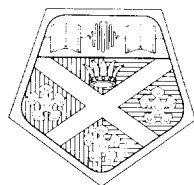


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THE ENGAGEMENT RE-ENGAGED: Political Thought in Post-Regicide England

by
John Sanderson

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POLITICAL THOUGHT IN POST-REGICIDE ENGLAND**

by

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Some scholarly attention has recently been focused in the context of the Engagement controversy on the supposed realism, the supposed pragmatism, of a number of *de facto* theorists. They responded positively to the new regime's demand (ultimately made of all male eighteen-year-olds and above) that they "be true and faithful to the Commonwealth of England, as it is now established, without a King or a House of Lords" by urging the prudence of complying with this demand and by attacking what appeared (at least to their aficionados) as more principled responses to the Republic's demand. The controversy is thus understood by (for example) Margaret Judson to exhibit a movement "from tradition to political reality" with many authors now "concerned with present reality, not with past traditions and rights"¹. And the "present reality" for a significant body of opinion was indeed the existence of a government plausibly offering protection in return for a modicum of obligation, and some at least of its supporters did indeed give the sort of "down-to-earth advice"² which is the major concern of Ms Judson in her 1981 monograph. "In analysing the new government of this age-old commonwealth", she reports, "writers coldly and pragmatically turned to the facts of its existence. Their concern became not the government's origin or legality, but the present realities, such as the fact that the Rump was still in possession"³.

In what follows, I will refer briefly to the pragmatists who are Ms Judson's principal concern, but my primary object is to follow the adventures or misadventures of what has been called the "ascending" theory of politics which had substantially justified the Parliamentarian/Regicide assault on the monarchy in the fifth decade of the seventeenth century⁴. The "ascending" theory of course involves the idea that the legitimacy of governments is the consequence of some form of "upward" movement of authorization by "the people" over whom it presides. I have argued elsewhere that the "ascending" theory was the salient intellectual device whereby Parliament's resistance to Charles I, culminating in his execution in January 1649, was justified⁵. What

¹ M.A.Judson, *From Tradition to Political Reality* (Archon Books, 1980), p.68.

² *Ibid.*, p.77.

³ *Ibid.*, p.83. The pragmatism of some of the Engagers has famously been said by Quentin Skinner to help to establish the essential nature of the argument deployed in Thomas Hobbes's political works (to which they sometimes referred). The controversy which ensued is too large to be treated here.

⁴ I have given some account of these occurrences in *But the People's Creatures: the philosophical basis of the English Civil War* (Manchester University Press, 1989).

⁵ See *ibid.*, especially chapters 1,7.

might be found just as interesting as the onset of pragmatism is the way in which "ascending" politics, which had with considerable consistency been found on one side of the Civil War (being almost universally abhorred by the other), becomes dissipated, being deployed in a variety of ways by writers taking a variety of stances *vis-a-vis* the Engagement.

I

In order, however, to observe the pragmatic element in the context wherein the "ascending" theory to some degree comes to grief (at least temporarily) something should briefly be said about the theorists who have taken Ms Judson's eye. Let me begin with Marchamont Nedham, a notorious publicist of the period who had changed sides twice during the course of the Civil Wars, beginning as a writer with the Parliamentary journal *Mercurius Britannicus* but having also written an effective pamphlet on the King's behalf in 1647 called *The Case of the Kingdom Stated*.. By 1650 he was back with the winners, writing a long pamphlet, *The Case of the Commonwealth of England, Stated* (incidentally one of the very few Engagement controversy pamphlets to be reprinted in the twentieth century).

In a way which old Royalists must have found poignant, Nedham stresses the divinity of political power, and stresses that this divinity is not effaced by the dubious origin of the rulers concerned. Like an old Royalist in 1642, Nedham tells us that "all power is from God; and our Saviour told Pilate the power that he had was given him from above, though all the world knows that Pilate was but a deputy governor, and...received his power from Caesar, who was an usurper"⁶.

In fact, the way Nedham tells it, there were scarcely *any* rulers who were not themselves usurpers or had not drawn their succession from usurpers. Indeed, so prevalent was usurpation that the concept begins to lose its purchase, and Nedham ends up arguing that all *existing* regimes and all *existing* rulers are to be taken as legitimate, however murky their origins. Providence has promoted such rulers, and it is no part of our remit to challenge the outcome on behalf of previous establishments: "...it must needs be as much madness (Nedham tells us) to strive against the stream for the upholding of a power cast down by the Almighty, as it was for the old sons of

⁶ *The Case of the Commonwealth of England, Stated* (1650), Folger Library edition (1969), p.32.

earth to heap up mountains against heaven. And when all is done [he continues], we shall find it but labour in vain that we have fortified castles in the air against fatal necessity to maintain a fantasy of pretended loyalty"⁷.

Misplaced loyalty was certainly a luxury we could not afford in Nedham's world where providence regularly dictated the mutation of regimes and rulers. He speaks on p.8 the modern Folger Library edition of "those rapid hurricanes of fatal necessity which blow upon our affairs from all points of the compass". Now this fatal necessity which blows upon us is almost invariably the product of *violence*, the Nedham copiously illustrates the ubiquity of regime and ruler-change *via* violence in the ancient world and in the biblical period. In fact, the first genuine magistrate, Nimrod, had established his position through violence when it had become clear that human waywardness had reached a level where patriarchal authority was unable any longer to keep it under control. Nimrod had taken a violent initiative which could easily be accounted usurpation, but it had to be accepted contemporaneously as both providential and necessary.

The same story was found the same story when English history was examined: "I shall draw nearer home [Nedham announces] and make it...clearly appear likewise that the power of the sword hath ever been the foundation of all titles to government in England both before and since the Norman Conquest". As with Harold and William in 1066, and with Richard III and Henry Tudor in 1485, the sword had dictated the succession and the people had sensibly (and indeed from this point of view *scrupulously*) accepted the outcome (for it was the work of providence)⁸.

What we were confronted by in 1650 was not merely a change of rulers, but a change of regime: but the same considerations applied. In fact, Nedham's study of history led him to conclude that the time of England's monarchy in its modern (i.e. post-1066) form was drawing to a close : to refuse to accept this fact made one an "anarchist", a menace to what Nedham called (possibly following Hobbes) the "civil conversation". *Romans 13* was really concerned with sustaining the civil conversation, Nedham assures us, but sustaining the conversation was also eminently commonsensical since (as we read in the same passage) "the opening of a gap to question supreme power and touch the tender eye of their authority would let out all into confusion,

⁷ *Ibid.*, p.13.

⁸ *Ibid.*, p.25.

tumult following tumult...till the world were overwhelmed with a sea of miseries and distractions"⁹.

Nedham is able to dismiss the prior obligations (prior, that is, to the Engagement) such as the Solemn League and Covenant, which some contemporaries thought they had. He uses the familiar hierarchy of obligations argument to disarm the Covenant, pointing to the way in which document's *fundamental* commitment to liberty and true religion should take precedence over commitments to the monarch - but more philosophically points out that all agreements are based upon *pragmatic* premises and are made for *pragmatic* reasons, and that currently pragmatism clearly indicated an acceptance of the current regime which was plausibly offering protection in return for a minimal commitment on the part of the citizen¹⁰.

Also specifically dismissed by Nedham was Edward Gee's old Parliamentary insistence (see below) that legitimacy in politics is the consequence of public *consent*: "To which I answer...that if only a call from the people [can] constitute a lawful magistracy, then there hath very rarely ever been any lawful magistracy in the world, nor amongst us long before and since the Conquest"¹¹. But in any case, Nedham thinks we *should* consent: to have any regime was a good deal better than not having one at all.

