

**PART IX**  
**THE POST-WESTMINSTER COMMON**  
**LAW IN ENGLAND**



## CH. 35: ROMANIZERS VS. PROTESTERS: 1642-49 RELIGIOUS WARS IN BRITAIN

It is our perception that the Westminster Assembly would have taken place even if the seventeenth-century British Religious Wars ó the English Civil War and the almost-contemporaneous and overlapping Anglo-Scottish Wars ó had never occurred. The Assembly was ordered quite before the outbreak of hostilities ó and also with the hope that its convening might help prevent such a clash. Indeed, if the misguided king and his men had only supported and embraced the Assembly's *Solemn League and Covenant* ó the English Civil War would never have broken out.

In point of fact, however, it was the Royalists who withdrew from the Puritan-dominated Parliament in London ó not *vice versa*. It was the anglo-catholicizing and also the romanizing Royalists who despised the religious viewpoint soon to be formulated in the *Westminster Standards*. That was not the action of the protesting Parliamentarians ó who sanctioned and adopted them. Indeed, it was the Royalists who fired the first shot of the 1642-49 English Civil War.

King Charles the First then proceeded to Nottingham. There, in August 1642, he set up his war standard ó bearing the motto: "Render unto Caesar!" Cf. Matthew 22:21. It was his army, and not that of the English Parliament, which engaged upon and gained the advantage of the first clash ó at the Battle of Edgehill in September 1642. Indeed, it was the Royalist forces which thereafter advanced against Parliament and Westminster ó in London, the nation's capital.

It is largely to make this point abundantly clear, that we have written this present chapter. Very frankly, theologically, we are openly supportive of the Puritan Protestants ó and openly condemnatory of their opponents, the anglo-catholicising and romanizing Royalists. Yet we believe we also have sound non-theological reasons for this position too. Such we shall seek to demonstrate below.

Inevitably, there is some overlap between this present chapter ó and our four previous chapters on the *Westminster Standards*. In these five chapters altogether, approximately the same period is covered ó earlier, 1643-52; and now, 1642-49. Also, the theatre of action is on the same island ó Britain.

Yet the two issues are each sufficiently important, and sufficiently different, now to merit separate treatment. For we now focus not (as formerly) on the Westminster Assembly ó but rather on the English Civil War.

Moreover, only in our next chapter we will take up the cudgel against the radicalizing Anti-Presbyterian Oliver Cromwell ó who especially from 1645 to 1652f onward, increasingly opposed the Westminster Assembly. Yet further, only in the chapter thereafter, from 1659 onward ó on the 1660 Restoration's reversal at the British *Bill of Rights* in 1689f ó will the fruits of both the Westminster Assembly and the British Wars of 1642-51f be seen to have been secured in a permanent way.

In his article *Law and Belief in Three Revolutions*, American Law Professor Dr. H.J. Berman observes<sup>1</sup> that English Constitutional Law underwent fundamental changes in the half-century between 1640 and 1689. Parliamentary supremacy was established. The older Common Law courts then became supreme over all others. Religious toleration was extended to all Protestant denominations, and royal powers were limited by a written *Bill of Rights*.

Freedom was reborn in Europe, within Calvin's sixteenth-century Switzerland. Similarly, freedom came to England during the increasingly Calvinizing Britain's 1649 Commonwealth; at her 1660 Restoration; and at her "Glorious Revolution" of 1688.

Berman rightly explains<sup>2</sup> that Calvinist theology itself favoured aristocratic government over monarchical in the State and presbyterial government over prelatical in the Church. Indeed, Swiss Calvinism, and English Puritanism as its immediate descendant, both advocated the God-given right and duty of lower magistrates to resist tyrants.

### **The 1642 Outbreak of the Cavalier/Ironside English Civil War**

On August 22nd 1642, then, the English Civil War broke out. It was waged between the royalistic and Romanizing or Anglo-Catholicizing "Cavaliers" and the parliamentary Protestant and Puritan "Ironsides."

The Royalists were initially under the brilliant generalship of King Charles's nephew, Prince Rupert. He had been exiled from Bohemia first in the Palatinate, and then in Holland.

The Parliamentary Army was initially under the command of the Earl of Essex. It consisted of a coalition of Puritan-Anglicans, Presbyterians, Independents, and Baptists.

At first, the Parliamentary Army's actions were purely defensive. Originally, that Army was not at all out to destroy the monarchy but simply to defend Parliament. Further, it was both then and subsequently also out to defend even itself against the attacks of the rapacious Cavaliers, and to rescue England's misguided king from their clutches. Only later, when attacked by the Royalist Cavaliers, did the Parliamentary Army resolve first to purge the throne of its pollutions and later even to replace the monarchy with a Commonwealth.

The English Presbyterians, but especially the Scottish Presbyterians and the Scottish Parliament, long upheld the institution of royalty but opposed the abuses perpetuated by King Charles and his supporters. Only later did the Parliamentary Army come under the dynamic leadership of the Congregationalist Oliver Cromwell with strong support from the rapidly-increasing congregationalistic Baptists (and other sects still more radical).

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<sup>1</sup> H.J. Berman: *Law and Belief in Three Revolutions*, art. in *Valparaiso University Law Review* 18:3, Spring 1984, p. 598.

<sup>2</sup> *Ib.*, pp. 604f & 610f.

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Indeed, soon after it did so that Army then became increasingly independent even of Parliament itself. Finally, Cromwell himself would rule almost monarchically not by his own choice, but because impelled as a result of the chaotic confusion then epidemic in the land. So Cromwell then ruled, even without Parliament until the Restoration of constitutional government soon after his death.

The famous church historian Rev. Professor Dr. Philip Schaff, has a good statement<sup>3</sup> on *The Puritan Conflict*. At the beginning of the first English Civil War, the parliamentary forces mustered an Army such as England never saw before or since. It was an army which feared God and hated the pope; which believed in the divine decrees; and practised the perseverance of the saints.

It was an army: which fought for religion; which allowed no oath, no drunkenness, no gambling in the camp; which sacredly respected private property and the honour of women; which went praying and psalm-singing onto the field of battle and never returned from it without the laurels of victory. Indeed, when those warriors were disbanded at the Restoration (in 1660 A.D.), they astonished the Royalists by quietly taking their place among the most industrious, thrifty and useful citizens.

### **The religious and historical roots of the English Civil War**

It is important that the English Civil War be seen in its religious and historical setting. At root, it was a battle between Bible-believing Protestants and romanizing Royalists. Had the latter won, they would have at least sacerdotalized if not finally even papalized the Anglican Church.

The Bible-believing Protestants wished to preserve their rights under British Common Law. Those were rights which had been brought to Ancient Britain from the Near East some three *millennia* or more earlier.

The romanizing Royalists were High-Churchmen who hated Ancient Britain's Culdee faith, and who sought to impose even more prelacy. They in effect promoted just what the A.D. 596f papal envoy Austin of Rome had promoted in England a *millennium* earlier or *viz.* the attempted destruction of British Proto-Protestantism.

In one brief sentence: the English Civil War of Protestants *versus* High-Churchmen, was just one more episode in the age-long and continuing drama of Jerusalem *versus* Rome. Yet it was a decisive episode.

Nowhere was this more clearly recognized than by the noted Puritan Member of Parliament John Sadler<sup>4</sup> in his dissertation on *The Rights of the Kingdom on the Customs of our Ancestors*. This was written during the 1642-49 British Civil War and printed during its last year.

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<sup>3</sup> See the section on *The Westminster Standards*, in Schaff's *Confessions of Christendom*, Baker, Grand Rapids, 1983 rep., I, pp. 718-19.

<sup>4</sup> J. Sadler: *The Rights of the Kingdom on the Customs of our Ancestors*, Bishop, London, 1649.

Sadler referred<sup>5</sup> to ðthe Trojan reliques, statues, tablets and pictures...found here ó in Cornwall, Wales, and other parts ó besides our Troynovant [alias ðNew Troyð]...now London.... I find old Nennius [the A.D. 805f Brythonic historian] confessing that the *British Annals* had...the descent of their ðBruteø or Britto from Japheth (obtaining Europe for his portion with the British Isles).ö See Genesis 10:1-5.

This, explained Sadler, was in accordance with ðNoahø's willö and testament. See Genesis 9:23-29f. There, compare especially ðthe Islesö in Genesis 9:27 with the Cymric ðGomerö in Genesis 10:1-5. Compare further ðthe islesö of ðthe North and...the Westö ó in Isaiah 42:10f & 49:1,12. See too Ezekiel 27:3,12,15,25f *etc.*

John Sadler further maintained that even the A.D. 300 Church Father ðEusebiusö traced this ðgenealogy through twenty descents to Noah and Adamö ó going back ðfrom the tradition of those who lived here in the times of primæval Britain.ö Again, ðTaliessin the British Bardö around A.D. 550f had ðTrojans coming hither with their Bruteö around 1200 B.C.

Sadler concluded: ðI cannot deny some Trojan customs among us.... The British *Gavelkinde* [or Proto-Celtic mode of inheritance by the youngest son in Kent called ðBorough-Englishø], also relate[s to] their own Bruteö of Troy.

The Puritan Member of Parliament Sadler also added that the Ancient Britonsø druids ðmight come...from the Jews.... The druids had their learning.... I could also believe their characters to be very like those of Canaan (as Scaliger or Eusebius and others).ö The British druids ðto be Hebrew, many learned men affirm.... See...Buxtorfø's *Dissertations* with the Punick Columns of Iosuah...[and with] Mr. Seldenø's *De Dis Syris* and *De Jure Gentium*.

ðThe late [book] *Pelegö* ó compare Genesis 10:21-25 & 10:1-5 & 11:10-17f ó ðhath found...for the name of ðBritainø...[that] it would...be called by the Phoenicians *Berat Anac* or the ðField of Tin and Leadø... Our [Celto-British] trial by twelve [jurymen]...was not first brought in by the Normans or the Saxons.... It might come...from the Jews..., according to the numbers of the sons of Israel.ö Thus the Puritan Parliamentarian John Sadler.

Now the Puritans were certainly admirers of Old Testament Israel. Many (such as the famous Ussher) also believed, for very good reasons, that Palestinian Hebrew-Christian Missionaries had reached Britain with the Gospel even before the A.D. 43f pagan Romans ó and long before the A.D. 596f semi-paganizing Romanists. Sadlerø's views but reflect those of William Camden, Robert Bruce, John Cotton, Sir Edward Coke, Sir Henry Spelman, John Selden, and the great Puritan-Anglican Archbishop James Ussher ó and anticipate those of Edward Stillingfleet and Thomas Hearne.

Accordingly, the sixteenth- and especially the seventeenth-century Puritans embraced Palestine ó and despised Rome. Throughout the English Civil War and beyond, there was for the Puritans ó whether Episcopalian or whether Non-Episcopalian ó to be no place for either papalizing Romanists or romanizing Royalists in Protestant Britain.

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<sup>5</sup> *Op. cit.*, p. 39f.

### Rev. Professor Dr. B.B. Warfield on the parties in the English Civil War

The great American theologian Rev. Professor Dr. B.B. Warfield has observed in his important book *The Westminster Assembly and Its Work*<sup>6</sup> that when the parties were ultimately lined up for the final struggle ó it was king and prelate on the one side, against Parliament and Puritan on the other. As Mr. J.A.R. Marriott put it: ðOn the side of King Charles, all the Romans and Anglicans; on that of ðKing Pymø ó all the many varieties of Puritanism.ö

The main issue which was raised, was a political one ó the issue of representative government, over against royal absolutism. This issue was fought to a finish ó with the ultimate result that the monarchical tyranny and its oligarchy were defeated, and constitutional royalty as well as responsible government were re-established in England. The form which the ecclesiastical issue took on, was that of a contest between a purely Puritan Protestantism and a reactionary Anglo-Catholicism.

For England had now become a divided nation. The initial opposition was between those supporting the absolutistic tyranny of Charles and those supporting constitutional government through the Parliament.

Only later did a second traumatic division occur. At that time, an increasingly radicalizing and anti-royal ðmight-is-rightø authoritarian Army ó finally started striving even against a ðright-is-mightø Puritan Parliament. At that time, the Parliament was doggedly committed to constitutional government. But later, Cromwell and his Army increasingly elevated themselves ó though often with the best of intentions ó even above Parliament.

From the Puritansø viewpoint, the British Civil War of 1642-49 ó at least at its outset, and indeed also for the first part of its continuance ó was not in any way a revolutionary rebellion nor even an anti-royal protest against monarchy as such. It was much rather a reclamatory reformation.

This is clearly seen from the 1644 *Souldier's Catechism of the Puritan Ironsides (and 'Roundheads')*. It brightly reflects the constitutional and continuing influence of **anti-revolutionary British Common Law**.

The soldier being catechized, was to be asked: ðWhat side are you on?ö He was to answer: ðI am for King and Parliament.... I fight to recover the king out of the hands of a popish malignant company that has seduced his majesty with their wicked counsels.... I fight in defence and maintenance of the **true Protestant Religion**.... Almighty God declares Himself a friend to our party.... God now calls upon us to avenge the blood of His saints.ö<sup>7</sup>

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<sup>6</sup> *Op. cit.*, p. 5 & n. 4.

<sup>7</sup> Cited in ed. L. Zuckø *Christianity and Revolution – Documents in Free Church History*, II p. 230.

## The issue was not initially King vs. Parliament but tyranny vs. Constitution

English History Professor Brewer explained<sup>8</sup> that a profound chasm opened up in 1642. Suddenly, two names in England's Constitution – that of King and that of Parliament – were placed in opposition to one another. No wonder the people were divided in their choice!

The nobility and the more considerable gentry dreaded a total confusion of rank from the fury of the populace. By and large, the former enlisted themselves in defence of the anti-parliamentary faction which had misled King Charles.

On the other hand, the city of London and most of the great corporations – as well as some of the nobles such as Sir Thomas Fairfax, the Earl of Essex and Lord Manchester – took the part of the Parliament. They adopted with zeal those representative principles on which the pretensions of that Assembly were founded way back in the remotest past.

English Presbyterianism then included many monarchists, and the entirety of Scottish Presbyterianism was monarchical to its very core. Yet both English and Scottish Presbyterians then even more supported their own Parliaments – against those who had seduced their king. Indeed, especially English Presbyterianism was a zealous bulwark of Parliament.

The friends of the Episcopal Church, by and large, defended the claims of those who supported an absolute monarchy. Those who aspired to an easy enjoyment of life – regardless of denominational affiliation – flocked to the king's standard. On the whole, however, the torrent of general affection ran in favour of the Parliament.

Not just the Commons but ultimately even the Lords supported Parliament in the English Civil War against the tyranny of those who had misled Charles. Thus the struggle was supported by both Houses of Parliament.

As the great leader in the House of Commons John Pym told the House of Lords: "The Commons will be glad to have your concurrence and help **in saving the kingdom**. But if they [the Lords] fail of it, it would not discourage them [the Commons] in doing their duty. And whether the kingdom be lost or saved, they shall be sorry that the story of this present Parliament should tell posterity that in so great a danger and extremity, **the House of Commons should be enforced to save the kingdom alone**"<sup>9</sup> – viz. even without the support of the House of Lords.

The **Upper** House thereupon **complied**. For Pym then called upon it not to help destroy but precisely to help save – the **kingdom** of England. This the Upper House then did – in collaboration with the House of Commons.

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<sup>8</sup> *Op. cit.*, pp. 397f.

<sup>9</sup> Green's *op. cit.*, p. 546.



## Last minute attempts by Parliament to avoid the English Civil War

Very wisely, early attempts were indeed made to try to avoid the impending military conflict. The king's counsellors sent agents to London, offering a treaty to Parliament (on the 25th of August 1642).

However, explains Professor Brewer,<sup>10</sup> both Houses replied that they could admit of no treaty with the king. First, he would need to take down his standard [-Render unto Caesar!] which he and his supporters had raised at Nottingham three days earlier on August 22nd.

He should rescind his proclamations, in which the Members of Parliament supposed themselves to have been declared traitors. A second attempt at negotiation, on September 3rd, had no better success.

A Royalist, Lord Northampton, now seized the stores at Banbury and attacked Warwick Castle. On September 9th 1642, Parliament published a declaration to the whole nation explaining the causes of the war.

By September 15th, Charles had marched from Nottingham to Derby. By the 19th he was at Wellington and then on to Shrewsbury.

Prince Rupert's cavalry attacked Essex's Parliamentary Army at Worcester on September 22nd. Then, about October 12th, Charles left Shrewsbury and via Wolverhampton, Birmingham and Kenilworth resolved to march towards London. That was the great Presbyterian stronghold and seat of Parliament.<sup>11</sup>

According to English History Professor Brewer,<sup>12</sup> all the dispersed bodies of the Parliamentary Army were now ordered to march. The Earl of Essex, who had joined them, found that the whole amounted to fifteen thousand men.

The king realized he had no army which could cope with so formidable a force. So on September 19th, he made a solemn declaration before his own army in which he promised to maintain the Protestant religion; to observe the laws; and to uphold the just privileges and freedom of Parliament.

However, by September 23rd, the king's duplicity became obvious. At Edgehill, he out-popped even the Roman pontiff. For there, Charles told his troops that his own royal authority had been derived from God whose **Substitute and Supreme Governor** under Christ, **I am!**<sup>13</sup> So the war escalated.

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<sup>10</sup> *Op. cit.*, pp. 398f.

<sup>11</sup> Thus *Historians' History*, XX:6f.

<sup>12</sup> *Op. cit.*, pp. 399f.

<sup>13</sup> Thus *Historians' History*, XX:7.

## Early successes of the Royalist Army against the Parliamentary Army

In the Battle of Edgehill, the Royalists gained the upper hand. They then occupied Banbury and arrived at Oxford on September 26th. By November 11th, Charles was at Colnbrook. There a Parliamentary Deputation came, under safe conduct, to propose that the king reside near London ó until Committees of both Houses of Parliament may attend your Majesty with some propositions for the removal of these bloody distempers.ö

The king said he was favourable. He proposed to receive such propositions at Windsor. However, the very next day, the crafty Charles marched his troops through very thick mist to within reach of London ó before they were sighted barely in the nick of time.<sup>14</sup>

The *Historians' History* here records<sup>15</sup> that the assault intended for the city, at last became a reality. On the morning of the 12th of November 1642, the sound of distant guns was heard in London. Prince Rupert was charging in the streets of Brentford. Not to be outdone, again and again the Parliamentary Ironsides charged the Royalist Cavaliers.

The Puritan General Skippon told his men: öRemember ó the cause is for God; and for defence of yourselves, your wives, and children. Come, my honest brave boys! Pray heartily and fight heartily ó and God will bless us!ö

Twenty-four thousand men of the Parliamentary Army were marshalled on that Sunday at Turnham Green. Fortunately, Charles then retired to Oxford.

Under Oliver Cromwell, the eastern counties ó Norfolk, Suffolk, Essex, Cambridge, Herts (and soon also Lincoln and Huntingdon) ó now formed themselves into an Association to keep the war away from their own localities. Meantime, Parliament wisely resolved that under the authority of its own great seal and that of the king ó judges should continue to execute their functions as usual. Clearly, it was even then still desired that Charles should continue to reign ó yet no longer as an autocratic tyrant, but only as a **constitutional** monarch co-operating with Parliament.

As the *Historians' History*<sup>16</sup> fascinatingly discloses, also during those unhappy times, England was in a great degree exempt from crimes of violence. Even in spite of the events of the Civil War itself, there were in England then almost no lawless and ferocious spirits who ó as many passages of the histories of other countries record ó then held the peaceful in terror. England was safe from those massacres. This immeasurable blessing she owed to her **ancient civil organization** ó and to **respect for law**.

Nevertheless, as the *Historians' History* next goes on to point out,<sup>17</sup> in the beginning of 1643 the national feeling in England was exasperated ó by the landing of

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<sup>14</sup> Thus *Historians' History*, XX:8.

<sup>15</sup> *Op. cit.*, XX:8f.

<sup>16</sup> *Op. cit.*, XX:10f.

<sup>17</sup> *Op. cit.*, XX:10f.

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a foreign army under Queen Mary, the French-born Romanist. During that year, she was indefatigable in making the most of the funds she had acquired by selling off crown jewels in order to purchase arms and ammunition and to raise men for use against the English Parliament and its Army.

The Earl of Newcastle, who came to escort Queen Mary to York, had been authorized by her husband King Charles the First to raise men for his service without examining their consciences. Thus, his army was styled by the Parliament as Queen Mary's Army and the Catholic Army.

There were now further Royalist successes in Yorkshire. Next, the Cornishmen rose up. Then the famous Puritan Hampden was mortally wounded at the Battle of Chalgrove Field and died after six days of agony. He expired saying: "O Lord, save my bleeding country!"

A further disaster followed. Parliament's General Sir Thomas Fairfax was defeated at Atherton Moor. Also the Battle of Roundaway Down went badly. Thereafter, the Presbyterian General Sir William Waller suffered disasters.

King Charles then besieged Gloucester. Bristol, the second city in England in both wealth and population, surrendered to his General, Prince Rupert. Without the help of the Scots, it then seemed the English Parliamentary Army might well lose the whole war to the tyrannical and romanizing Royalists.

### **The English Parliament convenes the Westminster Assembly**

Consequently, the English Parliament itself, with full encouragement from the Scottish Parliament as well as from the General Assembly of the Church of Scotland, was now more than willing to promote precisely Presbyterianism in England too. Indeed, under strong military pressure from its opponents, the English House of Commons in particular now tried to bring about a united Puritan Religion throughout the three kingdoms of Britain (alias England & Wales), Ireland, and Scotland.

Repeatedly since April 1642, the British Parliament of England and Wales had been trying to get the king's approval for its convening of the Westminster Assembly. But then, because of the aggression of those who brought the king into insurrection against his own Parliament, the English Civil War had broken out in August 1642. So in April 1643, Parliament without the king's assent convened the Westminster Assembly of more than a hundred judicious divines from the three kingdoms of the British Isles. It first met in July 1643.

The delegates had been instructed to draw up various ecclesiastical documents such as the *Westminster Confession of Faith* and the *Larger Catechism* and the *Shorter Catechism* in order to achieve the purpose of constituting one Presbyterian Church for the three kingdoms of the British Isles. They were also together with both the English Parliament and the Scottish Parliament to sign the *Solemn League and Covenant*. That was intended to be an international treaty promoting Calvinistic Puritanism both throughout Britain as well as in Ireland (whence Ussher's *Irish Articles* as the very root of the *Westminster Confession* itself had come).

The comment of the *Historians' History* is very important here. It observes that the *Solemn League and Covenant* well illustrates Scotland's and the Scottish Presbyterians' sympathy for monarchy and the English Puritan commitment [especially among the Independents] to civil rights (rather than either to monarchy or to Presbyterianism).

The *Historians' History* observes<sup>18</sup> that the zealous Scottish Presbyterians had proposed only a religious covenant. However, the English Independent and Parliamentarian Sir Henry Vane then expanded this to a solemn **league** and covenant. The word "league" here seems to anticipate the political views of the 1651 Hobbes, and indeed even the yet-later "social contract" theory.

This *Solemn League and Covenant* was indeed to be taken by both nations as such. Here, however, the Scots had proposed a [pro-monarchical] clause: "for the preservation of the king's person."

The English Congregationalist Member of Parliament Vane, however, then proposed that a further "civil rights" clause be added immediately after the Scottish suggestion. His addition was successful, and reads: "in preservation of the laws of the land and liberty of the subject." Thus, this entire clause in the *Solemn League and Covenant*, as adopted, committed the signatories of "both nations" to strive "for the preservation of the king's person in preservation of the laws of the land and liberty of the subject."

Once more. To the Scottish clause calling for "reducing the doctrine and discipline of both [the English and the Scottish] Churches to the pattern of the best Reformed Churches" meaning specifically Presbyterian denominations especially on the European Continent the Congregationalist alias the "Independent" Vane again successfully added: "according to the Word of God." Thus, the entire clause, as adopted, committed both the English and the Scottish signatories to "reducing the doctrine and discipline of both Churches to the pattern of the best Reformed Churches according to the Word of God."

Yet soon, the Congregationalists and their later Baptist allies would be alleging that "the best Reformed Churches according to the Word of God were not Presbyterian but independent. In this way, the Independents also ably assisted by their own Cromwell more and more managed to steer the reformation of religion in England away from Presbyterianism and toward Independency (whether of the Baptist or whether of the Congregationalist variety).

Professor J.S. Brewer was perhaps the greatest nineteenth-century authority on all periods of the history of England.<sup>19</sup> Indeed, Brewer relates that Rawson Gardiner's grasp of England's seventeenth-century history is "the highest for that period" and "unquestionable."<sup>20</sup>

Now Rawson Gardiner rightly noted, in his own *History of the Great Civil War*,<sup>21</sup> that the Congregationalist Parliamentarian Vane (who was eager for religious liberty)

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<sup>18</sup> *Op. cit.*, XX:17 & n. 2.

<sup>19</sup> *Preface to Brewer's Hume's History of England*, p. v.

<sup>20</sup> *Op. cit.*, pp. v-vi.

<sup>21</sup> Cited in the *Historians' History*, XX:17 & n. 2 and XX:661 (ch. I n. b).

had slipped the above-mentioned additions into the draft of the *Solemn League and Covenant*. The Scots could not reject them. Yet these very words afterwards enabled every Non-Presbyterian South-British alias English or Welsh Protestant ó and even every inconsistent North-British alias Scottish signatory ó to deny anything in the creed which **he** regarded as distasteful. So to deny, he could simply **allege** that the *Covenant* was not ðaccording to the Word of God.ö

In other words, this latter phrase enabled the laxer signatories to regard themselves as bound by the *Solemn League and Covenant* only insofar (*quatenus*) as **they** viewed it to be Biblical. They did not regard themselves as bound by it because (*quia*) it really **does** agree with Holy Scripture. For **that**, the ðStrict Presbyterianö position, they did **not** embrace.

Yet the majority of those few Scottish Presbyterians who previously had emigrated to Ireland at the beginning of the seventeenth century ó had just been organized into an Irish Presbytery in 1642. This was done by the Army Chaplains in the invading Scottish Army. In this way, the nascent ðPresbyterian Church of Irelandö<sup>22</sup> was constituted. That new body was very sincere, and itself signed the *Solemn League and Covenant* in 1644.

### **Professors Green and Brewer on the politico- international *Solemn League***

History Professor Green's own analysis<sup>23</sup> of the *Solemn League* is well worth weighing. First stood the demand for a ðUnity in Religionö ó an adoption, in other words, of the presbyterian system by the till-then-episcopal Church of England and the crypto-presbyterian and only-very-mildly ðepiscopalö Church of Ireland.

