cannot be ignorant that it hath been sometimes in the power of kings to make laws without the addition of any consent of the people; such were the principum placita among the Romans. And after it was thought

fit by princes to lay some restraint on themselves, both that they might be better advised, and more readily obeyed. Then, though the people's consent hath been deemed necessary, yet doth this belong only to the regulating, and modifying the exercise of this power, the fundamental power itself...being in the supreme governor, before the making of these limiting laws".¹²² Even the very privileges of Parliament, the regicides were told, were royal gifts, and did not extend to breaches of the peace, still less to treason.¹²³ So the king of England, according to old Royalists, was at once limited and non-responsible, very far from being absolute yet reserved by God to His own judgement for any misconduct.

But even if it could have been established that the King was responsible to his subjects for misconduct, the old Royalists still detected a number of grotesque anomalies concerning his trial which certainly vitiated the whole proceeding. The King's demand to be shown the law by which he was arraigned before the High Court went effectively unanswered: "the meanest man in England" should properly, he protested, have been safe from its supposed jurisdiction.¹²⁴ And it could scarcely be denied that his judges, far from being impartial, were his mortal enemies. Above all, perhaps, the claim of the High Court to operate in the name of the people of England was a mere pretence intended to cover the misdeeds of fanatical minority. The Court had been established by the House of Commons (which itself was not a court) after the forcible removal of a majority of MPs and without the consent of the House of Lords. Old Royalists were convinced that the great majority of the people did not

support what was being done at Westminster Hall in their name, and the King held that "the poorest ploughman" was being mightily wronged when enormities were committed in his name in the absence of any attempt to gain his consent.¹²⁵

The King's refusal to plead was, he said, a consequence of the Court's illegality. President John Bradshaw saw the Court as the "people met together",¹²⁶ but for Charles and the old Royalists it was nothing more than an exercise of naked power wholly divorced from legality, and Charles held that it would be a violation of his trust to mitigate in any way the illegality of the Court by granting it the slightest recognition. He would answer the charge against him, he told Bradshaw, only when he had been satisfied about the authority of the Court. He was sworn to uphold the law and to keep the peace in his kingdom, and it would be as sinful to submit to a usurped authority as it was to resist a lawful one.¹²⁷ Precisely because the Court was an exercise in power politics Charles was able, in resisting it, to renew dramatically the Royalists' former contention that it was his opponents who were the aspiring tyrants, enemies of both the fundamental law and of the people's liberties. Charles thus repeatedly challenged the Court's jurisdiction, and not only on his own behalf: "it is not my case alone, it is the freedom and liberty of the people of England; and do you pretend what you will, I stand more for their liberties. For if power without law may make laws, may alter the fundamental laws of the kingdom, I do not know what subject he is in England that can be sure of his life, or anything that he calls his own".¹²⁸

In A Plea for the King and Kingdom, Marchmont Nedham (embracing pro tem the principles of old Royalism)¹²⁹ characteristically seized upon the essentials in dispute by bringing out the despotical basis of regicide thinking. With scarcely surpassed arrogance, the regicides identified their own faction with "the people", excluding those who opposed them as corrupt and dishonest.¹³⁰ They proclaimed salus populi suprema lex while at the same time holding "that themselves are the only competent judges of the people's safety, and so by consequence may drive on their design against all powers and forms of government, and law whatsoever" upon the pretence of "that old aphorism".¹³¹ Thus Nedham complained subsequently of "a new kind of logic"¹³² which permitted this sophistry and he claimed that it was a "logic" needed to legitimize the Army's ambition to destroy the existing form of government. For Nedham there could be no doubt that this was the aim of the officers, for if the King were to be vulnerable to popular "justice", then monarchy "is defunct, and changed ipso facto into a popular regime"¹³³ Thus would be created a new "kind of military-democratical form of government" which would be a constant menace to the lives, liberties and estates of the English people.¹³⁴

By taking his stand on the law and on the traditional English polity, and by denouncing the regicides as tyrants, Charles was able again to present himself (as he had during the period of the Civil War) as the champion of the law and of the people's liberties. The liberty demanded by the regicides, it was said, was the liberty to do what they wanted, not stopping short of the seizure of sovereign power.¹³⁵

Bradshaw scorned this attempted defence during the trial: "How great a friend you have been to the laws and liberties of the people, let all England and the world judge"¹³⁶; but even the pro-regicide literature (as we have noticed) strongly suggests that some of "all England" were by no means wholly unimpressed by Charles's defence. At the same time, it is clear that Charles and his traditional supporters had a quite different understanding of liberty from that of the great majority of their opponents who shared an adherence to the "ascending" theory of politics: for the old Royalists, Charles was the "fiduciary" of God rather than of the people,¹³⁷ and liberty consisted (as Charles put it famously on the scaffold) "in having government, in having those laws by which their lives and their goods may be most their own"; it did not consist in "having a share in the government - that is nothing appertaining to them", for a subject and a sovereign were "clean different things".¹³⁸ Eikon Basilike was to make the same point, albeit in a kinder way, by persuading subjects that it was dangerous for them to share in the exercise of sovereign power. While the king had been prepared to refrain from scorning his subjects by the use of "the full lustre of kingly power wherewith God and the laws have invested me", he would at the same time "never consent to put out the sun of sovereignty" in face of his opponents' demands, for his poor subjects would thus "be ever subjected to those many factious distractions which needs must follow the many-headed hydra of government".¹³⁹

Anti-Regicides: Old Parliamentarians.

To John Milton the "old Parliamentarians" were "malignant backsliders", men who refused to recognise the steps that were in his view called for in 1648 by the logic of revolution. In their

own eyes, the old Parliamentarians, far from being backsliders, were men who had adhered steadfastly to the principles in respect of which they had resisted King Charles in 1642 and the period following. They had gone to war to defend English mixed monarchy and the "fundamental laws", which inter alia held the elements of the mixed monarchical regime securely in place. The old Parliamentarians contended that the defeat of the Cavaliers had made possible the early restoration of a suitably chastened monarch and that the negotiations with him had been on the point of a satisfactory conclusion when Colonel Pride had intervened. Sir William Waller's Vindication, written some three years after this event, thus spoke for all old Parliamentarians when reaffirming a strong commitment to the institution of monarchy as established in England: "I do still adhere to the preservation of monarchy in these dominions, according to our laws and fundamental constitutions... I was born under a monarchy; and I desire to die under it..."¹⁴⁰