This kind of pragmatism found, if anything, even starker expression in Anthony Ascham's work *Of the Confusions and Revolutions of Government*, published in 1649 and enlarged in 1650. Ascham comes very close to arguing that inquiries into political legitimacy are completely misguided, and must give way to the hegemony of fact. Political legitimacy, as commonly understood, is *always* equivocal, Ascham assures us. And given this inevitable equivocation, was it worth getting ourselves killed to support an allegedly superior claim? The only outcome of debates about legitimacy will be, Ascham assures us, "vast perplexity"¹², and he urges us to focus our attention upon a much simpler question, that is to say, "Who has got us at their mercy and can therefore exact tribute from us?". Christ's example Ascham regards as instructive here: "'Tis beyond all cavill [Ascham assures us] that our Saviour's opinion was positive for paying of tribute to the very Caesar, because *de facto* he did pay it. And the plain reason of it appears evident in this his answer:

⁹ *Ibid.*, pp. 30, 47.

¹⁰ See *ibid.*, p.30ff.

¹¹ *Ibid.*, p.37.

¹² Extracts reprinted in David Wootton (ed.), *Divine Right and Democracy* (Penguin, 1986), p.342.

Caesar's face was upon the coin; that is to say, Caesar, by conquest, was in possession of that coin by possessing the place where he obliged them to take it: coining of money being one prerogative of sovereign power"¹³.

We all recognize the propriety of paying a highwayman when he has us at his mercy, claims Ascham: and the same considerations apply in political exigencies (and they occur frequently) such as the present when we are confronted by an overwhelming power. And it is fatuous, Ascham argues, for the erstwhile ruler or his heirs to claim our allegiance from abroad: sensibly we must regard them as yesterday's men and disregard their admonitions as we look out for ourselves.

Before we leave the pragmatists and the theorists of providence, we should notice the case of Sir Robert Filmer who, towards the end of his life wrote a short pamphlet significantly called *Directions for Obedience to Government in dangerous or doubtful times* (1652). Now the *Directions* does not go as far as to advise its readers to take the Engagement (the Engagement is not in fact explicitly referred to), but a distinctly soft line on usurpation is nonetheless taken. Filmer begins by reiterating his criticisms of those "ascending" theorists (among them Thomas Hobbes) who had seen paternal rule as being superseded by some kind of popularly-agreed magistracy when the numbers of humanity expanded. To make subjects free, chided Filmer, "to imagine such pactions and contracts between kings and people, as cannot be proved ever to have been made, is a boldness to be wondered at"¹⁴.

Far from being superseded by people-created and therefore (allegedly) genuine political power, paternal power *is* genuine political power: moreover, it cannot be lost, though it may be transferred or usurped. God transferred to Saul in the Old Testament a fatherly power over his own father Kish, when Saul became king. Of usurpation we have many more examples. Filmer reminds us not to write off the usurper, "for he has a possession by the permissive will of God"¹⁵, and not to neglect to preserve ourselves (presumably by not making trouble for the usurper) so that we will in due course be able to offer our allegiance to the erstwhile legitimate ruler, should he manage to return. However, in the event of his *not* returning, prescription will confer what one can only call full legitimacy upon the usurper or his successors. Where a usurper, Filmer tells us, "hath continued so long, that the

¹³ *Ibid.*, p.345.

¹⁴ P. Laslett (ed.), *'Patriarcha' and Other Political Works of Sir Robert Filmer* (Blackwell, 1949), p.231.

¹⁵ *Ibid.*, p.232.

knowledge of the right heir be lost by all the subjects", then he is to be taken and reputed by such subjects for the true heir, and is to be obeyed by them as their Father"¹⁶.

These last remarks can hardly, of course, be taken as applying to the situation in the early 1650s, but they *do* indicate a willingness on Filmer's part to countenance usurpation, especially when they are accompanied by the suggestion that in obeying the usurper on *specifics* we are probably doing what the erstwhile legitimate ruler would have decreed were he still in possession.

II

Thus, *de facto* approaches manifested themselves, and may strike us (along with Ms Judson) as intimating a wave of the future. But before we write off previous approaches, I want to pause and ask the question, what happened to "ascending" politics, an approach of great historical significance and which had hitherto proved so serviceable?

This general philosophical orientation had hitherto played a major role in the debates of the period. As we have seen previously, it had been to hand when a significant number of Charles's subjects decided that his rule (as influenced by evil advisers) was unacceptable and that one way or another it would have to be considerably modified. The Scots had exhibited a similar orientation (albeit in a singularly unwordy revolution) but in the richer society with more printing presses, an "ascending" truth was widely proclaimed as some Englishmen came to blows with the supporters of their king. This truth which justified resistance to a misled king (often with the avowed object of rescuing him from his evil advisers) came in due course to be used to justify the alarming Leveller proposals for a complete recasting of English politics, and to justify the trial and execution of a king who had until fairly recently been said to be merely badly advised (i.e. not malevolent), and with whom therefore a negotiated settlement could be achieved.

In this latter context, the critical document had been *A Remonstrance...of the Parliament's forces...presented to the Commons*

¹⁶ *Ibid.* This account of Filmer's view *circa* 1650 receives support from a contemporary Filmer MS quoted by Ms Judson in which it was suggested that we should "engage to endeavour the restoring it [the commonwealth], according to those ancient bases and fundamental laws upon which it was first raised" (*op. cit.*, p.54)

assembled in Parliament of November 20th 1648, often attributed to Oliver Cromwell's son-in-law, Henry Ireton. This document confidently proclaims that "the public interest of a nation...(which hath been the chief subject of our contest) and [which is] in opposition to [the] tyranny and injustice of kings or others, we take to lie in these things following. That for all matters of supreme trust or concernment to the safety and welfare of the whole, they have a common or supreme council or Parliament...to consist of deputies or representers freely chosen by them, with as much equality as may be, and these elections to be successive and renewed..."¹⁷. This supreme council was to be summoned, the *Remonstrance* asserted, by "some subordinate standing officer" who had been entrusted by the people for that very purpose¹⁸. However, where such an officer transcended his limited role in the polity and abused his power "to the hurt and prejudice of the generality...[and] also by the advantage of the trust and power he hath, shall rise to the assuming hurtful powers which he never had committed to him, and to swallow up all into his own absolute will and power"¹⁹, then the bonds of the covenant between him and the generality were severed and the people could proceed to a judgement against him as a public enemy.

Thereafter, the *Remonstrance* proposes a general "Agreement of the People" whereby "the supreme power and trust" should be unequivocally recognized as laying with the representative body, for the regular sitting (at least every second year) of which provision should be made. Subsequently all judicial and executive officers would be responsible to this representative body, which should have authority to act in any policy area except that it would not be able to question men for acts done in the course of the Civil Wars and it would not be able to revoke any of the Agreement's provisions. The *Remonstrance* thus calls for the making of such an Agreement, insisting at the same time "that none may be capable of any benefit by the Agreement who shall not consent and subscribe thereunto" and that no king should be admitted hereafter in the absence of the same subscription on his part²⁰.

Now much of this was of course significantly different from what the Parliamentarians had said fairly consistently prior to the second Civil War, which broke out in 1648, for in the earlier period the rhetoric of rescuing the king from his "evil advisers" retained its prominence. But in both periods

¹⁷ Pp. 14-15

¹⁸ See p.15.

¹⁹ *Ibid.*, p.22.

²⁰ *Ibid.*, p.67.

