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Parliaments and Politics during the Cromwellian Protectorate

David L. Smith
and Patrick Little

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Parliaments and Politics during the Cromwellian Protectorate

This ground-breaking volume fills a major historiographical gap by providing the first detailed book-length study of the period of the Protectorate Parliaments from September 1654 to April 1659. The study is very broad in its scope, covering topics as diverse as the British and Irish dimensions of the Protectorate Parliaments, the political and social nature of factions, problems of management, the legal and judicial aspects of Parliament's functions, foreign policy, and the nature of the parliamentary franchise and elections in this period. In its wide-ranging analysis of Parliaments and politics throughout the Protectorate, the book also examines both Lord Protectors, all three Protectorate Parliaments, and the reasons why Oliver and Richard Cromwell were never able to achieve a stable working relationship with any Parliament. Its chronological coverage extends to the demise of the Third Protectorate Parliament in April 1659. This comprehensive account will appeal to historians of early modern British political history.

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PARLIAMENTS AND
POLITICS DURING THE
CROMWELLIAN
PROTECTORATE

PATRICK LITTLE
History of Parliament Trust

AND

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For Barry Coward and John Morrill,
with gratitude

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PREFACE

In the course of planning, researching, and writing this book, we have incurred many debts. We are very grateful to John Morrill for his advice and assistance in planning the book and devising the chapter structure. He also gave us helpful comments on an early version of chapter 6, as did Barry Coward on drafts of chapters 5 and 11. We have benefited greatly from conversations with many other friends and colleagues, especially Phil Baker, Andrew Barclay, Alexander Courtney, Colin Davis, Tim Harris, Mark Kishlansky, Kirsteen MacKenzie, Jason Peacey, Stephen Roberts, David Scott, Graham Seel, David Underdown, and Blair Worden. Needless to say, none of the above bears any responsibility for the shortcomings of the finished book.

We are most grateful to Clive Holmes and to Jason Peacey for allowing us to read work prior to publication. We also wish to thank the History of Parliament Trust for permitting us to see draft constituency articles before publication, and to make use of this material in the chapter on elections. Thanks are due to His Grace the Duke of Northumberland for permission to consult the microfilm of the Alnwick Castle manuscripts in the British Library. An early version of chapter 5 was presented at a seminar at the Institute of Historical Research, London; early versions of chapter 6 were read at seminars at Cambridge, Sussex, Yale, and the University of Pennsylvania, and at the Protectorate symposium held at the History of Parliament Trust, London. We are indebted to all those who participated on these occasions for their helpful contributions and suggestions. We are also grateful to the editorial team at Cambridge University Press, and especially to Karen Anderson Howes, Rosina Di Marzo, and Michael Watson.

The dedication reflects our profound and longstanding debt to two of the pre-eminent historians of this period and, appropriately, the past and present presidents of the Cromwell Association: it is offered with gratitude for their unstinting friendship, support, and inspiration.

This book is the result of a collaborative endeavour. We jointly devised the overall shape and chapter structure, and then allocated each chapter to one

of us to produce a working draft. We then swapped drafts, sent comments to each other, and rewrote in the light of them. DLS is principally responsible for chapters 1, 3, 4, 6, 7, 8, and 9, and appendix 1; PJSJL for chapters 2, 5, 10, 11, 12, and 13, and appendix 2.

In the footnotes and bibliography, the place of publication is London unless otherwise stated. Spelling in quotations from primary sources has been modernised and the standard abbreviated forms have been expanded. Dates are given in old style, except that the year is taken to begin on 1 January rather than 25 March.

ABBREVIATIONS

A & O	C. H. Firth and R. S. Rait, eds., <i>Acts and Ordinances of the Interregnum, 1642–1660</i> (3 vols., 1911)
Abbott	W. C. Abbott, ed., <i>Writings and Speeches of Oliver Cromwell</i> (4 vols., Cambridge, Mass., 1937–47)
BL	British Library
Bodl.	Bodleian Library
Burton	J. T. Rutt, ed., <i>Diary of Thomas Burton, Esq.</i> (4 vols., 1828)
CJ	<i>Journals of the House of Commons</i>
Clarendon, <i>History</i>	Edward, Earl of Clarendon, <i>The History of the Rebellion and Civil Wars in England</i> , ed. W. Dunn Macray (6 vols., Oxford, 1888)
Clarendon SP	<i>State Papers Collected by Edward, Earl of Clarendon</i> (3 vols., Oxford, 1757)
Clarke Papers	C. H. Firth and Frances Henderson, eds., <i>The Clarke Papers</i> (5 vols., Camden Society, 2nd series, 49, 1891; 54, 1894; 61 [<i>recte</i> 60], 1899; 62, 1901; 5th series, 27, 2005)
CSPD	<i>Calendar of State Papers Domestic</i>
CSPI	<i>Calendar of State Papers Ireland</i>
CSPV	<i>Calendar of State Papers Venetian</i>
EHR	<i>English Historical Review</i>
Firth, <i>Last Years</i>	C. H. Firth, <i>The Last Years of the Protectorate, 1656–1658</i> (2 vols., 1909)
Gardiner, <i>Commonwealth and Protectorate</i>	S. R. Gardiner, <i>History of the Commonwealth and Protectorate, 1649–1656</i> (4 vols., 1903; reprinted 1989)
Gardiner, <i>Constitutional Documents</i>	S. R. Gardiner, ed., <i>Constitutional Documents of the Puritan Revolution, 1625–1660</i> (3rd edn, Oxford, 1906)

Guizot, <i>Richard Cromwell</i>	F. G. P. Guizot, <i>History of Richard Cromwell and the Restoration of Charles II</i> , trans. A. R. Scoble (2 vols., 1856)
HJ	<i>Historical Journal</i>
HMC	Historical Manuscripts Commission
HR	<i>Historical Research</i>
LJ	<i>Journals of the House of Lords</i>
Lomas–Carlyle	S. C. Lomas, ed., <i>The Letters and Speeches of Oliver Cromwell, with Elucidations by Thomas Carlyle</i> (3 vols., 1904)
Ludlow	C. H. Firth, ed., <i>The Memoirs of Edmund Ludlow</i> (2 vols., Oxford, 1894)
NAS	National Archives of Scotland
<i>Nicholas Papers</i>	G. F. Warner, ed., <i>The Nicholas Papers</i> (4 vols., Camden Society, 2nd series, 40, 1886; 50, 1893; 57, 1897; 3rd series, 31, 1920)
NLI	National Library of Ireland
NLS	National Library of Scotland
NRAS	National Register of Archives for Scotland
ODNB	<i>The Oxford Dictionary of National Biography</i> (Oxford, 2004)
OPH	[Various editors,] <i>The Parliamentary or Constitutional History of England</i> (often referred to as the ‘Old Parliamentary History’) (24 vols., 1751–61)
<i>Parl. Hist.</i>	<i>Parliamentary History</i>
Schilling	W. A. H. Schilling, ‘The Parliamentary Diary of Sir John Gell, 5 February–21 March 1659’ (MA thesis, Vanderbilt University, 1961)
Stephen	William Stephen, ed., <i>Register of the Consultations of the Ministers of Edinburgh and some other Brethren of the Ministry</i> (2 vols., Scottish History Society, 3rd series, 1, 1921; 16, 1930)
TNA	The National Archives (Public Record Office), Kew
TSP	Thomas Birch, ed., <i>A Collection of the State Papers of John Thurloe, Esq.</i> (7 vols., 1742)
Vaughan	Robert Vaughan, ed., <i>The Protectorate of Oliver Cromwell and the State of Europe during the Early Part of the Reign of Louis XIV</i> (2 vols., 1839)

- Whitelocke, *Diary* Ruth Spalding, ed., *The Diary of Bulstrode Whitelocke, 1605–1675* (British Academy, Records of Social and Economic History, new series, 13, Oxford, 1990)
- Whitelocke, *Memorials* Bulstrode Whitelocke, *Memorials of the English Affairs* (4 vols., Oxford, 1853)

The place of publication of printed works in the above list, and in the footnotes, is London unless otherwise indicated.