Pym and the leading Puritan statesmen were still Episcopalians (though only moderately so). Yet the growing force of Presbyterianism, and still more the needs of the war (*viz.* the need for help from **Scotland**), forced them to seek such a system as **Presbyterianism**. Scotland, for its part, saw that the triumph of the English Parliament amounted to its own triumph ó in ðestablishingö Presbyterianism as the National Religion of South Britain (alias England and Wales). This was necessary, also for Scotland's own security.

Precisely the king's most recent behaviour inadvertently helped promote the adoption of the strongly anti-papal wording of the *Solemn League and Covenant*. The conclusion of a truce by Charles with his Catholic Confederates, had left the Royalist Army (which had hitherto held the Romanists' revolt in check) at the king's disposal ó for service in England, and against the parliamentary Protestants.

With the promise of Catholic support, Charles might even think himself strong enough to strike a blow at the Scottish Government in Edinburgh. Negotiations were soon opened with the Irish Catholics, to support by their landing in Argyleshire an uprising of Highlanders under the Royalist Montrose.

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<sup>22</sup> Cf. the arts. *Ireland, Reformed Presbyterian Church, and Solemn League and Covenant* (in ed. Douglas's *New International Dictionary of the Christian Church*).

<sup>23</sup> *Op. cit.*, pp. 550f.

Scotland, anxious for its safety, hastened to sign the *Covenant*. It pledged itself to öbring the churches...in the three kingdoms to the nearest conjunction and uniformity in religionö; to öextirpate popery and prelacyö together with superstition, schism and profaneness; and to öpreserve the rights and privileges of the Parliament, and the liberties of the kingdom.ö

History Professor Brewer explains<sup>24</sup> that in this Covenant the subscribers ó besides engaging mutually to defend one another against all opponents ó bound themselves to endeavour, without respect of persons, to öextirpate popery and prelacyö and öto maintain the rights and privileges of Parliament together with the kingø authority.ö The Scots had thus obtained what they had long been aiming at ó the establishment of Presbyterianism as the dominant religion in the various different kingdoms of the British Isles, and the authoritarian extirpation not just of Romanism but also of Episcopacy. The Scots made the acceptance of Presbyterianism the condition of their military assistance now being offered to the English Parliament ó in the latterø own Civil War against the absolutism of the English Royalists.

In place of the old Episcopalian National Convocation of Anglican churchmen, the Commons of the English Parliament summoned an Assembly of divines at Westminster. That consisted of those who were earnest supporters of Presbyterian tenets ó or who were supposed to be strongly inclined toward them.

Unlike the former Convocations of the clergy, each of those members of the Westminster Assembly received from the Parliament an allowance. The English Parliamentarians ó having first subscribed the *Covenant* themselves ó ordered it to be received by all who lived under their authority (on September 25th 1643). They expelled from their preferments the whole body of the episcopal clergy ó and bestowed those benefits upon their own partisans among the Presbyterians.

So, then ó it was not just the **Westminster Assembly** in Presbyterian London which approved the *Solemn League and Covenant* in order to promote **ecclesiastical** reform throughout the British Isles. Especially for **political** reasons, also the **Parliament of England** (and thereafter even all ranks of the English people) took the covenant ó also in order to secure Scottish help. Thereafter, also the Members of the Scottish Parliament themselves subscribed to the *Solemn League and Covenant*.

### **But did the English and the Scots understand the *Covenant* alike?**

One may wonder if the Scottish and the English signatories ever understood the *Solemn League and Covenant* in the same way. To the Scottish signatories, this *Covenant* mandated the two Parliaments of England and Scotland to **establish Presbyterianism** as the preferred religion **throughout the British Isles** ó while faithfully **supporting their king**, and not disestablishing royalty as such but merely condemning certain absolutistic acts of King Charles the First and requiring him thenceforth to act constitutionally. To many of the English signatories, however, this *League* mandated **military** co-operation between the **various** kinds of Protestants in South Britain and North Britain ó **specifically to bring down the then monarch**.

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<sup>24</sup> *Op. cit.*, pp. 403f.

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So the English made no real effort to get King Charles himself to sign the *Solemn League and Covenant*. They promptly forgot about it ó after Charles had been executed in England during 1649. The Scots, on the other hand, not only themselves renewed the *Solemn League and Covenant* in 1648. They also tried to get Charles to sign it with them in 1648 ó and successfully got his son, Charles II, to sign it both in 1650 and again in 1651.

This difference between the English and the Scots in their understanding of the terms of the *Solemn League*, explains why the Scots fought with the English against Charles the First during most of the First English Civil War (1642-46). It also explains why the Scots thereafter ó when the Non-Presbyterian Independent and Republican Cromwell had gained control over the English Parliamentary Army ó themselves started fighting as allies of King Charles the First and against the English Parliamentary Army during the Second English Civil War (1648-49). Indeed, it further explains why the Scots unsuccessfully fought **for** King Charles **the Second** and **against** Oliver Cromwell in the Anglo-Scottish War of 1650-51 ó once that king had himself subscribed the *Solemn League* in 1650 and again in 1651.

### **The political actions of the Scottish Covenanters from 1557 till 1649**

As the *New Illustrated Columbia Encyclopedia* lucidly explains,<sup>25</sup> the **Covenanters** in Scottish history were groups of Presbyterians bound by oath to sustain each other in the defence of their **religion**. The first formal Covenant was signed in 1557, signalling the beginning of the Protestant and indeed specifically the **Presbyterian** effort to seize power in Scotland.

It was renewed thereafter at times of crisis, most notably in the seventeenth century. The *National Covenant* of 1638 aimed to unite the Scots **in opposition to the episcopal innovations** of King Charles the First and the Highchurchman Archbishop William Laud. Such innovations included especially the use of the English *Book of Common Prayer*.

The Covenanters ó who supported the Presbyterian State Church of Scotland ó successfully resisted the king's armies during the Bishops' Wars in Scotland from 1639 to 1640. In the 1642-46 First English Civil War, the Scottish Covenanters supported the Parliamentary Party in England ó but **only after the English Parliament** had in 1643 accepted the *Solemn League and Covenant* providing for **the establishment of a Presbyterian State Church also in England and in Ireland under the same monarch**.

After the First English Civil War (1642-46), however, the Independents in the English Army secured control of affairs ó and prevented implementation of the Covenant in England. Many Scots therefore then concluded the agreement known as the 'Engagement' with Charles the First. Thereby, the king agreed to establish Presbyterianism in England ó if restored to that throne. As a result, many Scottish Covenanters fought for Charles the First and against England's Parliamentary Army during the Second English Civil War (1648-49).

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<sup>25</sup> *Op. cit.*, 6:1702f.

## **Pym's death and the embracing of the Parliamentary Covenant by the English**

England's great Puritan Member of Parliament John Pym then died. English History Professor J.R. Green observes<sup>26</sup> that the conclusion of the *Parliamentary Covenant* had been the last work of Pym. At last satisfied with the terms of the agreement (until matters thereanent later changed), the Scots now came to the military aid of the English Puritans against the Royalists.

Gardiner<sup>27</sup> gives the following assessment. Pym was always coherent. Back in 1621, it was he who had advocated the formation of an association against popery. The *Protestation* of 1641 was an attempt to execute this plan ó this time also against Royalist intrigues. The *Parliamentary Covenant* in June 1643 was an enlargement of the same idea ó and so too the *Solemn League and Covenant* of September 1643.

Pym was the soul of parliamentary resistance against tyranny; the chief engineer of parliamentary endorsement of the various covenants. He was also the founder of the Puritan Party's political government. He wisely recognized that religious differences were inevitable, but endeavoured to unite all Protestants in a common purpose ó with the greatest possible amount of liberty of opinion.

Soon before his death, Pym prepared the way for his party's triumph. He did this, by summoning the Scots into the civil war ó and by the monetary measures taken by Parliament which financed the military campaigns of 1644-45.

## **After Pym's death the intolerant Independents strained the Puritan Alliance**

Yet ó after the death of the balanced Puritan Pym ó some intolerant parliamentary leaders now came to the fore. After the alliance had been concluded with the Scottish Presbyterians, the same covenant was imposed by the English Parliament upon every Anglican clergyman in England.

Not just especially the English Parliamentary Army but even the Parliament of England itself now became more radical and anti-episcopalian, while at the same time also experiencing an increasing infiltration by Independents (Congregationalists and Baptists). This, of course, helped neutralize the impact of the Westminster Assembly on the nation as a whole.

In 1643, explains Professor Green,<sup>28</sup> two men on whom the event of the war finally depended ó began to be remarked about for their valour and military conduct. These were the Parliamentary Army's Generals ó Sir Thomas Fairfax, and Oliver Cromwell.

The former gained a considerable advantage at Wakefield over a detachment of Royalists. The latter obtained a victory at Gainsborough.

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<sup>26</sup> *Op. cit.*, pp. 552f.

<sup>27</sup> See in *Historians' History*, XX:19f.

<sup>28</sup> *Op. cit.*, p. 546.



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The struggle in England was the topic of every conversation. The famous curse of Meroz ó that curse so solemnly denounced and reiterated against neutrality and moderation in Judges 5:23 ó resounded from all quarters.

As the *Historians' History* points out,<sup>29</sup> Cromwell had been forming his -Ironsides.ø At this period, he himself was heading them in the earliest of those famous charges which determined so many battles.

On the 10th of October 1642, in the skirmish of Winceby, near Horncastle, his career had been well-nigh ended. His horse was killed at the first charge. As he rose, he was knocked down by Sir Ingram Hopton, who led the Royalists. However, Cromwell seized another horse and went on to rout the enemy.

Especially subsequently, his religious party fast rose in importance. All denominations eagerly gathered under the standard of a leader who insisted that his men should be religious, but who left the particular form of religion to their own choice. The religious principle of the Civil War thus became more and more prominent. Enthusiasts of every denomination regarded it as a struggle for the right of private judgment in matters of faith. Increasingly, they despised every authority but that of their own interpretation of the Bible.

The influence of the Independents was rapidly rising especially in the Parliamentary Army, but also even in Parliament itself. Thus Sir Henry Vane, the chief negotiator of the English Parliament (and a Non-Presbyterian Independent), finally persuaded the Scottish Presbyterians to ratify in Edinburgh his own amended version of the *Solemn League and Covenant*. This helped to promote the military collaboration between England and Scotland ó at least embryonically ó under a common -Puritanismø in general.

Unfortunately, however, the Reformed Faith as understood in the *Solemn League and Covenant* (as amended), was a rather ambiguous type of Puritanism. For it was one which the Scots interpreted strictly presbyterianly ó but which many of the English Puritans increasingly (mis)interpreted rather congregationalistically.

Especially in the South and the East of England, the Puritans now carried everything before them in defence of liberty. Particularly in Parliament, the king's support now vanished. There, British Parliamentarians themselves now established Presbyterianism in England and Wales; expressed their agreement with the Scottish *Covenant* (subject to the Independent Vane's amendments thereof); and thus united the two countries of Britain and Scotland in the matter of promoting the reformation of religion.

King Charles, however, continued with his arch-duplicity. As the *Historians' History* has indicated,<sup>30</sup> there are very good reasons for suspecting that the king himself authorized the rising of the Irish Catholics against the British Government.

Those Irishmen had now settled down to a kind of independent State ó and a Roman Catholic one at that. Kilkenny was their seat of government. Ambassadors

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<sup>29</sup> *Op. cit.*, XX:18.

<sup>30</sup> *Op. cit.*, XX:20f.

were to be sent to the pope, and to the great Catholic princes of Europe. In September 1643 an agreement was signed whereby the Irish, in return for greater autonomy from England, would give the king thirty thousand pounds ó as well as the regiments that were serving in Ireland.

### **The Parliamentary Party's advances were next followed by its fragmentation**

After the signing of the *Solemn League and Covenant*, on January 19th 1644 the Scottish Presbyterian Army invaded England. They pushed the English Royalists back from Hull and into York, and besieged Newcastle. Meantime, however, the king's Irish regiments besieged the parliamentary garrison at Nantwich. However, the English Parliament's General Sir Thomas Fairfax relieved the place ó and totally defeated Ireland's Roman Catholic and/or Anglo-Catholic Royalists.<sup>31</sup>

It was at this very point, however, that England's Parliamentary Party started to fragment ó and the English Presbyterians to weaken. On the other hand, the English Independents increased their influence ó especially in the Parliamentary Army.

Puritan Presbyterians like Manchester and Waller, and Puritan Anglicans like Essex ó all of whom desired a Limited Monarchy constitutionally ó had at first controlled the Parliamentary Army. Now, however, the Independents ó under the leadership of Oliver Cromwell and his much more radical followers ó moved to the forefront.

As the *New Illustrated Columbia Encyclopedia* states in its article on the "English Civil War"<sup>32</sup> ó to stem the rising dissension among parliamentary leaders, Cromwell sponsored in Parliament the *Self-Denying Ordinance*. Thereby, **all Members of Parliament were compelled to resign their military commands**. Consequently, **the Puritan Army was reorganized from 1644 to 1645 and changed into the New Model Army**. That latter was then, unlike the fighting forces it replaced, **not subject to parliamentary control**.

In December 1644, Cromwell ó through this *Self-Denying Ordinance* ó was able to influence the Commons to divest itself of its own parliamentary control of the Army. As a result, he himself soon strengthened his own control especially over new appointments to, and advancement within, the militia.

Parliament itself, though to a lesser extent, became increasingly radicalized. Laws were passed requiring the removal from churches of all paintings, statues, altars, crosses, and ornaments. The infamous sabbath-desecrating *Book of Sports* was ordered to be burnt by the public hangman.<sup>33</sup>

In addition, Cromwell now won decisive battles at Marston Moor and at Naseby. At Marston Moor on July 2nd 1644, the Scots on the one hand and the English

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<sup>31</sup> Thus the *Historians' History*, XX:21.

<sup>32</sup> *Op. cit.*, 8:2196.

<sup>33</sup> *Historians' History*, XX:28.

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Puritans on the other (under Cromwell) ó defeated the Royalists under Charles's son-in-law Prince Rupert of Bohemia.

Especially Rupert fought bravely and brilliantly. Yet the Royalist Army became more and more harried. As Oliver Cromwell exclaimed: "God made them as stubble to our swords." Cromwell's men now saw him as God's avenger ó the executioner of His enemies.

Indeed, Cromwell's brigade in particular was quite remarkable. Observes Professor J.R. Green,<sup>34</sup> the regiment of a thousand men which Cromwell raised for the "Association of the Eastern Counties" ó was formed strictly of "men of religion." He spent his own fortune, quite freely, on the task he had set himself to increase this regiment.

"My soldiers," indicated Cromwell, were "a lovely company. Not a man swears but he pays his twelve pence [alias his shilling's fine for swearing]. Plain men were made captains of horse.... They are honest, sober Christians. They expect to be used as men."

Truly, they were never beaten at all. They charged into battle, singing psalms ó and freed the eastern counties from all danger.

Yet the Parliamentary Army was different. **Puritan Anglicans, the English Presbyterians, and indeed especially the first leaders of the Parliamentary Army – were indeed dedicated to the extirpation of the papacy. However, they were not at all then dedicated to the extirpation of the monarchy.**

Cromwell, later disappointed, then alleged they had been "afraid to conquer." Indeed, they had never desired to crush Charles ó but just to force him back to the position of being a constitutional king. They shrank from the taint of treason. "If the king be beaten," the Presbyterian Lord Manchester had urged, "he will still be king. If he beat us, he will hang us all as traitors."

Compared to moderation like this, Cromwell the Independent's attitude was radical. It now became increasingly more so. Said he: "If I met the king in battle ó I would fire my pistol at him, as at any other."<sup>35</sup>

### **Power in Cromwell's Army passes from the Presbyterians to the Independents**

"Be careful," Cromwell had written, "what captains of horse you choose; what men be mounted! A few honest men are better than numbers. If you choose godly honest men to be captains of horse ó honest men will follow them."

Professor Green observes<sup>36</sup> that many of those in high command were men of noble blood. But side by side with these ó and increasingly so ó officers now began to be seen who had been serving-men, draymen, or skippers at sea.

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<sup>34</sup> *Op. cit.*, pp. 554f.

<sup>35</sup> R.H. Green: *op. cit.*, pp. 556f.

A result hardly less notable, was the youth of the officers. Among those in high command, there were few who like Cromwell had passed middle age. General Fairfax was but thirty-three and most of his colonels were even younger. The cavalry was for the most part strongly Puritan. In that part of the army especially, "dissidence" alias religious nonconformity of every type had gained a firm foothold.

Cromwell, like most of the parliamentary leaders themselves, seems at first to have been fairly content with the new Presbyterianism. The Presbyterians at first were more than content with him and even though he himself was never a Presbyterian but instead a moderate Independent.

The Scot Dr. Baillie, himself one of the Members of the Westminster Assembly, was an eye-witness. "The man Cromwell," he wrote, "is very wise and active; universally well-beloved; and religious."

England and indeed the whole of the British Isles was now on the very brink of becoming, constitutionally, a "Presbyterian Nation" under a limited monarchy subject to Parliament. Yet suddenly, the unexpected happened.

The growing forces of the radical Independents (whether Congregationalists or Baptists) surprisingly outmanoeuvred the Presbyterians. Indeed, even more radical elements then captured control first of the Parliamentary Army and some time later even of Parliament itself.

Professor Brewer wrote<sup>37</sup> that contests had arisen also among the Parliamentary Generals. There had long prevailed in the Parliamentary Party a distinction which now began to disclose itself with bitter animosity. The Independents, who had at first taken shelter under the wings of the Presbyterians, now appeared as a distinct party.

The Independents henceforth betrayed very different views and pretensions. **Their numbers were greatly increased by the return of the more fiery spirits who had abandoned England during the supremacy of Laud.** Many of these had carried their doctrines to the very verge of extravagance **while in New England.** Now back in Old England, that extravagance even increased.

### **The Army's "Radical Independents" promote Anti-monarchy and even 'Mob-ocracy'**

The political system of the Independents kept pace with their religiosity. They aspired to a total abolition of the Monarchy, and even of the aristocracy. Hence, they were declared enemies to all proposals for peace and except on such terms as they knew it was impossible to obtain.

In the Parliament, however, a considerable majority and a much greater in the nation were attached to the Presbyterian Party. It was only by cunning and deceit at first, and afterwards by military violence, that the Independents could entertain any hopes of success.

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<sup>36</sup> *Op. cit.*, p. 557.

<sup>37</sup> *Op. cit.*, pp. 406f.

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Yet the situation now worsened. The Radical Independents in the Army were democratic and even mob-ocratic rather than representative or republican. Archbishop Laud was brought to the scaffold. Only seven Peers voted for this. The rest then absented themselves from the House. This, of course, further weakened the Lords in relation to the Commons.

The *Historians' History* writes<sup>38</sup> that in January 1645, the Westminster Assembly of divines had resolved that the Anglican *Book of Common Prayer* should be laid aside. The form of divine worship hitherto observed, was to be abolished. A new *Directory* which had been framed by the Assembly of divines as well as a Creed, a Catechism, and a scheme for a Presbyterian Constitution of the Church were drawn up.

In the Creed of the *Westminster Confession of Faith* all was on strict Calvinistic principles. The Presbyterians had, in their opinion, obtained a complete victory. But at the very moment when they were rejoicing at it and proclaimed it aloud the real power had already passed into other hands.

The Independents now opposed them and affirmed that it was quite the same thing whether Christendom was tyrannized over by one pope, by twenty bishops, or by a thousand presbyters. Thus, the external union championed by the Presbyterians was now perceived by the Independents to be but slavish subordination contrary to Christian liberty.

**The radical "Levellers" renounce Presbyterianism  
and embrace Anarchy**

Sadly, though, the leadership even of the Independents had now been pirated by those whose social and political doctrines were anything but Calvinistic. For they had now become more influenced by and even infected with either Anabaptism or anarchy or humanism or with a mixture of all three of them than by any real understanding of the Reformed Faith.

History Professor Brewer recorded<sup>39</sup> that in 1647, a body of men called *Levellers* whose tenets are implied by their name had obtained paramount influence. They advocated a Republic but quite of the wildest kind. They anarchistically scorned any government, in Church or State except one incompatible with the existence of any human form of government whatever.

These True Levellers or Diggers explained Max Beer in his *General History of Socialism*<sup>40</sup> demanded the socialization of the land. As the later communist Karl Marx's friend Friedrich Engels rightly observed in one of his own very influential

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<sup>38</sup> *Op. cit.*, XX:30f.

<sup>39</sup> *Op. cit.*, pp. 418f.

<sup>40</sup> M. Beer: *General History of Socialism*, Russell & Russell, New York, 1957 ed., I:1:170f.

books ó *Socialism: Utopian, and Scientific*<sup>41</sup> ó these Levellers were öthe forerunner[s]...of the modern proletariat.ö

Perhaps more accurately, we would say that the humanistic Levellers were the true forerunners of our modern ñmobocracyø ó often misnamed a ñone man one voteø **democracy**. This ñmobocracyø is indeed but the first phase of socialism.

That, in turn, is generally followed by a statist tyranny ó as Plato pointed out in his famous book *The Republic*. Indeed, mob-rule ñdemocracyø usually leads to a populist yet tyrannical demagogy. Then, demagogues soon degenerate into demogorgons ó as democracy sinks into demonocracy.

Now this ñlevellingø or ñdemocratic viewpointø should, of course, be very sharply distinguished from both ancient and modern ñrepublicanism.ø For the latter quite differently advocates not a universal but a representative franchise ó one based on educational and property prerequisites (with or without desirable religious qualifications).

Oliver Cromwell himself became a ñChristian Republicanø ó and not a pluralistic ñdemocraticø Leveller. As the *New Illustrated Columbia Encyclopedia* points out in its excellent article on the ñLevellersø<sup>42</sup> ó the name was apparently applied in 1647, to describe their beliefs in equality.

The Levellers demanded a single supreme representative body elected by universal suffrage, proportional representation, and the abolition of both monarchy and the nobility. Their aims were not Christian but humanistic ó if not indeed also at least incipiently socialistic.

They stood for complete religious and political equality. When the Long Parliament [1640-44] did not agree with their ideas, they tried to get support in the ranks of the New Model Army ó and with some success.

However, the Leveller proposals were totally rejected by Cromwellø son-in-law General Henry Ireton ó as being subversive of property interests. Several Leveller mutinies in 1649 resulted in severe suppression of the Levellers by Oliver Cromwell, who had constantly opposed them. Nevertheless, their increasing presence in the New Model Army certainly somewhat radicalized it ó and drove it away from Presbyterianism.

Even back in 1646-47, explains the *Historians' History*,<sup>43</sup> the Levellers did not (like the Presbyterians) stop at the independence of a National Church with a connected organization ó or, like the Independents, at that of the several congregations. But they claimed for every individual an absolute right of self-government in religious matters.

If the Episcopalians generally promoted unlimited kingship; and the Puritans an essentially limited monarchy ó the Independents for the most part recommended and

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<sup>41</sup> F. Engels: *Socialism: Utopian, and Scientific*, Foreign LanguagesøPublishing House, Moscow, n.d., p. 57.

<sup>42</sup> *Op cit.*, 13:3901f.

<sup>43</sup> *Op. cit.*, XX:30f.

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endeavoured to obtain a Commonwealth Constitution. On the other hand, the Levellers were in danger of rejecting civil as well as ecclesiastical authority ó and of running into pure anarchy.

Independents, of course ó however much they differed in other respects ó did agree with the Levellers that discrepancies are natural; that liberty of conscience is an inalienable right; and that it is the indispensable duty of every one to inquire and decide for himself in matters of religion. This had profound implications under Cromwell the Independentø 1649f Commonwealth ó and even more so in the later United States of America, which was at first strongly influenced by the Cromwellian tradition.

As the *Historian's History* concludes,<sup>44</sup> it was unimportant what the Independents themselves taught on any particular point. But they maintained the idea of toleration in an important manner. Though the Independents were not able to get their views adopted in the Westminster Assembly ó they did meet with approbation among the people, and even in Parliament.

Thus the Presbyterians found that their apparently absolute victory in the Westminster Assembly ó availed them little in society as a whole. For the House of Commons did not confirm their resolutions, and the people did not voluntarily adopt and carry them into effect.

The English Presbyterians then found themselves overpowered by the enthusiasm and/or the wisdom of their various different ÷pponentsø ó Cromwell, Vane, Whitelocke, and Selden. The *Self-Denying Ordinance* had not merely political but also theological implications. For thereafter, more than two-thirds of the officers and most of the soldiers in the New Model Army ó were from the Independent Party. They had little interest in Parliament, and scant respect for that body ó until 1646, when some of them first began to obtain seats there.

### **The sad friction between the Erastian Parliament and the Westminster Assembly**

This is a suitable point at which to reflect on a discomfort suffered by the presbyterianizing Westminster Assembly as such. The discomfort was occasioned by the Erastian view which subordinated the Church to the State.

Erastianism was characteristic of the depresbyterianizing Puritan English Parliament. Yet that view was not shared either by Calvin or by the Westminster Assembly ó in spite of the presence there of a few very influential Erastians (such as Coleman, Lightfoot and Selden). For both Calvin and the Westminster Assembly as such, rightly regarded the Christian Church as co-ordinate with and not sub-ordinate to the Christian State.

In April 1646, a Committee from the House of Commons came with a message for the Westminster Assembly ó responding to a petition sent to Parliament by the

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<sup>44</sup> *Op. cit.*, XX:32.

Assembly of divines. The Committee seemed to have consisted of Sir John Evelyn, Mr. Fiennes (or Fines), Mr. Browne, and Sir Benjamin Rudyard.

Sir John Evelyn told<sup>45</sup> the divines his Parliament ōdid find things in it [the petition] that did strike at the foundation and roots of the privileges of Parliament.... It have commanded us to let you know that what they offer to you is with a great deal of trouble.... I would not have you to forget what the Parliament hath done for you.... Do not think the Parliament is unwilling to submit their yoke to Jesus Christ.ö

To this, the Parliamentø Mr. Fi[en]nes added:<sup>46</sup> öI cannot without some regret and sadness speak what now I am to deliver.... With what tenderness the House of Commons has always looked on this Assembly! ... It would have pleased them [the Members] much better to remember [or remind] you of your duties...than [perhaps to] put you in mind of their privileges....

öIn them, resides the power of making laws.... Once passed, all are to be subject unto them.... Whosoever shall infuse anything to the contrary in the mind of those that should obey them,ö are guilty of a great offence. öIf an assembly shall, so soon as a law is made, set a brand upon it as contrary to the will of God and mind of Jesus Christ [and] our Covenant ó what can more stifle it in the birth, and make it of none effect?ö

Fiennes continued:<sup>47</sup> öThe Parliament doth not pretend to an infallibility of judgment, and the Parliament suppose[s] this Assembly will not do so either.... All power in all causes should be derived.... You derive it...from Jesus Christ to the presbyteries.... The question is not whether subject[s] may petition against a law...but whether they may make a resistance of that, [so] that the law is [then] unlawful to be made.... The magistrate advises with several men in their professions as lawyers.ö

In his speech, Mr. Browne then reminded<sup>48</sup> the Westminster Assembly öthat by the fundamental laws, the Parliament is the supreme judicature.... Privilege of Parliament is a word not usual.... If any man deny the power and jurisdiction of the court, this is a breach of privilege.... You will not say we are bound to judge as you do.... Parliament did...[in the] seventh year of Henry VIII [have] a law made that such as should commit such an offence should have no clergy.... An abbot at Paulø Cross said this law was made against the Law of God.... The king took this into consideration at the effectual instance of Lords and Commons.... You as private men may petition....