"ascending" politics was the resisters' main philosophical justification, and its regicidal form (as with the *Remonstrance*) is recognizably merely a modification of the theory which had justified armed opposition to Charles throughout mainland Britain since the Autumn of 1642²¹.

So "ascending" politics had been able to sustain itself during Civil War, surviving with some unity of direction abortive negotiation and even (with certain caveats) a purge of conservative MPs and the regicide which this purge made possible. But with the Engagement controversy its impact would be at least temporarily dissipated in interesting ways which are worth tracing as baffled Englishmen tried to come to terms (philosophically) with an unprecedented situation, without monarchy and without the House of Lords, both of which were abolished by the junta of soldiers and radical politicians now in charge.

Now the documentary record indicates a certain scattering of "ascending" politics to various ideological winds which constitute the Engagement Controversy of 1649-52, immediately succeeding the regicide controversy of 1648-49. Now the Engagement is in itself of considerable significance. Ultimately (in January 1650) it would be offered to all male eighteen-year-olds and above who thereby promised (as we have seen) to "be true and faithful to the Commonwealth of England", notwithstanding the absence of the king and the House of Lords and it may of course *itself* be seen as an exercise in "ascending" politics, with political legitimacy being provided at least in part by an act of authorization on the part of a large section of the population.

Now the "ascending" theory was still ready to do good service when some of its more radical *aficionados* (now directing public policy, of course) had need. Thus an observer of the post-regicide situation reported the presence of the view that at the root of any proper constitution was the political creativity of a free people who "having the original of all just power in itself, to manage its own affairs" ²² had conveyed their authority to their elected representatives in the confident expectation that they would do whatever was needful in any exigency that arose. And (reportedly) the holders of this opinion did not shrink from the view that neither Pride's Purge nor the disappearance of the upper House had undermined the authority of those remaining at Westminster. During the 1640s, it was being argued, crucial

²¹ See Sanderson, *People's Creatures*, ch.7.

²² *Memorandums of the Conference held between the bretheren scrupled at the Engagement; and those who were satisfied with it* (1650), p.25.

public business had been conducted by fifty or sixty MPs, whereas Colonel Pride had left over one hundred in place. And the expulsion of the bishops from the Upper House in 1641 was reportedly being cited as a precedent for the more recent legislative surgery undertaken by the said Colonel Pride²³.

This persistence of a populist "ascending" approach to politics among the pro-engagers was found ironic by a contemporary author (probably Nathaniel Ward) at the precise juncture when *de facto* theories were being deployed to achieve the same mischievous ends. Surely, one could not argue at one and the same time that the legitimate government was the one we actually had and that it was not ours to reason why, and that legitimate government had to be people-created and people-authorized? "If the change in government concerns not the commonality...why is it so falsely and frequently taught and received that the supreme authority of the kingdom lies originally in that sort?"²⁴.

That theories of this "ascending" kind were indeed extant can be confirmed more directly by a reading of several of the contributions to the Engagement Controversy. Take, for example, *The Government of the People of England precedent and present the same* - attributed to John Parker - which (drawing some inspiration from the Huguenot *Vidicaie Contra Tyrannos*) strongly asserted the authority of the people's elected representatives to act in an emergency on the principle of *salus populi suprema lex*, removing kings and peers if they deemed this necessary²⁵. We can also refer in this context to the Scotophobic *English Banner of Truth Displayed* which denounced the 1650 Scottish attempt to reimpose a monarchical regime upon the English: "they seek...bloodily to put the son of the late king over us [and] to mould our constitution according to their pleasure"²⁶. Once, the *English Banner* conceded, the Scots had known how to conduct themselves properly, recognizing in the 1640s that "it was contrary to the Law of Nature (the safety of the people) that one man should be above the law, and dispose of the lives and estates of the nation as he pleased"²⁷. The same principal still applied (according to this author), but the Scots had clearly forgotten it.

²³ See *ibid.*, pp.29-31.

²⁴ [Nathaniel Ward], *Discolliminium* (1650), p.12.

²⁵ 1650; pp.4-6.

²⁶ 1650; p.5.

²⁷ *Ibid.*, p.6.

A reading of Thomas Paget's *A Faithful and Conscientious Account for subscribing to the Engagement* is also instructive here. Paget held very firmly to the view that the English polity had been people-created. Englishmen, he tells us, had long been united "in a politic body, or commonwealth, according to the rights and customs of this nation, chosen and consented unto by the people hereof". Thus was "the Commonwealth of England", as referred to in the Engagement, "to be estimated"²⁸ Kingly government, we learn subsequently, was "set up in our nation by the agreement of the people for their protection and better government according to such laws as they consented unto"²⁹. And it was Paget's view that the essentials of the English polity had remained in place, notwithstanding the removal of the monarchy and the House of Lords, and that our obligation to the current rulers thus remained unimpaired. We have (Paget maintained) the same borders as before, the same language, the same Christian religion, the same legal structure, and effectively the same method of enacting laws "by parliamentary power"³⁰.

Changes *had* recently been made of course: but Paget minimizes these and draws the reader's attention to the fact that similar changes had not in the past occasioned reservations about legitimacy. The bishops had been expelled from the House of Lords, and the King had deserted Westminster, taking with him not a few unworthy MPs who had subsequently formed a counterfeit Parliament at Oxford. But legitimacy had nevertheless remained at Westminster, and should be regarded as doing so still. To take a different view and to refuse subscription to the Engagement, would put the whole commonwealth at risk - an eventuality which no patriot would want to contemplate. Paradoxically Paget effectively concedes to the anti-Engagers (such as John Acher, who issued a specific challenge on this point) that a numerical majority might well be opposed to the Republic and its Engagement. But he appealed to the discerning minority for comfort: "reverend judges, faithful justices, knowing lawyers, understanding soldiers, judicious preachers and conscientious religious people"³¹.

A strong reassertion of "ascending" politics is also encountered in *A Discourse Concerning the Engagement* by a group of "Northern subscribers". These Northern subscribers were aware that they had the most pressing

²⁸ 1650; p.9.

²⁹ *Ibid.*, p.16.

³⁰ *Ibid.*, p.13.

³¹ *Ibid.*, p.26.

pragmatic reasons for subscribing themselves and for persuading others to subscribe: unless the former king's adversaries (those men who had once been resolute enough to take the lion by the beard) remained united, the best outcome that they could hope for was "to be devoured last" by the deceased king's vengeful supporters³² But as a matter of political principle the Northern subscribers asserted that legitimacy in politics was derived "from the efflux of the people's wills into the being of...[the] powers over them"³³, given that God had directed that we should have *some* form of magistracy appropriate to our situation. Kings were thus nothing more than "vassals to the state"³⁴ and (as in 1648-49) were subject to removal from office in the event of non-satisfaction. And if the people thought fit, it was clearly within the ambit of their authority to change the whole regime, for while a variety of regimes was legitimate (with none having any kind of primacy), it was within the competence of "the people" to change a regime as they saw fit. "Frames of government", these Northern subscribers insisted, were indeed resolved by God "into the people's will, as the next and immediate cause of their specification or formality, and what kind of government they will [have] for their own good, the Lord sets his seal upon it". For these authors this precept was exemplified by the translation of Israel's government from one of Judges to a monarchical one with Saul as king³⁵.