The former general had gone to war for the preservation of this monarchy and in 1651 it was his "heart's desire...to have that government restored again, by King, Lords and Commons; under which we, and our forefathers for many ages have happily flourished...It was a government for majesty, beauty and order, comparable not only to the best forms that ever were practised, but to the best ideas that ever were fancied. A democratical, aristocratical monarchy, so excellently well proportioned and contempered...that...all were fitly joined together and compacted by that which every one supplied, according to the effectual operation and working in the measure of every part".¹⁴¹

By resisting in 1642, said a group of old Parliamentary ministers, they had intended to stop the King's supporters "doing further hurt to the kingdom". It had emphatically not been their intention "to bring His Majesty to justice (as some now speak)", but rather "to put him into a better capacity to do justice".¹⁴² Neither his authority nor his person had been the target of their martial endeavours and they abhorred the sudden change in war aims imposed by the regicides at the precise juncture when the King had been separated from his "evil counsellors" and was proving himself more amenable to reason. Like these ministers, Sir William Waller "would sooner have perished ten thousand times, than...have touched the lap of his garment..."¹⁴³ This abhorrence of the change of war aims was well expressed by another group of ministers in an open letter of January 18, 1649 to Sir Thomas Fairfax, commander-in-chief of the New Model Army. The Houses, they declared, had deemed it proper to defend with armed force the religion, laws and liberties of the country; yet it had not been their intention "thereby to do violence to the person of the King, or divest him of his regal authority, and what of right belongeth to him...Much less was it their purpose to subvert and overthrow the whole frame and fundamental constitution of the government of the kingdom, or to give power and authority to any persons whatsoever do to do".¹⁴⁴ Thus, as the old Parliamentarians saw the matter, it was monstrous to suppose with John Goodwin that MPs purged by Colonel Pride had become mad or had become Cavaliers. Rather they were simply seeking to restore the traditional English mixed monarchy to which Charles had once been a threat but by which he was now apparently prepared to abide.¹⁴⁵

To the old Parliamentarians, then, it was the regicides who had reneged upon the principles of 1642, for as well as turning their backs upon many earlier assurances that Parliament had no designs upon the King's person or authority, they had also used naked force to coerce Parliament itself, the Parliament which they had been pledged to defend. Far from desiring a restoration of mixed monarchy the regicides apparently wished to subject the nation to their own arbitrary rule. And some old Parliamentarians had no doubt that the regicide faction was more dictatorial than ever Charles had been: as one embittered MP wrote, "their little finger has been heavier than the loins of monarchy...we were then before 1642 chastised with whips, but now with scorpions".¹⁴⁶ It was widely noted that the financial burdens imposed by the Army made Shipmoney and Charles's other exactions seem eminently bearable by comparison,¹⁴⁷ while the comparison between Charles's attempt to arrest five MPs and Colonel Pride's wholesale expulsions and imprisonments was well-nigh irresistible.¹⁴⁸ John Gere found Goodwin's contention that the Purge had been necessary to secure English liberties outrageous. In Gere's view the nation's most important civil liberty was the enjoyment of an unmolested Parliament, a liberty quite removed by allowing to inferiors "a liberty upon their own private conceits to resist and disturb the supreme judicature of the commonwealth."¹⁴⁹

One of the Colonel's most distinguished victims reflected sadly some months later on the ironies of history: "After the expense of so much blood and treasure, all the difference that can be

discerned between our former and present estate is but this; that before...under the complaint of a slavery, we lived like freeman; and now, under the notion of a freedom, we live like slaves, enforced by continual taxes and oppressions to maintain and feed our own misery". Nor was it "an open enemy that hath done this, but such as were our servants, should be our friends, and have made themselves our masters ...our conquerors".¹⁵⁰

It was the intervention of the "conquerors" in December 1648-January 1649 which was almost entirely responsible for producing the pamphlet literature of old Parliamentarianism, much of which is consequently concerned with criticising that intervention. Four main grounds were advanced in criticism of the Army's actions in this period. To old Parliamentarians, in the first place, the actions of the Army in purging the House and in bringing the King to trial and execution were improper in terms of every conceivable appropriate criterion of political principle. For an extraneous group of private men to murder their sovereign and to prevent MPs proceeding about their lawful business was intolerable in terms of the fundamental laws of the English constitution and in terms of God's will expressed primarily in Romans 13 and in the fifth Commandment.¹⁵¹ What had raised the soldiers in some respects above the rank of private men was the commission which they had received from Parliament to subdue the enemies of Parliament. The call of the Army, John Gerec insisted, was from Parliament itself, "and that call was not to be judges, but actors, according to the judgement of Parliament".¹⁵² all the talk of MPs being demented or being like a drunken ship's pilot could not disguise the nakedness of the Army's usurpation. The

gunner might well feel that he could steer a faster course than the pilot, but he was not thereby authorised to take over the ship: "Just so stands the case between the Parliament and the Army. The Parliament are best able to judge, for they are the Council of State, and have most right to guide the ship of commonwealth, for they have superior authority."¹⁵³ Even if the soldiers had different ideas about the direction of public policy, morally they had no alternative to accepting the authority of MPs: "Shall the son's judgement control the father's, or the servant's his master's?"¹⁵⁴

It was because the soldiers were private men in acting against King and Commons that the resistance of 1642 could furnish no precedent for their usurpations of 1648-49. The ministers' open letter to Fairfax stated the position clearly: MPs had resorted to force in 1642 "for the securing of the fundamental laws and constitutions...which they apprehended then to be undermined by several illegal encroachments. Yet this cannot be pleaded as any justification or precedent for you (who in^{reference} to the power of magistracy are but private persons) to usurp an authority over King and Parliament, and to intermeddle with affairs which belong not to you". Reason, and all the laws of God and man, indicated that political power was the preserve of "those which are intrusted with managing the supreme authority of a state or kingdom", to the exclusion of "a multitude of private persons, though they have strength in their hands to effect it".¹⁵⁵

Strength, it appeared to the old Parliamentarians, was one thing, legitimacy quite another: strength, John Gauden complained, was the argument of pirates and robbers.¹⁵⁶ And the old Parliamentarian

version of the "ascending" theory of politics, where it allowed the initiatives of private men at all, allowed them only in the circumstance that the inferior magistrates were unwilling or unable to subdue the tyranny of the supreme magistrate. This could hardly be the present case, for the inferior magistrates had been on the point of bringing the defeated supreme magistrate to terms when they had suddenly found themselves displaced by usurpers. The old Parliamentarians found a number of relatively small violations of the "ascending" theory in the actions of Colonel Pride et al. The Purge disfranchised a substantial number of constituencies, William Prynne and John Geree complained;¹⁵⁷ and the officers were forcefully reminded that Charles was not only their king, but was also the king of the Scots, of the Irish, and of the vast majority of English who abhorred regicide. But it was the Army's total lack of ("ascending") authority in acting against His Majesty and the MPs who had incurred the displeasure of the officers which formed the basis for old Parliamentarian criticism; "the golden chord of government" had wantonly been broken and "the authority of magistracy laid in the dust", the London ministers lamented:¹⁵⁸ this was what one might expect from Jesuits, but not from the supposed friends of Parliament.¹⁵⁹