Introduction: historiography and sources

THE PROBLEM

Amidst the vast body of scholarly writing that has been published on seventeenth-century Britain in general, and on the revolutionary events of the 1640s and 1650s in particular, the period of the Cromwellian Protectorate from December 1653 to May 1659 remains relatively neglected. Several recent writers on Cromwell and the Interregnum have remarked on the lack of a detailed book-length study of the politics of the Protectorate, and specifically of the Protectorate Parliaments. Ivan Roots, for example, has observed that although ‘biographies of Cromwell abound . . . There is surprisingly little detailed work on the central government and politics of the Protectorate and less still specifically on the Protectorate Parliaments.’¹ Similarly, Barry Coward has commented that ‘there is no full published account of parliamentary politics during the Protectorate’,² while Peter Gaunt has written that ‘the three Protectorate Parliaments . . . have attracted no . . . thorough investigation and remain sadly understudied. Moreover, most of the rather meagre attention has tended to focus on the second Protectorate Parliament, to the further neglect of the other two.’³ A symposium on the Protectorate held in January 2004 at the History of Parliament Trust in London revealed both the limitations of the historiography to date and the remarkable potential for further research on this period.⁴ At present, there is no detailed monograph, focused on

¹ Ivan Roots, ed., *‘Into another Mould’: Aspects of the Interregnum* (2nd edn, Exeter, 1998), p. 145.

² Barry Coward, *Oliver Cromwell* (1991), p. 190.

³ Peter Gaunt, ‘Cromwell’s Purge? Exclusions and the First Protectorate Parliament’, *Parl. Hist.*, 6 (1987), 1–2. Cf. his comment about the first two Protectorate Parliaments that ‘a comprehensive and compelling full-length account of these Parliaments is badly needed’: Peter Gaunt, ‘Oliver Cromwell and his Protectorate Parliaments: Co-operation, Conflict and Control’, in Roots, *‘Into another Mould’*, p. 73.

⁴ Revised versions of the papers presented at this symposium have recently been published in Patrick Little, ed., *The Cromwellian Protectorate* (Woodbridge, 2007).

parliamentary history, that spans the period between the end of 1653 (when the studies by Blair Worden and Austin Woolrych end)⁵ and the autumn of 1658 (when that by Ronald Hutton begins).⁶ There are a number of relevant unpublished doctoral theses, notably those by Sarah Jones, Peter Gaunt, Carol Egloff, and Paul Pinckney, but these are not readily available to a wide audience.⁷ The present book is therefore intended to fill this major historiographical gap.

Although the nature of parliamentary politics during the Protectorate is the book's central focus, this will be set within a broad context. The scope of this study includes the British and Irish dimensions of the Protectorate Parliaments, the political and social nature of factions, problems of management, the legal and judicial aspects of Parliament's functions, foreign policy, the reasons why Oliver and Richard Cromwell were never able to achieve a stable working relationship with any Parliament, and the nature of the parliamentary franchise and elections in this period. The aim is thus to construct a wide-ranging analysis of Parliaments and politics throughout the Protectorate. The volume examines both Lord Protectors and all three Protectorate Parliaments, and its chronological coverage extends to the demise of the Protectorate in May 1659. This opening chapter will briefly survey the existing historiography surrounding the Protectorate Parliaments, Oliver and Richard Cromwell's relations with them, and the politics of the Protectorate in general, and will indicate how the present study will add to or qualify that historiography. The chapter will also describe the principal categories of primary sources, both printed and in manuscript, on which the book is based.

HISTORIOGRAPHY

Historians in search of a really detailed narrative of the Protectorate and its Parliaments still have to go back to the works of S. R. Gardiner and

⁵ Blair Worden, *The Rump Parliament, 1648–1653* (Cambridge, 1974); Austin Woolrych, *Commonwealth to Protectorate* (Oxford, 1982).

⁶ Ronald Hutton, *The Restoration: A Political and Religious History of England and Wales, 1658–1667* (Oxford, 1985).

⁷ Sarah E. Jones, 'The Composition and Activity of the Protectorate Parliaments' (Ph.D thesis, University of Exeter, 1988); Peter Gaunt, 'The Councils of the Protectorate, from December 1653 to September 1658' (Ph.D thesis, University of Exeter, 1983); Carol S. Egloff, 'Settlement and Kingship: The Army, the Gentry, and the Offer of the Crown to Oliver Cromwell' (Ph.D thesis, Yale University, 1990); Paul J. Pinckney, 'A Cromwellian Parliament: The Elections and Personnel of 1656' (Ph.D thesis, Vanderbilt University, 1962). Although not published in their entirety, parts of some of these works have nevertheless appeared in print, and are cited in the footnotes of this and other chapters.

Sir Charles Firth.⁸ These provide a deeply researched and thorough account of the period that has not yet been superseded. The fullest recent study of the politics of the Protectorate, by Barry Coward, offers an excellent overview but makes no claim to analyse parliamentary proceedings in any great depth.⁹ The more detailed historiography of particular aspects of the Protectorate Parliaments will be discussed more fully in the relevant chapters, but it is worth noting here that to date only three articles have focused specifically on the Protectorate Parliaments as a group, and all three largely confined their attention to the first two without more than a brief look at Richard Cromwell's Parliament.

In 1956, Hugh Trevor-Roper published a highly influential article on 'Oliver Cromwell and his Parliaments' in which he suggested that the main problem lay in Cromwell's failure to manage his Parliaments effectively. 'They failed', he wrote, 'through lack of that parliamentary management by the executive which, in the correct dosage, is the essential nourishment of any sound parliamentary life.' Taking Elizabeth I's handling of Parliaments as his yardstick, Trevor-Roper claimed that by comparison Cromwell was inept, inconsistent, and lacking in coherent purpose: he was 'a natural back-bencher'.¹⁰ The article was compellingly written and elegantly sustained, and it was only in 1988 that it received significant criticism, from Roger Howell. Howell argued persuasively that the comparison with Elizabethan Parliaments was inappropriate, that the main problem was not one of management, and that the army 'both stood in the way of the legitimation of the government via the parliamentary route and heightened the level of the politics of frustration and confrontation within Parliament itself'.¹¹ Although Howell's untimely death in 1989 prevented him from developing these ideas further, subsequent work has generally underlined the validity of his criticisms. Sir Geoffrey Elton, Michael Graves, and others have challenged Sir John Neale's interpretation of Elizabethan Parliaments on which Trevor-Roper relied, thus making it even clearer that later sixteenth-century Parliaments cannot be treated as a model against which to judge the Protectorate

⁸ Gardiner, *Commonwealth and Protectorate*, III–IV; Firth, *Last Years*. An account of the years 1658–60 is found in a somewhat less distinguished but still useful volume: Godfrey Davies, *The Restoration of Charles II, 1658–1660* (Oxford, 1955).