Enoch Grey's pamphlet *Vox Coeli* is also significant in this context. This pamphleteer clearly believes that, notwithstanding a significant mutation in England's polity, authority remains with Rump MPs (indeed, who else is there, he asks?) They are *still* the Parliament and the Parliament *still* represents the people; and it is clear that Grey sees political legitimacy in terms of popular authorization. All power, he tells us categorically, "is primarily and essentially, and originally in, and from the people, they being the creator of all that authority, which is derivative"³⁶ To secure rational decision-making, the people elect the more distinguished from amongst themselves so that "such members elected by themselves...may act and execute those matters for them which they cannot commodiously act for themselves". At the same time, political crises are seemingly inevitable, and every state

³² 1650; p.5.

³³ *Ibid.*, p.8.

³⁴ *Ibid.*, p.17.

³⁵ *Ibid.*, p.7.

³⁶ 1649; p.42.

"hath its crises, and time subjects it to motion and mutation"³⁷. Kings, Peers, even MPs, must expect to be displaced if they ignore their obligations with respect to the public safety³⁸. Meanwhile the population must make the necessary mental and practical adjustments: even "the greatest persons must vail, must [be] subject to the time, to the authority that is"³⁹. And the authority that was clearly for this author the new Republic. Predictably, the author is able to refer to the public welfare, assuring us that in an emergency this overriding end may dictate that a strict observance of the letter of the law be abandoned, as we might pull down a house which lay in the path of a spreading fire⁴⁰.

T.B.'s *The Engagement Vindicated* also clearly embraces an "ascending" theory, while not neglecting to remind its readers of the ubiquity of providential intervention in relation to regime changes. A law of nature is invoked to establish the *bona fides* of government as such, for without government of some kind we sink into what this author describes as "a heap of rubbish", and while he is careful to disavow "the motley hundred-headed faction of the Levellers" who spring from "the dregs of the people"⁴¹, he insists that what the people have created they may uncreate by withdrawing their consent, thereby disengaging themselves from the defunct regime and by a general consent could create a new one, as was happening currently. The author acknowledges that the Rump had been heavily criticised for clinging to power, but for him we should take careful note of "the storm that is in the world" and adhere to those whom he calls "the Great Balasters of it"⁴² lest we be submerged in an anarchic interregnum.

An "ascending" approach to magistracy is likewise indicated by Francis Osborne in his 1652 pamphlet *A Persuasive to a Mutual Compliance under the present Government*, though here the legitimacy of that government is seen to depend heavily upon its inherent superiority as a republican regime. If a parliament (which in this context is almost certainly taken to include the monarch as well as the peers) "falls in pieces as this hath done", writes Osborne, then authority cannot remain in its possession: rather it must be assumed by the elected House of Commons which is "the fairest, most natural,

³⁷ *Ibid.*, p.30.

³⁸ See *ibid.*, pp.14-15.

³⁹ *Ibid.*, p.30.

⁴⁰ See *ibid.*, p.40.

⁴¹ 1650; pp. 6, 11.

⁴² *Ibid.*, p.12.

and least partial representative of the whole nation, whose true and unquestioned proxies they are". And experience suggests that peers "rather...intend their own ends, than the public"⁴³. So Osborne urges his readers to be just as ready to see the crown (by which he means of course sovereign power) placed on their own heads and on the heads of their children as their predecessors had been to see it transferred from one feudal faction to another. But Osborne's emphasis falls on the superiority of a republican regime (*howsoever* we can come by it) in comparison with a monarchical one. The author speaks of the English being a "prince-trodden people" and of monarchy as a "perpetual inconvenience". Experience suggested that it is an impossibility "to manacle a supremacy in one single individual", it being much safer "to divide it amongst more, many not being so apt as one to be intoxicated by the fumes of power and flattery"⁴⁴.

Similarly Albertus Warren's *The Royalist Reformed* briefly indicates that the author is also taking an "ascending" approach when he argues that any claim of the [young] Charles to the throne would now have to be "fiduciary", previous claims on his father's behalf to reign by dint of conquest being now exploded⁴⁵. But Warren's reappraisal of the situation (he had previously been a Royalist) turns largely upon his current perception that a republic was a superior form of government, for "a community...cannot be so easily misled, neither so frequently defect from discretion, as the private judgement or passion of one individual numerical person"⁴⁶. Also "heroical virtues" were "furthered more", he now perceived, "under a democratical government than under a monarchical call", and he urged the previous advocates of non-resistance not to re-consider their position by adopting a "contumacious vain struggling against authority"⁴⁷ and against providence: "better...to be a willow than an oak"⁴⁸.

Now Paget, Osborne, Albertus Warren, the authors of *The Government of the People of England* and *Vox Coeli*, and the Northern Subscribers, may be taken as echoing the main ("ascending") contentions of the Rump itself in what is in effect an official contribution to the post-regicide controversy, the *Declaration of the parliament of England expressing the grounds of their late*

⁴³ Reprinted in *Somers Tracts* (ed. Scott), VI, p.163.

⁴⁴ *Ibid.*, pp.173, 167.

⁴⁵ 1650; p.20.

⁴⁶ *Ibid.*, p.6.

⁴⁷ *Ibid.*, pp. 4, 27.

⁴⁸ *Ibid.*, p.15.

proceedings and of settling the present government in the way of a free state [March 1650]⁴⁹. Here providence (to which Parliament's victories are attributed) runs in harness with "ascending" politics, but the latter emphatically has the more work to do.

The authors of the *Declaration* took it as axiomatic "that the first institution of the office of king...was by Agreement of the People, who chose one to that office for the protection and good of them who chose him, and for their better government, according to such laws as they did consent unto"⁵⁰. Few kings had in fact complied with these requisites, but the late king had exceeded all his predecessors in the destruction of those who he should have been protecting. A "torrent" of misery had ensued when he tried to bend his protesting subjects to his will, and though his recent trial was admittedly unprecedented, so also was the depth of his infamous conduct. Simultaneously with his execution, the nation's representatives had judged it necessary to make England a republic - thus belatedly eliminating the possibility of further monarchical tyranny - and to end the "great inconvenience" of the House of Lords. It was acknowledged in the *Declaration* that the previously enunciated war aims had been somewhat different, but the king's continuing bad behaviour (even when the influence of evil advisers had been removed) and the persistent irresponsibility of the peers, dictated a change in these aims, a settlement along the lines previously envisaged having proved to be impossible. Thus the society, or its legitimate representatives (the *Declaration* is less than crystal clear on this point) could properly substitute one regime for another: the "same power and authority which first erected a king", finding its purposes perverted by him, may resolve to substitute a "free state" for a tyranny ⁵¹.

But what of Pride's Purge? It was nothing new, the Rump's *Declaration* insisted, for MPs to be under duress: they had almost invariably operated under a threat of retaliation from tyrannous kings when these kings had

⁴⁹ 1650.

⁵⁰ *Ibid.*, p.6.

⁵¹ *Ibid.*, pp.20,16. The "Old Protestant", objecting to the Engagement in his 1650 work *The Old Protestant: his conscientious Queries about the New Engagement* (1650) denounced this kind of nonsense and exploited a weak point in the Engagers' position by highlighting the dubiousness from the standpoint of the "ascending" theory of the contention that it was the House of Commons, bearing the people's authority, which had legitimately abolished the monarchy and the House of Lords. Had this outcome been predicted in the mid-1640s (the Old Protestant points out) the prediction would have been denounced as a Royalist slander. But now that it had come to pass, this author "would fain know where that man dwells that can make this good: that the people committed themselves to such a number of [the] Commons as the Army should choose"(p.6).

suspected them of insubordination. Moreover, the MPs who had survived the Purge had not been responsible for the Purge itself, but *had* been responsible enough to carry on with their duties, eschewing any sullen or negative response. Meanwhile, our wholesome laws and legal structure remained (having survived what is identified in the document as the "Norman slavery"⁵², and the authors anticipated what they called a "cheerful concurrence" in the establishment of the Republic.