The authority of "the people" had indeed been cited for what the officers had done, but old Parliamentarians were as sure as Charles that any kind of canvass of Englishmen would reveal a massive distaste for what was being done. An old Parliamentarian

could therefore confidentially challenge the regicides to put their assertions about popular support to the test: "If you say your sovereign lords [are] the people, then why do you not give them^{their} power and put it all to the suffrages of all the people ...whether what Parliament did in treating with the King [was] for the hurt of the people; or whether what the Army did, both against King and Parliament, be not for the hurt and ruin of the whole?"¹⁶⁰

Probably the most penetrating statement of old Parliamentarian beliefs came from Edward Gee, a Presbyterian minister in Lancashire,¹⁶¹ especially in his Exercitation Concerning Usurped Powers of 1650. Gee had made no contribution to the literature of the resistance controversy; but the Exercitation echoes strongly the Parliamentarian arguments deployed in that earlier period, and asserts its author's "eminent fidelity to the Parliament, according to their first declared principles", for the good man (he tells us) "changeth not"¹⁶². The work thus maintained that rulers were appointed by God either immediately (as with Moses and David) or mediately, through the contriving of the several human communities. Therefore, when God did not confer the sovereign power by Himself designating its recipient, he allowed "the people to elect, and constitute both their form of government, and the persons that are to sway it over them...[and in these cases] the vote of the people is the voice of God...and they passing their consent when a magistrate is to be set over them, that power, so constituted, is of God as His ordinance".¹⁶³ It followed that "no man naturally is more a magistrate

than another" for magistracy was "not a natural, but a civil relation...founded on some mutual and reciprocal act, or agreement of...rulers and subjects".¹⁶⁴ Legitimate rule, as thus understood, was protected by Romans 13¹⁶⁵ and was contrasted by Gee with usurpation, which was self-appointment without a validating commission from either God or man. Immediate designation by God apart, "all lawful power...is founded upon the wills of those over whom it is set; contrariwise, usurpation is built upon the will and power of them that hold the government; it is a self-created, or self-authorized power...".¹⁶⁶ And because a usurpatious power depended solely upon the will of the usurper, it could not but be at least in some measure tyrannous: "Where there is no title but power there can be no rule of government but power and will; only that which gives right to magistracy must set bounds to it: how can they be tied to laws in exercising government that are tied to none in coming by it?".¹⁶⁷

Gee argues in the Exercitation that there are degrees of usurpation: some usurpers simply ousted the current magistrates and appointed themselves as replacements; more serious was the usurpation which involved a change of regime as well as a change of magistrates. And it is clear that in Gee's view a "meridian altitude"¹⁶⁸ usurpation of the latter kind had taken place in 1648-49. The Army, plus a small section of the House of Commons, had seized power, ignoring former commitments (to which Gee still adhered) to the restoration of a balanced, mixed, polity. Rumper MPs (let alone private men such as Colonel Pride) could make no pretence of having an authorization from the people to change the regime. Nor could their claim to magistracy properly base itself upon the ground of mere success (supposedly

providential), a ground widely alleged by themselves and their supporters. What God allowed to happen, and what He wanted to happen were, for Gee, quite different things.¹⁶⁹ And he was able to draw the attention of the proponents of the new regime to the unacceptable consequences of the doctrine that whatever was, was right: on this view, the resistance of 1642 should never have taken place¹⁷⁰ and successful invasions, robberies (even diseases) should be met with meek acquiescence.¹⁷¹

In fact the new regime was utterly devoid of authority, and where there was no authority there could be no obligation,¹⁷² though the individual was not disbarred by Gee from defending himself in the usurper's courts or from doing actions enjoined by the usurper (such as resisting a foreign invader) which were, in themselves, proper.¹⁷³ Gee had upheld the right of the Houses to defend themselves when they had been threatened by Charles,¹⁷⁴ but such a conserving action was quite different from the "levelling" usurpation¹⁷⁵ of a small section of one of the Houses in company with some private men which had not only deprived Charles of his life and his heirs of their just rights, but had also destroyed the whole regime.¹⁷⁶

Subordinate only to the criticism concerning the Army's violation of political legitimacy was the old Parliamentarians' assertion that regicide involved perjury. Old Parliamentarians could not put aside what they took to be their previous undertakings, in the Solemn League and Covenant and in many other declarations, that they intended no hurt to His Majesty's person or authority. These undertakings, renewed at the time of Charles's capitulation,¹⁷⁷

still remained in force and could not be interpreted away by reference to other, allegedly overriding, undertakings. The London ministers thus told Fairfax that the Covenant was "no almanac out of date",¹⁷⁸ while another group of aggrieved ministers protested to the officers that they had not only taken the Covenant themselves, but had by the command of Parliament administered it to many others, thereby doubly involving themselves in the perjury of regicide.¹⁷⁹ In Might Overcoming Right John Geree further argued that regicide also involved perjury with respect to a long-standing Puritan¹⁸⁰ tradition of respect for the magistrate, dating in England from the days of Cartwright, Travers and Dodd. And Geree wondered how the Parliamentarians could hereafter look the Papists in the face, having so often condemned them for their "derogatory doctrine, and damnable practices against kings".¹⁸¹ Characteristically, William Prynne did not shrink from finding covert Jesuit influence behind the Army's actions, and (again characteristically) he gave Rumper MPs dozens of references to the various Parliamentary guarantees of Charles's safety given since the beginning of hostilities, thus reminding MPs of "their often, earnest, and most humble addresses to His Majesty, to leave that desperate and dangerous army wherewith he is now encompassed, raised and upheld to the hazard of his own and the kingdom's ruin, and to come in person to his Parliament, where he should be sure to remain in honour and safety".¹⁸² Reflected also in Prynne's contemporary writings was the widespread old Parliamentary acknowledgement that the Royalists would see in Charles's death a confirmation of their belief that the

Parliamentarians had all along intended to murder their sovereign; as a group of Oxford ministers put it, "This will be thought to verify those foul aspersions, so often abjured by the Parliament, us and other their friends, that the design in our late just defence, was the ruin of His Majesty, and the subversion of regal government".¹⁸³