öHeretofore both Lords and Commons have been very serious in considering anything offered, to be *jure divino*.... If it be of God, it must not alter.... **We all agree that the Word of God is the rule, and must be the rule.** But say there be no positive rule in the Word ó are we by the [*Solemn League and*] *Covenant* bound to follow the practice of Reformed Churches in case[s where] it be against the fundamental law of the kingdom [of Britain alias England and Wales]? ... We are bound to maintain the liberties of Parliament and kingdom. If I do any act against this, I am a breaker of the

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<sup>45</sup> Eds. A.F. Mitchell (D.D.) & J. Struthers (LL.D.): *Minutes of the Sessions of the Westminster Assembly of Divines*, Still Waters Revival Books, Edmonton, 1991 rep., pp. 448f.

<sup>46</sup> *Ib.*, pp. 449f.

<sup>47</sup> *Ib.*, pp. 451f.

<sup>48</sup> *Ib.*, pp. 452f.



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*Covenant*.... It is the doctrine of the pope to take from princes the power that God committed to them.... One parish judges one way, another another!ö

Sir Benjamin Rudyard then warned the Westminster Assembly. He stated:<sup>49</sup> öThe matter you are now about, the *jus divinum*, is of a formidable and tremendous nature. **It will be expected you should answer by clear, practical, and express Scriptures**; not by far-fetched arguments.... The present Assembly are pious and learned men, but a Parliament is to make laws for all sorts of men.... We have done nothing against the Word of God, neither do all the churches agree throughout....

öThe Parliament, by the fundamental laws and constitutions of this kingdom, hath this great privilege to be the Supreme Judicatory [under God].... The Assembly of Divines called by Ordinance of Parliament are authorized and enjoined by the said Ordinance...until further order be taken by both the said Houses, to treat of such matters therein mentioned as shall be proposed unto them from time to time by both or either of the Houses of Parliament and no other.... The Assembly are not authorized...by any Ordinance or Order of Parliament to interpret the *Covenant* especially in relation to any law made or to be made.ö

One may perhaps indeed question the seventeenth-century English Parliament's understanding of the exact relationship which should be sustained between a Christian State and the Christian Church. One cannot, however, question the accurate understanding of the seventeenth-century English Parliament that the Westminster Assembly was indeed the creature of that Parliament ó and **not** a sphere-sovereign General Assembly of representatives of churches independent of that Parliament. Nor can one fairly argue that the regard for God's Word of the Westminster Assembly itself was then any less than that of the godly English Parliament which had created it as its own godly creature.

Consequently, present-day criticisms of seventeenth-century English öErastianismö should be re-examined. For few present-day General Assemblies of Christian Churches are anywhere nearly as godly as was either the seventeenth-century English Parliament or the Westminster Assembly of divines as its creature.

### **The decisive Battle of Naseby and its important aftermath**

At Naseby, Cromwell's Ironsides triumphed decisively over Charles's Royalists. So King Charles then negotiated with the Scots and the Irish; but his General, Prince Rupert, soon had to surrender Bristol. Ahead lay yet further victories for the Parliamentary Army ó at Langport, Chester, and Philiphaugh (where the romanizing Montrose was defeated in September).

In the preceding year, James Graham the rather fickle Earl of Montrose in Scotland and Randal M'Connell the Romish Earl of Antrim in Ireland had come to Oxford with tenders of their services to the Crown. Antrim ó a Catholic nobleman ó had married the widow of Buckingham. She was the daughter and heiress of the Earl of Rutland. Her wealth gave him consideration. Antrim, raising about eighteen hundred men

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<sup>49</sup> *Ib.*, pp. 455f.

among his Irish clansmen, sent them over to Scotland to fight the Presbyterians there.<sup>50</sup>

Yet all to no avail. For ahead, lay the Battle of Basing House. The war, observes Professor Green,<sup>51</sup> then ended at just one blow.

Cromwell spent much time with God in prayer. Under Cromwell's leadership, popery and prelacy were prohibited. Yet Protestants of all descriptions, and even Jews, were tolerated.

As Dr. James Gairdner (LL.D.) has written in the *Historians' History*,<sup>52</sup> Oliver Cromwell was governed by the feeling that he was accountable only to God in his highest acts. Yet his resolutions were always based on practical considerations. He in practice broke through the exclusiveness and intolerance to which the saints of his party would have bound him.

Himself an Independent, Cromwell would not allow Presbyterianism to have its way. He would tolerate even Jews, Anabaptists and Quakers. The only religions proscribed, were the Roman Catholicism (of Queen Mary) and the High Church of England (of her husband King Charles).

At the decisive Battle of Naseby, the field-word of the Royalists had been 'Queen Mary' but that of the Parliamentarians was: 'God is our strength' Lieutenant-General Cromwell wrote to the Parliament immediately after his victory that the triumph was by nothing else but the hand of God and that to Him alone belonged the glory.

The General said Cromwell (referring to himself) 'served you with all faithfulness and honour.... The best commendation I can give him, is that...he attributes all to God.'<sup>53</sup>

Dramatic changes in the parliamentary alliance had been taking place. Power now moved from the Puritan Parliament to Cromwell's New Model Army.

As the *Historians' History* points out,<sup>54</sup> until the end of the year 1645, the Constitutional Party still had the preponderance in the English Parliament. As a proof may be cited its vote on the 1st of December in a debate on the proposition for peace.

It was as follows. That General Fairfax should be made a baron, and have five thousand pounds a year settled on him. It was recommended that Generals Cromwell, Waller and Haslerig also be made barons and the two former with two thousand five hundred pounds, the last with two thousand pounds a year. It was further recommended that Generals Northumberland, Essex, Warwick and Pembroke be made dukes and that Generals Salisbury and Manchester be marquesses. As these

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<sup>50</sup> Thus *Historians' History*, XX:33 & n.

<sup>51</sup> *Op. cit.*, p. 558.

<sup>52</sup> *Op. cit.*, XIX pp. 11f.

<sup>53</sup> *Historians' History*, XX:36f.

<sup>54</sup> *Op. cit.*, XX:38f.

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generals were nearly all Presbyterians, this vote proves the strength of that party ó and also its attachment to the form of government known as limited monarchy.

But when Royalists died or seceded or were expelled, nearly two hundred seats became vacant in the Parliament. So the Presbyterians were obliged to give way, and to issue writs for new elections.

The House in the beginning of the following year, presented an altered appearance. **The intermediate officers of the Army, and others of the Independent Party, obtained seats.** This was to have tremendous consequences ó both for the king and also for the English Presbyterians.

**The King surrenders; is imprisoned;  
escapes – and again plans for war**

After Cromwell's victory at Naseby in 1645, King Charles feared immediate destruction. The Parliamentary Army's General Fairfax captured Oxford. The wily king surrendered to the Presbyterian Scots at Newark ó yet still intended to link up with the forces of the romanizing Montrose, in Scotland.

Himself a Scot by birth, the king had now fled to the Scottish Army (known for its sympathies with the monarchy as such). For he had heard that the Presbyterian majority there was outraged by the growing power of the English Independents ó who were already òmaligningö the *Solemn League and Covenant*.

Significantly, Charles now sent his agent Sir Kenelm Digby to Rome ó to solicit aid from the pope. Charles also sent to Ormonde in Ireland, commanding him to conclude a peace with the Irish ó whatever its cost. Charles later did the same with the English Catholic, Lord Herbert Glamorgan ó but then promptly disavowed him, when his stealth was discovered. Indeed, the king also attempted ó and to some extent succeeded ó in driving a wedge between the Presbyterians and the Independents.<sup>55</sup>

Yet the famous Battle of Naseby, explains the *New Illustrated Columbia Encyclopedia*<sup>56</sup> (in its article on the 'English Civil War') had cost the king a large part of his Royal Army ó and rendered the cause of the Royalists hopeless. Unable to join Montrose (who was defeated by Leslie in Scotland), and thwarted in his attempts to secure aid either from Ireland or from the Continent ó the King failed to halt the steady losses of his Royalist Party. Thus, he was at last indeed compelled to surrender himself to the Scots ó who made him reassuring but vague promises. The First English Civil War then came to an end ó when Royalist Oxford surrendered in June 1646.

The Scottish-born king sought out the Scots. As Professor Brewer states,<sup>57</sup> the Scottish General and Commissioners affected great surprise at his appearance. Though they paid him all the respect due to his dignity, they instantly set a guard upon him, under colour of protection, but made him in reality a prisoner. Later, the king ó

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<sup>55</sup> *Historians' History*, XX:38f.

<sup>56</sup> *Op. cit.*, 8:2196.

<sup>57</sup> *Op. cit.*, pp. 413f.

delivered by the Scots to the Commissioners of the English Parliament on January 30th 1647 ó was conducted under a guard to Holmby in Northamptonshire.

Thus the king was delivered in 1647 by the Scots into the hands of the English Parliament. But the previous Presbyterian rule in that body, had by now thoroughly alienated the already decidedly Non-Presbyterian Parliamentary Army. The latter, by then infested with Independency and also increasingly by dangerous radicals, resisted Parliament's proposal to disband it. Indeed, the influence of the Independents was by then much stronger ó even in Parliament itself.

**The Army itself now brilliantly ensured its own future – by capturing the king from the Parliamentary Party.** Thus the Army of 'Independency' then itself marched on London. Army discontent became more radical, and the desire grew to dispose of the king altogether.

Charles himself refused to accept the Army Council's suggestions for peace (called the 'Heads of the Proposals'). Then, amazingly, he managed to escape in November 1647 ó and took refuge on the Isle of Wight.

There, he negotiated simultaneously ó yet secretly and deceptively ó for both war and peace. He negotiated with Parliament in England for peace. But he also even then negotiated with the Scots for a common alliance ó to promote his war against the English Parliament and its Army. Thus Brewer.

### **The *Historians' History's* account of events from November 1646 onward**

The *Historians' History* explains<sup>58</sup> that in November 1646, the Scottish Parliament met ó and drew up proposals to accommodate the defeated king. All were of the opinion that he should accept the propositions. But Charles was immovable on the subject of the Church. A vote was notwithstanding obtained on December 16th ó to maintain his personal freedom and right to the throne.

However, the General Assembly of the (presbyterian) Church of Scotland now declared it unlawful to support Charles. It would maintain this position ó as long as he refused, as he consistently did, to assent to the *Covenant*.

The Scottish Parliament was also aware of the madness of engaging in a war against England. It was advised by Holles and the leading Presbyterians there, that the surrender of the king was the only means of helping to bring about the disbanding of the English Independent Army (which was the great enemy of the king). Accordingly, the Scots gave Charles up to the English Commissioners sent to receive him ó on February 1st 1647.

Charles was now handed over by the Scots to the English Parliament. That latter body thenceforth held him captive.

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<sup>58</sup> *Op. cit.*, XX:38f.

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The *Historians' History* declares<sup>59</sup> that the Presbyterian system was at this time established [in England] by Ordinance of Parliament. But the system never came into full operation, except in London and Lancashire.

The Erastian though Calvinistic Parliament could not be brought to allow of the divine right of presbytery. The moderate party in Parliament lost at this time a great support, by the death of the Earl of Essex. The power of the Independents, at the expense of the Presbyterians, was growing all the time.

The *Historians' History* also refers<sup>60</sup> to the power of the Independents in public affairs at this juncture as seen in the settlement of the exact form in which the Presbyterian Government should be established. The Independents were opposed to any civil establishment of religion. Those who aided them in their present struggle, without being strictly of their opinion in that respect, were careful that the mode of its establishment should be such as to give a secure ascendancy to the civil power ó Erastianly.

There was a bill against blasphemy which the Presbyterian Party endeavoured to carry in 1646. By the influence of the Independents ó which operated to delay the Act concerning blasphemy ó the Commons were induced to pass several of the most important of the propositions (rejected by the king). This was done in the shape of Ordinances ó which gave them the force of Acts of Parliament without waiting for the royal sanction.

Once in the custody of the Parliament of the English Puritans, the very treatment of the king introduced a further rift. For a fundamental difference of opinion now erupted between the English Independents (who were increasingly influential in the Parliamentary Army), and the English Presbyterians (who even then still controlled Parliament itself).

As the *Historians' History* explains,<sup>61</sup> the disestablishmentarianistic and religiously-tolerant Army (now headed by the Independents), on its part endeavoured more and more to gain physical control of the king. Thus the Army treated him much more mildly than did many of the establishmentarianistic and religiously-intolerant Presbyterians in Parliament.

The Independents even wished to allow the king's children, friends, and chaplain to have access to him. Indeed, they held out hopes of complying with his wishes respecting even the constitution of the Church!

Thus the dominion of the Parliament was of short duration. No sooner had it subdued Charles, than its own servants in the Army rose up against it. Considerable arrears were due to the Army. Many of the private men, as well as the officers, had nearly twelve months' pay still owing them by the Parliament. Understandably, the Army now elected its agitators ó and many of the Levellers filled that void.

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<sup>59</sup> *Op. cit.*, XX:45.

<sup>60</sup> *Ib.*, XX:47.

<sup>61</sup> *Op. cit.*, XX:55.

### **Cromwell's own ever-increasing movement away from Presbyterianism**

The Army itself now grabbed possession of the king ó at the expense of the English Parliament ó in June 1647. The Army offered him moderate terms: the *Heads of the Proposals*. In London, however, the Presbyterians in Parliament reacted. So too, very rapidly, the Army then counter-reacted.

Eleven Members were excluded from Parliament ó by the radicalizing Army. The latter itself occupied London in August 1647. The king fled to the Isle of Wight in November. There, Charles made a secret treaty with the Scots in December 1647. Now desperate, he offered the Scots confirmation of a Presbyterian Church Settlement for a three yearsø trial ó and also to surrender the control of his own Army to Parliament for ten years.

In England, Independents of the most radical type ó including Baptists and even some Anabaptists previously exiled overseas ó had for some time been streaming back into England. There, they had then joined the New Model Army.

As History Professor Green explains,<sup>62</sup> they had drifted into a more marked severance in doctrine from the Established Church ó **especially in their advocacy of the necessity of adult baptism**. Their numbers were suddenly increased ó by the return of a host of emigrants from New England.

Sadly, Presbyterianism had taken root only in London and Lancashire. Even while the Westminster Assemblyø Presbyterian divines were drawing up their platform of uniform belief and worship in London ó the dissidence of Independents and Baptists had grown into a religious power.

Repelled by the increase of a previously quite uncharacteristic coerciveness on the part of certain untypical Presbyterians, even Milton himself had now left his own earlier presbyterial stand-point. However, Cromwell had signed the *Covenant* in 1643 ó and there is no reason for crediting him with any aversion to Presbyterianism **at that time**.

Nevertheless, Cromwell had written even before his first major victory against Charles ó the Battle of Marston Moor, July 2nd 1644 ó that øthe State, in choosing men to serve it, takes no notice of these opinions [viz. their denominational orientation and their attitude toward the *Solemn League and Covenant*]. If they be willing faithfully to serve it, that satisfies.ö

His victory at Naseby had raised a wider question. øHonest men served you faithfully in this action,ö Cromwell now wrote to the Speaker of the House of Commons (as yet still dominated by the Presbyterians). øSir, they are trusty; I beseech you in the name of God, not to discourage them.... Presbyterians, Independents ó all here have the same spirit of faith and prayer.ö

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<sup>62</sup> *Op. cit.*, pp. 560f.

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The increasing firmness of Cromwell's language was due to growing irritation by his opponents. Like Cromwell, also Sir Henry Vane ó a leading Independent within the Parliament ó was striving to bring the Parliament round to less rigid courses.

This was achieved by the introduction of **two hundred and thirty new Members**. They filled the seats left vacant by royalist secessions. The more eminent ó such as Cromwell's son-in-law General Henry Ireton, and Lieutenant-Colonel Algernon Sidney ó were inclined to support not the Presbyterians but the Independents.

### **Charles the First tries to play his enemies off against each other**

Even the crafty Charles himself was then intriguing busily with many of the various different parties. He was promising liberty of worship to Vane and his Independents ó in return for their support of him. At the same time, Charles was negotiating with the Presbyterians in the English Parliament (to the disadvantage of the Independents) ó and also with the Presbyterian Scots (against both the English Army and the English Parliament).

Driven from his last refuge, the king ó after some aimless wanderings ó had made his appearance in the camp of the Scots. That new aspect of affairs had now threatened the English Independents with ruin.

The Independents were distrusted by the Scots, by the Lords, and also by the English Parliament's own Presbyterian City of London. Thus, the apparent junction of Charles with **their** various adversaries ó destroyed the Independents' own growing hopes of themselves ever controlling the English House of Commons. So most of them instead tried to control the Army.

However, precisely then the two Houses of the Scottish Parliament laid down their conditions of peace before the king. They required the exclusion of all "Malignants" (or Scottish Royalists who during the "Engagement" had taken part in their treacherous war against the English Parliament and its Army in 1647-48). They also required the abolition of Episcopacy, and the **establishment** of a Presbyterian Church.

Reluctantly, Charles agreed ó although his aim, of course, was simply to delay. However, his ongoing refusal to sign either the Scottish *National Covenant* or the international *Solemn League and Covenant* ó was a great embarrassment to the Presbyterians also in Scotland but especially in England. The English Independents now saw their chance.

History Professor Brewer remarks<sup>63</sup> that Cromwell was now entirely master of both the English Parliament and the king. So Cromwell now applied himself seriously to quell disorders in his own Army.

To wean the soldiers from the licentious maxims of the Levellers, he issued orders for discontinuing the meetings of these agitators. He secretly called, at Windsor, a Council of the chief officers ó in order to deliberate concerning the settlement of the nation and the future disposal of the king. In this Conference, which commenced with

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<sup>63</sup> *Op. cit.*, p. 419.

devout prayers poured forth by Cromwell himself and the other officers, the daring plan was first opened up of bringing the king to trial.

Meanwhile, the king was still at that point still with the Scottish Army, in Northern England. However, as History Professor Green explained,<sup>64</sup> the Scottish Army was becoming increasingly disenchanted with Charles. It was by now almost hopeless of success with the king and unable to bring him into Scotland in face of the refusal of the General Assembly of the Church of Scotland to receive a sovereign who would not swear to the Covenant. Hence, the Scottish Army now accepted four hundred thousand pounds in discharge of its claims; handed Charles over to a Committee of the Houses of the English Parliament, and marched back over the border from England into Scotland.

Now themselves the captors of the king, the English Presbyterian leaders at once moved boldly. Misreading the situation and mistiming their action, they rebuked the radicalized New Model Army and the sectaries who now constituted the very backbone of that Army.

All now hung on the **disbanding** of the New Model Army. Parliament itself now commanded this. But the New Model Army showed no will to disband itself. The Parliament fell furiously upon Cromwell, who had relinquished his command and quit the Army before the close of the earlier war. But now he was driven to seek the support precisely of that Army.

On June 25th 1647, it was in full march upon London. The Army said it demanded toleration but then it demanded the expulsion of eleven Members from the Commons whom the soldiers charged with stirring up strife between the Army and the Parliament. After fruitless negotiations, the terror of the situation in London itself forced the eleven to withdraw.

Cromwell's son-in-law General Ireton looked, for a real settlement, not to the Parliament but to the king. The consistent spirit which Parliament had shown against the Royalists and the High Church Party, disappeared in the terms exacted by the New Model Army. Belief and worship were to be free to all. Acts enforcing the use of the *Prayer Book*, or attendance at Church, or the **enforcement of the 'Covenant'** were to be **repealed**.

Even Catholics, however otherwise restrained, were freed from the bondage of compulsory worship. Parliaments were to be triennial, and the Commons to be reformed by a more even distribution of seats and electoral rights. Taxation was to be re-adjusted; legal procedure, simplified.

Cromwell, who now threw his whole weight on Ireton's side, clung with a passionate tenacity to the hope of accommodation. He himself saw the political difficulties which would follow on the abolition of the monarchy. But on this matter the desirability of preserving the monarchy Cromwell now stood almost alone, even among his own supporters.

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<sup>64</sup> *Op. cit.*, pp. 564f.



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The Parliament refused to accept Ireton's proposals as a basis of peace. Charles still evaded. The Army grew restless and suspicious.

Charles was still resolute to play his game. He was, in fact, so far from being in earnest in his negotiation with Cromwell and Ireton that at the moment they were risking their lives for him, he was conducting another and equally delusive negotiation preparing for a fresh royalist uprising and for an invasion of the Scots against England on his behalf.

"The two nations," Charles joyously wrote, "will soon be at war." The Army leaders found with astonishment that they had been duped throughout and finally that the king himself had fled.

### **The King and the Scots trigger off the Second English Civil War (1648-49)**

The *New Illustrated Columbia Encyclopedia* (in its article on the "English Civil War") explains<sup>65</sup> that the Second Civil War began in the spring of 1648. Uprisings in Wales, Kent and Essex were all suppressed by the parliamentary forces. Cromwell defeated the Scots at Preston. The war was quickly over.

Parliament again tried to reach some agreement with the king but the Army, now completely under Cromwell's domination, disposed of its enemies in Parliament by Pride's Purge (in December 1648). The legislative remnant known as the Rump Parliament then erected a "High Court of Justice" which tried the king for treason and found him guilty. Charles was beheaded on January 30th 1649. Thereafter, Cromwell's "Commonwealth" was set up.

The king, himself a Scot by birth, well knew that the Scottish Presbyterians really favoured a monarchical system but with Presbyterianism alias consistent Christianity to be the established religion throughout the British Isles. He knew that the Scots did not really want an interdenominational and loose "Pan-Christian Commonwealth of the British Isles" but with an anti-monarchical assortment of Independents, Antipaidobaptists, Presbyterians, Episcopalians, Romanists and Sectarians (like the Diggers and the Levellers) all tolerated in the way the English Independents generally desired.

So the king's flight immediately led to the so-called Second Civil War. More accurately, this was or soon became an international war between Scotland and England during 1648-49. Cromwell then rightly exclaimed: "The king is a man of great parts and great understanding but so great a dissembler and so false a man, that he is not to be trusted."

The danger from his escape indeed soon passed away. By a strange error, Charles had ridden from Hampton Court to the Isle of Wight perhaps with some hope from the sympathy of Colonel Hammond, the Governor of Carisbrook Castle. Yet the king again found himself a prisoner.

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<sup>65</sup> *Op. cit.*, 8:2196.

Foiled in his effort to put himself at the head of a new war, he set himself to organize it from inside his prison. While again opening delusive negotiations with the English Parliament ó he signed a secret treaty with the Scots for the invasion of the realm of England.

Upon the king's consenting to a stipulation for the establishment of Presbyterianism in England, the Scots ordered an army to be levied for his support. In England, the whole of the conservative party ó with many of the most conspicuous members of the Long Parliament at its head ó was drifting. This was because of its horror at the radical religious and political changes which seemed impending. So the conservatives in the English Parliament now started drifting back toward the king ó and away from the English New Model Army.

Cromwell then exclaimed: "The hour has come for the Parliament to save England, and to govern alone" ó viz., without a king. But Parliament only showed itself eager to take advantage of the crisis by professing its adherence to the monarchy ó and to reopen the negotiations it had broken off with the king. Cromwell saw this as the fiercest blow against religious freedom thus far experienced.

For a moment, Presbyterians returned to their seats in Parliament. An *Ordinance for the Suppression of Blasphemies and Heresies*, which Vane and Cromwell had long held at bay, was now passed by triumphant majorities.

Proclaimed that Statute: "Any man denying the doctrine of the Trinity or of the Divinity of Christ, or that the books of Scripture are the Word of God, or the resurrection of the body, or a future day of judgment ó and refusing on trial to abjure his heresy ó shall suffer the pain of death.

"Any man declaring...man by nature hath free will to turn to God, that there is a purgatory, that images are lawful, that infant baptism is unlawful; any one denying the obligation of observing the Lord's day, or asserting that church government by presbytery is Anti-Christian or unlawful ó shall, on a refusal to renounce his errors, be commanded to prison."

Cromwell and his Independents were horrified. It was plain that the Presbyterians were counting on the king's success ó in order themselves to resume their policy of religious conformity. Had Charles been free ó or the New Model Army disbanded ó the English Presbyterians' hopes would probably have been realized.

As it was, however, real power was no longer wielded by the Presbyterian-controlled English Parliament. Instead, the New Model Army now did so. Controlled by Non-Presbyterians, that Army itself had now become the true power.

### **The "Engagement" treason in Scotland against the *Solemn League and Covenant***

After losing the First English Civil War, Charles was determined to try to regain his lost power. So in December 1647, he concluded an agreement with the Scots known as ó the **Engagement**. Thereby, he lyingly agreed to accept their

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Presbyterianism ó in return for their military support against the English. In return, Charles promised then to presbyterianize England.

Sadly, the Scots as such ó together with most of their Presbyterians ó went along with this Engagement. Here, the Royalists in Scotland betrayed the *Solemn League and Covenant* they themselves had signed. Treacherously now supporting the pseudo-presbyterianizing king, they themselves next turned ó against the English Army and against the Parliament of the English Presbyterians and Puritans! We must now explain how this strange spectacle could possibly have come about.

Two influential Scottish noblemen were the Hamilton brothers ó James (1609-49) and William (1616-51). A few words about each will help explain how and why the Scots as a whole embraced the Engagement.

As Charles the First's Commissioner in Scotland, James Hamilton had unsuccessfully tried to conciliate the Covenanters already in 1638. Failing, he then attacked them ó in the First Bishops' War.

King Charles then made James Hamilton a duke in 1643. So in 1648, the ingratiated James Hamilton got the Scottish Parliament to break its *Solemn League and Covenant* with England ó by ratifying the 'Engagement' between Charles and the Scots.

Thereafter, James Hamilton treacherously led the Scottish Army against the English Puritans. Defeated at Preston in 1648, he was condemned by the same court that condemned Charles ó and then executed.<sup>66</sup>

James's brother, Duke William Hamilton, had a similar history. He became Secretary of State for Scotland in 1640. Indeed, he was one of the Scottish Commissioners who treated with Charles to terminate the First English Civil War at Newcastle in 1646.

In 1647, on behalf of the Scots, William Hamilton co-signed the 'Engagement' treaty with Charles. He also helped organize the 1648-49 Scoto-English War.