"Ascending" politics also runs in harness with providence in the numerous contemporary works of John Dury, but here the latter is the dominant partner. Dury articulates what may be seen as an extreme version of Parliamentary theorising: regimes were people-created and could therefore likewise be modified to suit the people's current exigencies⁵³. And the assumption of the creators was that their magistrates would be under a contractual obligation to rule for the public welfare according to laws essentially formulated by themselves through the agency of their elected representatives. Thus in England the initiative in this critical area belonged "originally", and "primarily"⁵⁴ with the House of Commons, and Dury is able to repeat and extrapolate the position which the Parliamentarians had taken up *circa* 1642 to the effect that the king's approval of legislation was automatic. Charles had conspicuously failed to rule for the public welfare and had attempted indeed to rule "by will and force"⁵⁵ rather than legally through laws essentially made by the House of Commons. Indeed, he was guilty of "the putting down of all laws" and thereby he had "*ipso facto* forfeited his regality". He had not been put aside for trivial causes, Dury insists, and calls Charles's relationship with the bogus parliament which he had summoned to Oxford "state adultery"⁵⁶ which had in itself dissolved his relationship with his erstwhile subjects.

The king by his evil conduct had thus unkinged himself and the Lords by their evil conduct had unlorded themselves. Dury does not neglect these propositions, but he does not emphasise them. What he *does* emphasise is providence. It is a general providence which equips human society with some form of political power to keep itself in order, and it is a specific providence which manifests itself in changes of regime and changes of rulers. *Romans* 13

⁵² p.24.

⁵³ See especially *Mr Dureus his friend further satisfied* (1650), p.35.

⁵⁴ *Ibid.*, p.28.

⁵⁵ *Ibid.*, 24.

⁵⁶ *Ibid.*, pp.25, 24, 32.

(that indispensable early modern political theory text) is thus said by Dury to refer to those actually in possession of political power, "for it is not possible that any can attain to the height of power, without God's disposal of it into his hands"⁵⁷, a characteristic Royalist position of 1642, of course, and now denounced by anti-Engagers such as the authors of *A Second...Religious Demurrer* as an encouragement to latter-day Jack Cades to do their worst if they could seize power⁵⁸.

There is a further emphasis in Dury's work on accepting the deliverances of providence without feeling (if we had moral qualms on the subject) that we were thereby involved in whatever had been amiss in the previous conduct of the Regicides. Against the monarchy and against the House of Lords God's providence had clearly ruled, and Dury insists that it is not the role of private men to set themselves against providence by endeavouring to restore the monarchy and the House of Lords. The Christian private man was indeed to regard himself as "a stranger, a passenger and a pilgrim [who] takes things as he finds them on his way, makes the best of them that he can, and meddles only with his own matters, how to advance prosperously and easily towards his journey's end"[p.10]. Furthermore, pro-monarchy meddling would have a very high social cost, indeed (as Dury puts it in the *Considerations*) such an endeavour could not succeed "without an inevitable amount of ruin to the public welfare"⁵⁹.

III

So there is a sense in which "ascending" politics sees the English Revolution through - up to and beyond its climax with the King's execution and the establishment (to which the adult male population were invited to give their support) of a republican regime. Predictably enough, it is still confronted at this juncture by an onslaught which renews the criticisms of the 1640s. The main confrontational document in this context is *Traitors Deciphered* of 1650, a substantial work of over eighty closely-packed pages.

The author of *Traitors Deciphered* clearly believes in the "descending" patriarchal origins of politics, including England, and refers to Old Testament evidence to verify his contention. Predictably he regards the

⁵⁷ See *Considerations Concerning the Engagement* (1649), p.13.

⁵⁸ 1649; p.6.

⁵⁹ *Considerations*, pp.10,7.

Parliamentarian/Engager approach as blasphemous nonsense, and accuses its *aficionados* of having revoked the Fifth Commandment on honouring one's father and the Sixth Commandment on refraining from murder.

For this author the Scriptures inform us categorically that monarchical government originated in patriarchal, and that "we may not exclude our kingdom from such a rise". So laws for this author were emphatically *subsequent* to kings "who by the stories of all nations are registered for the law-makers of the people, and the people are never law-givers to their king, nor indeed can be, in regard of the incapacity of the greater part...it being an impossibility that all should convene, and agree before a government [was] erected among them"⁶⁰.

Ascending politics had nonetheless, *Traitors Deciphered* complains, become fashionable in the last decade, its luminaries persuading a gullible people that an inferior assembly, called by the king's writ, could properly put him to death, persuading a gullible people "that the subordinate, and derived power should become supreme"⁶¹. The people (not realising that it was a change of regime rather than mere grievances which was in question) had in some degree succumbed to this flattering ideology, and were indisposed to notice that England's laws were now being made by a mere one-third of the members of the lower house, and that these members were indulging in precisely the sort of arbitrary politics (forced loans, taxation without consent, etc.) of which they had accused Charles. And even discounting the skullduggery which had in some sense left these wretched MPs in charge of the nation, the Rumpers could make no sustainable claim to be the nation's "representatives". If anything, they were (or had been) His Majesty's officers: "they represent not the people at all, for it is absurd that the people in a monarchy should make any to represent them, for they are included in their king, who alone makes peace and war, and they are bound to assist him, and therefore those presenters mistake their title in calling themselves Representatives, a word never heard of till their assumption..."⁶²

But irrespective of who did or did not represent the people, it would be unwise in the extreme to have their views reflected in public policy, as the "ascending" theory seemed to suggest: "the ingratitude of the multitude towards such as have preserved them, their lewdness and levity in their

⁶⁰ p.7.

⁶¹ *Ibid.*, p.37.

⁶² *Ibid.*, p.67.

discontents at the present, and the many groundless and bloody calamities that have risen from such attempts have instructed all knowing men to prevent such rebellious barbarisms"⁶³.

For this author, writing in a way somewhat reminiscent of Sir Robert Filmer, the implications of "ascending " politics were quite simply horrendous. The populist rhetoric of the Rump's *Declaration* signified to this author that "government is dissolved, and no man bound to anything but [by] his own will, for every man hath then a freedom, whether he will consent to anything...[T]he consent of the major part being [however] no rule of right, nor hath any obligation but by civil agreement and constitution". In any case, the Regicides could not seriously pretend to whatever limited authority a Parliament might have, the Lords having disappeared while the Commons had been "violently dissolved". The remaining Rumpers MPs for this author had no more authority than Kett's rebels had in the reign of Edward VI⁶⁴.

Significantly, *Traitors Deciphered* takes up and rebuts the anti-Normanism of the Rump's *Declaration*, insisting that there was no "Norman slavery" and stressing the wretchedness of the English condition before the Conquest, subsequent to which we "shall find the greatest settlement and stability of the kingdom in honour, wealth and strength"⁶⁵ brought to us by the conquerors, whereas previously we were "languishing with division and blood" with most of us being "forced to live out of civil conversation"⁶⁶. Dispassionate onlookers would surely "stand astonished to hear these men talk of a Norman slavery, when all histories report that the kingdom before was less assured and worse governed"⁶⁷.

The pamphlet *The Religious Demurrer concerning submission to the present power* shared the concern of *Traitors Deciphered* that we should refrain from embracing the upstart regime which it saw as totally devoid of legitimacy, being comparable in blatant illegality to servants taking over the household or children the family, or even humans dethroning God⁶⁸. We would in these circumstances "think it a great sin to betray that place and power wherein God hath naturally and morally placed us". For this author what our political system should be was "visible enough to religious and loyal

⁶³ *Ibid.*, p.54.