⁹ Barry Coward, *The Cromwellian Protectorate* (Manchester, 2002).

¹⁰ Hugh Trevor-Roper, 'Oliver Cromwell and his Parliaments', in Trevor-Roper, *Religion, the Reformation and Social Change* (3rd edn, 1984), p. 388. This article first appeared in Richard Pares and Alan J. P. Taylor, eds., *Essays Presented to Sir Lewis Namier* (1956), pp. 1–48.

¹¹ R. C. Richardson, ed., *Images of Oliver Cromwell: Essays for and by Roger Howell, Jr* (Manchester, 1993), p. 134.

Parliaments.¹² Most recently, Peter Gaunt has also revised the Trevor-Roper thesis by suggesting that Cromwell's failure to secure parliamentary co-operation owed most to his own and the members' inexperience, and to his ultimately unrealistic hope that they would share his pursuit of ideals such as liberty of conscience.¹³ The present volume will offer a further refinement to this picture by drawing out the underlying tensions and contradictions within Cromwell's own vision of Parliaments. In particular, the book will explore the inherent difficulty that he faced in his attempts to use an institution intended as the 'representative of the whole realm' to promote a radical agenda that was never espoused by more than a minority of the nation.¹⁴

Thanks to Elton and Graves, the story of Elizabeth I's Parliaments now looks very different from when Trevor-Roper, drawing on Neale's work, used them as his point of comparison for the Protectorate Parliaments. This 'revisionism' has also characterised recent research on early seventeenth-century Parliaments, most notably by Conrad Russell.¹⁵ One of the key features of the 'revisionist' history of late Tudor and early Stuart Parliaments has been to accentuate how much they were the successors of medieval Parliaments rather than the forerunners of modern Parliaments. By highlighting Parliament's significance as the monarch's Great Council and High Court, and the political implications of those functions, 'revisionism' has emphasised that Parliament remained what it had been in the Middle Ages: part of the machinery of royal government rather than a counterbalance to it. Indeed, Elton's account of Elizabethan Parliaments owed an explicit debt to F. W. Maitland's earlier work on the Parliament Roll of 1305.¹⁶ The importance of this medieval context was similarly evident when Russell wrote that: 'it could still be said in the seventeenth century, as Fleta said in the thirteenth, that "the King has his court and council in his Parliaments"'.¹⁷ These continuities in parliamentary history have likewise formed a central theme in David Smith's recent survey of Stuart Parliaments.¹⁸

¹² See in particular G. R. Elton, *The Parliament of England, 1559–1581* (Cambridge, 1986); David Dean, *Law-Making and Society in Late Elizabethan England: The Parliament of England, 1584–1601* (Cambridge, 1996); and Michael A. R. Graves, *Elizabethan Parliaments, 1559–1601* (2nd edn, Harlow, 1996). For a judicious blend of the revisionist and traditional interpretations, see T. E. Hartley, *Elizabeth's Parliaments: Queen, Lords and Commons, 1559–1601* (Manchester, 1992).

¹³ Gaunt, 'Oliver Cromwell and his Protectorate Parliaments'.

¹⁴ Cromwell's religious policies, and in particular his attempts to extend liberty of conscience more widely, are discussed in detail in chapters 6 and 9.

¹⁵ See especially Conrad Russell, *Parliaments and English Politics, 1621–1629* (Oxford, 1979); and Russell, *Unrevolutionary England, 1603–1642* (1990), pp. 1–57.

¹⁶ G. R. Elton, *F. W. Maitland* (1985), pp. 56–69. ¹⁷ Russell, *Unrevolutionary England*, p. 7.

¹⁸ David L. Smith, *The Stuart Parliaments, 1603–1689* (1999).

The 'revisionist' emphasis on Parliament as an institution of royal government raises interesting questions when applied to the Parliaments of the Interregnum, and in particular those of the Protectorate. What was the status and significance of the Parliaments that met while the monarchy was abolished? Sarah Jones recounts that, when she told Geoffrey Elton that she was doing doctoral research on the Protectorate Parliaments, he replied that there were no such Parliaments because there was no monarch to summon them.¹⁹ The study of Parliaments in a republican setting necessarily involves adopting a different approach from the 'revisionist' account of Elizabethan and early Stuart Parliaments, so much of which rests on the assumption that parliamentary history can be fully understood only within a monarchical framework. Furthermore, the Protectorate Parliaments operated within a very different political and constitutional context from their sixteenth- and early seventeenth-century predecessors. Between 1642 and 1653, Parliament had assumed an unprecedented degree of executive power, and this created a legacy of administrative and legislative control with which the Protectorate Parliaments necessarily had to engage. The Protectorate Parliaments were also the only Parliaments in British history that met and conducted their business under the terms of a written constitution: first the Instrument of Government (1653) and then the Humble Petition and Advice (1657). This was very different from the web of unwritten custom and tradition that had provided the setting for earlier Parliaments. The role of the Lord Protector as head of state in relation to Parliaments was ambiguous: the paper constitutions granted him extensive but not unlimited powers, and he did not have complete freedom to determine when Parliament met, and for how long, in the way that the monarch had done prior to 1641. The Instrument of Government also gave the council much greater control over the membership of Parliament than ever before, although the Humble Petition and Advice later curtailed these powers. All these very significant contrasts surely justify taking a different approach from the one that historians have applied to Elizabethan and early Stuart Parliaments.

This book therefore seeks to place the Protectorate Parliaments within their wider political context in the Britain of the 1650s. It is a political rather than a procedural or institutional study. The book does not attempt to analyse in depth the social background of the members who sat in the Protectorate Parliaments. We felt that this would only anticipate the full-scale analysis that will in due course appear in the History of Parliament volumes for 1640–60, and that it would therefore be better to devote the present volume to other problems and issues. One of its chief priorities is to

¹⁹ Jones, 'Composition and Activity of the Protectorate Parliaments', p. 1.

deepen our understanding of the nature of political groupings – such as the Presbyterians, the courtiers, and the army interest – and the tensions that existed between them.²⁰ It seeks to reconstruct as carefully as possible the motives of the leading political actors, especially the two Protectors, and among its conclusions will be that Richard Cromwell was more different from his father than has often been suggested, and that his fall in 1659 was by no means a foregone conclusion. This book analyses the range of activities that took place within these Parliaments, and the diversity of issues that preoccupied their members. This in turn reflected the Protectoral regime's relations with the social and political elite more broadly, and one of the insights that the book does absorb from 'revisionism' is Conrad Russell's seminal suggestion that the early Stuarts' problems were 'not difficulties with their Parliaments; they were difficulties which were reflected in their Parliaments'.²¹ Much the same was true of the Cromwellian Protectors and their Parliaments.

Interestingly, despite the important contrasts between the Protectorate Parliaments and their Elizabethan and early Stuart predecessors, there is considerable evidence that they sought to follow established procedures and looked to 'ancient' precedents for guidance. For instance, one of the first actions of the first Protectorate Parliament was to follow the customary practice of establishing a committee for privileges.²² In similar vein, members affirmed that 'the privilege of Parliament did begin from the very day of the election', and that the power of making war historically rested with Parliament.²³ It was not so much that members of the Protectorate Parliaments were indifferent to precedents as that they were often uncertain about how to apply them to new situations and in novel circumstances. During the trial of James Nayler in December 1656, for example, members disputed which precedents were relevant and how they related to the present case.²⁴ Equally, much of the ceremonial that attended the giving of Protectoral assent to bills was traditional in form.²⁵ Elizabeth Read Foster has likewise observed that when the Other House was established under the terms of the Humble Petition and Advice, the use of Black Rod as messenger was revived; the House adhered to 'a corpus of procedure' that had been 'firmly established' in the Lords in 'the years 1603–49'; and in January 1658 the committee for petitions in the Other House was chosen on the third day

²⁰ These political groupings, and relations between them, are discussed in detail in chapter 5.