Thirdly, because the execution of Charles and the associated action against MPs were wholly improper, they could not be justified in terms of necessity. Necessity, old Parliamentarians now tended to believe, could be used by any faction to justify its actions; and because it justified everything, it really justified nothing and its use was an indication that the acts in question were indefensible. John Geree thus hoped that "Mr. Goodwin will not judge that danger of inconveniency should make every man, or party of power, turn controllers of magistracy",¹⁸⁴ for that way lay the end of all magistracy, all legitimacy. And he warned the Army Grandees that they themselves might soon become the victims of the all-purpose doctrine of "necessity" if "the Levelling part of the Army" found their continued presence inconvenient.¹⁸⁵ No necessity, the London ministers informed Fairfax, could oblige a man to sin;¹⁸⁶ and Sir William Waller poignantly recalled the Parliamentary scorn for Charles's insistence on the necessity of Shipmoney: "Did not the late king make use of these very arguments in the case of shipmoney? That he would not seek to levy it but when he should be necessitated by some imminent danger, and then with no other intention but for the public defence? And yet the Parliament decried it, as introductory to an arbitrary government".¹⁸⁷

Finally, the old Parliamentarians regarded the Army's regicidal intervention as not merely a crime, but also a grave mistake. It was not at all unlikely that the ultimate outcome of murdering Charles because of his alleged incorrigible absolutism would be the establishment of a genuinely absolutist regime under his son. Because of the profound hostility at home to the King's trial and execution, and because his vengeful son would be able to recruit substantial papist forces abroad, the return of the latter as absolute conqueror was a strong possibility.¹⁸⁸ The very least that could be expected was a renewal of the civil wars as the young Charles endeavoured to regain a throne that was rightfully his, and (it was held) the English would be fortunate to escape invasions of Scots and Irish also, for were not the officers about to deprive them of their rightful king?¹⁸⁹ William Prynne warned Rumper MPs that to "unking" the Scots and the Irish would surely "engage both kingdoms to make a just war against you, to proclaim and to crown the Prince of Wales their king (though you should lay him aside) as being next heir apparent. And no ordinance you can now make will be any legal bar against him to the crown of England, where he will find ten thousand persons for one, who will join with Scotland and Ireland to set him upon his father's throne...and avenge his blood upon all who shall be aiding or assisting in its spilling, or his dethroning".¹⁹⁰ In such a situation, St Cromwell, St Ireton and St Pride would be helpless. Prynne admonished his erstwhile colleagues to consider this scenario seriously, "if not as Christians, yet as politicians and self-ended men, and then repent and be wise in time".¹⁹¹

FOOTNOTES

1. King Charles his Case (1649), reprinted in Scott (ed.) Somers Tracts (1811), V, p.223. Cook had prepared a long speech for the King's trial, but in the event did not have an opportunity of delivering it. It was published as a pamphlet shortly after.
2. Ibid. p.233.
3. Declaration of the Parliament of England, March 21st 1649, reprinted in Cobbett's Parliamentary History (1806-1812), III, cols.1295, 1294.
4. Commons' Resolution, 4 January 1649, reprinted in J.P.Kenyon (ed.) The Stuart Constitution, 1603-1688: Documents and Commentary (Cambridge University Press,1966), p.324.
5. The Charge against the King, reprinted in S.R.Gardiner (ed.) Constitutional Documents of the Puritan Revolution,1625-60 (Oxford University Press,1947), pp.371-2.
6. Declaration of the Parliament of England, op.cit. col.1293.
7. 1648, p.22.
8. Cook, op.cit. p.225
9. Ibid. p. 216.
10. Difficulties which Cook admits (op.cit.p.225) in asserting the existence of a "natural law" (which Charles had violated) common to all polities which supersedes all positive laws whatsoever, and in stating (ibid. p.226) that our ancestors had omitted to make a positive law forbidding a king to make war upon Parliament and people because they had not foreseen that any king could be so devoid of sense as to do such things.
11. Ibid. p.225.
12. The Trials of Charles I and some Regicides (1832), pp.80-1. Cf. The Peoples Right Briefly Asserted (1649), which also claimed that the people were the "parent" of the law, and concluded that because "the law is above the king, and the people above the law, it is...a thing out of question, /agreed/ by Buchanan, Junius and many others, that the people of right have a power to call in question and punish a king, for transgressing the law..." (quoted by D.M. Wolfe Milton in the Puritan Revolution /London: Cohen & West,1963/, p.200).
13. See The Trials of Charles I and some Regicides, pp.31,81.

14. Ibid. pp.87-88. The notion of a people-created polity was also the basis of Colonel Robert Bennet's assurances to the Cornish magistrates at Truro the following April that they could conscientiously proceed with their work although the king was dead. It was true that the local justices had hitherto been commissioned by the king, but this had been simply a matter of form, power being essentially "in and from the people" who had originally "brought the power into a law, /and/ the law trusted the king with it, to convey it to particular persons". Now that the "conduit pipe" of the king had been cut off, the justices should consider themselves as more directly commissioned by the people (King Charles Trial Justified /1649/, p.4.)
15. Ibid. pp.89-90; see also John Price Clerico-Classicum (1649) for treason as a betrayal of trust (p.28).
16. (1649); see e.g. p.28 for the author's general conclusion that "if the king as king be the people's creature, they his creator, then by the same power they may unking him...".
17. Ibid. p.18.
18. 1649; p.22.
19. Ibid. pp.12-13.
20. Ibid. p.11.
21. See ibid. p.15; cf.p.20: "kings are the manufacture, workmanship, or creatures of the people".
22. Ibid. p.23.
23. 1650, reprinted in the Somers Tracts, op.cit., VI, p.80.
24. Ibid. p.81.
25. Ibid. p.85.
26. Into this small category of "usurpicide" thinkers fall the Diggers, who also saw Charles as the last of a long line of usurpatious rulers stretching back to 1066: see e.g. Gerrard Winstanley, The Works (G.H. Sabine ed. New York: Russell & Russell, 1965), pp.301 ff, 330. See also Henry Robinson, A Short Discourse between Monarchical and Aristocratical Government (1649), p.7, where a usurpicide position is hinted at.
27. The True Portraiture, op.cit., p.87.
28. Ibid. p.101.
29. Pp.26-7.