⁶⁴ *Ibid.*, pp.38, 46, 47.

⁶⁵ *Ibid.*, p.78.

⁶⁶ *Ibid.*, p.78.

⁶⁷ *Ibid.*, p.79.

⁶⁸ 1649; see pp.5-6.

eyes, though for the present it be suspended in point of exercise and clapt under hatches for a while"⁶⁹. The wilful alteration of the state by a faction claiming to speak in the name of the people was for this author "utterly unlawful"⁷⁰ and in the context of this monster offence, the matter of the mass perjury involved in the Engagement seemed almost secondary. But mass perjury it *was* of course, and it was inherently related to the "ascending" approach of the Engagers, and this author finds it appropriate to compare what the Engagers were doing to dethroning God, having "enacted that neither Father, Son nor Holy Ghost should ever reign more in this kingdom" and indeed that "all truth and power of religion is originally in the people"⁷¹.

So the Rump's radical version of "ascending" politics was rejected with contumely by the authoritarian (almost Filmerian) pamphlet *Traitors Deciphered* and by *The Religious Demurrer*: Almost equally interesting (I would submit) is its rejection by the even more radical "Inhabitants of the County of Hartford", and by the more conservative Edward Gee, albeit both Gee and the men of Hertfordshire themselves deployed a version of the theory.

The Hertfordshire men had done their utmost (they said) to defeat the Norman tyrant Charles, but alas it was not humble people like themselves who had benefited from his overthrow, for they found themselves still oppressed by the great landowners and by the craftiness of "caterpillar-like" lawyers. Disappointed though the authors were, they were determined to press on to the promised land, though currently they found themselves in a wilderness. In this context of disappointment, their hopes centred on "a new and equal Representative, chosen and elected upon the grounds of equity and reason". The idea that the existing Parliament could escort the Hertfordshire men to the promised land is curtly dismissed: *not* on account of Pride's purge (which others found so delegitimizing), but rather on account of the narrowness of the franchise on which it had been elected. It followed that to engage to the Republican regime was out of the question, "because we have no men empowered by us that have had any hand in making or establishing it"⁷².

IV

⁶⁹ *Ibid.*, p.7.

⁷⁰ *Ibid.*, p.6.

⁷¹ *Ibid.*

⁷² *A Declaration of the Inhabitants of the County of Hartford* (1650), p.6.

Impressive also is the rejection of the Rump's contentions by those moderate Parliamentarians to whom the designation "Presbyterian" was contemporaneously given. Contemporaries frequently made sense of the fragmentation of the Parliamentary side in the Civil War by detecting a rift between the "Independents" (whose leaders had brought Charles to execution) and the "Presbyterians" who had insisted that the original war aims of separating Charles from his evil advisers and achieving a negotiated settlement with him involving some reduction in his powers, be maintained. This distinction between Independents and Presbyterians has been challenged by modern scholars, but it was so prevalent at the time that it is very difficult to proceed without it.

The leading spokesman of the Presbyterians was the Lancashire clergyman Edward Gee, and he is plausibly credited with the authorship of *An Exercitation Concerning Usurped Powers* and *A Vindication of the Oath of Allegiance*, both of 1650. Gee's ideas are of considerable significance in our context, and it is worth pausing over them briefly.

As has been observed, a significant minority of Engagers had alleged Providence - a Providence which we must of course accept - when justifying their stance, and this orientation provides an appropriate starting point for our consideration of Gee. Francis Rous's *The Lawfulness of Obeying the Present Government* concedes that the republican regime could not plausibly be described as legitimate, but nevertheless insisted that obedience to its behests was incumbent on the denizens of England. Obligation, it followed for Rous, was not dependent on the legitimacy of the government concerned. Obligation was enjoined by *Romans 13*, and Rous was convinced that the contemporary or near-contemporary Roman emperors whom St Paul had had in mind in this passage were in fact usurpers, as indeed had been several kings of England. And yet (we are assured by Rous) "the main body of the nation did obey them...yea [and] doth yield subjection to their laws to this very day...So that herein the very voice of the nation with one consent seemed to speak aloud: that those whose title is held unlawful, yet being possessed of authority, may lawfully be obeyed"⁷³. Rous reassures his readers that simply being in power is an indication of providential blessing: undoubtedly (we read on p.7 of the *Lawfulness*) those who excel in power receive that power from God. Consequently, "without all [i.e. any] exception" we must yield ourselves up to

⁷³ 1649; p.6.

them. To withhold this obligation is to invite the collapse of all government, is to invite "confusion, distraction, destruction"⁷⁴.

Now Providence did not speak to Gee as it spoke to Rous and the Engagers: at the very outset, Gee states that he cannot count prosperous vice as a virtue. There was a clear distinction to be drawn between what God *permitted* and what He *wanted*. To equate the providential with what is momentarily successful is for Gee a very unsatisfactory position for, as he says, "we are not to subject ourselves to, support, and refrain from resisting a thing merely upon this ground, because it comes by providence; then a foreign enemy that invades us, or a robbery must be submitted unto, and may not be resisted; the plague, or other sicknesses in the body, nay the outward temptations to sin might not be prevented or removed, for all these come by providence".⁷⁵ If we yielded to the sword in the *public* sphere without inquiring into its legitimacy, would this not be akin (Gee wanted to know) to yielding to pirates, thieves and robbers in our private affairs, and these miscreants could "justly claim a right to that which they can lay their hands on, and be accountable to none for their spoil and rapine?"⁷⁶ What God *wanted* had to be deduced from the Scriptures as a set of rules and these rules were frequently at odds with what *actually* came to pass. As Gee later put the matter in his extended work *The Divine Right and Original of the Civil Magistrate from God*, God's "prescriptive will" had to be distinguished from His "narrative will"⁷⁷.

What had actually come to pass in England had gone well beyond the restraining, indeed *conserving*, operation favoured by Gee and like-minded anti-Engagers, and had landed the inhabitants with what Gee termed a "meridian altitude"⁷⁸ usurpation, the sort of usurpation which involved not merely the *replacement* of one king by another, but the replacement of a *whole* regime. Gee of course was not opposed to the constitutional adjustments which were from time to time necessary, and he was of course aware that there had been some rather unseemly lurches in English constitutional history, but he points out that these lurches had always received parliamentary approval *ex post facto*. However, it was not merely a lurch or an adjustment but *destruction* that was in question in 1649/50. And it was

⁷⁴ *Ibid.*, p.8.

⁷⁵ *An Exercitation* (1650), p.65.

⁷⁶ *Ibid.*, p.16.

⁷⁷ 1658: especially p.43.

⁷⁸ *Ibid.*, p.5.

destruction engineered by a small minority: they had *themselves* created the constitutional void into which they had usurpatoriously inserted themselves.