After Scotland's defeat by the English Puritan Army at Preston in 1648, William Hamilton fled to Holland. Yet he returned with the king's son, Prince Charles, in 1650. Hamilton then again helped Scotland to invade England ó but was killed from wounds received at the Battle of Worcester.<sup>67</sup>

The two Hamiltons' Engagement was a deplorable breach of a sacred covenant by the Scots. In 1648 there were Royalist revolts in Kent and Wales. The Scots, under Hamilton, then invaded England. They were, however, defeated ó at Preston, Wigan and Warrington.

Fairfax and Cromwell triumphed in Essex and Wales. Colchester surrendered to Fairfax in August. Charles was taken from Carisbrooke ó and Colonel Pride forcibly expelled the Presbyterian majority from the House of Commons in December 1648.

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<sup>66</sup> Art. *Hamilton, James* (in *NICE* 10:2953).

<sup>67</sup> Art. *Hamilton, William* (in *NICE* 10:2955f).

The Presbyterian cause in an England now in turmoil, was not helped by events in Wales. There, the *Historians' History* explains,<sup>68</sup> some Presbyterian officers in the New Model Army raised a formidable insurrection. Pembroke Castle fell into their hands. They soon took possession of Chapstow Castle. Then, the gentry proclaimed Charles to be their king.

It was a Presbyterian-Royalist insurrection ó allied in principle with the purposes of the Moderate-Presbyterians of Scotland who were organizing their army for the march into England. The Welsh outbreak was alarming enough to demand the personal attention of Lieutenant-General Cromwell.

History Professor Brewer explains<sup>69</sup> that, progressively, the Scots had become much displeased with the proceedings adopted towards the king. They had also become displeased with the contempt which the English Independents displayed toward the *Covenant* ó especially when the latter was derided in the English House of Commons as ðan almanack out of date.ö

Sadly, many of the Scots now secretly formed a treaty with the king called *The Engagement* ó for arming Scotland in his favour. The Duke of Hamilton obtained a vote from the Scottish Parliament to arm forty thousand men to support the king. Meantime, while the Scots were making preparations for the invasion of England, every part of England was agitated ó in July 1648.

Negotiations between Charles and the Scots had continued from September 18th to November 27th 1648. The king agreed to most of the political conditions proposed. But he declined to take the *Covenant*, or to force it upon others.

He declined to abolish episcopacy. Indeed, he even declined to alienate in perpetuity the endowments of the Church of England. Amazingly, that covenant-breaking Scot ó the religiously ðmoderateø Duke of Hamilton ó treacherously still proceeded to attack the English Puritans!

### **The reaction of the English Parliament to developments in Scotland**

Hamilton, having entered England with a numerous though undisciplined army, did not dare to unite his forces with those of the English Royalist Langdale. The Scottish Presbyterians, though now engaged for the king, refused to join the English Royalists.

Cromwell, though his forces were not half so numerous, attacked near Preston in Lancashire. He quickly defeated the Scots, and then proceeded to follow up his advantage. Marching into Scotland with a considerable body, he suppressed the ðModerateø Presbyterians there. He then placed the Scottish power entirely in the hands of his allies ó the so-called Radical Presbyterians.

It is true that the Scottish Army which had entered England, could not be regarded as the Army of the Scottish Nation. The treaty which had been concluded with the king, gave satisfaction only to a ðmalignantö portion of the Scottish Presbyterians.

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<sup>68</sup> *Op. cit.*, XX:64f.

<sup>69</sup> *Op. cit.*, pp. 42Of.

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The Scottish Parliament ó influenced by the Duke of Hamilton and others who professed moderate principles of ecclesiastical government ó had indeed given the ðEngagementsö of that treaty its zealous support ó especially that clause in it which provided that a military force should be sent to England to reinstate the king in his authority. However, the ðcovenantedö Scottish nation as such was not consulted ó and, as future events soon demonstrated, would not have concurred.

But as it was, explains Professor Green,<sup>70</sup> the surrender to the English Independent Army of the royalistic Welsh Presbyterians in Pembroke at this critical moment ó set Cromwell free. He poured down on the flank; attacked the Scots as they retired; and cut their rearguard to pieces.

This defeat helped bring Presbyterian Scotland to her senses. As the *Historians' History* observes,<sup>71</sup> the Scottish Army in England was now utterly broken and dispersed. The news of Hamilton's complete failure in the invasion of England, was the signal for the great and consistently Presbyterian Party in Scotland which had opposed the policy of Hamilton's Engagers, to rise up in arms. Argyll assembled his Highlanders. In the Western Lowlands, large bodies of peasantry ó headed by their preachers ó marched on Edinburgh.

Professor Green explains<sup>72</sup> that the victorious Cromwell himself had hardly entered Edinburgh, when he was recalled by pressing news from the South. The temper with which the English Parliament had met the Royalist Revolt, was widely different from that of the English Independent Army.

The English Parliament had recalled the eleven Members previously removed by the New Model Army ó and had passed the *Ordinance Against Heresy*. At the moment of the victory by Cromwell at Preston, the Lords were discussing charges of treason against Cromwell. Indeed, Commissioners were again sent to the Isle of Wight ó in spite of resistance from the Independents ó to conclude peace with the king.

History Professor Brewer remarks<sup>73</sup> it was voted by the Parliament on January 3rd 1648 that no more addresses should be made to the king ó and that it would be treason for any one without leave of the two Houses to hold any intercourse with him. By this vote on non-addresses, the king was in reality dethroned. For formerly all citizens had the right to petition the king. Yet now, it had been discovered that the king had attempted to escape from Carisbrooke Castle. So Hammond, by orders from the Army, removed all his servants ó and shut him up in close confinement.

**The 1648 Solemn Acknowledgment of Public Sins  
and Breaches of the Covenant**

After the fiasco of the ðEngagementö when compromising Scots had helped Charles invade Puritan England, the General Assembly of the (Presbyterian) Church

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<sup>70</sup> *Op. cit.*, pp. 569f.

<sup>71</sup> *Op. cit.*, XX:67.

<sup>72</sup> *Op. cit.*, p. 570.

<sup>73</sup> *Op. cit.*, p. 420.

of Scotland and the Scottish Parliament wished to renew their *Solemn League and Covenant*. Thus, on October 6th 1648, the General Assembly of the Presbyterian Church of Scotland approved a *Solemn Acknowledgement of Public Sins and Breaches of the Covenant* ó and also renewed the *Solemn League and Covenant*. Then, on October 14th 1648, the Estates of Parliament in Scotland did the same.<sup>74</sup>

The Commission of the General Assembly of the Church of Scotland on October 6th 1648 acknowledged that the people of ða great part of this land have involved themselves in many and gross breaches of the [1643] *Solemn League and Covenant*, and that the hands of many are grown slack in following and pursuing the duties contained therein.ö It then went on to declare ó so ðthat these things may be the better performed ó we have thought it necessary to condescend upon a *Solemn Acknowledgment of Publick Sins and Breaches of the Covenant and a Solemn Engagement to all the Duties contained therein*.ö

This would require that ðthere shall be an intimation of a solemn publick humiliation and fast, the second Sabbath of December [1648], to be kept upon the next Thursday and the Lord's day thereafter, at which...the *League and Covenant* and the *Public Acknowledgement of Sins and Engagements unto Duties* are to be publicly read by the Minister in the audience of all the people...begging mercy for these sins ó and strength from God for renewing the *Covenant* in sincerity and truth.ö

The Committee of Estates of [the Scottish] Parliament followed suit<sup>75</sup> on October 14th 1648. It, ðbeing very sensible of the **grievous backslidings** of this land in the manifold breaches of the *Solemn League and Covenant* made as sworn to the Most High God ó do therefore unanimously and heartily approve the seasonable and pious resolution of the Commission of the General Assembly for a solemn *Acknowledgement of Publick Sins and Provocations* [and] especially the breaches of the Covenant, and a solemn engagement to a more conscionable performance of the duties therein contained.ö Further, the Scottish Parliament then resolved to ðrequire and ordain that the directions of the said Commission of Assembly, in their Act of the 6th of this month..., be carefully followed.ö

This 1648 *Solemn Acknowledgment*<sup>76</sup> was drawn up toward the end of the Second British Civil War (1648-49). By then, the Scots had painfully reassessed their own fondness for the monarchy as such. Significantly, the document still clearly reveals strong royalist sentiment ó yet only on the basis of the continuing ancient *Constitution*.

### **The contents of Scotland's 1648 *Solemn Acknowledgment* (etc.)**

The document reads: ðWe ó noblemen, barons, gentlemen, burgesses, ministers of the Gospel, and commons of all sorts within this kingdom ó by the good hand of God upon us, taking into serious consideration the many sad afflictions and deep distresses wherewith we have been exercised for a long time pastö ó also recognize ðthat the

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<sup>74</sup> See *Subordinate Standard [etc.]* of the Free Church of Scotland, 1933, p. 280.

<sup>75</sup> *Id.*

<sup>76</sup> *Ib.*, pp. 281f.

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land...hath been sore wasted with the sword and the pestilence, and threatened with famine.ö

Indeed, the document forthrightly confesses that öshame and contempt hath been poured out from the Lord against many thousands of our nation ó who did in a sinful way [in 1648] make war upon the kingdom [meaning the nation] of England contrary to the testimony of His servants...[and] unto the dividing us from England and overturning of the work of God in all three kingdoms.ö

The *Acknowledgment* further recognizes that öGodø's people of old...when they were to seek delivery and a right way for themselves [so] that the Lord might be with them to prosper them, did humble themselves before Him.ö Therefore, öperceiving that this duty, when gone about out of conscience and in sincerity, hath always been attended with a reviving out of troubles and with a blessing and success from Heavenö ó the assenters to the *Acknowledgment* ödo humbly and sincerely...acknowledge the many sins and great transgressions of the land.

öThere be in the land many of all ranks who be for a testimony unto the truth and for a name of joy and praise unto the Lord by living godly, studying to keep their garments pure, and being stedfast in the covenant and cause of God. Yet we have reason to acknowledge that most of us have not endeavoured with that reality, sincerity and constancy that did become us ó to preserve the work of reformation.... The profane, loose and insolent carriage of many in our armies who went to the assistance of our brethren in England and the tamperings and unstraight dealing of some of our Commissioners...have proved great lets to the work of reformation....

öSufficient care hath not been had to separate betwixt the precious and the vile by debarring from the sacrament all ignorant and scandalous persons.... Neither have the privileges of the Parliaments and liberties of the subject been duly tendered. But **some amongst ourselves** have laboured to put into the hands of our king an arbitrary and unlimited power.... It cannot but **provoke the Lord** against him....

öOur own conscience within and Godø's judgments upon us without, do convince us of the manifold wilful renewed breaches of that article which concerneth the discovery and punishments of **malignants** ó whose crimes have not only been connived at, but dispensed with and pardoned, and themselves received into intimate fellowship with ourselves and intrusted with our counsels [and] admitted into our Parliaments.... After that grace hath been shewed unto us from the Lord our God by breaking these menø's yokes from off our necks...[in] this kingdom ó should we again break this commandment, and covenant, by joining once more with the people of these abominations and taking into our bosom those serpents?

öAlbeit the peace and union betwixt the kingdoms be a great blessing of God unto both and a bond which we are obliged to preserve unviolated..., each one [of us should and is] to go before another in the example of a real reformation.... Ignorance of God and of His Son Jesus Christ prevails exceedingly in the land.

öThe greatest part of masters of families ó amongst noblemen, barons, gentlemen, burgess and commons ó neglect to seek God in their families.... Few of our nobles...ever to this day could be persuaded to perform family-duties themselves and in their own persons.... Many of the nobility, gentry and burrows [or boroughs] ó who

should have been examples of godliness and sober walking unto others ó have been ringleaders of excess and rioting.

õAlbeit ó we be the Lordø people, engaged to Him in a solemn way! Yet, to this day we have not made it our study that judicatories and armies should consist of ó places of power and trust be filled with ó men of a blameless and Christian conversation and of known integrity and approven fidelity, affection and zeal unto the cause of God [*cf.* Deuteronomy 1:13-16]....

õ**Judicatories have been the seats of injustice and iniquity....** The blaspheming of the Name of God; swearing by the creatures; profanation of the Lordø day; uncleanness; drunkenness; excess and rioting; vanity of apparel; lying and deceit; railing and cursing; arbitrary and uncontrolled oppression; and [the] grinding of the faces of the poor by landlords and others in place of power ó are become ordinary and common sins.õ

### Conclusion of the 1648 Scottish *Solemn Acknowledgment*

The *Solemn Acknowledgment* then concludes: õIt is needful for these who find mercy, not only to confess but also to forsake their sin. Therefore...we have now made solemn publick acknowledgement.... To testify the integrity of our resolution herein, and [so] that we may be the better enabled in the power of the Lordø strength to perform the same ó we do again renew our *Solemn League and Covenant*, promising hereafter to make conscience of all the duties whereunto we are obliged.

õReligion is of all things the most excellent and precious. The advancing and promoting the power thereof against all ungodliness and profanity; the censuring and preserving the purity thereof against all error, heresy, and schism (and namely Independency, Anabaptism, Antinomianism, Arminianism, and Socianianism, Familism [*cf.* Communism], Libertinism, Scepticism and Erastianism)õ ó is a solemn duty.

Moreover, õthe carrying on the work of uniformity shall be studied and endeavoured by us before all worldly interests ó whether concerning the king, ourselves, or any otherõ whosoever. Therefore, õwe shall vindicate and maintain the liberties of the subjects in all these things which concern their consciences, persons, and estates.

õWe shall carefully maintain and defend the union [or con-feder-acy] betwixt the kingdoms [of England & Wales, Scotland, and Ireland] ó and avoid everything that may weaken the same or involve us in any measure of accession unto the guilt of those [ÆMalignantsø alias ÆModerate Presbyterianø Scottish ÆEngagersø] who have invaded the kingdom of England. As **we have been always loyal to our king** ó so we shall still endeavour to give unto God that which is Godø, and to Caesar the things which are Caesarø [Matthew 22:21].

õWe shall be...**advancing the knowledge of God and holiness and righteousness in the land**.... We shall earnestly pray unto God that He would give us Æable men, fearing God, men of truth, and hating covetousnessø [*cf.* Exodus chapter 18] ó to judge and bear charge among His people. So we shall, according to our places and callings,



endeavour that **judicatories** and all places of power and trust both in Kirk and **State** may consist of and be filled with such men as are of known good affection to the cause of God and of a blameless and **Christian** conversation; alias an upright and godly behaviour.

### England's New Model Army promotes a trial for the King

The English New Model Army now became much more restive. With the surrender of the Royalists, explains Professor Green,<sup>77</sup> the Roundhead regiments now demanded 'justice on the king!'

He was 'if they insisted ' now speedily to be 'specially brought to justice for the treason, blood, and mischief he is therein guilty of.'

This demand drove the Houses of Parliament to despair. Their reply was to accept the king's concessions, unimportant as they were, as a basis of peace.

This moderate response of the English Parliament was regarded by the soldiers as defiance of the New Model Army. So Charles was again seized ' on November 30th 1648. A letter from the English New Model Army's Baron Fairfax announced the march of his soldiers on London. 'We shall know now,' said the Independent Parliamentarian Sir Henry Vane ' as the troops took their post round the Houses of Parliament ' 'who is on the side of the king, and who on the side of the people!'

There was still a Presbyterian majority in the English Parliament. But by now, there was also an Independent majority in Cromwell's Army ' and a considerable minority, also constantly increasing, also even in Parliament. Abiding its time, even the increasingly-powerful Model Army ' though perhaps somewhat tongue-in-cheek ' asserted the supremacy, against his wishes, of Parliament over the king. Sovereignty and government were transferred from the king to Parliament. The latter body alone was henceforth to appoint all 'Great Officers' and 'Chief Justices.' Understandably, Charles was tried and found guilty of treason ' treason against the fundamental laws and the sovereignty of the people.

Nevertheless, in London, the king and the Commons were close to agreement. After a violent debate of three days, it was carried by a majority of 129 against 83 in the House of Commons ' that the king's concessions were a sufficient foundation for the Houses to proceed upon in the settlement.

However, the New Model Army was now intensely displeased. So, next day, December 6th 1648 ' when the Commons were to meet ' Colonel Pride surrounded the House with two regiments. He seized in the passageways of Parliament 47 Members of the Presbyterian Party ' and sent them to a low room which passed by the appellation of **hell**. Altogether, some 96 Members were excluded from the House.

Henceforth, none were allowed to enter but the most determined of the Independents. These did not exceed the number of 50. This truncated *Rump* of the Parliament, as it was called, instantly reversed the former proceedings of the House. It

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<sup>77</sup> *Op. cit.*, pp. 570f.

declared the king's concessions unsatisfactory. It re-affirmed the former vote of non-addresses. Indeed, it even committed several Presbyterian Members of Parliament to prison!

Yet, as Hetherington states in his book *History of the Westminster Assembly of Divines*,<sup>78</sup> even at the very time that the king was treating with the English Parliament for peace and he was framing a private engagement with the Scottish Royalists. So Cromwell marched against the Scottish Army. He defeated it, and returned to London and determined to put an end to the struggle, by putting to death a monarch whose principles were of the most despotic character.

Again the English Parliament was subjected to military force. Upwards of forty of the Presbyterian Members were cast into confinement. This violent invasion of parliamentary rights, is commonly termed **Pride's Purge**. The parliamentary section which was allowed to remain, is known by the designation of **the Rump Parliament**.

As Professor Heron has well noted,<sup>79</sup> a *Declaration* was issued by the Council [under Cromwell] to the effect that "none be compelled to conform to the public religion, by penalties or otherwise." Instead of Presbyterian church courts, a "Board of Commissioners" called "Triers" was appointed and composed in part of laymen and to examine the fitness of ministers presented to benefices. On this Board were Baptists, Independents, and even some "Presbyterians."

Cromwell was now a dictator and not from choice, but from necessity. Yet he was indeed a benevolent dictator. He preferred constitutional methods, when these were practicable. However, the expulsion of the 140 Members of Parliament by Colonel Pride and his troops in 1648 known as **Pride's Purge** and the deposition thereby of the Presbyterians from power and left behind only those who would carry out the policy of the Army. Yet the trial and execution of the king in January 1649 tended still more to shock and estrange the Presbyterians.

Professor Green describes the import of all this, very graphically. He records<sup>80</sup> that also on the following morning, forty more Members of Parliament were excluded therefrom. The rest gave way. The expulsion of one hundred and forty members and **the majority of the existing House** and reduced the Commons to a mere name.

The remnant which remained to co-operate with the New Model Army, was no longer representative of the will of the country. In the coarse imagery of popular speech, it was but the "rump" of a Parliament. While the House of Commons dwindled to a sham, the House of Lords passed away altogether. Indeed, the most dramatic effect of Pride's Purge was seen in a resolution of the Rump for the trial of Charles.

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<sup>78</sup> W.M. Hetherington: *History of the Westminster Assembly of Divines*, Still Waters Revival Books, Edmonton Canada, 1991 rep., pp. 309f.

<sup>79</sup> *Op. cit.*, pp. 220f.

<sup>80</sup> *Op. cit.*, p. 571.

## Charles the First beheaded and the English Monarchy terminated

Accordingly, in January 1649, the High Court of Justice tried Charles for high treason. He was soon found guilty and quickly executed. The Commonwealth of England was established in his place.

Professor Brewer concludes that these sudden and violent revolutions held the whole nation in terror and astonishment. But the Commons or rather the **Rump** which was left of it was not to be stopped.

Almost socialistically and in a spirit very different to the prior English Presbyterian Parliament, as well as to the later and godly American *Declaration of Independence* of 1776 the Rump Parliament of Independents now acted. It declared that the people are the origin of all just power; that the [House of] Commons of England are the supreme authority of the Nation; and that whatever is enacted by them, hath the **force of law** without the consent of King or House of Peers.

Indeed, on January 4th 1649 the ordinance for the trial of Charles Stuart King of England was again read. It was unanimously assented to by the Rump.

The pomp, the dignity, the ceremony of this transaction corresponded to the greatest conception that is suggested in the annals of history. The Solicitor, in the name of the Commons, represented that Charles Stuart being admitted [as] King of England, and intrusted with a limited power yet nevertheless, from a wicked design to erect an unlimited and tyrannical government, had traitorously and maliciously levied war against the present Parliament and the people whom they represented, and was therefore impeached as a tyrant, traitor, murderer, and a public and implacable enemy to the Commonwealth.

The king was then called on for his answer. Though long detained a prisoner and now produced as a criminal Charles sustained, by his magnanimous courage, the majesty of a monarch.

With great temper and dignity, he declined to submit to the jurisdiction of the court. Charles then demanded a conference with the two Houses. This was refused, and judgment was pronounced upon him.

The king therefore now addressed his discourse to the few persons who were about him. He justified his own innocence in the late fatal wars, though he acknowledged the equity of his execution in the eye of his Maker. Charles observed that an unjust sentence which he had permitted to take effect against his friend Strafford, was now being punished by an unjust sentence upon himself. At his trial, he was not allowed council or assistance of any kind. His funeral was indecently hurried from the dread of a popular reaction.

Soon after the king had been beheaded on January 30th 1649, shock-waves reverberated especially throughout Presbyterian Scotland. With their nationalistic loyalties now eclipsing their political realism, the Scots gasped in horror: "The English have gone and killed our king!"

In a few days after the execution of Charles the First, the Rump of the English House of Commons reactionarily passed votes to abolish the House of Peers and the monarchy. For they were now regarded as useless parts of the Constitution ó by the Rump of Cromwell's Parliament. However, with poetic justice, Cromwell would later abolish even his own Rump!

Several unsuccessful experiments would follow the abolition of the monarchy in England. First, there would be Cromwell's "Commonwealth" ó and then his "Protectorate" (1649-60). Next, there would be the floundering "Restoration" ó during the reign of Charles II (1660-85). That, in turn, would then be succeeded by the papalizing tyranny of James II (1685-88).

Stability would return to Britain only at her "Glorious Revolution" of 1688 ó and at the resulting blessed reign of the Calvinists William and Mary, culminating in the 1701 Protestant Succession Settlement. Only then would constitutional government fully be re-established ó and indeed blessedly extended ó both in Britain and in her increasing colonies.

### **Summary: Romanizers vs. Protesters in the 1642-49 British Civil Wars**

Summarizing, in 1642 the First English Civil War broke out. Its religious and historical roots had preceded it, for it was basically a clash between reactionary Anglo-Romanism and progressive Puritan Protestantism. Warfield identified the parties as those following the Cavaliers of King Charles the First, and those following the Parliament and its "King Pym." Indeed, the issue was not initially the monarchy as such *versus* Parliament as such ó but rather the tyranny of Charles the First *versus* the Constitution of England.

There were early successes for the Royalist Army ó against the Parliamentary Army. This urged the English Parliament to get the long-delayed Westminster Assembly convened, and to get England and Ireland and Scotland allied together internationally in a Pan-Protestant *Solemn League and Covenant*.

Professors Green and Brewer have expostulated on the political aspects of that *Solemn League*. It is doubtful whether the English and the Scots understand the *Covenant* identically. The Scottish Covenanters from 1557 till 1649 had always regarded it primarily as a religious rather than as a military matter. The English Parliament now embraced the *Covenant* for the first time. However, after Pym's death, the Independents ó who were rather indifferent to the presbyterianizing obligations of the *Covenant* ó began to strain the Puritan Alliance.

Fraught with internal tensions, the Parliamentary Party's advances in England were followed by its fragmentation. Power in the Parliamentary Army passed from the Presbyterians to the Congregationalists. The Army was itself reshaped into Cromwell's New Model Army. Indeed, the Army's "Radical Independents" now promoted anti-royalism ó and even "mob-ocracy." In fact, the radical "Levellers" renounced Presbyterianism; veered politically to the left; and embraced even anarchy. Sadder still, there was also some friction even between the Erastian English Parliament and its own Westminster Assembly.

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Militarily, power shifted permanently away from the king's men at the decisive Battle of Naseby. Its aftermath was important. The king surrendered; was imprisoned; escaped; and again planned for war. Indeed, the account in the *Historians' History* of events from November 1646 onward makes for fascinating reading.

Cromwell himself now moved ever-increasingly away from Presbyterianism. Charles tried to play his enemies off against each other, and he and the Scots triggered off the Second English Civil War (1648-49) which soon expanded into an international Scoto-English War. This the Scottish Malignants did through their "Engagement" an act of Scottish treason against the *Solemn League and Covenant*.

The English Parliament then tried to reposition itself *vis-a-vis* developments in Scotland. However, England's New Model Army was belligerent, and decisively defeated the invading Scots.

The Scots now came to their senses in 1648, and performed a *Solemn Acknowledgment of Public Sins and Breaches of the Covenant*. There they bewailed the Malignants' treason against God and their English allies. Repenting, the Scots then sought God's forgiveness and recommitted themselves to the ideal of a Calvinistic British Isles, by way of international treaty.

England's New Model Army, however, had now had enough of the Presbyterians and their Parliaments whether English, Scottish, or Welsh. So the radicalized Army promoted a trial for Charles Stuart and got him found guilty of treason; saw to it that he was beheaded; and thus terminated the monarchy in England.

Yet, as Dr. James Gairdner (LL.D.) has written in the *Historians' History*<sup>81</sup> with reference to the English Civil Wars and in the very midst of this [1642-49] struggle, the celebrated [1643-47] Assembly of divines sat at Westminster and framed a Constitution for a Presbyterian Church throughout the whole of the British Isles. That Ecclesiastical Constitution would also make full allowance for the relation between Church and State. See the *Westminster Confession* 23:4, 30:1 & 31:5.

Long after the cessation of the British Civil Wars, the Commonwealth, and the Restoration the influence of the Westminster Assembly would continue. Indeed, it was precisely that which through all this time of turmoil helped preserve the roots of the Common Law. The latter would then be bequeathed to the whole World as soon as things later settled down again.

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<sup>81</sup> *Op. cit.*, XIX pp. 11f.



## CH. 36: OLIVER CROMWELL'S CHRISTIAN COMMONWEALTH, 1649-59

On January 30th 1649, King Charles the First of Great Britain was executed for treason ó by order of the English Parliament. As St Isidore had said centuries earlier in the canons of the Fourth Council of Toledo: ðHe is king, who rules his people justly. If he does otherwise, he shall no longer be king.ö<sup>1</sup>

Down through the centuries ó as the *Historians' History* points out<sup>2</sup> ó the clergy derived their strength by assembling the great and the little, the rich and the poor, the strong and the weak, beneath the roof of the same church ó and under the same Law of God. Theoretically, that Law was over both the king and his subjects. Consequently, if also the king transgressed God's Law, he too should be punished ó and, if necessary, even removed from his kingship.

Throughout, the basic issue always was and still is ó the relationship between the common law (or *lex*), the commoners (or *grex*), and the commonwealth's king (or *rex*). All involved should, simultaneously, always be: **for** the commonwealth; **by** the law; and thus **with** the king ó *grege; lege; rege*.