²¹ Russell, *Parliaments and English Politics*, p. 417. ²² Burton, I, xxi.

²³ Burton, I, xliv–xlv, xlviii.

²⁴ See, for example, Burton, I, 30, 120–1, 163. This is discussed more fully in chapter 8.

²⁵ Burton, I, xcii.

of the session, following the usual pre-1649 procedure.²⁶ The members of the Other House regularly asked for the records of the Lords to be examined for precedents that could be used to guide them in their deliberations.²⁷ The Other House was thus very conservative in outlook. Much the same can be said of the Commons, despite the radical political, religious, and constitutional upheaval of the Protectorate. It was thus possible to be conservative in form and radical in debate, and this paradox will form another theme of this book. This helps to nuance and extend recent work on the Cromwellian Protectorate, and to underline that we can do justice to the conservative aspects of the Protectorate, and the continuities that persisted within it, without simply depicting it as a slow trek back towards a Stuart restoration.²⁸

SOURCES

Finally, it is worth briefly describing the main categories of primary sources on which this book is based. What follows cannot claim to be in any way an exhaustive list, even of materials cited in the footnotes, but it will at least give a rough sense of the surviving evidence and what this can reveal about the Protectorate Parliaments. It can broadly be divided into official and unofficial sources.

First of all, the institutional records generated by Parliament's conduct of business provide a vital foundation for any kind of parliamentary history, and they have been the starting-point for the present volume.²⁹ The printed *Commons' Journal* offers an authoritative record of matters discussed, decisions reached, committees appointed, orders and letters issued, and bills read and passed. The journal of the Other House in 1658–9 is a similar source and has also been printed, although historians have so far made very little use of it.³⁰ No legislation received the royal assent during the period 1642–60, and *Statutes of the Realm* therefore does not exist for these years, but Firth and Rait filled this gap in 1911 with three admirable volumes that contain the acts produced by the three Protectorate Parliaments.³¹ Between them, these sources constitute the official records of the Parliaments.

²⁶ E. R. Foster, *The House of Lords, 1603–1649: Structure, Procedure and the Nature of its Business* (Chapel Hill, 1983), pp. 66, 209, 266, n. 158.

²⁷ For some examples, see HMC, *The Manuscripts of the House of Lords, 1699–1702* (1908), pp. 513, 526–7, 551.

²⁸ Cf. Little, *Cromwellian Protectorate*.

²⁹ Cf. Elton, *Parliament of England*, pp. 3–15; Elton, *Studies in Tudor and Stuart Politics and Government* (4 vols., Cambridge, 1974–92), III, 58–155.

³⁰ HMC, *MSS of the House of Lords, 1699–1702*, pp. 503–67. ³¹ A & O.

The unofficial records include first of all the three private diaries that survive for this period, by Thomas Burton, Guybon Goddard, and Sir John Gell. Of these, only the first has been published in its entirety, in a four-volume edition by John Towill Rutt in 1828 that was reprinted in 1974.³² Burton's diary covers only the second and third Protectorate Parliaments, and is rather fuller for 1659 than for 1656–8.³³ Rutt printed, as a preface to the first volume of Burton's diary, the diary of Guybon Goddard for the first Protectorate Parliament.³⁴ Goddard also sat in the third Protectorate Parliament, but his diary for that Parliament (which ends on 5 March 1659) so far remains unpublished.³⁵ Sir John Gell's diary only covers part of the third Protectorate Parliament, and is less full than that of Burton. W. A. H. Schilling edited the portion from 5 February to 21 March for his dissertation, but the complete diary continues up to 8 April 1659.³⁶ Gell's diary is less comprehensive and harder to follow than Burton's, not least because he was less careful to identify speakers, but his diary does sometimes add to Burton's, especially on occasions when the latter was absent from the House.³⁷ Scholars have generally used the diaries of Goddard and Gell much less than that of Burton, and here they are deployed wherever they add significantly to Burton's account.

Between them, these three diaries all throw useful light on proceedings in the Protectorate Parliaments. In recent years, there has been a lively debate over how far it is acceptable to quote directly from such seventeenth-century diaries given that they cannot be taken as verbatim transcripts of words actually spoken in Parliament.³⁸ In summarising and commenting in detail

³² The manuscript of Burton's diary is BL, Add. MSS 15859–64.

³³ To illustrate this point, in the printed edition Burton's account of the first sitting of the second Protectorate Parliament takes up 739 pages, the second sitting 164 pages, and the third Protectorate Parliament 1,082 pages.

³⁴ Burton, I, i–xcvii. All page references to the first volume of Rutt's edition of Burton's diary that are cited with lower-case Roman pagination are to the diary of Guybon Goddard. This diary unfortunately breaks off in mid-sentence on 18 December 1654.

³⁵ The original manuscript is apparently lost, but a transcript of 1720 survives as BL, Add. MS 5138: pp. 105–283 cover the period from 19 January to 5 March 1659.

³⁶ W. A. H. Schilling, 'The Parliamentary Diary of Sir John Gell, 5 February–21 March 1659' (MA thesis, Vanderbilt University, 1961). The original manuscript is Derbyshire Record Office, MS D258.

³⁷ Ivan Roots offers a helpful assessment of these three diaries in his introduction to the reprint of Burton's diary (New York, 1974), and his lives of Burton and Goddard in the *ODNB* are valuable as well. Derek Hirst usefully discusses the three diaries' respective qualities in 'Concord and Discord in Richard Cromwell's House of Commons', *EHR*, 103 (1988), 339–58; and see also Schilling, pp. 1–2.

³⁸ The initial debate can be found in Elton, *Studies*, II, 3–18, the latter part of which is a reply to J. H. Hexter, 'Parliament under the Lens', *British Studies Monitor*, 3 (1972–3), 4–15. For Elton's views, see also Elton, *Parliament of England*, pp. 10–14. Hexter made a further contribution in 'Quoting the Commons, 1604–1642', in DeLoyd J. Guth and John W. McKenna, eds., *Tudor Rule and Revolution* (Cambridge, 1982), pp. 369–91. More

on this debate elsewhere, David Smith has suggested that there is no reason to avoid altogether quoting from members' private diaries, provided that one always bears in mind their limitations as sources and does not treat them like a seventeenth-century equivalent of *Hansard*.³⁹ It also seems important wherever feasible to try to choose the most reliable account rather than merely the most quotable, although the varying degrees of reliability among diarists are not always very easy to establish. In the present book, different accounts of speeches have been compared where possible, but often there are only unique accounts, and this needs to be borne in mind when quotations are given for what a speaker was reported as having said in one of the diaries.