30. See Cook, op.cit. p.220, and Canne, op.cit., p.28.
31. A Corrector of the Answerer, p.7.
32. Goodwin, A Defence, p.5; cf. Ireton A Remonstrance, p.50.
33. See Robert Bennet, op.cit. pp.5-6.
34. Canne, op.cit. p.24.
35. 1648, pp.4-5.
36. See Goodwin, op.cit. p.6.
37. P.48. The Remonstrance also had a number of shrewd points to make about the more or less immediate disadvantages of any kind of restoration of Charles. Back at Whitehall (on whatever terms) he would be able to exploit fully his well-known capacity for intrigue and deception in order to divide his opponents, who were already considerably less than united, with many Parliamentmen foolishly inclined towards a negotiated settlement with him. The disbandment of the costly Army (for which there would be strong public pressure) would put King and Parliament back on an equal footing, while disillusion with the outcome of the Civil Wars would make it much harder to raise an army to resist tyranny than it had been in 1642 (see pp.41-2). Furthermore, Charles's vengefulness and incorrigibly tyrannous ambitions would guarantee that a further attempt to suppress public liberties would be made, and the King would be able to excuse himself by claiming that the conditions imposed upon him at his restoration were the result of negotiation under duress, and could consequently be set aside (p.32).
38. Ibid. p.63.
39. A Declaration of the Commons of England, assembled in Parliament, January 18, 1649, reprinted in the Somers Tracts, op.cit. V,p.172.
40. See Goodwin, op.cit. p.61 and A Declaration of the Parliament of England, op.cit. col.1297.
41. See e.g. John Redingstone Plain English to the Parliament and Army (1649), p.3.
42. Op.cit. P. 234.
43. Ibid, p. 235.
44. Lucy Hutchinson Memoirs of Colonel Hutchinson (Bohn Library, ed.1854), p.335.
45. See The Armie-Remonstrance Vindicated (1649),pp.4,7.
46. Ibid. Epistle Dedicatory.
47. Ibid. p.5.

48. This critic was William Sedgwick in his pamphlet Justice Upon the Armie Remonstrance (1649); surprisingly, he was shortly to reappear as an extreme regicide in A Second View of the Armie Remonstrance (see below, pp.255-57) making only the most perfunctory attempt to reconcile the two documents. One can only concur with the statement of W.J. Sachse that "we cannot fathom the workings of his mind" ("Pamphlet support for Charles I, November, 1648-January 1649" in W.A.Aiken & B.D. Henning, eds. Conflict in Stuart England: Essays in Honour of Wallace Notestein /London: Cape, 1960 /, p.158). Sedgwick's conversion was attributed by fellow-regicide Samuel Richardson to divine intervention (see An Answer to the London Ministers Letter /1649/, p.22).
49. The Armie-Remonstrance Vindicated, pp.17,18.
50. Ibid. p.2
51. Ibid. p.10.
52. Ibid. p.22.
53. 1649 , p.8.
54. Ibid. pp.4-5.
55. Ibid. p.5.
56. See ibid. p.7.
57. Ibid. pp.7-8.
58. Ibid. p.13.
59. Cf. Sedgwick's view that Parliament, as "one heap of self-seeking" (ibid.p.9), should have been dismissed altogether rather than merely purged (ibid. p.23)
60. Ibid. p.21.
61. The Armie-Remonstrance Vindicated, p.4.
62. Ibid. p.9.
63. See ibid.
64. Ibid. p.6.
65. 1648, p.1.
66. Ibid. p.18.
67. Ibid.
68. Ibid. p.19.

69. Right and Might Well Met (1648), p.13.
70. Ibid. pp.14-15, 15.
71. Op.cit. pp.5,5,6.
72. See Goodwin A Defence of a Sentence, p.50.
73. Gardiner op.cit. p.269.
74. Parliament's other pronouncements concerning the preservation of the King's person and authority could be similarly interpreted (see A Sense of the Covenant /1649/, p.16; Robert Bennet, op.cit. p.10).
75. Pp.54,55,55; cf. A Sense of the Covenant where it is argued that subscription to the Oath of Allegiance and to the Covenant was "never intended...to nullify and make void that allegiance, service and duty" which men owed "to the King of Nations...and to the Prince of Peace" (p.16).
76. P.55.
77. Works (Bohn Library ed. 1848-53), II, p.28.
78. Ibid. pp.28-9.
79. A Declaration of the Parliament of England, op.cit. cols.1303-4; cf. the equally bold assertion of John Canne that the King "being a...steward or servant of the people, and they /MPs/ representing the whole body of the people, do call him to account...and... have a sovereign power to judge him to death, if his crimes deserve the same". (op.cit. p.33).
80. For Goodwin's reflections on this comparison, see Right and Might Well Met, p.32.
81. 1649, p.5.
82. Lucy Hutchinson, op.cit. p.330.
83. Robinson, op.cit. p.6.
84. See Goodwin, Right and Might Well Met, p.8.
85. See A Declaration of His Excellency the Lord General Fairfax (1648), reprinted in Rushworth Historical Collections, VII, p.1342.
86. On the impossibility of genuine negotiations with such a monarch, see the remarks of Henry Marten in The Parliaments Proceedings Justified(1648), quoted in C.M.Williams The Political Career of Henry Marten with special reference to the origins of Republicanism in the Long Parliament (Oxford D.Phil.1954), p.303.

87. See John Price, op.cit. p.17.
88. Petition of the Mayor, Aldermen and Common Council of Newcastle (1648), quoted by Roger Howell, "Newcastle's Regicide: the Parliamentary Career of John Blakiston", Archaeologia Aeliana, XLII (1964), p.225.
89. Right and Might Well Met, p.2.
90. Ibid. p.12.
91. Ibid.
92. Cf. Robert Bennet's account of how the "honest party" in the kingdom has been saved by the Purge from the "malignant party" (op.cit. pp.12-13.)
93. Truths Right-Side turned upwards, or, the Armies Vindication against an aspersion of Rebellion and Tyrannie cast upon them (1649), pp.2,3.
94. Ibid. p.8.
95. That the major part of the people did not themselves perceive their interests in this way is effectively conceded by Goodwin in Right and Might Well Met: discussing the awkward subject of whether the people could be said to have consented to the Purge, he commented that in treating distempered patients, doctors "need not so much stand upon the consents of such patients... about what they administer to them" (pp.14-15); and goes so far as to suggest that a depraved people might be saved even against their wills, for "they forfeit their power in this behalf unto those who are good, though but a few" (p.15).
96. Ibid. p.6.
97. See also Samuel Richardson An Answer to the London Ministers Letter(1649), where the argument that the commission received from Parliament by the New Model Army authorized the soldiers to act against MPs appears (p.1). Richardson also held that the petitions to General Fairfax indicated that a commission from the people (or at least from "the better part" of them [p.27]) could be established. Price's Clerico-Classicum (p.17) makes a similar claim.
98. See Goodwin, Right and Might Well Met, pp.7,13.
99. See, e.g. ibid. p.9 for Goodwin on William Fyenne and the drunken pilot.
100. Op.cit. pp.7,9.
101. See ibid. p.6.