Thus, the commonwealth's king cannot be above the common law (as in *rex super legem* alias tyranny). Nor can the commoners be above the law (as in *grex super legem* alias democracy). Instead, God's Law is always to be above both the commoners and their king (*Dei Lex super gregem et regem*).

The king himself is not the law (*rex non lex*). For the common-wealth is to be by the common law, and is not derived from the common king ó *grex ex lege nec ex rege*. King James the First wrongly claimed: *a Deo rex a rege lex* ó or ðthe law is from the king who is from God.ö<sup>3</sup> But instead, the Puritan Presbyterian Professor Dr. Samuel Rutherford was right ó when he proclaimed *lex rex* or ðthe law is king.ö

### Cromwell's prior efforts to preserve the English Monarchy

Also under the monarchy, Oliver Cromwell had thrice sat in the Commons as a Puritan ó first in 1616; then again in 1628, and also in 1640. Even as late as 1647, however, he had ó against the Levellers ó favoured a moderate settlement with the king.

However, when Charles fled to Carisbrooke and made secret dealings with the Scots against the English ó Cromwell became more radical. Thrashing the Scots at Preston in 1648, he had finally supported even Pride's Purge of the English Parliament itself (to rid it of pro-monarchical Presbyterians).

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<sup>1</sup> Cited in *Historians' History*, XX p. 85.

<sup>2</sup> *Idem*.

<sup>3</sup> Thus Brewer: *op. cit.*, p. 516.

Even as late as December 1648, Cromwell had sought to save the life of King Charles.<sup>4</sup> Only thereafter did Cromwell too join the leading voices demanding the execution of the king for high treason ó in January 1649.<sup>5</sup>

Already in 1646, at the end of the First English Civil War, Prince Charles alias the later Charles II ó the son of the then king (Charles I) ó escaped to France with his French mother (Queen Henrietta Maria). In 1649, the prince vainly tried to save King Charles I from being beheaded. He did so, by himself offering a signed blank sheet of paper to Parliament ó for it to inscribe thereon whatever demands it might make, in exchange for sparing his father's life.<sup>6</sup> By then, however, it was too late.

### Execution of King Charles I and establishment of Cromwell's Commonwealth

Professor Heron explains<sup>7</sup> that the trial and execution of the king (January 1649), tended still more to shock and estrange especially the Presbyterians. Also other events co-operated to deepen their estrangement.

In England, the Rump of the House of Commons had resolved to appoint 150 Commissioners to try Charles I. The Peers in the House of Lords who had till then remained in Parliament, however, rejected that Ordinance.

Thereupon, the Members who had remained in the Lower House passed a Resolution óthat the people are, **under God**, the origin of all just power.... The Commons of England in Parliament assembled ó being chosen by and representing the people ó have the supreme power in this nation.... Whatsoever is enacted and declared for law by the Commons in Parliament assembled, hath the force of a law, and all the people of this nation are concluded thereby ó although the consent and concurrence of the king or House of Peers be not had thereunto.ö<sup>8</sup>

From here on out, the speedy abolition of both the monarchy and the House of Lords was quite predictable. Six weeks after the king's execution, the monarchy was formally abolished.

Two months more passed. Then, on May 19th 1649, the House of Commons enacted óthat the people of England and of all the dominions and territories thereunto belonging, are, and shall be, and are hereby constituted, made, established and confirmed to be ó a Commonwealth and Free State, and shall henceforward be governed as a Commonwealth and Free State by the supreme authority of this nation, the representatives of the people in Parliament, and by such as they shall appoint and constitute officers and ministers for the good of the people, and that without any king or House of Lords.ö<sup>9</sup>

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<sup>4</sup> D. Chilton: *Cromwell and his Critics*, in *Journal of Christian Reconstruction*, Vallecito Ca., 1979-80, VI:2, p. 51 & n. 32.

<sup>5</sup> Thus the art. *Charles II*, in *NICE* 6:1739f.

<sup>6</sup> Thus the art. *Charles II*, in *NICE* 5:1303f.

<sup>7</sup> *Op. cit.*, p. 221.

<sup>8</sup> Cited in R.H. Green: *op. cit.*, p. 571.

<sup>9</sup> *Ib.*, p. 573.



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COMMONWEALTH, 1649-59

With the termination of the monarchy, the Rump Parliament was set up without the House of Lords, and without even most of the House of Commons. Soon, laws were activated requiring the **death penalty for adultery and incest and blasphemy** and severe penalties for profanity and sabbath desecration.<sup>10</sup>

**International reaction to the termination  
of the Monarchy in England**

The international reaction to all of this, was at first overwhelmingly negative. The *Historians' History* observes<sup>11</sup> it might have been expected that the Dutch especially after the triumph of Calvinism there at the 1618f Synod of Dort; mindful of the glorious struggle for liberty maintained by their fathers against Romish Spain; and crowned with success by the *Treaty of Munster* (1643f) would have viewed with exultation the triumph of the Republicans in England. But William II Prince of Orange had married a daughter of Charles I. Indeed, William's views and interests were espoused by both the military and the people of the Netherlands.

Reactions throughout Europe were vehement. As English History Professor J.R. Green explains,<sup>12</sup> the Czar of Russia chased the Parliamentary Puritan English Envoy from his own court in Russia. The French Ambassador was withdrawn from England upon the proclamation of Cromwell's Commonwealth. Indeed, Holland took the lead in acts of open hostility to the new power as soon as the news of the execution reached the Hague.

The Dutch States-General waited solemnly upon the Prince of Wales, who took the title of Charles the Second, and recognized him as Majesty while they refused an audience to the English envoys. The Prince of Orange was supported by popular sympathy as regards the aid and encouragement he afforded to Charles. Eleven ships of the English Royalist Fleet, which had found a refuge at the Hague ever since their revolt from the Parliament, were permitted to sail under Prince Rupert's command and to render the seas unsafe for English traders.

The danger was worse, nearer home. In Scotland, Argyle and his party proclaimed Charles the Second to be their king and despatched an embassy to the Hague to invite him to come and ascend the throne.

In Ireland, Ormond had at last brought to some sort of union the factions who ever since the rebellion had turned the land into a chaos. They were: the old Irish Catholics or native party under Owen Roe O'Neill; the Catholics of the English Pale; the Episcopalian Royalists; and the Presbyterian Royalists of the North. Ormond called on Charles to land at once in a country where he would find three-fourths of its people devoted to his cause.

As the *New Illustrated Columbia Encyclopedia* remarks<sup>13</sup> (in its article on the English Civil War), after Charles the First was beheaded on January 30th 1649, the

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<sup>10</sup> B.S. Capp: *Fifth Monarchy Men*, Rowman & Littlefield, Totowa N.J., 1972, pp. 167f.

<sup>11</sup> *Op. cit.*, XX p. 123.

<sup>12</sup> *Op. cit.*, pp. 572f.

<sup>13</sup> *Op. cit.*, 8:2196.

Commonwealth of England was set up. It was governed by the Rump Parliament (without the House of Lords), and by an Executive Council of State. However, notwithstanding the Commonwealth ó Charles I's son, Charles II, was still being recognized as king in some parts of Ireland and in Scotland.

### **The 1649 National Agreement of the People of England**

Now already in 1639, the Scots had signed their own *National Covenant* ó the basis of the later 1643 *Solemn League and Covenant*. Then, after the latter (abolishing episcopacy) had been imposed on all Englishmen over eighteen years of age<sup>14</sup> ó events had moved rapidly.

In 1645, the *Westminster Directory for Publick Worship* had displaced the Anglican Prayer Book in England. In 1646, the Presbyterian system had been adopted by all of the nations in Britain.

Subsequently, however, the Independents had ousted the Presbyterians in England. Hence, at the close of the British Civil War, in 1649 the following national *Agreement of the People of England* was put forward:

õIt is intended that **the Christian Religion** be held forth and **recommended as the public profession in this Nation** ó which we desire may, by the grace of God, be **reformed** to the greatest purity in doctrine, worship and discipline, **according to the Word of God**. The instructing the people thereunto in a public way...be not compulsive.... To the public profession so held forth, none be compelled by penalties or otherwise; but only may be **endeavoured to be won by sound doctrine**, and by the **example of a good conversation**.

õ**Such as profess faith in God by Jesus Christ** ó however differing in judgement from the doctrine, worship, or discipline publicly held forth as aforesaid ó shall not be restrained from, but **shall be protected in, the profession of their faith and exercise of religion** according to their consciences.... We provide not for them unless they have leave ó so as they abuse not this liberty to the civil injury of others.... **All laws, ordinances, statutes and clauses...contrary of the liberty herein provided for...be and are hereby repealed and made void.**<sup>15</sup>

Indeed, the Commonwealth Government proclaimed that **the Christian Religion, as contained in the Scriptures...was henceforth to be held forth as the public profession of the Nation**.õ Article 35. However, the above excellent *Agreement* was only fully implemented after the victorious Puritan Oliver Cromwell was appointed Lord Protector in December 1653.

Very significantly, on 21st March 1649, the reasons for introducing the English Commonwealth were set out. õThe office of king was established by an agreement of the people [*cf.* First Samuel chapter 8], and filled by election [Deuteronomy 17:14f & 1:13f *cf.* Acts 6:3-5f]. It was very seldom that any one [such as a king] performed his duties....

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<sup>14</sup> Bettenson: *op. cit.*, p. 390.

<sup>15</sup> *Ib.*, pp. 395-96.

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Charles the First in particular was justly condemned and executed for treachery, murder, and other odious crimes [cf. First Samuel 15:23 & 31:1-7]. His sons, as nothing better can be expected from them and the eldest has already borne arms against the Parliament are declared unworthy of the throne [cf. Second Samuel 21:1-14].... All the inhabitants of the kingdom [of England] are released from their oaths and duties to them [cf. First Samuel 16:1f].

Venice, Switzerland, the Netherlands have proved to what a height of prosperity republics rise.... Wealth, liberty, and justice there go hand in hand.... Civil wars are prevented; and liberty of conscience, persons, and property is untouched.... The lords [however] may be chosen Members of the House of Commons.

He who will not take an oath to a Constitution without a king...is incapable of holding any office in the Church and State. The new great seal has on one side the map of England and Ireland, and on the reverse bears the inscription, In the first year of freedom by God's blessing restored. (Cf. Leviticus 25:10 on the later Liberty Bell, and *annuit coeptis* on U.S. dollar bills.)

### The new Chief Officers in the Commonwealth of England

At first, the Rump Parliament of some fifty Members named the lawyer John Bradshaw as its President. The poet John Milton was named its Foreign Secretary.

Milton it was who wrote: The power of kings and magistrates is nothing else but what is only derivated, transferred, and committed to them in trust and the right remaining in [the people] to resume it to themselves, if by kings and magistrates it be abused. It was also Milton who stated that it is lawful to call to account a tyrant or wicked king and, after due conviction, to depose and put him to death.<sup>16</sup> Compare the punitive words *sic semper tyrannis* or alias may thus always be done to tyrants! on Virginia's coat-of-arms.

The Rump stated it would soon, under God, restore the power to the people of England. The English Parliament then immediately invited also Scotland to model her government too into a Commonwealth. Scotland, however, resolved to uphold her own monarchy and which, expressly by their Covenant, she had sworn to defend. Accordingly, right after the English executed Charles I, the Scots proclaimed Charles II King of Scotland and if he would but promise to uphold the *Covenant*.

The Irish were even swifter. An alliance of Romish Celts and Anglo-Irish Catholics immediately clamoured to import Charles II into Ireland. Thereby, they contrived to throw off the English-Puritan yoke.<sup>17</sup>

### Cromwell's actions in Ireland among the Celts and the Anglo-Irish

Thereupon, the Parliament of England appointed Cromwell Lieutenant and General of Ireland and where he won many spectacular victories in 1649. He exterminated the

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<sup>16</sup> J. Milton: *The Tenure of Kings and Magistrates*. See too in *Historians' History*, XX p. 91.

<sup>17</sup> Thus Brewer's *op. cit.*, pp. 428f.

insurrectionist garrisons of the Royalists and transferred more Irish lands to Protestant-English settlers.

It is true that in Ireland even today, Cromwell is still accused of gross cruelty in putting down the revolutionary Irish insurrectionists. However, he himself insisted he had but protected Irish civilians against their own insurrectionists. He denied he had unnecessarily harmed a single Irish civilian. Thus, he challenged all his enemies to give just one instance of one man not in arms since his own coming into Ireland who had been massacred, destroyed, or banished.

As to the insurrectionists, however, matters were admittedly different. There, explains History Professor J.R. Green, officers were knocked on the head. Every tenth man of the insurrectionist soldiers was killed; and the rest were shipped for the Barbadoes, into slavery. Cf. Deuteronomy 20:10-15 & 21:10f etc. Cromwell added: I am persuaded that this is a righteous judgement of God upon these barbarous wretches who have imbrued their hands in so much innocent blood and that it will tend to prevent the effusion of blood for the future.<sup>18</sup>

He then went on:<sup>19</sup> It was set upon some of our hearts, that a great thing should be done not by power or might but by the Spirit of God [cf. Zechariah 4:6].... That which caused your men to storm so courageously it was the Spirit of God Who gave your men courage.... Therefore, it is good that God alone have all the glory!<sup>20</sup>

Many modern critics concede that Cromwell was only following the laws of war (cf. Deuteronomy chapter 20) and as practised by Tilly and others. Even the *Historians' History* admits<sup>20</sup> that while in Ireland, everywhere except at Basing House Cromwell had shown a merciful disposition toward the vanquished.

### The Anti-Engager regime in Scotland from 1648 onward

Meanwhile, events proceeded apace among the Scots. According to Rev. James Mackenzie's *History of Scotland*,<sup>21</sup> a party led by the Marquis of Hamilton and consisting of many misguided Covenanters and other Royalists, had previously attained the majority in the Scottish Parliament. They were known under the name of *Engagers* and having entered into an *Engagement* with the king. In pursuance thereof, they had futilely invaded England in 1648.

After the ruinous failure of the Engagers in their English invasion, the Anti-Engager Strict Covenanters speedily came to power in both Church and State in Scotland. In October 1648, they had first approved a *Solemn Acknowledgement of Public Sins and Breaches of the Covenant* and then renewed the *Solemn League and Covenant* itself.

Thus, the Anti-Engager Strict Covenanters now found themselves so strong in Parliament and that they were able to pass the famous *Act of Classes*. By this Act, four classes of Malignants were defined. All general officers and chief movers in the

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<sup>18</sup> Thus J.R. Green: *op. cit.*, p. 575.

<sup>19</sup> Thus *Historians' History*, XX p. 99.

<sup>20</sup> *Ib.*, XX p. 101.

<sup>21</sup> *Op. cit.*, pp. 572f.

Engagement, forming the first class of Malignants, were declared for ever incapable of public employment.

However, even these Anti-Engager Strict Covenanters had once again sworn not only to strive to unite Scottish and English Puritans into one British Church and to promote international peace within the two Protestant lands. They had also promised to uphold the authority of the king, upon that same basis. It was therefore very easy for the restive Scots to construe the execution of the king by the English Parliament ó as the latter's breach of the Covenant.

### **The move to crown Prince Charles as the King of Scotland**

Indeed, as Mackenzie has further pointed out,<sup>22</sup> the news of the stern work of judgment done at Whitehall on the 30th January 1649 ó **the execution of King Charles I of England and Scotland** by the **English Parliament** ó reached Edinburgh five days after. Indignation and pity filled every Scottish breast.

The very next day, the eldest son of the deceased was proclaimed King of Scotland. Charles II, the prince thus proclaimed, was then at the Hague in Holland. He was at the time eighteen ó with falseness and treachery in the very core of his heart.

English History Professor Brewer observes<sup>23</sup> that the Scots called Prince Charles to their throne ó because they would be loyal to their king and faithful to their sworn covenants which bound them to maintain his lawful authority. But they added that while they were bound to him and would stand by him to the death ó **he on his part must be bound to rule according to the laws, and to respect their liberty of conscience.**

So Charles swore and signed the *Covenant*. He said he condemned his father's bloodshed of God's people. He professed to lament his mother's idolatry. He declared his only opponents were the enemies of God's *Covenant*.

Naturally, the offer of the kingship made to Prince Charles by the Scottish Parliament ó was conditional upon his taking the *Covenant* and also adhering to the *Solemn League* between England and Scotland. Such promises suited Charles, who really intended ó *via* Scotland ó to join up with the Irish Roman Catholics.

Dishonestly, he promised the Scots he would not tolerate Romanism in any part of his dominions ó and that he would govern by the advice of the Scottish Parliament and the Presbyterian Kirk. Thus the *Historians' History*.<sup>24</sup>

However, as the Scottish historian Mackenzie asks, with what eyes would the English Parliament which have abolished kingship and set up a Commonwealth look upon this business of king-making in Scotland? The answer was, that the English New Model Army was already marching toward the Border.<sup>25</sup>

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<sup>22</sup> *Ib.*, pp. 573f.

<sup>23</sup> *Op. cit.*, p. 431.

<sup>24</sup> *Op. cit.*, XX pp. 94f.

<sup>25</sup> *Op. cit.*, pp. 573f.

States Hetherington in his book *History of the Westminster Assembly of Divines*,<sup>26</sup> no sooner had the tidings of the execution of Charles the First reached Scotland ó than it called forth a burst of intense sorrow and indignation from the heart of every true Presbyterian Covenanter in the kingdom. Arrangements were instantly made for placing the young prince on the Scottish throne and supporting him there by force of arms if necessary ó provided he would subscribe the *Covenant*. To this Charles was unwilling to consent, if he could otherwise obtain his purpose.

When Montrose himself failed to arouse support, Prince Charles consented to take the *Covenant* (which he never intended to keep). However, Cromwell was not disposed to permit the establishment of the royal power in Scotland ó by which his own supremacy might be endangered. He therefore marched northwards at the head of his veteran army; invaded Scotland; and gained a decisive victory.

The young Prince, however, adopted the daring enterprise of marching into England. A final struggle took place at Worcester. Charles was trounced, and fled to the Continent. Thus, the English Parliament fell beneath the power of the military ó and at the same moment terminated the Westminster Assembly.

Professor Green explains<sup>27</sup> that Charles renewed the negotiations with Scotland which his hopes from Ireland had broken. The failure and death of the Scottish Royalist, the Marquis Montrose, forced Charles to accept the Presbyterian conditions.

At that time, the matter was not easy to assess. The godly Baron Fairfax, the Puritan English General, said he would certainly defend England ó if the Scots attacked it. He could not, however, first invade Scotland ó because he considered it still united to England by the *Covenant* which he himself had signed.

So Fairfax resigned his commission. He did, however ó after withdrawing from public life during Cromwell's Protectorate ó later play a part in securing a limited monarchy at the 1660 Restoration.<sup>28</sup>

The English Rump Parliament then gave Fairfax's job to Cromwell himself. The latter believed the Scots had broken their *Covenant* with the English Parliament and nation ó precisely by renegotiating a settlement with the royal enemy. Accordingly, on July 16th 1650, he crossed the Tweed and invaded Scotland with an army of sixteen thousand men.<sup>29</sup>

As the *Historians' History* explains,<sup>30</sup> it was the negotiation between the Scots and Prince Charles whom they were nominating as their king ó that called Cromwell away from the completion of his Irish conquests. The rulers of the English Commonwealth were aware of the intimate connection which the *Solemn League and Covenant* had produced between the English Presbyterians and the Kirk of Scotland. So they naturally inferred that if Prince Charles, who pretended to rule the English too, were

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<sup>26</sup> W.M. Hetherington: *History of the Westminster Assembly of Divines*, Still Waters Revival Books, Edmonton Canada, 1991 rep., pp. 309f & 316fp.

<sup>27</sup> *Op. cit.*, p. 576.

<sup>28</sup> Art. *Fairfax of Cameron, Thomas Fairfax, 3d Baron*, in *NICE* 8:2303.

<sup>29</sup> Brewer's *op. cit.*, p. 431.

<sup>30</sup> *Op. cit.*, XX p. 101.

once seated on the Scottish throne ó their own power would be placed on a very precarious footing.

From the first, they had watched the unfriendly proceedings of the Scottish Parliament. Advice and persuasion had been tried, but had failed. Hostilities between England and Scotland therefore and thereby became almost unavoidable.

### **The 1651f hostilities between England and Scotland**

Right after the execution of his father, Prince Charles had been proclaimed king in Scotland and in parts of Ireland and England. Accepting the terms of the *Covenant*, he had gone to Scotland in 1650. There, **he was crowned as the new King of Scotland in 1651.**

That occurred, however, only after Charles then and there agreed to enforce Presbyterianism not just in a now-royalist Scotland ó but also in the different country of post-monarchical and anti-royalist England. Cromwell had for some time now been an Anti-Presbyterian, and had recently also become an Anti-Monarchist. He therefore immediately invaded Scotland. Almost simultaneously, Charles himself invaded England.

Professor Heron explains<sup>31</sup> that the Scottish Estates had offered the Scottish crown to the late king's son ó on condition of his taking the *Covenant* and becoming a Presbyterian. Charles had no difficulty in promising compliance ó and just as little intention of fulfilling his pledges. Thus Prince Charles ó at Spey on June 23rd 1650 (and later again at Scoon on January 1st 1651) ó outwardly subscribed to the 1638 *Scottish National Covenant*<sup>32</sup> as well as to the 1643f *Solemn League and Covenant*.<sup>33</sup>

### **The Scottish “Resolutioners” and their adversaries the “Protesters”**

According to the *New International Dictionary of the Christian Church*,<sup>34</sup> the name óProtestersö was given to those of the Scottish Covenanters who regarded as criminal any dealings with King Charles the Second ó and who also protested against the reinstatement of anybody formerly hostile to the *Covenant*. They opposed the majority of the clergy in Scotland, and accused the latter of putting loyalty to Charles II above the crown rights of King Jesus.

According to Dr. J.D. Douglas,<sup>35</sup> the Scottish Parliament ordered the Commission of the General Assembly to decide whether it was lawful or not to reinstate those formerly purged from the Scottish Army by the 1649 *Act of Classes*. That Act had excluded from civil and military posts in Scotland all who were hostile to the *National Covenant*, and to the *Solemn League and Covenant*.

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<sup>31</sup> *Op. cit.*, p. 221.

<sup>32</sup> See *Subordinate Standards* of the Free Church of Scotland, 1933 ed., pp. 267.

<sup>33</sup> *Ib.*, p. 276.

<sup>34</sup> *Op. cit.*, pp. 809f.

<sup>35</sup> *Ib.*, p. 838.

The Commission decided that it was lawful to reinstate all but a small and ðmalignantö minority. That decision became known as the *First Public Resolution*.

In March 1651, the Commission was asked about the legality of admitting to the Scottish Parliament those who ó formerly debarred ó had now renounced their Anti-Covenant-ing attitude. The Commission recommended the admission of all save a few ðprime actors against the State.ö This was the *Second Public Resolution*.

Those who upheld these Resolutions, became known as Resolutioners. They were mostly moderate Presbyterians, and also moderate Royalists. Those who disagreed, became known as Protesters.

In spite of friction about this matter among the Scots themselves ó friction between the Resolutioners and the Protesters ó Prince Charles had now arrived in Scotland. As the Scottish historian James Mackenzie explains,<sup>36</sup> the Presbyterian Resolutioners of Scotland were inclined to receive Charles as their king on almost any terms. However, the Protesters ó discerning the duplicity of Charles's real character ó were opposed to his return, except upon suitable conditions.

The famous 1643f *Solemn League and Covenant* ó by now so very precious especially to the Scots ó had to be subscribed to by King Charles II more than once ó at Spey on June 23rd 1650, and at Scoon on January 1st 1651 ó before they would accept him. Indeed, it was in fact then ötaken and subscribed several times ó by King Charles II, and by all ranksö in Scotland.<sup>37</sup>

Here, the Scottish Presbyterians blundered badly. Not only had they trusted the deceptive Charles. They also burned with pique toward the Non-Presbyterian Cromwell. They depended on the presumptuous prognostications of their own anticipated successes. Instead of profoundly weighing their obligations to adhere to the Decalogue ó they quite under-estimated the resourcefulness of the hard-pressed Cromwell and his starving troops.

As the *Historians' History* explains,<sup>38</sup> in the English Army the **officers** prayed and preached. They ðsanctified the campö and exhorted the men to unity of mind and godliness of life. Among the Scots, this duty was discharged by the **ministers**. Consequently, the English Army as such had a much stronger morale than did the Scottish Army as such.

The English had no national crime to deplore. By punishing the late king, they had ðatonedö for the evils of the civil war. The Scots, on the contrary, had adopted his son without any real proof of his conversion. They therefore always had the growing fear that they might draw down on the country the punishment due to his sins and those of his family. It was for Charles Stuart, the chief of the Malignants, that they were supposed to fight!

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<sup>36</sup> *Op. cit.*, pp. 586f.

<sup>37</sup> Thus *Subordinate Standards of the Free Church of Scotland*, pp. 276 & 273.

<sup>38</sup> *Op. cit.*, XX p. 103.



### Prince Charles signs the *Expiatory Declaration*

This is why the fearful Scots required from Prince Charles an *Expiatory Declaration*. It was to be made in the name of the Scottish Parliament and the Presbyterian Kirk.

In accordance therewith, Charles was called upon to lament, in the language of penitence and self-abasement: [1], his father's opposition to the work of God and to the *Solemn League and Covenant*, which had caused the blood of the Lord's people to be shed; [2], the idolatry of his mother, the toleration of which in the king's house could not fail to be a high provocation against Him Who is a jealous God, visiting the sins of the fathers upon the children; and [3], to declare that he [Prince Charles himself] had subscribed the *Covenant* with sincerity of heart and would have no friends or enemies but those who were friends or enemies to it.

The *Declaration* further required Prince Charles: [4], to acknowledge the sinfulness of the treaty [which Prince Charles himself had made] with the bloody rebels in Ireland, which he was made to pronounce null and void; [5], to detest popery and prelacy, idolatry and heresy, schism and profaneness; [6], to promise that he would accord to a free Parliament in England the proposition of the two kingdoms [of England and Scotland]; and [7], to reform the Church of England according to the plan devised by the Assembly of divines at Westminster.<sup>39</sup>

Especially clauses [6] and [7] of the above *Declaration*, could not but be construed by the English in the very worst light. Whatever the Scots intended by those clauses, the English should have been expected to have regarded those words as unwarranted threats to interfere from Scotland into the internal domestic affairs of England itself. From that perspective, the *Declaration* was a recipe for war.

Interestingly, when the above *Expiatory Declaration* was first presented to Prince Charles on August 13th 1650, he refused to sign it. Thereupon, both Committees (of State and of Kirk) responded that they would not further his interests until he acknowledged the sins of his parents and also of his own former behaviour.