With Cromwell's own words, scholars are on rather firmer – or at least more fully documented – ground. Throughout this book, the basic edition that has been chosen when quoting from Cromwell's surviving letters and speeches is that by Thomas Carlyle, as revised and extended by S. C. Lomas in 1904.⁴⁰ This has generally been preferred to W. C. Abbott's edition for the reasons that John Morrill has explored in an extended critique of Abbott, namely that Lomas–Carlyle is at least as reliable as Abbott, more readily available, and much easier to use.⁴¹ For Cromwell's letters, Abbott adds virtually nothing to Lomas–Carlyle. For his speeches, the finest edition is that by Charles L. Stainer, and Ivan Roots took this as the basis of his *Everyman* edition.⁴² For ease of reference and to assist checking, all quotations from Cromwell's speeches are here cited from Lomas–Carlyle – which remains the most widely available edition – but every extract has been compared with the text in Stainer/Roots and any significant variations are noted in the relevant footnote. The Stainer/Roots and Abbott editions have been quoted only on those (relatively rare) occasions where they add material not printed in Lomas–Carlyle.

Several collections of correspondence throw valuable light on parliamentary proceedings and help us to locate them within a wider political context. This is a large and diverse category of material, and here there is space only to indicate a cross-section of the most important examples. The voluminous papers of Cromwell's secretary John Thurloe, mostly published in a

recently, John Morrill has addressed these issues in three articles: 'Reconstructing the History of Early Stuart Parliaments', *Archives*, 21 (1994), 67–72; 'Paying One's D'Ewes', *Parl. Hist.*, 14 (1995), 179–86; and 'Getting Over D'Ewes', *Parl. Hist.*, 15 (1996), 221–30. The third of these papers is a reply to Maija Jansson, 'Dues Paid', *Parl. Hist.*, 15 (1996), 215–20.

³⁹ Smith, *Stuart Parliaments*, pp. 13–15, and Smith, 'Reconstructing the Opening Session of the Long Parliament', *HJ* (forthcoming).

⁴⁰ Cited throughout as Lomas–Carlyle.

⁴¹ John Morrill, 'Textualizing and Contextualizing Cromwell', *HJ*, 33 (1990), 629–39.

⁴² Charles L. Stainer, ed., *Speeches of Oliver Cromwell, 1644–1658* (1901); Ivan Roots, ed., *Speeches of Oliver Cromwell* (1989).

seven-volume edition by Thomas Birch in 1742, are crucial in enabling us to reconstruct the government's perspective and the information on which it was acting.⁴³ There is a wide variety of material, especially relating to the council, in the State Papers Domestic.⁴⁴ The largely unpublished correspondence of Henry Cromwell also offers helpful sidelights on developments at Westminster and again assists us in exploring the relationship between conciliar and parliamentary politics.⁴⁵ The *Thurloe State Papers* contain many dispatches from foreign ambassadors resident in London, especially the French and Dutch, and these can be supplemented by further French reports,⁴⁶ and by the extensive accounts of successive Venetian ambassadors and secretaries.⁴⁷ Although they are not always reliable, and need to be tested wherever possible against other sources, these diplomatic dispatches can provide helpful information. The same is true of the various collections of royalist correspondence in this period, especially the Clarendon State Papers and the Carte Papers in the Bodleian Library, and the Nicholas Papers.⁴⁸ Further useful newsletters and other documents survive in the papers of William Clarke, who during the Protectorate was secretary to General Monck and the commanders of the army in Scotland.⁴⁹ All this and other correspondence helps to integrate parliamentary proceedings into a broader account of Protectorate politics in general.

Contemporary memoirs present particular problems of their own. The most voluminous and the best placed to comment on parliamentary politics are those of Edmund Ludlow and Bulstrode Whitelocke. However, Blair Worden has shown that both are extremely complex and problematic sources.⁵⁰ Both Ludlow's *Memoirs* and Whitelocke's *Memorials* were extensively 'edited' during the later seventeenth century to help them to serve the Whig cause, and readers even have to be alert to the retrospective element in

⁴³ *TSP*. The originals are mainly found in either Bodl., MSS Rawlinson A 9-64, or BL, Add. MSS 4156-8 (Thomas Birch collection: Thurloe Papers).

⁴⁴ *CSPD*. The originals are mostly found in TNA, SP 18 (State Papers Domestic, Interregnum), and SP 25 (Council papers, Interregnum).

⁴⁵ BL, Lansdowne MSS 821-3 (Henry Cromwell correspondence); BL, Add. MS 43724 (Henry Cromwell correspondence).

⁴⁶ TNA, PRO 31/3/95-103 (Bascher's transcripts); F. G. P. Guizot, *History of Oliver Cromwell and the English Commonwealth*, trans. A. R. Scoble (2 vols., 1854); Guizot, *Richard Cromwell*.

⁴⁷ *CSPV*. On this source, see John Morrill, 'Through a Venetian Glass, Darkly', *Parl. Hist.*, 17 (1998), 244-7.

⁴⁸ Bodl., MSS Clarendon (some of which were published in *Clarendon SP*); Bodl., MSS Carte; *Nicholas Papers*.

⁴⁹ *Clarke Papers*.

⁵⁰ On Whitelocke, see Blair Worden, 'The "Diary" of Bulstrode Whitelocke', *EHR*, 108 (1993), 122-34. On Ludlow, see Worden, *Roundhead Reputations: The English Civil Wars and the Passions of Posterity* (2001), chapters 1-4. These chapters draw on two more technical discussions: A. B. Worden, 'Introduction' to Edmund Ludlow, *A Voyce from the Watch*

Whitelocke's *Diary*, which he apparently did not compose until 1663 or later.⁵¹ All these sources need to be handled with considerable caution, yet quoting from them has not been avoided entirely because as eyewitnesses to events they sometimes offer unique reports of important political developments.

Finally, a range of other printed material has been drawn upon. Officially authorised items can be readily identified from Sheila Lambert's listing of 'printing for Parliament'.⁵² Much other printed matter, from a wide variety of political perspectives, has also been used, as have the newsbooks for these years. The only newsbook that ran continuously throughout the period of the three Protectorate Parliaments was *Mercurius Politicus*.⁵³ For the first Protectorate Parliament, roughly a dozen newsbooks were published each week: these were of very variable quality and some of them were clearly derivative from others. By the time of the second and third Protectorate Parliaments, this number had dwindled to about three or four, of which *Mercurius Politicus* was generally the fullest and most authoritative.⁵⁴

The above discussion shows something of the range of primary sources that survive for the three Protectorate Parliaments and the problems that they present for historians. Although many of these sources have long been available in print, they have not always been fully integrated into accounts of the Protectorate Parliaments, and the fact that they have often not received the attention of modern historians makes them ripe for re-evaluation. It is now time to turn to the history that can be reconstructed from them, and the most appropriate place to begin is by considering the paper constitutions under which the Protectorate Parliaments met. These will form the subject of the [next chapter](#).

Tower, Part Five: 1660–1662 (Camden Society, 4th series, 21, 1978), 1–80; and Blair Worden, 'Whig History and Puritan Politics: The *Memoirs of Edmund Ludlow* Revisited', *HR*, 75 (2002), 209–37.

⁵¹ Ludlow; Whitelocke, *Memorials*; Whitelocke, *Diary*.

⁵² Sheila Lambert, ed., *Printing for Parliament, 1641–1700* (List and Index Society, special series, 20, 1984), 191–4.

⁵³ *Mercurius Politicus* was at issue number 221 when the first Protectorate Parliament assembled, and had reached issue number 564 by the time of the dissolution of the third Protectorate Parliament.

⁵⁴ This information is derived from the listings in Carolyn Nelson and Matthew Seccombe, eds., *British Newspapers and Periodicals, 1641–1700: A Short-Title Catalogue of Serials Printed in England, Scotland, Ireland and British America* (New York, 1987).