102. Cf. Henry Ferne's Sermon before Charles (November 29, 1648) where the unhappy monarch is comforted by the idea that his individual release from the state of national degradation will be earlier than that of the nation itself, which must clearly wait for some time for a providential cleansing (pp.18-19).
103. New York: Cornell University Press (1966), p.127.
104. Ibid. p.21; cf. The Charge Against the King Discharged (1649), pp. 6,28.
105. The Charge against the King Discharged, p.6.
106. King Charles I, No Man of Blood (1649), p.57.
107. p.21.
108. Samuel Butler King Charles's Case Truly Stated (Somers Tracts, op.cit.) V, p.242.
109. King Charles I, No Man of Blood, p.21.
110. Ibid. p.22.
111. Ibid. p.41.
112. The Trials of Charles I and some Regicides, p.107.
113. See, e.g. Sir Francis Nethersole The Self-Condemned (1649); /Edward Hyde/ A Full Answer to an Infamous and Trayterous Pamphlet (1648), pp.163-4.
114. Samuel Butler, op.cit. p.244.
115. King Charles I, No Man of Blood, p.3.
116. p.54.
117. The Charge against the King Discharged, p.10; cf. Henry Hammond Adresse to the Lord Fairfax and his Councill of War (1649), p.10.
118. The Charge against the King Discharged, p.33.
119. Independency Stript and Whipt (1649), p.9.
120. Ibid.
121. See, e.g. A Vindication of Dr. Hammonds Adresse (1649), p.29 .
122. Ibid. p.27.
123. See King Charles I, No Man of Blood, p.29.

124. The King's Written Defence, reprinted in C.V.Wedgwood (ed). The Trial of Charles I (London: Folio Society, 1959), p.149.
125. Ibid. p.150.
126. The Trials of Charles I and some Regicides, p.94.
127. See ibid. pp.32-3.
128. Ibid. p.45.
129. As we have already noticed, Nedham had been a man of 1642, but was temporarily converted to Royalism for the period 1647-49, during which he wrote The Case of the Kingdom Stated and A Plea. In these works he makes scarcely any reference to his previous allegiance, and is therefore to be distinguished from the old Parliamentarians, who asserted the consistency of their position throughout the period. Nedham, whatever the genuineness of his various somersaults, was a skilled expounder of views, and in 1647-49 he was expounding old Royalism.
130. 1648; Preface.
131. Ibid.
132. Ibid. p.22.
133. Ibid.
134. Ibid.
135. See Edward Symmons A Vindication of Charles I (1648:reprint 1693), pp.108-9.
136. The Trials of Charles I and some Regicides, p.49.
137. See The Charge against the King Discharged, p.10.
138. The Trials of Charles I and some Regicides, p.109.
139. Op.cit. p.49.
140. Vindication of the Character and Conduct of Sir William Waller (1793), pp.316-17.
141. Ibid. pp.301-2.
142. The Dissenting Ministers Vindication of themselves, from the horrid and detestable murder of Charles I (1649), Harleian Miscellany, II, p.513.
143. Op.cit. p.303.

144. A Serious and Faithful Representation (1649), p.7.
145. See John Gere Might Overcoming Right (1649), p.11.
146. Memoirs of Denzil Holles (reprinted in F.Masceres [ed.] Select Tracts relating to the Civil Wars in England [1815] I, p.307;) see also The Religious and Loyal Protest of John Gauden (1649), p.2.
147. See, e.g. Waller, op.cit., p.27.
148. John Gere's treatment of this point is instructive. Charles had required only five MPs, and had intended to lay charges against them in the proper manner. And, after all, he had been the supreme magistrate. The contrast with what had been done in December 1648 could scarcely have been more marked (see op.cit. pp.28-9).
149. Ibid. p.27.
150. Waller, op.cit. pp.30-1.
151. See A Serious and Faithful Representation, p.4; Gere, op.cit. p.22.
152. Op.cit. p.19.
153. Ibid. p.11.
154. Ibid.
155. A Serious and Faithful Representation, p.6; see also Gauden, op.cit. p.10, for another sharp criticism of the intervention of private men "without an orderly authority".
156. The Religious and Loyal Protest, p.5.
157. A Briefe Memento to the present Unparliamentary Junto, reprinted in Somers Tracts, op.cit. V, p.180; Gere, op.cit. p.40.
158. A Serious and Faithful Representation, p.10.
159. See ibid. p.11.
160. [Christopher Love] A Modest and Clear Vindication...of the Ministers of London (1649), p.30. The author estimated that the people would be three hundred to one against the officers (ibid.).

161. Gee is probably the outstanding old Parliamentarian contributor to the Engagement controversy, into which the Regicide controversy merged. The Engagement controversy was concerned with the propriety of taking the Engagement administered by the new regime (at first to office-holders, later to all adult males) pledging subscribers to eschew disloyalty. It is beyond the purpose of the present work to delve into the controversy, which has already been acutely analysed by M.W.Wallace: see Destiny his Choice: The Loyalism of Andrew Marvell (Cambridge University Press, 1968); but Gee's crisp use of the "ascending" theory to put down the pretensions of the regicides makes a reference to his ideas appropriate here. For a fuller treatment, see I.M.Smart, "Edward Gee and the matter of Authority" (Journal of Ecclesiastical History, XXVII, 1976).
162. Exercitation, "To the Reader", emphasis added.
163. Ibid. p.2.
164. Ibid. p.14.
165. See ibid. p.64 ff.
166. Ibid. p.4.
167. Ibid. p.15.
168. Ibid. p.5.
169. Ibid. pp.62-3; cf. his subsequent distinction, in The Divine Right and Original of the Civil Magistrate from God (1658), p.143, between God's "narrative" and "imperative" wills.
170. See the Exercitation, p.67.
171. See ibid. p.65.
172. See ibid. p.9.
173. See ibid. pp.22-3.
174. See ibid. p.54.
175. Gee was himself accused of being a "leveller", in that his refusal to recognise the authority of the Republican government disposed of legitimacy altogether and tended to promote an anarchic situation in which men would do what they wanted. Gee's reply was that any levelling that might be observed was "the consequence of their doings, who take away the settled magistracy" (ibid. p.81).
176. See ibid. pp.54, 72 ff.
177. See Gauden, op.cit. p.9.