Scottish Presbyterian ministers then preached from their pulpits that Prince Charles was the root of malignancy and a hypocrite for taking the covenant [at Spey on 23rd June 1650] while not intending to keep it. Thereupon Charles, on August 16th 1650, tearfully re-subscribed to it.<sup>40</sup>

### The English severely defeat the Scots

As Professor Brewer declares,<sup>41</sup> the madness of the Scottish ecclesiastics saved Prince Charles. They fancied that the sectarian and heretical New Model Army of the English, together with Agag (meaning Cromwell), was delivered into their hands.

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<sup>39</sup> Thus *Historians' History*, XX p. 103.

<sup>40</sup> *Ib.*, XX pp. 103f.

<sup>41</sup> *Op. cit.*, p. 432.

The Scots had much faith in their General. He was none other than the brilliant David Leslie. He had previously fought with Gustav Adolph of Sweden against the Romish Armies in Central Europe. Under such leadership, imagined the visionary Scottish ministers, their army just could not lose against the English!

So, upon the faith of these visions they forced their General in spite of his remonstrances to descend into the plain with a view to attacking the English in their retreat. Cromwell saw the Scots in motion, and their line widely and loosely extended. Exclaiming (so some say), "The Lord hath delivered them into our hands!" Cromwell gave orders for the attack. Unable to close their ranks, the Scots though double in number to the English were totally defeated.

Professor J.R. Green records<sup>42</sup> that when Cromwell in the dim dawn flung his whole force upon the Scots, he added [*cf.* Psalm 68]: "Let God arise, and let His enemies be scattered! Like as the mist vanisheth, so shalt Thou drive them away!"

In less than an hour, the victory was complete. The defeat at once became a rout. Ten thousand prisoners were taken, with all the baggage and guns. Three thousand were slain with scarce any loss on the part of the conquerors.

The *Historians' History* adds<sup>43</sup> that when Cromwell cried out the words of the above Psalm 68, his own English Puritan soldiers instantly moved forward. The enemy's lancers hesitated; broke; and fled. At that moment, the mist dispersed. The first spectacle which struck the eyes of the Scots, was the rout of their cavalry. At the approach of the English, they threw down their arms and ran.

Cromwell's regiment halted to sing Psalm 117. Then the pursuit was continued for more than eight miles. The dead bodies of three thousand Scots strewed their native soil. Ten thousand prisoners with the artillery, ammunition and baggage became the reward of the conquerors. Of the wounded, five thousand one hundred or something more than one-half being wounded, were dismissed to their homes.

The other half were driven "like turkeys" into England. Of these, one thousand six hundred died of a pestilential disease. Many of the prisoners were shipped to New England in North America, where they underwent a brief servitude. Exodus 21:2f *cf.* Deuteronomy 20:11f. Cromwell claimed to have lost only twenty slain.

### **The soaring of Cromwell's international prestige after defeating the Scots**

The international repercussions were instantaneous. Even Spain hurried to recognize the English Republic. Holland while rejecting an English proposal for union offered an alliance. France was alarmed; Austria took note; even Russia reacted. Without doubt, England had suddenly become the major power in Europe.

Yet the victorious General Cromwell was concerned about remaining inequities in England herself. Even from Dunbar, he wrote to the Commons: "Relieve the

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<sup>42</sup> *Op. cit.*, pp. 576f.

<sup>43</sup> *Op. cit.*, XX p. 105.

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oppressed! Hear the groans of poor prisoners! Be pleased to reform the abuses of all professions! If there be any one that makes many poor to make a few rich ó that suits not a Commonwealth!<sup>44</sup>

Professor Heron explains<sup>45</sup> that the march of Cromwell and his army northwards, and their defeat of the Scottish army at Dunbar, gave the hope of a Presbyterian National Establishment in England its death-blow. Nevertheless, Calvinistic Puritanism throughout Britain was still on the increase ó even though the picture immediately after Dunbar was most confused.

On the one hand, Charles himself was then little more than a prisoner in the hands of some of the more Presbyterianistic Scottish Covenanters. On the other hand, some elements in Scotland ó both Catholic and Protestant ó looked askance at the ambivalent Charles. In England, many Presbyterians and all the Non-Presbyterian Puritans opposed Charles to a man. And even the Royalist Presbyterians and other monarchists in England and Wales were so unaware of the next move ó the Scottish king's invasion of England ó that they were quite unprepared to join him.<sup>46</sup>

### **Cromwell captures Edinburgh and gives God all the glory**

After Cromwell won at Dunbar, he captured Edinburgh. There, records the *Historians' History*,<sup>47</sup> he told his friends that he himself was still an unprofitable servant ó [cf. Luke 17:10] ó a mere instrument in the hands of Almighty Power. ó If God had risen in His wrath ó if He had bared His arm and avenged His cause ó to Him, and to Him alone, belonged the glory!<sup>48</sup>

Assuming the office of a missionary, Cromwell exhorted his officers in daily sermons: to love one another; to repent from dead works; and to pray and mourn for the blindness of their Scottish adversaries. He provoked a theological controversy with Scottish Presbyterian ministers in Edinburgh Castle, reproaching them with pride in arrogating to themselves the right of expounding the true sense of the *Solemn League and Covenant*. He maintained that, after the solemn fasts observed by both nations ó after their many and earnest appeals to the Lord God of armies ó the victory gained at Dunbar must be admitted to be an evident manifestation of the divine will in favour of the English Commonwealth.

At Edinburgh, Cromwell waited. Internecine strife broke up the Scots opposed to him. The stricter Covenanters deserted the Royal Scottish Army as soon as the Malignants returned to it.

As the Scottish historian James Mackenzie himself bewails,<sup>48</sup> of all sad things ó this war between the Covenanters and Oliver Cromwell is the saddest. The same pure and high purpose animated them and him. To Oliver, it was a thing most plain that liberty and a Stuart king could not exist together in these lands. The Covenanters

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<sup>44</sup> Cited in J.R. Green's *op. cit.*, p. 577.

<sup>45</sup> *Op. cit.*, p. 221.

<sup>46</sup> Brewer: *op. cit.*, pp. 432f.

<sup>47</sup> *Op. cit.*, XX p. 106.

<sup>48</sup> *Op. cit.*, pp. 576f.

themselves, and the whole British nation, by-and-by, came to think of that matter exactly as Oliver had thought. The English Commonwealth did not assume to dictate to Scotland in any way. Scottish liberties were left perfectly untouched. Their quarrel with Oliver was a vast mistake.

### **The Scots foolishly proceed to crown the deceitful Prince as King Charles**

Mackenzie further explains<sup>49</sup> that unbroken in spirit by the terrible ruin of Dunbar, the Scots levied yet another army in 1651 and rallied to the struggle. On New Year's Day, they crowned the Prince as King Charles II at Scone ó with prayer and all holy solemnities.

The assembled people, with uplifted right hands, took the oath to the new-made king. Said they: "Truth and faith shall we bear unto you, and live and die with you, against all manner of folk whatever, in your service, according to the *National Covenant* and the *Solemn League and Covenant*."

It was indeed a spectacle to weep over. The true and brave, making oath before the Most High God, to spend their blood for the basest of all scoundrels against the noble Oliver. For Cromwell was the best friend that Scotland ever saw ó could she but have known him!

Thus, on January 1st 1651, Prince Charles was crowned King of Scotland at Scone. The *Historians' History* explains<sup>50</sup> that when he had sworn on his knees and with upraised hand: to observe the Scottish *National Covenant* of 1638 as well as the international *Solemn League and Covenant* of 1643; to "maintain presbytery (alias to uphold Presbyterianism alone); to govern according to the laws of God and the land; and to root out false religion and heresy ó the crown was placed on his head, and the nobility and people swore allegiance to him.

During the ceremony, and after the conclusion, Rev. Douglas addressed the king. He reminded Charles that he was king by compact with his people; that **his own authority was limited by the Law of God**, by the laws of the people, and by the association of the Estates (alias the Scottish Parliament) with him in the government. He was further reminded that though every breach did not dissolve the compact ó yet every abuse of power to the subversion of religion, law, or liberty justified opposition in the people.

Rev. Douglas further impressed upon Charles that it was for him, by his observance of the covenant, to silence those who doubted his sincerity. He was then informed that the evils which had afflicted his family ó arose out of the apostasy of his father (Charles I of England and Scotland) and grandfather (James I of England and Scotland alias James VI of Scotland). Indeed, King Charles II was warned that if he imitated James VI and Charles I ó he would find that the controversy between him and God was not ended, but would be productive of additional calamities.

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<sup>49</sup> *Ib.*, pp. 578f.

<sup>50</sup> *Op. cit.*, XX p. 107.

## The triumph of Cromwell throughout the British Domains

Sadly, Charles II's subsequent behaviour showed a reckless disregard of this good advice. Almost immediately, he and his associates themselves broke the *Covenant* anew by invading England.

However, at the Battle of Worcester on September 3rd 1651 the Royalists were annihilated. Cromwell defeated Charles, who then promptly fled to France.

The English Parliament and Army then once again conferred. Together, they soon rebuilt first the nation of England and then the United Commonwealth of the British Isles into the mightiest power in Europe. Indeed, Cromwell's new actions clearly anticipated the 1707 Union between England and Scotland as Great Britain as well as the 1801 Union between Great Britain and Ireland as the United Kingdom.

As the great German historian Leopold von Ranke has rightly observed in his book *English History*,<sup>51</sup> the United Kingdom of Great Britain was now well in the making. In all three countries of Britain (alias England and Wales), Scotland, and Ireland the Commonwealth now held supreme authority.

In the history of Great Britain, the epoch of the Commonwealth (1649-59) is one of the great links in the general historical progress. By striking decisive blows for the Commonwealth in all three countries, Cromwell wins an imperishable importance in Great Britain whatever opinion may be held of his personal achievements or his character.

The Historian Professor Brewer explains<sup>52</sup> that a numerous and well-disciplined army was on foot. Excellent officers were found in every branch of service. Blake, a man of great courage, was made an Admiral. A fleet was put under his command, with which he chased Prince Rupert into Portugal and Rupert to whom Charles the Second had entrusted that English squadron which had deserted to him. The King of Portugal, dreading so dangerous a foe as Blake, made all possible submission to the Commonwealth Government of England.

Yet all the English settlements in America except New England which had been planted entirely by either Independents or Puritans adhered to the Royal Party! This was so, even after the establishment of the English Commonwealth.

However, such Royalism was soon subdued. The monarchists also in Jersey, Guernsey, the Scilly Islands and the Isle of Man were brought under subjection. As a result, the sea which had been infested by many privateers from these islands was rendered safe to English commerce.

By the end of 1651, all the above areas as well as the Colonies of Barbadoes and Virginia had submitted to Cromwell's Commonwealth. The complete subjugation of Scotland and Ireland speedily followed.<sup>53</sup>

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<sup>51</sup> As cited in the *Historians' History*, XX p. 112.

<sup>52</sup> *Op. cit.*, p. 434.

<sup>53</sup> Thus *Historians' History* XX p. 116.

## Cromwell consolidates his Commonwealth Government

In 1652, Cromwell strongly consolidated his Puritan political position. He told the English Parliament:<sup>54</sup> "Now that the king [Charles the First] is dead and his son [Prince Charles] defeated, I think it necessary to come to a settlement."

So the *Amnesty Bill* was accordingly forced through after fifteen divisions. The Puritan Sir Matthew Hale later Lord Chief Justice Hale was then appointed to head up a Grand Committee to reform the law. Also union with Scotland was promoted. A similar plan for Ireland too was proposed.

The Union of Puritan England with Presbyterian Scotland as the United Commonwealth of Great Britain, was a gigantic constitutional step forward. As James Mackenzie observes in his *History of Scotland*,<sup>55</sup> under Oliver Cromwell the Lord Protector of the Commonwealth (alias the great uncrowned "king" of Britain) Scotland enjoyed what that poor torn country so greatly needed the blessing of a firm, just and strong government.

The monarchy and Parliament of Scotland were formally abolished. The number of the Scottish Members to sit in the United Parliament, was fixed at thirty. Perfectly free trade was established between the two countries. All customs and duties upon the export or import of goods from either to the other, were taken off. Feudal vassalage and hereditary jurisdictions were done away.

Cromwell did all this. His judges were remarkable for fair, common-sense decisions. They were given with little delay, and involved no needless expense.

The tragic war between Cromwell's Calvinistic Britain and a Calvinistic (yet still royalist) Holland, was more problematical. There was, of course, economic competition between these two naval powers as each struggled for the control of the seas. Far more unfortunately, however, the Prince of Orange William II was the son-in-law of the beheaded English King Charles I. Even more unfortunately, William's views and interests also about this matter, were espoused by both the military and the people of the Netherlands as a whole.

By and large, the war between England and Holland consisted of naval clashes between Van Tromp and De Ruyter on the one hand and Admiral Blake on the other. Even before the 1642-49 English Civil Wars, Robert Blake had sat in the Short Parliament. When that war had broken out, he joined the parliamentary side and defended Bristol, Lyme and Taunton against royalist attacks. After the Civil War, he was appointed "General-at-Sea" and brilliantly defeating Prince Rupert's Royalist Fleet first in Portugal, and then again in the Mediterranean.

After being appointed a Member of Cromwell's Council of State in 1651, Blake captured first the Scilly Islands (to the West of Cornwall) and next Jersey (between England and France) from the remnantal Royalists. Plying the seas to Indonesia, the Dutch established a half-way house at the Cape of Good Hope on the southern tip of

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<sup>54</sup> Cited in Green's *op. cit.*, pp. 578f.

<sup>55</sup> *Op. cit.*, p. 582.

Africa under Commander Jan van Riebeeck in 1652. However, in the mid-fifties ó Blake defeated the fleets of the Dutch, the Barbary pirates, and the Spaniards.<sup>56</sup>

Navally at least, Blake laid the foundation for Great Britain (as the Union of England-Wales and Scotland in 1707). Similarly, this also anticipated the creation of the greatest naval power on Earth during the nineteenth century: the 1801f United Kingdom (of England-Wales, Scotland, and Ireland).

In the *Historians' History*, Dr. James Gairdner (LL.D.) refers<sup>57</sup> to Cromwell's Commonwealth after the English Civil Wars, and to the Restoration which followed. Gairdner explains that Admiral Blake won for England a supremacy at sea which gave her a foremost position among all the powers of Europe.

Blake had to hammer three kingdoms ó Britain (alias England and Wales), Ireland and Scotland ó into a coherent confederation. He wanted to bring back, as far as could be, the old traditions of the Constitution. The hammering together was very efficacious. In England, and even in Scotland, a sense of political and religious order made itself felt.

### Major developments in Cromwell's Commonwealth during 1653

In 1653, there were major advances in the political development of the British Constitution. Thus a pamphlet then printed for the use of the Commonwealth Government, explained that the Common Law alias the Ancient Law of this nation was grounded at the first on the Old and New Testaments.

So: not *rex lex* (alias -the king is law). But *lex rex* (alias -law is king)! Indeed, *Lex Britannica e Lege Biblica* ó -British Law is from Biblical Law.

Especially the Commonwealth's Calvinistic Congregationalists purified and perpetuated Ancient British Common Law. As the *Historians' History* observes,<sup>58</sup> the Independents proclaimed themselves the champions of religious liberty. They repealed the Statutes imposing penalties for absence from church ó and they declared that men were free to serve God according to the dictates of conscience.

Now Cromwell dissolved the Long Parliament on April 20 1653. There was some justification for this. Indeed, many of the Members had disgraced their professed Puritanism. Cromwell the Calvinistic Congregationalist publically rebuked them, even within Parliament itself.

History Professor Brewer explains<sup>59</sup> this behaviour of Cromwell as follows. Taking hold of [one] Martin by the cloak, ðthou art a whoremaster!ö said he. To another, ðthou art an adulterer!ö To a third, ðthou art a drunkard and a glutton!ö And ðthou art an extortioner!ö to a fourth.

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<sup>56</sup> Thus art. *Blake, Robert*, in 1979 *NICE* 3:808f.

<sup>57</sup> *Op. cit.*, XIX p. 11.

<sup>58</sup> *Op. cit.*, XX p. 133.

<sup>59</sup> *Op. cit.*, p. 438.

Cromwell then commanded a soldier to seize the parliamentary mace. Said the great Protector of the Commonwealth: "What shall we do with this fool's bauble? Here, take it away!"

"It is you," he added, "addressing himself to the House that have forced me upon this! I have sought the Lord, night and day!"

Now virtually a benevolent dictator, Cromwell proceeded to dissolve the very unpopular Rump Parliament. Also in 1653, he attempted to replace it with the Constituent Convention.

This was the "Praise-God" or "Barebone's Parliament" of Cromwell's own nominations. It proceeded, notes the *Historians' History*,<sup>60</sup> to establish a **Council of State**.

Some proposed that this should consist of ten Members. Cf. Exodus 18:21-25. Some proposed seventy, after the model of the Jewish *Sanhedrin*. See Numbers 11:24 & Luke 10:1. Others proposed thirteen "in imitation of Christ and His twelve apostles. See Luke 22:14, and compare too the jury system. The latter proposal was adopted as fully Scriptural and most convenient. With Cromwell in the place of Lord President, were joined four civilians and eight officers of high rank.

Francois Guizot, in his *History of Oliver Cromwell and the English Commonwealth*, gives us an interesting account<sup>61</sup> of the "Little" or "Barebone's" Parliament. Guizot states that eight or ten Members often spoke in succession, invoking the divine blessing on their labours or commenting on passages of Scripture. Says one of them, "they never enjoyed so much of the spirit and presence of Christ in any of the meetings and exercises of religion in all their lives."

The Barebone's Parliament published a *Declaration*. That expressed at once both proud hopes and mystical enthusiasm. It also disclosed feelings of the deepest humility.

States that *Declaration*: "We declare ourselves to be the Parliament of the Commonwealth of England.... We hope that God in His great and free goodness will not forsake His people; that we may be fitted and used as instruments in His hand; that all oppressing yokes may be broken and all burdens removed and the loins also of the poor and needy may be filled with blessing; **that all nations may turn their swords and spears into plough-shares and pruning-hooks**; that the wolf may feed with the lamb; **and the Earth be full of the knowledge of God, as waters cover the sea.**" Cf.: Isaiah 2:4 & 11:9; Micah 4:1-3; Habakkuk 2:14.

### **The decline of constitutional rule specifically by way of Parliament**

The Parliament voted that it would meet at eight o'clock in the morning every day of the week (except Sunday). On the latter point, compare the *U.S. Constitution* Article I Section 7.

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<sup>60</sup> *Op. cit.*, XX p. 136.

<sup>61</sup> F. Guizot: *History of Oliver Cromwell and the English Commonwealth*, as cited in the *Historians' History* XX p. 137.



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COMMONWEALTH, 1649-59

A sincere zeal animated the Barebones Assembly. Questions and considerations of private interest had little influence in their deliberations. Sadly, however, the Parliament of Cromwell's election was neither sufficiently enlightened nor sufficiently influential to reform English society.

Nevertheless, it did find one part of its task in a very advanced state. The two Committees which the Long Parliament had appointed in 1651 for the purpose of **preparing a scheme of law-reform**, had left a large body of materials in which most of the questions mooted were solved and the solutions even given at length.

Yet in this Assembly, explains Professor Brewer,<sup>62</sup> the greater part were either Fifth Monarchy Men (alias Imminent Rapturists), Anabaptists, or Independents. It transferred the highest judicial powers to Cromwell and his Council. It abrogated the High Court of Chancery. It constituted a new High Commission Court in the form of a High Court of Justice for trials of offenders against the Commonwealth. However, this so divided that body that it was finally forced to self-destruct.

Still, as Professor Green points out,<sup>63</sup> as Captain-General of the forces Cromwell in fact was forced to recognize his responsibility for the maintenance of public order. No thought of military despotism can fairly be traced in the acts of the General or of the Army. Their proceedings since the establishment of the Commonwealth, had as yet been substantially in vindication of the rights of the country to representative self-government.

Public opinion had gone fairly with the Army, in its demand for a full and efficient body of representatives as well in its resistance to the project by which the Rump would have deprived half England of its right of election. It was only when no other means existed of preventing such a wrong, that the soldiers had driven out the wrongdoers.

It is you that have forced me to this, Cromwell exclaimed, as he drove the Members from the House of Commons. The act was one of violence to the Members of the House. But the act which it aimed at preventing, was one of violence on their part toward the constitutional rights of the whole nation. Furthermore, the expulsion of the Members was ratified by a general assent.

### 1653: Cromwell's Army replaces Parliament with the Protectorate

When Army Officers then drew up the *Instrument of Government* in 1653, Cromwell became Lord Protector for at least three years under the new Protectorate. This received the approval of the Council of Officers.

Thereby, Cromwell was to be assisted by a Council of at least thirteen who were to hold office either for life or during good behaviour. **The franchise was qualified and restricted to those with at least two hundred pounds' worth of property.** This clearly demonstrates Cromwell's Government to have been not a populist Democracy, but a constitutional Republic.

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<sup>62</sup> *Op. cit.*, pp. 438f.

<sup>63</sup> *Op. cit.*, p. 582.

Great progressive steps were proposed in local government and education. Parliament had to be summoned every three years for at least five months without adjournment. Its Members were to number four hundred from England and Wales, and thirty each from Scotland and Ireland.

The *Historians' History* states<sup>64</sup> that the *Instrument of Government* made Cromwell "Protector." All who professed faith in God through Jesus Christ, were to be protected. But this liberty was **not** to extend to **popery** or prelacy, **or** to such as under the **profession of Christ** hold forth and **practise licentiousness.**

Professor Brewer explains<sup>65</sup> that all persons who had in any way assisted the king or Presbyterians, Episcopalians, or Royalists or were declared incapable of serving. The small boroughs were deprived of the franchise. Of 400 Members which represented England, 250 were chosen by the counties; the rest were elected by London and the more considerable corporations.

The lower populace were excluded from the elections. Indeed, there was absolutely no one-man-one-vote mob-ocracy, here! Cromwell and his Officers nominated 144 of the Members for the United Kingdoms, including themselves.

Even the latter idea had much merit. Referring to Exodus chapter 18, Cromwell sought for the Parliament "faithful men, fearing God and hating covetousness." The General himself then told them: "Convince the nation that, as men fearing God have brought them out of their bondage under the regal power or so, men fearing God do now rule them in the fear of God! Own your call; for it is of God!"<sup>66</sup>

As Henry Hallam rightly observes in his *Constitutional History of England*,<sup>67</sup> the despotism of a wise man is more tolerable than that of political or religious fanatics. Cromwell's assumption, therefore, of the title of "Protector" or was a necessary and wholesome usurpation.

It secured the nation from the mischievous lunacy of the Anabaptists, and from the more cold-blooded tyranny of that little oligarchy which arrogated to itself the name of "Commonwealth's men." Cromwell was bound, by the *Instrument of Government*, to call a Parliament. In any Parliament, his adversaries would necessarily be formidable.

### Oliver Cromwell on God's Law and English Law in the Commonwealth

The work of compiling a single Code of Laws, begun under the Long Parliament by a Committee with the learned Puritan jurist Sir Matthew Hale at its head, was again pushed forward. Cromwell saw the need of administrative reform in Church and State. Precisely for that reason, he had no sympathy at all for either revolutionary theories or reactionary inertia.

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<sup>64</sup> *Op. cit.*, XX p. 142.

<sup>65</sup> *Op. cit.*, pp. 339f.

<sup>66</sup> Thus Green: *op. cit.*, p. 583.

<sup>67</sup> H. Hallam: *Constitutional History of England*, as cited in the *Historians' History*, XX p. 143.

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COMMONWEALTH, 1649-59

English History Professor J.R. Green explains<sup>68</sup> that Cromwell's House of Commons was planned to consist of four hundred Members from Britain (England and Wales), thirty from Scotland, and thirty from Ireland. All special rights of voting in the election of Members, were abolished and replaced by a general right of suffrage based on the possession of real or personal property to the value of two hundred pounds. Catholics throughout the Commonwealth and Malignants in Scotland were excluded, for the while, from the franchise.

The powers of the new Protector were indeed strictly limited. Though the Members of the Council were originally named by him, each Member was irremovable and save by consent of the rest. Their advice was necessary, in all foreign affairs. Their consent was required, in matters of peace and war. Their approval was needed, in nominations to the great offices of State.

Three years at the most were to elapse between the assembling of one Parliament and another. Laws could not be made, nor taxes imposed, but by its authority. Indeed, after the lapse of twenty days, the Statutes it passed became laws and even if the Protector's assent was refused to them. The new Constitution was undoubtedly popular.

Cromwell's own powers and duties were defined particularly in the *Instrument of Government*. That and among other things and clearly stated also the following:

“The Christian religion, as contained in the Scriptures, be held forth and recommended as the public profession of these nations of England, Wales, Ireland and Scotland in the United Commonwealth of Britain. “To the public profession held forth, none shall be compelled by penalties or otherwise; but that endeavours be used to win them by sound doctrine and the example of a good conversation.

“Such as profess faith in God by Jesus Christ (though differing in judgement from the doctrine, worship, or discipline publicly held forth) shall not be restrained from but shall be protected in the profession of the faith and exercise of their religion.... Provided this liberty be not extended to popery or prelacy; nor to such as, under the profession of Christ, hold forth and practise licentiousness. All Laws, Statutes and Ordinances and clauses in any Law, Statute or Ordinance to the contrary of the aforesaid liberty and shall be esteemed as null and void.”

On becoming Lord Protector, Cromwell told the Commonwealth Parliament representing Ireland, Scotland and Britain (alias England and Wales):<sup>69</sup> “Gentlemen, you are met here on the greatest occasion that, I believe, England ever saw; having upon your shoulders **the interest of three great nations**; and truly, I believe I may say it without any hyperbole, the interests of all the Christian people in the world.... I called not myself to this place: of that, God is witness.... I begged to be dismissed of my charge; I begged it again and again: and God be Judge between me and all men, if I lie in this matter!

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<sup>68</sup> *Op. cit.*, pp. 584f.

<sup>69</sup> M. D'Aubigne's *The Protector – A Vindication*, Sprinkle, Harrisonburg Va., 1983 rep., pp. 160f.

ØI told you in my last speech, that you were a free Parliament. Yet I thought it was understood withal, that I was the Protector and the authority that called you; that I was in possession of the **government by a good right from God and men....**

“**In every government, there must be something fundamental – somewhat like a Magna Charta – which should be standing, be unalterable....** That Parliament should not make themselves perpetual, is a fundamental.... Liberty of conscience in religion (equally removed from profaneness and persecution), is a fundamental.... Another Fundamental, is that the power of the militia should **be shared** between the Protector and the Parliament.”<sup>70</sup>

The Protector then divided Britain into twelve Districts ó compare the territories assigned to the twelve tribes of Israel (*cf.* Joshua 13:7f). Each of those twelve Districts was under a Major-General. Each of the latter was: carefully chosen; God-fearing; wise; and of unimpeachable integrity.<sup>71</sup> *Cf.* Exodus 18:21-25 & Deuteronomy 1:13-16.