Gee was a man of 1642: according to his version of "ascending" politics magistrates were empowered by God either immediately (as in the case of some Old Testament rulers) or mediately *via* the consent of the people who were to be ruled (in the latter case he tells us that the magistrate is clearly "an humane creature")⁷⁹. Thus what we had (or at least had had until very recently) and what we had defended in the Civil War was a people-contrived mixed monarchy, in which aristocratic and popular elements ("Estates" Gee calls them in the *Vindication*, following much contemporary usage⁸⁰) had important parts to play, and he believed that legitimacy in politics was created by the people's consent, aside (that is) from the direct Old Testament intervention from Heaven. The details of the mechanism for establishing and renewing *consent* were not immediately relevant (Gee tells us) to the disputes of 1650; consent could be "antecedent to possession, or may be consequent, express or tacit, collective or representative; absolute or conditioned; free or enforced; revocable or irrevocable...it sufficeth that it be yielded" for it was in 1650 (as at any other juncture) "the only derivation of a lawful call, or claim to government". Thus, Gee explains in the same early passage in the *Exercitation*, "he that may rule, must be placed in that office by some body, and may not undertake it of himself: no man may take this honour to himself, or be his *own* advancer to the Throne: but he must be installed by another: and what other creature, besides the nation itself, can challenge [claim] a power to appoint over it its rulers is not to me imaginable"⁸¹. To be your own advancer was of course inherently tyrannous: it was to rule without a rule, and for Gee we should expect those who did their own thing in coming to power to *continue* to do their own thing thereafter: "where there is no title but power (warns Gee gravely), there can be no rule for government but power and will...[How] can they be tied to laws in exercising government that are tied to none in coming by it?"⁸².

Gee is convinced that in the present crisis, nothing less than the integrity of "ascending" politics as such is at stake. If force can bestow a title, "then that late so much decantated aphorisme, all power (to wit, authority) is from the people, must be called in again, yea all donatations, elections, compacts and

⁷⁹ *Ibid.*, p.2.

⁸⁰ *Ibid.*, 37.

⁸¹ *Ibid.*, p.3.

⁸² *Ibid.*, p.15.

covenants betwixt prince and people are void, and null businesses". Gee seems to go as far in the *Vindication* as to hold that while the setting up of regimes was now uniquely the people's prerogative, pulling them down should never be. God had clearly indicated His blessing for regime-establishment, but Gee could find no scripturally warranted procedure for *disestablishment*, and he reminds us of the divine displeasure incurred by the Israelites when they rejected Samuel's government and insisted on having a monarchy instead⁸³.

If the detailed process of establishing political legitimacy was not relevant for Gee in 1650, what *was* relevant was that a *defensive* war the object of which had been to return an invasive king to his (limited) executive rôle in our polity had resulted in the death of that king and the systematic mutilation of the legislature, with a so-called Council of State installing itself in a dominant position. These developments involved self-appointment on the part of the usurpers, and they would not bring a permanent settlement to our affairs because, being themselves inherently *disorderly* and inherently *arbitrary*, they would provoke further disorder. Under usurpation, said Gee confidently, "we can expect no settlement; and to submit to it is to help to fasten that which is certain to fall, and to fall with the greater confection, by how much it is more favoured. Commotion and tumultuousness is sure...to follow violent domination"⁸⁴.

Moreover, the *de facto* type of argument used by several of the Engagers would be (Gee pointed out) rejected virtually universally were it to be applied to private property, seized by some usurpatious criminal. None of us (Gee insisted) would acquiesce as the criminal helped himself - and was it not absurd to argue (along with several of the Engagers) that the institution of magistracy (the purpose of which was largely to *protect* private property) was *more* vulnerable to criminality than private property itself? "Who sees not the incongruity of this [asks Gee] that which is the conservatory and protection of a private man's property, should be of a so much more slippery tenure than it? But a private property is not lost by dispossession: if it were, for what use serveth the law, or magistracy?"⁸⁵

Gee's last major concern is with the matter of the undertakings which he along with a large number of ex-Parliamentarians (the Engagers included) had made in the pre-regicide period. The way Gee saw the matter, the Engagers had simply *disregarded* these undertakings, thereby seriously threatening our

⁸³ See *ibid.*, p.27.

⁸⁴ *Ibid.*, p.46.

⁸⁵ *Ibid.*, p.12.

standards of fidelity. All MPs had taken the Oath of Allegiance to the Crown and almost all Parliamentarians had taken the Solemn League and Covenant, whereby the King's person and authority were to be preserved. Gee notices, of course, the Regicide/Engager way of interpreting the Covenant whereby *some* of its obligations (i.e. those to maintain public liberty and the true religion) were regarded as *superseding* those to the king in the event of a conflict between the two sorts of obligation: this was what has been called the "hierarchy of obligations" argument. He notices also how the reference in the Oath of Allegiance to the King's "successors" was taken by some Engagers to refer to the Republic, which had indeed *succeeded* Charles I⁸⁶.

Gee was horrified by these sophistries: if by eccentric and outlandish reasoning, devised on a strictly *ad hoc* basis, a number of solemn obligations could be so easily sloughed off, he wondered if *any* reliance could ever be placed upon *any* undertakings - including of course the Engagement itself, which could be undermined by the same species of opportunism. In *A Vindication of the oath of Allegiance* Gee expresses an almost Hobbesian horror at what happens when temporary expediency misleads us into countenancing a change of regime. By the example thus set, Gee warns, "you expose the people to an immediate loss of the very use and enjoyment of any government, the power of mobility and change being sure to invite all ill-disposed persons immediately to put that power in ure [use], and hurry all...into confusion"⁸⁷. Gee wondered if a single subscriber to the Solemn League and Covenant had, *at the time of subscription*, conceived that it might be interpreted in the perverse way proposed by the Engagers: he could find no hint of the "hierarchy of obligations" interpretation until very recently.

Gee-style objections to the Engagement appear prominently also in *The Grand Case of Conscience*. As with Gee, the author of *The Grand Case* had been an adherent of Parliament during its war with the king's forces: in 1642 the Houses had been for this author the "higher powers" as specified by *Romans XIII* as the obligatory objects of our obedience. They were the agencies to which our consent had been given historically and which were still discharging their duty of protecting the public, the king meanwhile in a grave dereliction having absented himself⁸⁸. This author had then what he calls a "thorough conviction...that the two Houses...in case of the king's absence, weakness or refusal, had in them such a part of the higher powers as to defend

⁸⁶ See *ibid.*, p.28ff.

⁸⁷ *Vindication of the Oath of Allegiance* (1651), p.13.

⁸⁸ 1650, p.2.

and preserve the people without, yea against the King...". Regime change is not ruled out by this author, but it should be accomplished (he writes - not without some ambiguity) by the "higher powers" themselves. But such a situation of change instituted by the higher powers was emphatically not what had just taken place in England. The current junta could no doubt have their wicked way by coercion at least for the time being, but who the *true* authorities in England were was, states our author sharply at the outset, "sufficiently known". Authority was for this author a consequence of consent, and consent was vitally lacking when the new republican/military regime had been established. What right had the new men to do what they had done, "some of them being the trustees of no people, having no election, others who *were* [emphasis added] legally chosen [being] denied their liberty"⁸⁹. Could not any group of powerful men achieve the like baleful results, given enough naked power? What about the New Model Army agitators, who had so discomfited the Grandees during the Putney debates? Could not they make similar claims which naked power might enable them to vindicate?

John Aucher's February 1650 pamphlet *Arguments and Reasons to Prove the Inconvenience & Unlawfulness of Taking the New Engagement* cites Gee on p.5 and is very similar to the *Exercitation* in sustaining the *previous* Parliamentary enterprise (rescuing the king, defeating his evil advisers) while damning its perverted evolution *via* the "illegal violence" of 1648 and 1649. Aucher recalls the common Parliamentary contentions of the early 1640s that "the people are the fountain of all just power", and observes that the old regime of King, Lords and Commons is what currently meets with the people's approval, as would become manifest if "those that stand for the Engagement would lay down their over-awing and menacing arms...and suffer the Nation to vote and act freely..."⁹⁰.