178. A Serious and Faithful Representation, p.8.
179. See The Dissenting Ministers Vindication, op.cit. p.514.
180. "Puritan" is Geree's word, though his use of it suggests that he might have preferred another designation. He tells Lady Fairfax in his Epistle Dedicatory that "after the way that has been called Puritanism have I served the God of my father for somewhat above thirty-three years".
181. Op.cit. Epistle dedicatory.
182. Op.cit. p.177.
183. Zachariah Breedon et al. The Humble Advice and Earnest Desires (1649), p.4; cf. Gee An Exercitation, pp.20-21,31.
184. Op.cit. p.5.
185. Ibid. p.33.
186. A Serious and Faithful Representation, p.14.
187. Op.cit. p.36.
188. See /Clement Walker/ Animadversions upon the Armes Remonstrance /1648/, p.16.
189. See Prynne, op.cit. p.18.
190. Ibid.
191. Ibid. ; see also A Declaration of the Presbyterians concerning the Kings Majesty (1648), p.3.

CONCLUSION

The evidence of the literature of English politics in the period 1642-49, from resistance to regicide, indicates forcefully that a certain general understanding of political legitimacy, which has been called the "ascending" theory of politics, was being accorded a substantial credence among literate persons. This was the theory which had apparently informed the Parliamentarians' understanding of the essential character of the English constitution in 1640-42, and which certainly did inform their subsequent defence of this essential character in the Civil War. In due course, the emergence of more radical versions of the theory (which on the one hand justified regicide and on the other the intrusion into the pale of politics of masses of people normally excluded from it) has also been observed. These more extreme versions of the "ascending" theory may be seen as carrying the English Revolution much further than the majority of those who have been called "the men of 1642" wanted to go, and they were criticised accordingly. Though only slightly tinged with republicanism, the regicidal "ascending" theory was too extreme for the more conservative men of 1642 (who, however far they had been driven in practice towards a seizure of sovereign power, still took themselves to be defending English mixed monarchy), while the populist "ascending" theory went further than either the conservative men of 1642 or the regicides wanted to go. This version of the theory was thus rejected by the main political factions in the period of Leveller activity, notwithstanding the differences (again articulated in part in terms of the "ascending" theory) which these factions had with one another.

M.A. Judson has thus correctly stated that it was the Levellers "who carried to their logical conclusion those political ideas with which the Parliamentary-Puritan opposition had long battled the King"¹, but this was an exercise in logic which most of the members of that opposition did not care to see pursued.

A consideration of the ideological aspects of the English Civil War therefore reveals a familiar process whereby revolutions tend, from the standpoint of some (at least) of their instigators, to get out of hand, producing thereby unlooked-for circumstances fraught (from their standpoint) with disastrous paradox. The consciousness of regicide and Leveller-inflicted paradox is probably nowhere better expressed than in the 1649 pamphlet The Essex Watchmans Watchword, a work signed by a number of local clergymen. In 1642 the authors had (they said) answered the lawful summons of the Houses of Parliament to help prevent the realisation of the tyrannous ambitions of the malignants surrounding the King: "But O how amazed are we [now], to behold the sad issue the war is now driven unto. To see a war begun for the defence of religion, likely to end in the ruin of religion; a war begun for the defence of the King, even ending in the death of the King; a war begun for the defence of the Parliament, ending in the violating of the present, and mutilation of future Parliaments, both in point of election and constitution".²

In a sense, English history from 1640 to 1660 is the story of how a situation in which a monarch confronted the political nation almost alone was transformed into a situation in which the

political nation was virtually united in welcoming back the first monarch's son. It was Charles's isolation in 1640-41 which obliged him to consent not only to the loss of his chief advisers and to those drastic curtailments of his powers known as the "Constitutional Revolution", but also to what has been called the "unprecedented impertinence" of having his wife's physician examined by the Commons to ascertain whether her reasons for wanting to visit Spa were genuine or not, a minor incident which nevertheless tells us much about the political circumstances of the period.³ However, the King's isolation was so effectively overcome that by the autumn of 1642 he was able with some confidence to embark upon a full-scale civil war with his opponents, a war which he sustained for four years notwithstanding divided military counsels and notwithstanding the intervention of the Scots who had seemed so formidable in the years preceding the outbreak of war. The whole period reveals in fact a continuing movement of politically significant persons away from the orbit of the King's more determined opponents and towards either worried neutrality or outright Royalism. Thus, a very substantial number of Peers and MPs joined the King in 1642-43, while by 1648-49 it could be argued with considerable plausibility that those responsible for Pride's Purge and the trial of the King were only a tiny fraction of the political nation, the rest of which strongly desired the return (on terms) of His Majesty. And it seems that little was to happen during the following decade to persuade these moderates to change their minds.

Of the reasons for this movement away from Westminster, away from determined anti-Royalism, some indication has been observed in the

literature of contemporary politics. These reasons may perhaps be summed up in terms of precisely this feeling that matters were getting out of hand, that a familiar and valued reality was in danger of destruction. The King's opponents, it now seemed to some, were much more likely than he to establish a dictatorial regime, threatening the English tradition of mixed monarchy, acting oppressively, and violating the law much more comprehensively than ever he had done. And the events of December 1648 and January 1649 confirmed that this feeling had not been misplaced. Also, alongside the lawless and dictatorial ambitions of Charles's leading opponents came the perceived threat to a valued reality from the intrusion of the lower orders into public affairs, and alarm at this threat was expressed throughout the 1640s, from Sir Edward De ring and the Hothams in 1642-43 to Denzil Holles in 1648. And it is reasonable to suppose that Thomas Hodges (a man of 1642) spoke for the political nation as a whole when he welcomed the return of the Stuarts in 1660 as bringing to an end a period which had not only seen order confounded, laws subverted, lawful magistracy extirpated, but also "servants riding on horseback, while princes went on foot".⁴ In respect of both these concerns (i.e. fear of dictatorship and fear of popular intrusion), it has been observed that the "ascending" theory could be understood as an encouragement to, and a justification of, the destruction of the familiar.