Meantime, in 1653, the Royalist General Assembly of the Church of Scotland was suppressed. Yet the Presbyteries and the Sessions were never trammelled. Indeed, Presbyterianism in Scotland thrived ó even under Cromwell’s Non-Presbyterian Puritan Commonwealth Government over the British Isles.

The Scottish Presbyterian Rev. James Mackenzie in his *History of Scotland* explains<sup>72</sup> that Cromwell, **moving against Scotland’s Royalism**, indeed prevented the meetings of the General Assembly of the Presbyterian Church of Scotland. But though the General Assembly was closed ó the Synods and Presbyteries met with perfect freedom. So too did the Sessions. Nor was there ever greater purity or plenty of the means of grace.

The gospel was preached with great success. Kirkton, in his quaint and sturdy *History*, said he truly believed there were more souls converted to Christ in that short period of time ó than in any season since the Reformation, though of triple its duration. Every parish had its minister; **every village a school; almost every family a Bible; and in most of the country, all the children of age could read.** Truly, comment is unnecessary.

### **The Christonomous Theologians in Cromwell’s Christian Commonwealth**

Let us now look at some of the views of then-contemporary leading British Puritan theologians. We mean those works first published just before and just after the 1649 suspension of the monarchy in Britain.

The famous Westminster divine and Scottish Presbyterian George Gillespie gives (at least obliquely) some christonomous guidelines also for the godly government of a Christian Commonwealth politically ó in his work *One Hundred and Eleven*

<sup>70</sup> *Idem*, compare *Historians’ History*, XX p. 155.

<sup>71</sup> Thus D’Aubigne’s *op. cit.*, p. 178.

<sup>72</sup> *Op. cit.*, pp. 584f.

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*Propositions Concerning the Ministry and Government of the Church*<sup>73</sup> and also in his book *Aaron's Rod Blossoming*.<sup>74</sup> There, he urges ministers alias preachers to show the magistrate **his duty** to wit, how he ought to govern the **Commonwealth**, and in what **manner** he ought to use the sword.

The former, or the **actual carrying out** of the magistrate's task (*viz.* his duty) explains Gillespie's is proper and peculiar to the magistrate. Neither doth the ministry intermeddle or entangle itself into such business. But the latter (*viz.* **to show the magistrate...in what manner he ought to use the sword**"), is contained within the office of the ministers....

The Holy Scripture [is] profitable to show which is the best manner of governing a Commonwealth.... The magistrate...may by this guiding star be so directed as that he may execute the parts of his office according to the will of God.

So far, so good. But then Gillespie further adds: **Some** divines hold that the judicial law of Moses so far as concerneth the **punishments** of sins against the Moral Law, idolatry, blasphemy, Sabbath-breaking, adultery, theft, *etc.* ought to be a rule to the Christian magistrate. And, for my part, I **wish** [that] **more** respect were had to it, and that it **were** more consulted with.

Notice, however, that Gillespie's whose views on this point closely resemble those of many in our own day, **some** of whom call themselves **Reconstructionists** does not here claim that all or even most of his associates shared this view of his. For Gillespie here claims that only **some** divines hold that...the **punishments** in the judicial law of Moses...ought to be **a** [though not necessarily **the**] rule to the Christian magistrate.

Here Gillespie adds that he **himself** [could] **wish** [that] **more** respect were had to it. Yet this too once again indicates that **many** Puritan magistrates did **not** heed it as much as did Gillespie. That is why he himself could only **wish** that it were so.

We have already seen the difference of opinion on this point between Gillespie and his Scottish friend the leading Westminster divine Rev. Professor Dr. Samuel Rutherford. See chapter 31 at its notes 77-87 above.

Moreover, Gillespie himself further admitted his own disagreement with the great Jewish Rabbi, Isaac Abrabanel alias Abravanel as to the **distinction** between the Noachic Law and the Mosaic Law. This is a distinction which certainly seems to have been recognized also by the first General Assembly of the Christian Church at its (51 A.D.) Synod of Jerusalem as recorded in the infallible Word of God. Acts 15:19-29 *cf.* Genesis 9:1-7.

Remarketh Gillespie: **Isaac**. Abrabanel, *De Capite Fidei* cap. 13, putteth this difference between the laws given to Adam and to the sons of Noah [on the one hand], and the divine law given by Moses [on the other] that those [latter] laws were given for conservation of human society [in Israel]; and are...the classes of judicial or civil

<sup>73</sup> G. Gillespie: *111 Propositions Concerning the Ministry and Government of the Church*, 1644, sections 47f.

<sup>74</sup> G. Gillespie: *Aaron's Rod Blossoming*, I:1.

laws; and that the law given by Moses doth direct the soul to its last perfection and end. **I do not approve the difference he [Abrabanel] puts between these laws ó viz. the Noachic and the Mosaic.**

Nevertheless, all of the Westminster divines and also other Puritans would agree with Gillespie ó where he rightly distinguishes between the political duty of magistrates to make and uphold civil laws on the one hand, and the ecclesiastical duty of preachers to point out to magistrates what the duties of the latter are. This distinction Gillespie quite properly set out during 1644, in the 47th and the 48th of his *One Hundred and Eleven Propositions Concerning the Ministry and Government of the Church*.

There, Gillespie rightly states: "It is one thing to govern the commonwealth and to make political and civil laws ó another thing to interpret the Word of God and out of it to show the magistrate his duty; to wit, how he ought to govern the commonwealth and in what manner he ought to use the sword. The former is proper and peculiar to the magistrate (óneither doth the ministry intermeddle or entangle itself much into such business). But the latter is contained within the office of ministers.

For to that end also is the Holy Scripture profitable, to show which is the best manner in governing the commonwealth ó and that the magistrate, as being God's minister, may by His guiding star be so directed as that he may execute the parts of his office according to the will of God and may perfectly be instructed in every good work." See too at notes 77f in our chapter 31 above.

Similarly, in 1648 Thomas Gilbert ó who later became Chaplain of Magdalen College in Oxford from 1656 to 1660, argued that the judicial law "was a fence and outwork to the Moral Law. It stands with the Moral Law, and still binds upon man. So the judicial law is still the duty of magistrates."<sup>75</sup>

More copious yet are the statements of the greatest British theologian of all time, Rev. Dr. John Owen. In a sermon on *Christ's Kingdom and the Magistrate's Power* ó preached before the British Parliament on October 13th 1652 ó he urged that Oliver Cromwell should rule by the judicials of Moses.

Owen there insists<sup>76</sup> that in "the institutions and examples of the Old Testament of the duty of magistrates...there is something moral...which, being unclothed of their Judaical form, **is still binding to all...** Subduct from those administrations what was proper to and lies upon account of the church and nation of the Jews ó and **what remains upon the general notion of a church and nation must be everlastingly binding.**"

### **The life and legal work of the great Puritan Sir Matthew Hale**

This brings us to the times and tasks of the great British jurist and theologian, Sir Matthew Hale (1609-76). Hale entered Magdalen Hall at Oxford when sixteen, while then desiring to become a minister.

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<sup>75</sup> In *Whitehall Debates*, as cited in Morse's *op. cit.*, Sept. 1986, p. 29.

<sup>76</sup> *Works*, Banner of Truth, London, 1967, VIII p. 394.

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COMMONWEALTH, 1649-59

After fighting as a soldier for the Prince of Orange against the Spaniards in Holland, he entered Lincoln's Inn in 1629. There, he devoted himself to his legal studies for sixteen hours a day.

Even this did not satiate him. So, according to the *Encyclopedia Americana*,<sup>77</sup> he further extended his researches to natural philosophy, mathematics, history and divinity ó as well as to the sciences more immediately connected with his profession.

Indeed, adds the *Encyclopaedia Britannica*,<sup>78</sup> Hale yet dedicated a further part of his time to the study of investigations in physics and chemistry, and even to anatomy and architecture. This varied learning enhanced considerably the value of many of his judicial decisions.

Hale then, explains the *Britannica*, read over and over again all the year-books, reports and law treatises in print. He also carefully studied the extant records ó from the foundation of the English monarchy, down to his own time.

The *Encyclopedia Americana*,<sup>79</sup> adds that he was called to the bar in 1637, before the commencement of the British Civil Wars. In the conflict of parties which took place, his moderation ó accompanied as it was by personal integrity and skill in his profession ó secured him the esteem of both Royalists and Parliamentarians in his own time.

Hale preferred Presbyterianism to other forms of church government. He signed the 1643-44 *Solemn League and Covenant*. He was one of the British Puritan divines who helped draw up the *Westminster Confession of Faith* and the *Larger Catechism* and *Shorter Catechism* in 1643-48. Indeed, under the influence of the Puritan jurist and Westminster Assembly divine and fellow-theologian Selden, Hale ó himself too a Puritan ó even wrote devotional tracts.

Hale became a Member of Cromwell's Parliament. He was appointed to head up a Grand Committee to reform the law. Indeed, he ended up drafting a *Code of Common Law*. He became a judge of the Common Bench, under the Puritan Lord Protector Oliver Cromwell, in 1654.

Later, after the Restoration of the Monarchy, in 1664 Hale still sanctioned the conviction of witches. He was appointed Lord Chief Justice of the King's Bench in 1671. Indeed, he also authored the famous (but posthumously-published) *History of the Common Law of England*.<sup>80</sup>

According to the famous Sir William Holdsworth in his own eight-volume *History of English Law*,<sup>81</sup> around 1650 of the Courts of Common Law punished gross indecency, ribaldry and blasphemy on the ground that it was contrary to law to attack the foundations of the Christian faith. Indeed, Sir Matthew Hale himself then held that

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<sup>77</sup> 1951 ed., art. *Hale, Sir Matthew*, 13:634.

<sup>78</sup> Thus art. *Hale, Sir Matthew*, in the 14th ed. of *Enc. Brit.*, 11:88.

<sup>79</sup> *Op. cit.*, 13:634.

<sup>80</sup> *Op. cit.*, 11:88f.

<sup>81</sup> Sir W.S. Holdsworth: *A History of English Law*, Methuen, London, 1937 ed., VIII pp. 407-10.

Christianity is parcel of the laws of England; and therefore to reproach the Christian religion is to speak in subversion of the law.<sup>82</sup> *Taylor's case*, 1 Vent. 293.

### **Oliver Cromwell's epoch-making English Parliament of 1654**

In 1654, Cromwell governed vigorously. Professor R.H. Green explains<sup>83</sup> that few Parliaments have ever been more memorable or more truly representative of the English people than the Parliament of 1654.

It was the first Parliament in Britain's history, where Members from Scotland and Ireland sat side by side with those from England and Wales as they still sit in that Parliament today. In spite of the exclusion of Royalists and Catholics from the polling-booths, the House had a better title to the name of a 'Free Parliament' than any which had sat before. The freedom with which the electors had exercised their right of voting, was seen indeed in the large number of Presbyterian Members who were returned.

That Cromwell should retain his rule as Protector, was unanimously agreed. That he should possess the right of veto, or a co-ordinate legislative power with the Parliament, was hotly debated.

'I called not myself to this place,' urged Cromwell. 'God and the people of these kingdoms have borne testimony to it.... If my calling be from God and my testimony from the people, God and the people shall take it from me or else I will not part from it.'

Cromwell concluded a peace with the Dutch on April 5th 1654. A defensive league was made between the two lands, and the honour of the flag was yielded to the English in an ordinance 'uniting' England and Holland.<sup>84</sup>

However, Royalists now started seeking to infiltrate the English Parliament itself. So Cromwell announced that nobody would be allowed to enter the House or without first promising 'not to alter the Government as it is settled.'

Yet a hundred Members refused to make this promise. So Cromwell expelled these opponents in January 1655, and declared Parliament dissolved.<sup>85</sup>

### **The eleven Military Districts in Oliver Cromwell's Commonwealth of England**

Cromwell next divided England into eleven military districts, each administered by a Major-General with power to disarm all Papists and Royalists and to arrest all suspects. Yet religious freedom was still strongly protected. Indeed, even the Royalist

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<sup>82</sup> *Ib.* VIII:408.

<sup>83</sup> *Op. cit.*, pp. 586f.

<sup>84</sup> Thus Brewer's *op. cit.* p. 440, and *Historians' History* XX pp. 152n & 665.

<sup>85</sup> R.H. Green: *op. cit.*, pp. 587f.



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Burnet declared that the eight years 1652-60 was ða time of great peace and prosperity.ö For Cromwell's troops were very disciplined.<sup>86</sup>

Professor Green rightly observes<sup>87</sup> that Cromwell dealt with the Royalists as irreconcilable enemies. But in every other respect, he carried out fairly his pledge of ðhealing and settling.ö

The series of administrative reforms planned by the Convention, had partially been carried into effect ó before the meeting of Parliament in 1654. But the work was pushed on, after the dissolution of the House, with yet greater energy. Nearly a hundred ordinances showed the industry of the government. Police, public amusements, roads, finances, the condition of prisons, the imprisonment of debtors ó were a few among the subjects which claimed Cromwell's attention.

The anarchy which had reigned in the Church, was put an end to by a series of wise and temperate measures for its reorganization. A Board of ðTriersö ó a fourth of whom were laymen ó was appointed to examine the fitness of ministers presented to livings. A Church Board of gentry and clergy was set up in every county to exercise a supervision over ecclesiastical affairs, and to detect and remove scandalous and ineffective ministers.

Even by the confession of Cromwell's opponents ó including Presbyterians, who regarded this as unwarranted Erastian and Statist interference into the internal workings of presbyteries ó the plan worked well. It furnished the country with ðable, serious preachers,ö the Puritan Rev. Richard Baxter tells us, ðwho lived a godly life.ö Save in his dealings with the Episcopalians ó whom he looked on as a political danger ó Cromwell remained true throughout to the cause of religious liberty.

### **The Puritan Cromwell's opposition to the power of Romish Spain**

The Thirty Years' War on the Continent (1618-48), had now ended with the **stabilization of Protestantism** in Northern Europe ó and **resistance against Islam** even in Austria itself. Yet Spain was to Cromwell still ðthe head of the papal interestö everywhere. The long-established English dislike of Spain, thrived in Cromwell.

As his admirals were setting sail for the West Indies, Cromwell told them: ðThe Lord Himself hath a controversy with your enemies ó even with that Romish Babylon of which the Spaniard is the great underpropper. In that respect, we fight the Lord's battles!ö

To Parliament he declared: ðYou have on your shoulders the interest of all the Christian people of the world. I wish it may be written on our hearts, to be zealous for that interest.ö<sup>88</sup>

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<sup>86</sup> *Ib.*, pp. 588f.

<sup>87</sup> *Ib.*, pp. 590f.

<sup>88</sup> See *ib.*, p. 592.

Many Royalist plots to unseat Cromwell, were hatched in Spain. Even the dethroned King of Scotland, Charles II himself, made a treaty with the Spaniards ó against the British.

This soon resulted in a fresh war between Britain and Spain, in which Cromwell embargoed Spanish ports and conquered Jamaica. Also the Anabaptists plotted against Cromwell, but were easily squelched.

In 1656, Cromwell also greatly strengthened the English Navy (under Blake) against both the Dutch and the Spaniards. At the same time, he gave the maximum religious toleration then possible to all Britons.

Non-Anglican Protestants of all denominations were tolerated during his rule. In Ireland, he prosecuted Romish rebels ó probably because of their political polemicism. In England, he treated Romanists better than the Stuarts had ever done.<sup>89</sup> Yet Episcopalians (suspected of royalist sympathies) and papists (as agents of the pope as a foreign prince) were subjected to some restrictions.

Even the Jews ó expelled from England under Edward I around 1290 ó were now re-admitted into the country (under Manasseh ben Israel). Here, Cromwell's rationale was chiefly eschatological ó the anticipated fulfilment of Romans 11:12-32.

As the *Historians' History* observes,<sup>90</sup> it was marvellous in Cromwell's eyes that the Jews had come to the threshold of the door, and to the very edge of the promises and prophecies. He felt God was about to bring these people out of the depths of the sea ó perhaps even to their station. "God," exclaimed Cromwell, "shakes the mountains ó and they reel."

### **Oliver Cromwell declines the offer of Kingship over England**

In 1657, Cromwell refused the kingship. At his Second Parliament, Cromwell: declined the offered crown; accepted the *Humble Petition and Advice*; and re-established the House of Lords (with sympathetic nominees).

The governmental influence of the House of Commons was permanently established. For absolute monarchy was gone forever.

Said Cromwell: "It is my duty to rule according to the laws of the land." Thus Charles Runninton, Serjeant-at-Law, in his biographical sketch in Hale's *History of the Common Law of England*.<sup>91</sup>

Now the 1656 Parliament did, by a vote of 123 to 62, in 1657 present Cromwell with a *Humble Petition and Advice* offering him the Crown of England. Cromwell declined. Also his Army, and his own family, opposed it.<sup>92</sup>

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<sup>89</sup> See Chilton's *op. cit.*, in *Journal of Christian Reconstruction*. 1979-80, VI:2, p. 48.

<sup>90</sup> *Op. cit.*, XX p. 137.

<sup>91</sup> C. Runninton: *Biographical Sketch* (in Hale's *History of the Common Law of England*, Butterworth, London, 1820 ed., p. xiv).

<sup>92</sup> Thus Brewer's *op. cit.*, p. 445.

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Cromwell's soldiers, he said, were godly men or men that will not be beaten down by a worldly and carnal spirit while they keep their integrity.... They are honest and faithful men.... I cannot undertake this government with that title of king; and that is my answer to this great and weighty business.<sup>93</sup>

He refused the offered kingship not merely on principle. His refusal was also eminently practical. Indeed, Cromwell timeously discerned that the aim of those offering him the kingship was to destroy him personally. In that way, they wished to bring the nation back under its old servitude.<sup>94</sup>

So, instead, he initiated the *New Constitution*. He re-instituted a Second Legislative Chamber or the House of Peers or after the House of Lords had previously been abolished in 1649. For, as Cromwell himself wisely remarked on February 4th 1658, he would not have undertaken the government under the 1653-54f *New Constitution* unless there might be some other persons [viz. the Lords] who might interpose between himself and the House of Commons and **prevent a tumultuous and popular spirit**.<sup>95</sup>

There was, however or explains Professor Green<sup>96</sup> or a solemn inauguration of the Protector by the Parliament. In the name of the Commons, the Speaker invested him with a mantle of State, placed the sceptre in his hand, and girt the sword of justice by his side.

By a new *Act of Government*, Cromwell was allowed to name his own successor or but in all after-cases, the office was to be an elective one. In every other respect, the forms of the older Constitution were carefully restored.

Parliament was again to consist of two Houses, the seventy Members of the other House being named by the Protector. A fixed revenue was voted to the Protector. It was provided that no monies should be raised but by assent of Parliament. Liberty of worship was secured for all but Papists, [Unitarian] Socianians, or those who denied the inspiration of the Scriptures. Liberty of conscience was secured for all.

**Parliament's 1657 Humble Petition and Advice  
to the Lord Protector Cromwell**

British Puritanism reached its political acme in this 1657 *Humble Petition and Advice* to the Lord Protector Oliver Cromwell. Because this measure has often been misquoted by both Humanists and Romanists or as if it were to have abolished the free exercise of religion, and prohibited private dancing *etc.*<sup>97</sup> or it will be well to quote from it at some length.

The *Petition* came from Parliament itself. It was addressed to Oliver Cromwell, the Lord Protector of the Commonwealth of England, Scotland and Ireland or and the

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<sup>93</sup> R.H. Green: *op. cit.*, p. 595.

<sup>94</sup> Thus *Historians' History*, XX p. 167.

<sup>95</sup> Thus Brewer's *op. cit.*, pp. 445f.

<sup>96</sup> *Op. cit.*, p. 595.

<sup>97</sup> Thus Bettenson: *op. cit.*, pp. 397f.

Dominions thereto belonging.ö It constituted the ðadvice of the knights, citizens, and burgesses now assembled in the Parliament of this Commonwealth.ö

Declared the *Petition*: ðWhereas your highness out of your zeal to the glory of God and the propagation of the Gospel of the Lord Jesus Christ, had been pleased to encourage a godly ministry in these nations ó we earnestly desire that such as do openly revile them or their assemblies, or disturb them in the worship or service of God...or breach of the peace, may be **punished according to law**.ö

öThe **true Protestant Christian Religion**, as it is contained in the Holy Scriptures of the Old and New Testaments ó **and no other** ó [should] be held forth and **asserted for the public profession of these nations....** A *Confession of Faith*, to be agreed by your highness and the Parliament **according to the rule and warrant of the Scriptures** ó [should] be asserted, held forth, and recommended to the people of these nations [so] that none may be...permitted...maliciously or contemptuously to revile or reproach the *Confession of Faith* to be agreed upon as aforesaid.ö

At the same time ó continued the *Humble Petition* ó full Christian religious freedom for those not conforming to this to-be-enacted *Confession of Faith*, was also to be guaranteed. For ð**such who profess faith in God the Father, and in Jesus Christ His eternal Son the true God, and in the Holy Spirit (God coequal with the Father and the Son), one God blessed for ever** ó and do acknowledge the Holy Scriptures of the Old and New Testaments to be the revealed Will and Word of God, and [yet] shall in other things differ in doctrine, worship or discipline from the public profession [to be] held forth [in the suggested *Confession of Faith*]ö ó were to have freedom of religion.

At the same time, of course, ðendeavours shall be used to convince them by sound doctrine and the example of a good conversation.... **They may not be compelled thereto** by penalties, nor restrained from their profession, **but protected from all injury and molestation in the profession of the faith and exercise of their religion**.... This liberty be not extended to popery or prelacy [as distinct from non-papistic and non-prelatic varieties of Romanism and Anglicanism] ó or to the countenancing such who publish horrible blasphemies or practise or hold forth licentiousness or profaneness under the profession of Christ.ö

### **Merle d'Aubigne' and John Milton on the great Oliver Cromwell**

As the great Church Historian J.H. Merle DøAubigneø rightly wrote,<sup>98</sup> in the seventeenth century ó when the Protestant princes were everywhere intimidated, weakened and dumb, and when some of them were making ready for a fatal apostasy ó Cromwell was the only one to declare himself in the face of all Europe the Protector of the True Faith. **He thought that a Christian, and particularly a public man, ought to seek his rules of conduct in the Hebrew theocracy.**

The ejected [prelatical] ministers were only excluded from the privileges of the national ministry. They were not deprived of religious liberty. The Episcopalians were

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<sup>98</sup> *Op. cit.*, pp. 18,107,174,191,196f.

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not proscribed. But their frequent use of the *Book of Common Prayer* in public, was a ground of exclusion.

Cromwell ó continues DøAubigneøó thought that all the Reformed Churches were part of the Church Catholic. He looked with equal tolerance upon Independents, Presbyterians, and Baptists. His chaplains belonged to these several denominations. Even in regard to Roman Catholicism (as distinct from prejudiced papists), the Protector then professed more generous opinions than are perhaps entertained by many religious men and politicians of the present day.

Cromwell would have desired to go still farther. The Jews had been banished four hundred years before, and had in vain petitioned Parliament that they should be permitted to settle in that country again. The Protector was favourable.

öSince there is a promise in Holy Scripture of the conversion of the Jewsö [Romans chapter 11], he said, öI do not know but the preaching of the Christian religion ó as it is now in England, without idolatry or superstition ó may not conduce to it.ö The majority in Parliament, however, declared against his propositions.

Especially memorable, were Cromwell's threats to protect the Waldensians in the Italian Alps. For the Duke of Savoy, a fanatical Romanist, had resolved to wipe them out.

In his most famous sonnet, Cromwellø's friend the poet Milton called on God for vengeance. Thus he implored the Lord to avenge His øslaughtered saints, whose bones lie scattered on the Alpine mountains cold.ö

The English envoy demanded redress from the Duke of Savoy. Even Cardinal Mazarin tried to force Savoy to yield to Cromwellø's demands. For all-out war by Protestant England and Switzerland against the Catholic powers of Europe, was otherwise clearly being threatened.<sup>99</sup>

As a result, the Duke of Savoy was pressured into allowing his Protestant subjects to exercise the religion of their ancestors. Cromwell, as immortalized in Miltonø's poem about him, personally sent the Waldensians some of his own money ó in addition to what the English Puritan Church had collected for them.<sup>100</sup>

### **The dying prayer and the death of the Protector Oliver Cromwell**

In 1658, when the *New Constitution* was challenged by Parliament ó Cromwell dissolved the latter. For with his own re-creation of the House of Peers, the Royalists had found a new and an effective vehicle.

Cromwell wanted no parliamentary strife between the two Houses. So he declared: öI do dissolve this Parliament.... Let God be judge between you and me!ö<sup>101</sup> So the Protectorate was accordingly dissolved, and the Directorship established.

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<sup>99</sup> R.H. Green: *op. cit.*, p. 596.

<sup>100</sup> *Historians' History*, XX p. 161.

<sup>101</sup> R.H. Green: *op. cit.*, p. 597.

However, Cromwell then rather unexpectedly died, on September 3rd 1658. Yet just before he passed on, he made a most significant utterance.

Cromwell then exclaimed:<sup>102</sup> "I am safe.... Lord, though a miserable and wretched creature, I am in covenant with Thee through Thy grace and may and will come to Thee for Thy people.

"Thou hast made me a mean instrument to do them some good, and Thy service. Many of them set too high a value upon me and though others would be glad of my death.

"Lord, however Thou disposest of me and continue, and go on to do good for them! Teach those who look too much upon Thy instruments, to depend more upon Thyself!"

Then, apparently giving his own assessment of himself in the eyes of God, Cromwell concluded: "Pardon such as desire to trample upon the dust of a poor worm! For they are Thy people too."

### Assessment of Cromwell by Lingard, Clarendon and Ranke

Lingard was a famous Roman Catholic Scholar. The author of *History of England*,<sup>103</sup> in that work he gives the following estimate of Cromwell.

"The name of Cromwell stood without a parallel in the history of civilised Europe.... Cromwell was not the meteor which surprises and astounds by the rapidity and brilliancy of its course.... He was reluctantly borne forward by an exterior and resistless force and by the march of events, the necessities of the State, the will of the Army, and even the decree of the Almighty.... His secret workings to acquire the sovereignty...were represented as endeavours to secure for his former brethren-in-arms the blessings of civil and religious freedom and the two great objects which originally called them into the field."

Cromwell's contemporary Lord Clarendon was himself a really rabid Royalist. Yet, in his own *History of the Rebellion*,<sup>104</sup> even he nevertheless admitted about the "Great Protector" that "he was one of those men...whom his very enemies could not condemn, without commending him at the same time....

"He seemed to have **great reverence for the law**, rarely interposing between party and party.... He used great civility, generosity, and bounty. To reduce three nations...to an entire obedience to all his dictates...was an instance of a very prodigious address. But his greatness at home was but a show of the glory he had abroad.... He had some good qualities" and conceded Clarendon of Cromwell.