Parliament and the paper constitutions

It is ironic that historians have tended to neglect the constitutions that framed the Protectorate, and dominated its Parliaments. There were in fact six different constitutional documents considered between 1653 and 1657: the Instrument of Government that established the Protectorate in December 1653; the failed Parliamentary Constitution (or ‘government bill’) of 1654–5; the monarchical Remonstrance introduced on 23 February 1657; the Humble Petition and Advice which replaced it on 31 March, and was itself turned into a Protectoral constitution on 25 May (which passed into law on 26 June); and finally the explanatory Additional Petition and Advice presented to Cromwell at the end of June, as a companion to the Humble Petition. Of these, only the Instrument has been thoroughly examined by modern historians,¹ and the most detailed studies of the Parliamentary Constitution and the Humble Petition remain those of S. R. Gardiner and C. H. Firth, published over a century ago,² as more recent students have concentrated on politics rather than constitutional affairs.³ Even the most basic requirement for a study of these constitutions – the availability of definitive printed texts of the original proposals – has not been met in two of the six cases: those of the Remonstrance and the monarchical version of the Humble Petition. The resolution of this textual ambiguity is the first task of this chapter.

¹ G. D. Heath, ‘Making the Instrument of Government’, *Journal of British Studies*, 6 (1967), 15–34; Austin Woolrych, *Commonwealth to Protectorate* (Oxford, 1982), pp. 364–78.

² Gardiner, *Commonwealth and Protectorate*, III, 196–255; C. H. Firth, ‘Cromwell and the Crown’, *EHR*, 107 (1902), 429–42, and 108 (1903), 52–80.

³ For partial exceptions, see David L. Smith, ‘Oliver Cromwell, the First Protectorate Parliament and Religious Reform’, *Parl. Hist.*, 19 (2000), 38–48; Peter Gaunt, ‘Law-making in the First Protectorate Parliament’, in Colin Jones, Malyn Newitt, and Stephen Roberts, eds., *Politics and People in Revolutionary England: Essays in Honour of Ivan Roots* (Oxford, 1986), pp. 163–86; and the brief, but useful, analyses in Austin Woolrych, ‘Last Quests for a Settlement, 1657–1660’, in G. E. Aylmer, ed., *The Interregnum: The Quest for Settlement, 1646–1660* (1972), pp. 184–5, and Barry Coward, *The Cromwellian Protectorate* (Manchester, 2002), pp. 41–7.

There is a general assumption that the Remonstrance of February 1657 was but an early draft of the Humble Petition and Advice, as presented to Cromwell on 31 March. The Remonstrance has been described as ‘the embryo of the Humble Petition and Advice’,⁴ an early, rough-hewn version, perhaps, but in form and intention almost identical to the latter. This elision of the two constitutions is encouraged by the ready availability of the final, Protectoral, version of the Humble Petition in Gardiner’s *Constitutional Documents* and other collections of constitutional material,⁵ whereas the full text of the Remonstrance is available only in manuscript form. Firth knew of it, but included only the first article (as a comparison to the Humble Petition) in the third volume of the *Clarke Papers*,⁶ and, with a few honourable exceptions, the existence of the manuscript has been studiously ignored. W. C. Abbott, in his monumental *Writings and Speeches of Oliver Cromwell (1937–47)*, did not use the manuscript of the Remonstrance at all. He quoted instead the ‘chief points’ reported by the Venetian ambassador, and followed Ludlow in commenting (erroneously) that ‘various sources’ led him to believe that ‘the place for the title was left blank in the original document’.⁷ More recently, Peter Gaunt rediscovered two of the three surviving manuscripts of the Remonstrance while working on his doctoral thesis, and in his study of the constitutional powers of the Protectoral council contrasted the attitude of the Remonstrance with that of the Humble Petition,⁸ but he did not develop his argument to cover areas other than the council. The Remonstrance is published in its entirety in appendix 2 of the present volume, and its contents are discussed in this chapter.

The second example of textual uncertainty concerns the monarchical version of the Humble Petition and Advice. This has become obscured behind the later Protectoral version, which was printed by order of Parliament of 26 June 1657, and has reappeared in collections of constitutional documents of the period ever since. Historians’ assumptions have perhaps been swayed by Ludlow’s assertion that the two versions were identical other than ‘the sole alteration of the word king into that of Protector’.⁹ Yet the changes between the two documents, although small, are of greater magnitude, and significance, than Ludlow allowed. The first article was naturally revised, as the title changed from king to Protector, and

⁴ Barry Coward, *Oliver Cromwell (1991)*, p. 149.

⁵ Gardiner, *Constitutional Documents; A & O*; J. P. Kenyon, *The Stuart Constitution, 1603–1688: Documents and Commentary* (Cambridge, 1966), pp. 350–7; 2nd edn (Cambridge, 1986), pp. 324–30.

⁶ *Clarke Papers*, III, 94n. ⁷ Abbott, IV, 412.

⁸ Peter Gaunt, ‘The Councils of the Protectorate, from December 1653 to September 1658’ (Ph.D thesis, University of Exeter, 1983), pp. 219–23.

⁹ Ludlow, II, 28.

the powers ascribed to the ‘single person’ also differ, as we shall see. More serious is the omission, in the later version, of article 15, which stipulated that all acts passed under the name of the Protector would still have validity when the title was changed to king. In point of fact, this article remained in the Humble Petition and, despite complaints by members of Parliament that it needed ‘expunging’ at the end of May 1657, no action was taken. This may reflect the members’ reluctance to reopen the bitter debate on the kingly title, but it led to a constitutional anomaly. The printed version (and presumably the version read out before Cromwell at his reinstatement on 26 June) silently passed over the fifteenth article, leading some historians to accuse the clerk of misnumbering the ensuing articles.¹⁰

With the rediscovery of the Remonstrance and the clarification of the differences between the monarchical and Protectoral versions of the Humble Petition, it is possible to attempt a detailed comparative analysis of the various constitutions proposed between 1653 and 1657.¹¹ The bulk of this chapter will conduct such an analysis, approaching the texts thematically, and each theme chronologically, to produce a ‘genealogy’ of constitutional ideas through the 1650s. In turn, it will consider the ‘single person’, the council, Parliament, royalists, and religion. Such an undertaking cannot concentrate on constitutional issues alone, and at each stage political and factional considerations will be referred to, although an in-depth analysis of the politics of the Protectorate Parliaments will be left until the [fifth chapter](#). For the moment, it should be emphasised that the paper constitutions themselves, as well as the evidence from correspondence, diaries, or the *Commons’ Journals*, suggest that constitutional questions were highly politicised, with each main political faction – the army interest, the civilian ‘court party’, and the ‘Presbyterian’ and ‘country gentry’ interest – each having its distinct agenda.¹² This factional influence is fairly obvious in the Instrument of Government, which was created by a group of senior officers headed by General John Lambert (presumably with the consent of Cromwell himself), and in the Parliamentary Constitution of 1654–5, through which the

¹⁰ For the details, see Patrick Little, ‘Monarchy to Protectorate: Re-drafting the Humble Petition and Advice, March–June 1657’, *HR*, 79 (2006), 144–9.

¹¹ The texts referred to in this chapter (apart from the Remonstrance and the monarchical Humble Petition) are printed in Gardiner, *Constitutional Documents*, pp. 405–17 (Instrument of Government), 427–47 (Parliamentary Constitution), 447–59 (Protectoral Humble Petition and Advice), and 459–64 (Additional Petition and Advice). References here are to the article and chapter numbers, not page numbers, to allow other editions to be used for cross-referencing. For completeness, it should be noted that Peter Gaunt (in ‘Law-making’, 166n) has identified a variant of the Parliamentary Constitution in the Clarke manuscripts at Worcester College, Oxford.