Royalism had rejected the "ascending" theory by insisting upon its own conception of the specific divinity (conferred directly by God and therefore not conferred by the community) of magistracy; and Royalism had contained from the outset a consciousness that what had been

started by relatively conservative Peers and MPs in 1642 might well be continued or even finished by others, and that the theory of politics of the men of 1642 positively invited the intervention of others. The Royalists thus warned the men of 1642 against removing the lid of Pandora's box, against removing what Clarendon called the "landmarks" of the English constitution.⁵ By 1649, however, it appears that the Royalists were too demoralized to take full ideological advantage of a situation in which their prognostications had proved to be well-founded: as a contemporary observed with only a little exaggeration, they were "all retired to a private life, to eat the bread of carefulness, expecting God's good hour for their restoration".⁶

The "descending" theory of politics reappeared with the Restoration, and more particularly with the brief posthumous vogue of Sir Robert Filmer's ideas during the Exclusion Crisis, when John Locke found Filmerism "the current divinity of the times".⁷ But of course the future did not lie with the "descending" theory: when Charles claimed on the scaffold that a subject and a sovereign were "clean different things" and that participating in government was "nothing appertaining" to the people, he was setting himself firmly against modernity. It was naturally the more extreme of his supporters who revealed this opposition to modernity most clearly, as with the Anglican clergyman Michael Hudson, who went so far in his rejection of the "ascending" theory as to suggest that where hereditary descent and providential conquest had failed to provide a society with a legitimate ruler, drawing lots for the office of

sovereign should be resorted to (any kind of election being "absolutely unlawful"), thereby allowing God to bestow the divinity of monarchy through the working of chance.⁸

Ultimately almost all rule would be, at least purportedly, by the people and for the people, and little more would be heard of rulers who were inherently qualitatively different from other men in respect of a specific grant of authority direct from God. In a secular, demystified world, Charles and his like had no place. But such a world also had no place for the Saints who, because Charles had proved himself to be an incorrigible enemy of God as well as of the people, had been largely responsible for bringing the King to the scaffold. The destructiveness of the Saintly ethos, so well described in the works of Michael Walzer,⁹ was fully released by the turmoil of the Great Rebellion and found, perhaps, its ultimate expression among persons of political significance in Major Thomas Harrison, who was not only a valiant Parliamentary soldier and a regicide, but was also the man who pulled the Speaker from the Chair when the Rump was forcibly dissolved by Cromwell, an occurrence later to be used against him at his trial for regicide when he alleged the authority of Parliament for his part in putting Charles to death.¹⁰

These circumstances, though highly individual, are significant in that they show the unease with which the "ascending" theory kept company with the Saintly ethos. And we have observed in considering the execution of Charles I that the Parliamentarian Saint was prepared to modify the "ascending" theory so drastically as to take from it most

or all of its empirical referents: he would act in the people's name, ignoring established procedures or majority opinion, and if "the people" were against him, so much the worse for them. There is thus a sense in which the anti-Royalist actions of 1642 may be contrasted with those of 1648-49. In 1642, a duly elected Parliament, representing the nation, had decreed the practices of the King to be illegal and sufficiently tyrannous as to constitute a threat to the mixed-monarchical regime. While disavowing any design upon the person or authority of the supreme magistrate, the inferior magistrates at Westminster had summoned the nation to a defensive action against him and those assisting him. In 1648-49 a small (but powerful) group of private men who had decided that the King was incorrigibly evil excluded from the House of Commons such MPs as did not agree with them, and thereby were able to bring the King to trial and execution with the approbation of what remained of the representative body. God was no doubt their refuge and strength, but the "ascending" theory now appeared as a double-edged weapon, and arguably its sharper edge was turned towards their own throats. A warrant from the (purged) House of Commons maintained a tenuous thread of connection to legitimating procedures with respect to the action taken against Charles, but we have seen that in its extreme form the Saintly ethos would have been prepared to cut this thread in the confidence that the iconoclasm of the Independents would be sustained by its pure righteousness. As a modern scholar has put it: "Increasingly...it came to be felt by many Independents that magisterial authority inhered in moral authority: that if a man knew what ought to be done, then it followed that he had the right to do it, if he could".¹¹

But ultimately, "the people" could not live with the Saint any more than they could live with God-like kings, and procedures reasserted themselves against his self-authorizing waywardness. This, surely, is part of the explanation of the triumphant return (as many contemporaries saw the matter) of the "ancient constitution" of king, Lords and Commons in 1660.¹²

With respect to the Leveller version of "ascending" politics, what appears is clearly an important part of what Christopher Hill has called "the revolt within the revolution",¹³ that is to say, a manifestation of the dissatisfaction with the outcome of revolutionary violence felt by some of those participants who, though not originally belonging to "the political nation", had nevertheless been drawn into the revolutionary struggle by the urgings of that section of the political nation most dissatisfied with the status quo. The Levellers were outflanked in their disillusionment and in the ideological extremity of their reaction by Gerrard Winstanley and the Diggers (or "True Levellers", as they did not shrink from calling themselves). But True Levellerism, because it involves neither an assertion of the "ascending" theory nor a refutation of it, falls outside the scope of the present study.

FOOTNOTES.

1. The Crisis of the Constitution (Octagon Books, 1971), p.383.
2. p.4.
3. C.V.Wedgwood The King's Peace (Fontana, 1966), p.405.
4. Derek Hirst "The Defection of Sir Edward Dering", Historical Journal, XV, 1972; C.V.Wedgwood The King's War (Fontana, 1966), p.162; Memoirs of Denzil Holles (reprinted in F.W.Maseres /ed./ Select Tracts relating to the Civil Wars in England /1815/) I, p.191; Sions Helelujah, p.14.
5. The History of the Rebellion and Civil Wars in England (1888), I, p.343.
6. Certaine Considerations touching the present factions in the Kings Dominions (1648), p.3.
7. Two Treatises of Government (ed.P.Laslett, Mentor, 1965), p.172.
8. The Divine Right of Government (1647), p.126. Hudson cites as precedents for this procedure the appointment of Saul (1 Samuel 10) and the post-crucifixion conduct of the Apostles (Acts I.26). For the horrific price which Hudson ultimately paid for his tenacious adherence to Charles's cause, see the DNB.
9. The Revolution of the Saints (Weidenfeld & Nicolson, 1966); "War and Revolution in Puritan Thought", Political Studies, XII, 1964.
10. See C.H.Simpkinson Thomas Harrison: Regicide and Major-General (1905); especially p.251: "He /Harrison/ had set all legality at defiance: Kings, Lords and Commons were alike overridden by his action, and he had always appealed to a higher court than any on earth, and claimed to be directly guided by the spirit of God".
11. Richard Tuck "Power and Authority in Seventeenth Century England", Historical Journal, XVII, 1974, p.54.
12. See J.G.A.Pocock The Ancient Constitution and the Feudal Law (Cambridge University Press, 1957), p.156.
13. The World Turned Upside-Down (Temple-Smith, 1972), p.11.

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