Probably the most interesting reply to Gee's broadside was *The Exercitation Answered* of 1650, possibly by the former Parliamentary protagonist, Charles Herle. For this author, Gee was quite simply an anarchist who would leave us without any magistrates at all. Having denounced the leaders of the Republic as presumptuous and usurpationary, Gee had in principle left us without a government, and could not tell us *when* or *how* we might be provided with one. The author sees Gee as encouraging rebellion and even assassination by his uncompromising dismissal of the Republic and its leaders,

⁸⁹ *Ibid.*, pp.3,14.

⁹⁰ p.4.

but the vitriol with which he had spattered them was entirely uncalled for, because providence had called them to their present positions and they were in any case not far from meeting Gee's own criteria of political legitimacy.

For the Answerer, the providence point was the critical one. The might of God, he insists, is supreme, is absolute, is universal. And God renders an account to no one of the way in which He disposes of political power: indeed "there is nothing wherein He is more peremptory, there is nothing which with a more high hand...He asserts unto Himself with a more sovereign majesty and absolute sovereignty, than the swaying stroke in the kingdom of men, [and He has] an undoubted right to give it to whomsoever He will, and set up over it the humblest of men." We may call our rulers "usurpers", but we should always remember that without God's backing they could not occupy their ruling positions, as Nebuchadnezzar clearly had God's backing in taking over the kingdom of Judah according to the Old Testament. And those in possession had to be acknowledged, and generally obeyed, as *Romans 13* and the fifth Commandment made clear. Thus the author is able to argue that while we may properly resist the usurper in *the act of usurpation* and on behalf of the *existing* rulers, a successful usurpation must be accepted as providential, and as being secured by *Romans 13*, while Gee ends up (according to this author) in the absurd situation of advocating obedience to non-powers, to people who are not in office⁹¹.

Notwithstanding his uncompromising assertion of providential right, Gee's adversary insists that Rumpier MPs had very strong claims to a more secular kind of legitimacy. Gee must have known, that is to say, that the great majority of MPs remaining at Westminster had been properly elected back in 1640 and remained in place because of the unquestionably legal perpetual parliament Act of 1641. However few they were, secular legitimacy rested with them - and had not Royalists been calling them a "rump" since 1642 when many MPs had joined the king? The pamphlet proceeds to revive the early Civil War Herleian doctrine of "supply", whereby one element of a mixed regime may in an emergency "supply" the deficiencies of a negligent element. In 1642 the Houses of Parliament were seen by Charles Herle as *supplying* the deficiencies of the monarchy: in 1649/50 a minority of MPs was seen by the Answerer as *supplying* the deficiencies of their erstwhile colleagues, of the

⁹¹ *The Exercitation Answered* (1650), pp.31,16.

House of Lords and of the monarchy: a taller order, but one which this pamphleteer does not flinch from envisaging⁹².

He also does not flinch - and this is particularly noteworthy in a Parliamentary - from subordinating consent to providence in the legitimacy stakes. So that while the Rump had a *certain* legitimacy, *via* election and *via* the perpetual Parliament Act, much more important here was the fact that they were *in possession*. He is thus able to dismiss Gee's contention that consent is the creator of legitimacy, pointing out that conquest is the origin of the great majority of European states, and (as he says tough-mindedly on page 44) "if a consent of the people come after, what is that but an effect of force?"

Finally, *The Exercitation Answered* dismisses (of course) any suggestion that previous undertakings (such as the Covenant) could prejudice our adherence to the Republican regime. The overriding purpose of oaths of this kind was to secure the public welfare, but to endeavour in 1650 through *misplaced* loyalty to bring back the monarchy, would plainly be highly subversive of the public welfare. "So it remains [the pamphlet tells us] that the true intent of the oaths in controversy, is finally lodged in the good of the Commonwealth; neither have they any force to the destruction thereof, but must needs be void if ever so intended."⁹³

V

Yet another variation on the "ascending" approach is observed in the contemporary pronouncements of the two writers who are arguably (Thomas Hobbes aside) the most celebrated advocates of "ascending" politics in the whole period, John Lilburne and Henry Parker. Parker was the author of the celebrated *Observations upon some of His Majesties Late Answers and Expresses* which in the summer of 1642 argued for the trustworthiness, indeed the infallibility, of Parliament in its dispute with the king. It was infallible because it was the representative body, men having turned to such bodies within many societies when monarchical rule (even when tempered by *ephoroi*) turned out to be an unsatisfactory answer to the problem of human waywardness and criminality. He had sustained this position throughout the early and mid-1640s, but somewhat later seems to have edged towards the

⁹² *Ibid.*, pp.28-9. Cf. Charles Herle, *A Fuller Answer to a treatise written by Doctor Ferne* (1642), esp. pp.2-6.

⁹³ *The Exercitation Answered*, p.24.

situation of arguing that what had been done in the matters of Purge and regicide was simply *necessary* in terms of public safety. In a seriously Scotophobic pamphlet of 1651, *Scotlands Holy War*, he challenged the Scots to "show us that nation under Heaven that has not several times been driven to mutations of governments, and governors, and been at last justified therein by the plea of necessity, and common safety: and we shall confess their lordly power over us"⁹⁴. In an appendix to this pamphlet, Parker urges subscription to the Engagement on the ground that subscribers would be pledging their loyalty to the wellbeing of *the society*, irrespective of changes of regime. Once this wellbeing had been secured *via* a limited monarchical regime, but now necessity indicated a change. And (explains Parker) "our former oaths and engagements...did not so intentionally oblige us to the form of government, as to government itself; nor to this or that changeable medium of governing as to the fixed, perpetual end of government"⁹⁵. Our allegiance to the state in its old form could not be continued, Parker assures his readers, but is correctly renewed *via* the Republic's Engagement. Non-engagers, he argues, are still members of English society, and must owe allegiance to *something* - and what could this something be other than the state in its new republican form?

Only a little earlier, Parker had taken the greatest exception to John Lilburne's Leveller extrapolation of the "ascending" theory, whereby the existing Parliament (far from being "infallible") was found seriously corrupt and dictatorial, and was told to dissolve itself forthwith so that a new representative body could be elected on the basis of a much wider franchise. Lilburne's ideas and conduct were deeply disturbing to Parker, who conjured up visions of how (under Leveller auspices) ploughmen would soon be riding to the assizes instead of Justices of the Peace and tradesmen would mount into the pulpits to sermonize instead of clergymen with degrees.⁹⁶

On the issue of Engagement, however, Lilburne's position is surprisingly close to Parker's, because he pledges his loyalty to the "Commonwealth of England" in the sense of the people of England, governing themselves *via* annual Parliaments, jury trials, etc., though (unlike Parker) he

⁹⁴ 1651; p.48.

⁹⁵ *Ibid.*, p.66.

⁹⁶ See *A Letter of Due Censure: to...John Lilburne touching his trial at Guildhall* (1650), esp. pp.22-3.

regards the current rulers as being (at best) on parole, and little deserving of his (or anyone else's) obligation⁹⁷.

VI

Our conclusion from this brief (albeit hectic) episode in the history of political thought must be that the "ascending" theory, so confidently asserted against Charles I and his "evil advisers" in the 1640s, had, when subjected to the strain of tortuous events, suffered a serious breakdown. Its adherents found themselves confronting one another with considerable animosity: like Edward Gee's usurpatious regime, it had suffered a "confracture" whereby its message - once reasonably audible - had become a cacophony devoid of clear guidance for a (no doubt) bewildered reading public. Perhaps Sir Robert Filmer could take some satisfaction as he prepared to meet his Maker. But of course his opponents would be back, unabashed.

⁹⁷ John Lilburne, *The Engagement Vindicated and Explained* (1650), esp. pp.3-4.

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