¹² The validity of this nomenclature, and their identification as distinct ‘factions’, will be examined in chapter 5.

Presbyterians challenged the Instrument. The latter certainly angered Cromwell, and was resisted in Parliament by the ‘courtiers’. The civilian courtiers (possibly with Cromwell’s approval) were responsible for drafting the Remonstrance in February 1657, which tried to re-establish the ‘ancient constitution’ of king and two Houses of Parliament; and the transition from Remonstrance to Humble Petition was just as controversial, relying as it did on an uneasy compromise being reached between the courtiers and the Presbyterian majority in the Commons, to ensure the safe passage of the new civilian constitution through Parliament. Even the Additional Petition, framed as a document to explain the ambiguities of the Humble Petition, was in reality a highly charged attempt to redirect the constitutional basis of the state. Each new proposal, with its political as well as constitutional significance, thus marked a further stage in the on-going struggle for the soul of the Protectorate, and the heart of the Protector.

THE ‘SINGLE PERSON’

Although Edmund Ludlow and other disaffected officers thought the Instrument of Government ‘tended to the sacrificing of all our labours to the lust and ambition of a single person’,¹³ it was, in constitutional terms, a rather conservative document, founded on the concept of the balance of powers.¹⁴ Under article 1 of the Instrument, the ‘supreme legislative authority’ resided in ‘one person’ – styled Lord Protector – and Parliament, while under article 2 the ‘chief magistracy’ was shared between the Protector and his council. The system of checks and balances was underwritten by the Instrument itself, which formed an additional restriction on the powers of the Protector, as well as on the council and Parliament. Under article 3, the Protector was charged to ‘govern the said countries and dominions in all things by the advice of the council, and according to these presents and the laws’, thus establishing the Instrument as a yardstick of good governance. The oath to be taken by the Protector, outlined in article 41, again emphasised the role of the constitution as a restraint: he promised ‘that he will not violate or infringe the matters and things contained in this writing’ as well as to govern ‘according to the laws, statutes and customs’ of the three nations. A Protectoral veto over legislation was deemed unnecessary (and thus was not provided for), as the Instrument constituted a superior authority; this avoided the risk of charges of tyrannical, ‘arbitrary’ government being levelled against the single person. By this very Cromwellian arrangement, the Instrument rather than the Protector became the touchstone of the new

¹³ Ludlow, I, 369. ¹⁴ Woolrych, *Commonwealth to Protectorate*, pp. 366–8.

government. Later debates certainly emphasised this, stating that under the Instrument the ‘negative voice was said to be not a positive negative’, but rather a way of ensuring ‘co-ordination’ (or interpretation) of the written constitution, by the single person. The Instrument itself was ‘absolute . . . in regard it was the very foundation, and foundations were not to be altered or removed’.¹⁵ The buck would stop not at Cromwell, but at the Instrument of Government.

When it came to executive government, the individual powers of the Protector were bounded by council and Parliament. The council had the right to advise on the making of peace and war (article 5), the summoning of Parliament (article 23), and the election of future Protectors (article 25). Parliament’s role in the executive was deliberately reduced, to avoid the perceived abuses of unbridled parliamentary government as seen under the Rump, although its legislative rights were safeguarded, and the Protector was not allowed to refuse to pass bills (under article 24) as long as the matter in question was included within the terms of the Instrument. Between sessions of Parliament, the council covered for it, and between them the two bodies had something of a joint role in restricting the Protector’s freedom of action, at least in theory.

The Parliamentary Constitution, developed by the Presbyterian opposition during the Parliament of 1654–5, sought to overturn the constitutional arrangements so carefully crafted by the Instrument by attacking both the executive and legislative roles of the single person and his council, and by reducing the standing of the constitution itself. Instead it was claimed that Parliament was sovereign, and that executive as well as legislative powers were derived from it, although the former were ‘communicable’ to a single person, who could exercise power on Parliament’s behalf.¹⁶ It was this claim that prompted Cromwell to suspend the Parliament, and to harangue the members of Parliament in the Painted Chamber on 12 September: ‘I thought it was understood that *I* was the Protector, and the authority that called you, and that *I* was in possession of the government by a good right from God and men.’¹⁷ He proceeded to stipulate four things – government by single person and Parliament, restrictions on the duration of Parliaments, joint control of the armed forces, and the guarantee of religious liberty – that he considered ‘fundamentals . . . [which] may not be parted with, but will, I trust, be delivered over to posterity’.¹⁸ To gain readmittance to the Commons, members were forced to sign a ‘recognition’ of the government under a single

¹⁵ Burton, I, xxix. ¹⁶ Burton, I, xxvi.

¹⁷ Ivan Roots, ed., *Speeches of Oliver Cromwell* (1989), p. 50 (emphasis added); see Lomas–Carlyle, II, 379–80.

¹⁸ Roots, *Speeches of Oliver Cromwell*, p. 51.

person and Parliament (in that order) but, even after Parliament reconvened, the Presbyterian critics of the Instrument continually tried to assert Parliament's authority over the Protector, as in the discussion of making war (on 2 October), which was said to be undertaken with 'arbitrary power' if conducted without Parliament's consent, as it remained one of its 'ancient' rights.¹⁹ On 23 October it was argued that Parliament had 'an original, fundamental right' to elect a new Protector.²⁰ On 18 November control of the armed forces was also claimed as a right of Parliament, 'as a trust derived from them and reposed in them, for the good of the nation', and, although Cromwell might be accorded an 'equal share' of that trust, Parliament reserved the right to withhold it from his successors altogether. This last claim was made 'to the great dissatisfaction of the court' and, no doubt, of Cromwell himself, who had so recently identified control of the militia as one of his 'fundamentals' of government.²¹

Despite such criticism in debate, the more extreme claims of parliamentary sovereignty did not make a lasting impression on the final version of the Parliamentary Constitution drawn up in January 1655. Indeed, the chapters referring to the Protector and his executive powers generally repeat the wording, and thus presumably the intentions, of the Instrument of Government. Chapter 4, on the elective nature of the Protectorate, is similar to article 32 of the Instrument; chapters 23–5 on the calling of Parliament are an expansion of article 11; and, despite the claims of his enemies in Parliament, the rights of the Protector to control the armed forces under chapter 45 are the same as those in article 4. Changes *were* made, but these seem to have been designed to account for the shift in emphasis from the council to Parliament as the main balance to the single person, rather than constituting an all-out assault on the Protector's powers. Thus, chapter 5 stipulates that Parliament is to decide the conduct of the election of a new Protector, with the council playing a part only when Parliament is not sitting (cf. article 32). Chapter 7 says that the Protector's oath was to be taken before Parliament, not the council (contrary to article 41), and chapters 52–3, concerning the making of peace and war, again transfer the right of consent from the council to Parliament (cf. article 5 of the Instrument). Otherwise, the Parliamentary Constitution tended to explain the Protector's executive powers in greater detail, but without introducing further restrictions.

The Parliamentary Constitution was much more aggressive towards the legislative powers of the single person. Within days of the Parliament convening, the Presbyterian hardliners claimed 'legislative power ... to be the

¹⁹ Burton, I, xliv–xlvi. ²⁰ Burton, I, liii. ²¹ Burton, I, lxxx–lxxxii, cviii.

right of the Parliament alone, without communicating the least part of it to any single person in the world'.²² After a tense debate, on 11 September an uneasy compromise was reached, in which, although the 'truth' of Parliament's legislative supremacy was accepted, it was deemed 'convenient or expedient' to share this power with the Protector, to provide a 'check' against abuses.²³ Cromwell's closure of the Parliament the next day, and his insistence on the members' subscription of a 'recognition' of the government before they were readmitted, was provoked by such high-handedness, which raised fears that members sought to re-establish in Parliament the kind of sovereignty it had exercised during the Rump. Cromwell's intervention did not prevent further debates on the single person, however. The most explosive issue was the matter of his right to have a 'negative', or veto, over legislation. Whereas the Instrument allowed all parliamentary legislation to pass even without the Protector's consent, provided it accorded with the Instrument itself (article 24), the Parliamentary Constitution discarded the idea of a sacrosanct founding document, and instead introduced the notion of a limited Protectoral veto over 'such matters wherein the single person is hereby declared to have a negative' (chapter 1). Cromwell's list of 'fundamentals' had identified the issues which were to remain immutable, and thus subject to his veto. This was broadly accepted by the members, but the authority by which he possessed this power was not so easily conceded. The debate on 10 November was particularly ill tempered, with the Presbyterians declaring that the negatives were allowed only if the single person should 'receive them of the concession of the Parliament'. The horrified courtiers paraphrased this, saying that agreement on this would have placed 'the legislative power absolutely in Parliament, and left it at courtesy, whether the Parliament would after concede any negatives to him'.²⁴ The courtiers' protests did not prevent the proposed chapter 1 of the Parliamentary Constitution from making the provocative claim that Parliament was to 'give' the negative right to the single person – a word that caused the courtiers to howl that the measure had 'destroyed the government' and 'unmade the Protectorate'.²⁵ As it turned out, this provocative stance was more than many ordinary members could stomach. A swift change from 'give' to 'declare', and a final reordering of the clause ('wherein the single person is hereby declared to have a negative') had to be made before the resolution could gain sufficient support to pass as part of chapter 1 of the new constitution.²⁶

Worse was to follow, as the Presbyterians sought to emphasise the temporary nature of the powers they were allowing the single person. On

²² Burton, I, xxvi. ²³ Burton, I, xxviii, xxxii. ²⁴ Burton, I, lxiv. ²⁵ Burton, I, lxxv–lxxvi.

²⁶ Burton, I, lxxvii, lxxix, lxxxiv–lxxxv.

24 November, the right to alter the government from a single person and a Parliament was again raised, with some members arguing that to forbid discussion of this point was ‘too comprehensive’, requiring ‘that it should not be in the power of future Parliaments to alter any part of it’.²⁷ This principle was also enshrined in chapter 59 of the Parliamentary Constitution (resolved on 12 January 1655), which refused to allow ‘that the article herein contained, nor any of them, shall be altered, repealed or suspended without the consent of the Lord Protector and Parliament’. This was a far cry from the Instrument’s status as ‘the very foundation’ of the Protectoral state. On 20 January a move against such temporary structures, in the form of a proviso ‘that no future Lord Protector should consent to take away the negatives hereby declared to be in the Lord Protector’, was rejected out of hand by the Parliament.²⁸ This added a constitutional dimension to the religious tension that was turning Cromwell against his first Protectorate Parliament.²⁹ Only two days later, in exasperation, he dissolved it.

The Remonstrance introduced by civilian ‘courtiers’ on 23 February 1657 was above all a monarchical document. It was ‘a shoe fitted to the foot of a monarch’, according to one critic.³⁰ The intention of reviving the full traditional powers of a king was plain from its very beginning. The first article called on Cromwell ‘to assume the name, style, title, dignity and office of king . . . with the rights, privileges and prerogatives justly, legally and rightly thereunto belonging’. As the first article hinted, the kingship on offer was not an absolute one. The preamble made this abundantly clear, asserting the benefits of a return to ‘the ancient constitution of this nation, consisting of a king and two Houses of Parliament’, which were deemed to be ‘most agreeable to the temper and inclination of this people, and to conform to their laws, and the best means to preserve our nation and fundamental rights and privileges’. Beyond these bold statements, the provisions for the monarchy in the Remonstrance were sparse. For example, articles 3 and 5, which provided for the privilege of the two Houses of Parliament, assumed that the king’s relationship with Parliament would be along traditional lines, with the monarch agreeing not to interfere in elections for the Commons, and summoning all members of the upper House unless exceptional circumstances intervened. These articles depended on article 6, which requested that ‘your highness will be pleased that the laws of the land be observed and kept, and that no laws be altered, suspended, abrogated and repealed, or new ones made, but by act of Parliament’. A great deal hinged on an agreed definition of what these ‘laws of the land’ might consist, along with the ‘prerogatives’ and ‘rights and privileges’ which could legitimately be claimed

²⁷ Burton, I, xcvi. ²⁸ *CJ*, VII, 421.

²⁹ See Smith, ‘Religious Reform’, 42–3, and chapter 9. ³⁰ Ludlow, II, 21.

by the king and subjects, respectively. The omissions in the Remonstrance were, in this regard, as telling as the provisions. In particular, there was no mention of control of the armed forces or the making of treaties or declarations of peace and war, which were presumably the sole responsibility of the new king through his prerogative powers; likewise, the appointment of officers of state and the judiciary was unmentioned, the assumption being that such matters came under the king's traditional remit.³¹

The Remonstrance of February 1657 was a very different document from the Instrument or the Parliamentary Constitution, as it created a constitutional monarchy, rather than a Protectorate. Under the Instrument, the Protector, although enjoying a traditional title, had completely new powers. These were well defined, balanced by the council and Parliament, and underwritten by the terms of the constitution itself. Cromwell was required to uphold the articles of the Instrument under the terms of his oath, and the precedence of these articles effectively removed his right – or need – to veto legislation. The contrast between the newborn Protectorate of 1653 and the embryonic monarchy of 1657 could hardly be greater. The Remonstrance included no oath for the new king, and had no reference to its own provisions as forming a permanent restriction on his actions. Yet the whole document was couched as a plea that the new king would 'be pleased' to give his 'consent' to its provisions – terms repeated in various forms in articles 1, 2, 5, 6, 9, and 10. The monarchical right of veto over parliamentary legislation was thus implicitly revived, although there was no specific provision for one. Like the Parliamentary Constitution, the drafters of the Remonstrance did not intend it as a binding constitutional document; but in other respects their intentions were very different. They planned not to attack Cromwell but to promote him. By re-establishing a traditional form of government with the traditional lack of safeguards, they placed all their trust in Oliver and his successors to do the right thing by their subjects. Despite the lessons of recent history, and despite general calls for government within the established laws and customs of the 'ancient constitution', they deliberately chose to vest the new dynasty with ill-defined prerogative powers, similar to those enjoyed by Charles I before 1641–2.

The divisive nature of the kingship proposals was obvious from the very start of the parliamentary debates on the Remonstrance. Indeed, Parliament showed a marked reluctance to deal with the issue head-on. On 2 March 1657 the debate on the first clause of the first article, with its offer of the crown, was postponed until the other articles had been discussed.³² When it

³¹ These would be inserted into the Humble Petition, articles 8 and 9.

³² *CJ*, VII, 497–8. The second clause, on hereditary succession was, by contrast, passed 'without division, or opposition' (BL, Lansdowne MS 821, fo. 316r).