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<sup>102</sup> *Historians' History*, XX p. 177.

<sup>103</sup> Cited in *ib.*, XX p. 178.

<sup>104</sup> As cited in *ib.*, XX pp. 180f.

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To this must be compared the comment on Cromwell of the great German historian Leopold von Ranke. In his own book *English History*, Ranke said<sup>105</sup> of Cromwell:

øTo him was given the marvellous honour of breaking through the sacred circle which restricts the common citizens of European countries.... Cromwell forced his way into the history of the world. He had the self-control to refuse the very crown.

øHe felt the necessity of coercing all the forces of the nation into obedience to his will. Yet the supreme power for its own sake, was not his end. It was the means to establishment of those ideals of religious liberty as conceived by the Protestants ó of civil order and national independence ó which filled his whole soul.... It was through Cromwell that Protestantism rose to independence among the world powers.ø

### Gardiner, Guizot, Macauley, Carlyle and Gairdner on Cromwell

S.R. Gardiner, in his book *Cromwell's Place in History*, ascribes<sup>106</sup> to him a universal mind. He unhesitatingly declares the ðGreat Protectorø to be the greatest because the most typical Englishman of all time.

The historian Guizot regards Cromwell, William III and Washington as representative of sovereign crises that have settled the destinies of nations. Of Cromwell, Guizot declared that he was indeed a terror to all evil-doers and a praise to them that did well. Cf. Romans chapter 13.

The *Historians' History* adds<sup>107</sup> that Cromwell, at an era when toleration was looked upon by many as foolish in politics and criminal in religion, stood out in glorious prominence as the earnest advocate of the rights of conscience. He proclaimed all men answerable to God alone for their faith. Popery and prelacy he proscribed, on grounds political rather than religious. To the adherents of both, he showed private lenity. Under his rule, men no more suffered at the stake or the pillory.

He was determined that England should be the greatest of States. He encouraged trade and planted colonies. He made wise peace with whom he would, or waged just and successful war.

All Europe trembled at his voice, and the flag of Britain thenceforth waved triumphant over every sea. No ðroyaløname ó at least since Alfredø ó is more worthy of veneration than that of Oliver Cromwell.

The famous British historian Lord Macauley ó in his own *Essay on Hallam's 'Constitutional History of England'* ó insists<sup>108</sup> that the 1643f Civil War in England had been undertaken to defend and restore. On the other hand, however, the 1789f French Revolutionists set themselves to destroy.

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<sup>105</sup> *Idem.*

<sup>106</sup> Cited in *ib.*, XX pp. 182f.

<sup>107</sup> *Idem.*

<sup>108</sup> As cited in *ib.*, XX pp. 184f.

In England, however – explains Macaulay – the principles of the Common Law had never been disturbed. Its forms had been held sacred. In France, the law and its ministers had been swept away together.

Cromwell, by the confession even of his enemies, exhibited in his demeanour the simple and natural nobleness of a man neither ashamed of his origin nor vain of his elevation. He took a peculiar pleasure in encouraging that noble service which, of all the instruments employed by an English government, is the most impotent for mischief and the most powerful for good. He placed England at the head of the Protestant interests and in the first rank of Christian powers.

In his further work *History of England*, Macaulay writes<sup>109</sup> that Cromwell's Puritans were little disposed to submit, in matters of faith, to any human authority. They had learned to regard the Pope as the Beast, the Antichrist, the man of sin. To their hatred of the Romish Church, was now added their hatred of the crown. In one word, they had a republican spirit.

During the Protectorate of Cromwell, Macaulay adds,<sup>110</sup> the title of king was not revived. But the kingly prerogatives were intrusted to a Lord High Protector. The sovereign was not called your Majesty but his highness. He was not crowned and anointed in Westminster Abbey but was solemnly girt with the sword of state. He was clad in a robe of purple and presented with a rich Bible in Westminster Hall. Indeed, his office was not declared hereditary.

The parliamentary assembly was to legislate, at Westminster, for every part of the British Isles. Cromwell's wish seems to have been to govern constitutionally and to **substitute the empire of laws for that of the sword**. Justice was administered between man and man with an exactness and purity not known before. Under no English government since the Reformation had there been so little religious persecution.

The clergy of the fallen Anglican Church were permitted to celebrate their worship on condition they would abstain from preaching about politics. All the Reformed Churches scattered over the Roman Catholic kingdoms acknowledged Cromwell as their guardian. The pope himself was forced to preach humaneness and moderation. Oliver died at a time fortunate for his renown. He was, to the last, honoured by his soldiers; and obeyed by the whole population of the British Isles.

The great historian Thomas Carlyle roundly remarks<sup>111</sup> that one cannot figure Cromwell as a falsity. His prayers to God are good and genuine for a deep-hearted Calvinist. Cromwell's Ironsides were the embodiment of this insight of his men fearing God, and without any other fear.

Cromwell was a great though an inarticulate prophet or a prophet who could not speak. He was not an immaculate man. He had many faults or daily, and even hourly. Yet his last words as he lay waiting for death or are those of a Christian.

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<sup>109</sup> *Op. cit.*, I p. 46.

<sup>110</sup> *Op. cit.*, I pp. 106f.

<sup>111</sup> As cited in *ib.*, XX pp. 188f.



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Dr. James Gairdner has rightly stated in the *Historians' History*<sup>112</sup> that Cromwell not only saved his country. He restored peace and prosperity within her borders and won for England the supremacy at sea. For Britain, he even laid the foundations of her great empire.

### **The return of the Rump and the Restoration after Cromwell's death**

Oliver Cromwell's son Richard, who succeeded him on his death in September 1658, only managed to rule as the new "Director" for eight months. The elder Cromwell's *charisma* had departed. The Rump returned.

The Army was divided. Thus the stage was set for the return of the monarchy under Charles the Second.

In 1659, Parliament was dissolved. The "Long Parliament" was restored. However, the Army expelled Parliament. So the Rump was then re-established by Army.

Thereafter, the Rump Parliament reassembled itself and re-established the "Commonwealth" until the "Restoration" of Charles II in a "limited monarchy" in 1660, after the retirement of Richard Cromwell.

Yet Oliver Cromwell's work was by no means in vain. Not only did his influence live on especially in Colonial America. Also, after the death of Charles II and the removal of his romanizing son James II, it revived even in Britain.

Needless to say, Cromwell is in a very real sense the forerunner of the *U.S. Constitution*. He is the forerunner also of the *Constitution of the Commonwealth of Australia* which derives from them both.

Moreover, Puritanism did not pass away even in England. Previously, it had produced both Spenser and Shakespeare. After the Westminster Assembly, it also produced not only Cromwell but also Milton and Bunyan.

Thus English History Professor J.R. Green rightly concludes<sup>113</sup> that Puritanism slowly but steadily introduced its own seriousness and purity into English society, English literature, and English politics. The whole history of English progress since the 1660 Restoration, on its moral and spiritual sides, has been the history of Puritanism.

### **Summary: Oliver Cromwell's Christian Commonwealth, 1649-59**

Summarizing, in this chapter we saw that Cromwell was no radical revolutionary. Just like the Americans until 1776 he made many efforts to preserve the monarchy (if at all possible). Nevertheless, after the execution of King Charles the First for breach of the *Covenant* and high treason, Cromwell's Commonwealth had to be established.

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<sup>112</sup> *Ib.*, XIX p. 11.

<sup>113</sup> *Op. cit.*, p. 604.

International reaction to the termination of the monarchy in England, and especially in Ireland and Scotland, was generally unfavourable. Yet the 1649 *Agreement of the People of England* to uphold Christianity, and the appointment of godly new chief officers in the Commonwealth of England ó led to a quick improvement of Britain's international image. This was so, in spite of Cromwell's emergency actions in Ireland ó to suppress insurrection among the Celts and the Anglo-Irish.

In Scotland, an Anti-Engager regime was installed from 1648 onward. Nevertheless, there were renewed hostilities between the English and the Scots in 1651. For, after the Scottish Resolutioners had struggled against their adversaries the Protesters (regarding the re-admission of repentant *Covenant*-breakers to Office) ó Prince Charles signed the *Expiatory Declaration*. Very foolishly, the Scots then proceeded to crown the deceitful Charles ó and subsequently to threaten England.

The English now severely defeated the Scots for breaking the *Covenant*. Cromwell captured Edinburgh, and gave God all the glory. He whipped the armies of Charles II at the Battle of Worcester, and then drove him into exile in Europe.

Cromwell's international prestige now soared. He triumphed throughout all the British Domains ó even though not his Roundheads but the Royalists had initially retained control over all the North American Colonies except those of New England.

In Britain, Cromwell now consolidated his Commonwealth. Major developments there during 1653 rotated around his promotion of the Common Law, grounded on the Old and New Testaments. **Capital criminals were severely punished ó but only after due process of law before impartial judges.**

Nevertheless, there was now a decline of constitutional rule specifically through the agency of Parliament. Cromwell's Army now replaced it ó with a Protectorate.

Especially in his new *Instrument of Government*, however, Cromwell's own powers and duties were defined. That *Instrument* states that **the Christian religion...contained in the Scriptures** was to be **the public profession** of these nations of the **British Isles and their Colonies.**

Cromwell himself opted for a Christian Government ósomewhat like a *Magna Charta* ó upholding **liberty of conscience** and separation of powers. The Christianomous theologians in Cromwell's Commonwealth agreed. Yet especially Gillespie, Gilbert and Owen nevertheless all held to the ongoing bindingness of the general equity of the judicial laws of Moses.

The great Puritan Sir Matthew Hale not only drew up a *Code of Common Law* (sanctioning also the conviction of witches). He also declared that **Christianity is parcel of the laws of England** ó so that **to reproach the Christian religion is to speak in subversion of the law.** Significantly, he was appointed a judge of Common Bench by Cromwell ó and later, after the 1660 Restoration, Lord Chief Justice even under Charles II.

We then looked at Cromwell's epoch-making English Parliament of 1654. There was now a **broad property-qualification franchise** ó such as had never before been

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seen. For the first time, Ireland and Scotland and Britain (alias England and Wales) were integrated into one Parliament ó foreshadowing the later United Kingdom. Yet eleven Military Districts in Cromwell's Commonwealth helped safeguard against overcentralization.

The Puritan Cromwell strongly opposed the power of Romish Spain. Yet he also just as strongly declined the offer of the kingship in England. Significantly, the 1657 Parliament's *Humble Petition and Advice* to Protector Cromwell gratefully acknowledged **freedom to practise various brands of the Christian religion**. Yet it also urged that public opposition to Christianity be punished according to law.

The historian Merle d'Aubigne writes how Cromwell thought that a Christian ought to seek his rules of conduct in the Hebrew theocracy. John Milton commended Cromwell (his contemporary and his friend) for threatening war against the Duke of Savoy for murdering Waldensians ó and immortalized Cromwell's seeking to avenge God's slaughtered saints whose bones lie scattered on the Alpine mountains cold. Never before or since had Rome so quavered before the might of British Protestantism.

In his dying prayer, Cromwell acknowledged that though wretched, he was nevertheless in covenant with God. He urged God to see to it that those who look too much upon Thy instruments (such as Cromwell) ó should rather depend more upon Thyself. He asked God to pardon those who had desired to trample upon the dust of a poor worm (viz. Oliver himself). For even they are Thy people too.

The English Puritan Cromwell has been favourably assessed by great historians ó such as the Romanist Lingard, the Royalist Clarendon, and the German Ranke. S.R. Gardiner calls Cromwell the greatest because the most typical Englishman of all time. Francois Guizot compares him to **William III and George Washington**.

Lord Macauley remarked that under Cromwell, the principles of the Common Law had never been disturbed and its forms were held sacred. Thomas Carlyle called him a **deep-hearted Calvinist**. Indeed, Dr. James Gairdner says Cromwell saved his country; gave her a foremost position among all the powers of Europe; and laid the foundations of her great empire.

After the death of Oliver Cromwell in 1658, the Rump returned. Ineffective, the restoration of royalty ó as a limited monarchy ó was thereby secured.

Beyond the shadow of a doubt, Cromwell had prepared the way not only for the advance of Puritan Government in Britain at the end of the seventeenth century. He even **foreshadowed the very creation of the United States of America at the end of the eighteenth, and also of the Commonwealth of Australia at the beginning of the twentieth.**



## **CH. 37: BRITAIN FROM THE RESTORATION AND THE “GLORIOUS REVOLUTION” TILL 1993**

The Commonwealth of England was invaded by the Scottish King, Charles II, in 1651. He, however, was defeated by Cromwell at the decisive Battle of Worcester.

Charles then fled the British Isles to Europe, as an exile. He went first to France, then to Germany, and finally to the Netherlands. There, his son-in-law ó William II of Orange ó had been king (until his death in 1650). Thereafter, Charles made a treaty with Spain, in 1656.

The great Oliver Cromwell died in September 1658. His successor ó son Richard Cromwell ó soon proved to be utterly incompetent. By 1660, the pretender Charles II was permitted to mount the English throne.

### **The last years of the Stuart Dynasty in Britain (1660-1714)**

In 1660, in the confusion after the deaths of both Oliver Cromwell and his son Richard, the English General George Monck and others brought about the -Restorationø of King Charles to the throne of England. More accurately, this was King Charles IIø's -Restorationø only to the throne of Scotland. However, it was also in addition his first-ever -Accessionø to the re-instated English throne ó as King Charles II of England.

Charles wanted to promote the Romanists. Indeed, he had himself become one ó or was at the very least fast becoming one ó in secret. So Charles ó the crypto-romanizing re-episcopalized Ex--Presbyterianø ó now started stating he favoured religious toleration.

Now Charles had been born into Episcopalianism. Yet in the early sixteen-fifties he feigned conversion to Presbyterianism. He did so, in order to become King of Scotland at that time.

During his subsequent exile in Europe (1651-60), he reverted to Episcopalianism. However, both then and thereafter he also became massively influenced by Romanism.

In 1660, while still alleging he was an Episcopalian, he was restored to the throne of England by the English Parliament ó unwisely, and also with massive English Presbyterian support. However, on his deathbed in 1685, the fickle Charles ó whose Portuguese wife Catherine of Braganza was a rabid Romanist ó surprised England by professing he had himself been converted to Romanism for quite some time.

Now back in 1660 ó in order to further his own perverse political objectives ó Englandø's new king, Charles II, temporarily feigned religious toleration. However, he was opposed in this ó by a strongly non-romanizing Parliament of hardline-Episcopalian Cavaliers. The latter disliked Romanists as much as they did Dissenters.

They favoured only the Episcopal establishment ó as the twin brother of Royalism, and also of the theory upholding the so-called ÷divine right of kings.ø

So Parliamentø 1661 *Clarendon Code* cracked down on all Non-Anglicans. This was in spite of Charlesø own unsuccessful subsequent attempts to grant indulgences to the various kinds of Non-Anglicans in general (and Romanists in particular).

The big turning point, was the Great Ejection of 1662. Then, all Puritan Ministers within the Church of England were ejected from their positions. Nor were matters to be much better even in Presbyterian Scotland.

As the *New Illustrated Columbia Encyclopedia* lucidly explains,<sup>1</sup> after the Restoration in 1660f ó Charles II resumed his fatherø efforts to impose Episcopacy upon Scotland. The Covenanters there were subjected to alternate attempts to conciliate them, and to hunt them down.

Though very grievous at that time, this Great Ejection nevertheless later bore precious fruit. As Hetherington remarks,<sup>2</sup> it was one of the essential elements which produced the Revolution of 1688 ó and was secured by the *Toleration Act* of the following year. The *Toleration Act* itself may therefore well be regarded as one of the results of the Westminster Assembly.

Yet first, after the death of Charles in 1685, the king was succeeded by his brother ó the outspoken Romanist James II. He, after then disastrously favouring papist policies and disadvantaging Protestants, felt forced to flee to France in 1688.

Thereafter, his Protestant daughter Mary and her Protestant husband William of Orange became the new royal rulers of Britain. William himself was the grandson of Charles I and the nephew of Charles II.

The subsequent ÷Settlementø of 1688-90, embodied all the principles of the Protestant Rutherfordø *Lex Rex*. This occurred even before the ÷United Kingdom of Great[er] Britainø was established at the 1707 Union of the English and Scottish realms ó before the death of Queen Anne as the last of the Stuarts (in 1714).

## **The Restoration of Prince Charles – as King Charles II of England**

The 1660f ÷Restorationø of the kingship under Charles II ó as a limited monarchy ó was essentially a return to government by law. Thus Keir.

Although the Episcopalian Church was completely restored, the Presbyterians were still far too strong even in England and Wales to allow active measures to be taken against them and other Non-Episcopalians there. So the High Anglicans now had to plot, in order to bring about the downfall of the Presbyterians and other Non-Episcopal Puritans in England.

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<sup>1</sup> *Op. cit.*, 6:1703.

<sup>2</sup> *Op. cit.*, p. 337.

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In 1660, explained Professor Heron,<sup>3</sup> General Monck (the Commander of the English forces in Scotland) entered London with five thousand men. There, he declared in favour of the Parliament as it was constituted before the expulsion of its Presbyterian Members. The House, so constituted, once more affirmed Presbyterianism to be the established order of the Church of England ó with an express toleration for tender consciences outside the National Establishment.

But meanwhile Monck, seeing the tide running in favour of Charles, made his own terms with him ó and procured and submitted to Parliament the famous *Breda Declaration* of Charles. This was to the effect that ñno man shall be disquieted or called in question for difference of opinion in matters of religion which do not disturb the peace of the kingdom.ö

Sir Matthew Hale, the great Puritan Constitutionalist and Jurist (and personal friend of both Rev. Richard Baxter and Sir Robert Boyle), together with other Presbyterian Members of Parliament, desired a clearer understanding on some of these matters ó and sufficient guarantees. But they were overruled.

The new Pro-Royalist Parliament then invited Charles to ascend the throne. He Charles was proclaimed King of England on the 8th May 1660. The nation, now drunk with frenzy, enthroned Charles practically ñwithout conditionsö ó and in mad infatuation gave itself over to worse than slavery.

In his *History of Scotland*,<sup>4</sup> Mackenzie had stated that the king's return was hailed with extravagant joy. Bonfires blazed, and noisy crowds drank the king's health at every market. About a hundred corpses were dug up and flung in a heap in St Margaret's Churchyard. Such included the corpse of Cromwell's old mother, and of the Puritan Admiral Blake (one of England's most glorious sea-kings). The hangman publically burned the books of John Milton and of George Buchanan ó books which taught that men are not born slaves.

The same was done to Rutherford's book *Lex Rex* (alias ñLaw is Kingö). Indeed, the Restoration of Charles II put Rutherford in great peril. He was removed from office, but died in 1661 ó before the full fury of the storm of persecution broke loose.

Yet his *Lex Rex*, one of the great classics on constitutional government, would later be restored to favour ó after the demise of the romanizing Charles II and his Romish brother and successor James II. Indeed, it then had its very own principles embodied into the 1690 Revolutionary Settlement.<sup>5</sup>

### **The beginning of the oppression of the Puritans by King Charles II**

In a determined attempt to depuritanize England and to replace it with High Anglicanism, there was now to be a whole series of vicious measures. To some extent, Charles himself led the pack. Transgressing the *Solemn League and Covenant* which

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<sup>3</sup> *Op. cit.*, pp. 223f.

<sup>4</sup> *Op. cit.*, pp. 586f.

<sup>5</sup> Ed. Douglas's *op. cit.*, p. 867.

he himself had affirmed in 1651, he now proclaimed that "Presbyterianism was no religion for a gentleman."<sup>6</sup>

Believing he had a divine right to rule as he pleased, Charles suppressed everything he saw as a challenge to it. His "Drunken Parliament" (as it was correctly called), passed an *Act of Supremacy* ó making him supreme in all affairs of Church and State.

An *Act Recissory* repealed "all the Acts and deeds passed and done" in Parliaments between 1640 and 1648. The Scottish *National Covenant* and the international *Solemn League and Covenant* were declared unlawful oaths no longer binding.<sup>7</sup>

Professor Heron explained<sup>8</sup> that all hopes of compromise were shattered by the new Parliament of 1661 ó known as the Cavalier or Pension Parliament. At the opening of the first Session, every Member was ordered to receive Communion in the Anglican form.

The *Solemn League and Covenant* was burnt in Westminster. Then the *Corporation Act* was passed ó a sinister attempt to drive Presbyterians from municipal office.

The 1661 *Clarendon Code* aimed to abolish British Non-Conformity. Certainly Charles's marriage to the Romish Princess Catherine of Portugal in 1662 did nothing to make him more tender-hearted toward Puritanism. Indeed, his own personal incipient romanization was thereby greatly accelerated.

It was now enacted that Episcopacy was to be the form of church government throughout Britain ó even in Scotland. Interesting at this point is the activity of the Presbyterian Resolutioner Rev. James Sharp.

Captured by Cromwell's forces in 1651, and imprisoned till 1652 ó Sharp had represented the Resolutioners in London during 1657, when he had schemed with Monck to restore the monarchy. He had also secretly shifted his loyalties toward restoring Episcopacy, even in Scotland. After the Restoration, he was appointed Archbishop of St. Andrews and Primate of Scotland in 1661 ó and promptly repressed the Scottish Covenanters.<sup>9</sup>

In 1662, Sharp instigated the Privy Council to banish from their parishes all Ministers admitted since 1649 ó unless they submitted to their "Patron" and to the "Bishop" of the Diocese.<sup>10</sup> As Mackenzie wrote in his *History of Scotland*<sup>11</sup> ó all Synods, Presbyteries and Kirk-Sessions were put down. An *Act of Parliament* now forbade to speak, write, preach or pray against the Church's being governed by bishops and archbishops.

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<sup>6</sup> Cited in G.N.M. Collins: *The Heritage of our Fathers*, Knox Press, Edinburgh, 1974, p. 27.

<sup>7</sup> *Idem*.

<sup>8</sup> *Op. cit.*, pp. 223f.

<sup>9</sup> See Art. *Sharp, James*, in *NICE* 20:6170.

<sup>10</sup> Thus Collins: *op. cit.*, p. 28.

<sup>11</sup> *Op. cit.*, pp. 592f.



### The 1662 *Act of Uniformity* and the Great Ejection in Britain

Professor Heron explains<sup>12</sup> that in the *Act of Uniformity*, passed in 1662, a still more deadly blow was aimed at the Non-Episcopalians. It required then not only to become (re-)ordained, but also to take the oath of canonical obedience and to **abjure** the *Solemn League and Covenant*.

Further, it also inflicted severe penalties on those who observed any other form of worship than Episcopalianism. Worse yet, not just clerics but also public and private schoolmasters were required to be licensed by a bishop.<sup>13</sup>

The 24th of August 1662 ó St. Bartholomew's Day, the anniversary of the massacre of the Huguenots of France ó was the last day allowed for refusal to comply with it. On that day, some two thousand Ministers ó Rectors and Vicars ó without any concert, surrendered their benefices. They turned their backs on their pleasant parsonages, and cast themselves on the care of God ó rather than violate their convictions.

English History Professor J.H. Green wrote<sup>14</sup> that the Rectors and Vicars who were driven out ó at this "Great Ejection" ó were the most learned and active clergymen in the country. They occupied the higher posts at the universities.

The Church of England stood from that moment on, isolated and alone among all the Churches of Christendom. The Reformation had severed it irretrievably from those which still clung to obeying the papacy. However, by its own rejection of all but episcopal orders, the *Act of Uniformity* now severed the Church of England just as irretrievably from the general body of the Protestant Churches ó whether Lutheran or Reformed.

In 1664, the *Triennial Act* was repealed ó although a bill was passed "for assembling and holding of Parliaments once in three years at least."<sup>15</sup> However, the *Conventicle Act* then tried to eradicate the "dangerous practices of seditious sectaries and other disloyal persons." Similarly, the infamous *Five-Mile Act* of 1665 prohibited all Puritans from preaching their "poisonous principles" within five miles of any English or Welsh city or town or borough.

Now Charles had no liking for the Dutch Government, which was both Calvinistic and Republican. So, in 1670, the King negotiated the secret *Treaty of Dover* ó with Romish France. Thereby, Charles agreed: to adopt Romanism; to convert his own subjects to Papistry; and to war against the Protestant Dutch.

The first ten years of Charles's reign in England can only be described as an unmitigated disaster. Yet there was resistance in Scotland. Indeed, also the Parliament of England was not about to relinquish its hard-earned rights.

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<sup>12</sup> *Op. cit.*, pp. 223f.

<sup>13</sup> Brewer: *op. cit.*, p. 475.

<sup>14</sup> As cited in Heron's *op. cit.*, pp. 226f.

<sup>15</sup> Brewer: *op. cit.*, p. 459.

England's greatest poet, the Puritan John Milton, published his *Paradise Lost* in 1667. Yet Charles's attempt to re-introduce Romanism in 1668 had been eminently unsuccessful. The imprisoned John Bunyan published his *Pilgrim's Progress* in 1670. Indeed, in spite of the slump in 1671, Milton then published his *Paradise Regained*.

### The Puritan Sir Matthew Hale's elevation to Lord Chief Justice of England

Yet the great Puritan Jurist Sir Matthew Hale ó one of Cromwell's great judges, and the author of the *Code of the Common Law* ó was still there. Cromwell had appointed him Judge of the Common Bench, and also to head up a Grand Committee to reform the law. See chapter 36, at its notes 76 to 82. Astoundingly, after the death of Cromwell, under Charles the Second in 1671 Hale was to become Lord Chief Justice of the whole of England.<sup>16</sup>

Hale's massive *History of the Common Law of England* is still well-known, and rightly so. He was a man of God. In his own hand, he wrote the following to his children:<sup>17</sup>

õIn the administration of justice, I am entrusted for God, the king, and country.... I rest not on my own understanding...but implore and rest upon the direction and strength of God....

õI suffer not myself to be prepossessed with any judgment at all, till the whole business and both parties be heard.... **In crimes of blood, if the fact be evident, severity is justice**.... Passion and anger...make a man unfit for anything that becomes [or behooves] him as a man or as a Christian....

õLet your speech be true.... It is a great sin against God Who gave you a tongue, to speak your offence against humanity.... Avoid swearing in your ordinary conversation.... You have the precept of our Saviour forbidding it.... When you use the Names of God or Christ, or any passages or words of the Holy Scripture, use them with reverence and seriousness....

õHave as little conversation as is possible with hereticks, or persons obstinately perverted on matters of religion ó as Papists, Quakers, Anabaptists, Antinomians, Enthusiasts, and the like.... Begin and end the day with private prayers to God, upon your knees; read the Scriptures often and seriously; be attentive to the publick worship of God in the Church.õ

Sir Matthew was not only a Christian and a Puritan, but also a devotee of Coke and a friend of Selden. Precisely as such, he had a much higher regard for British Common Law than for Roman Civil Law ó of whatever vintage. See too at note 116 below.

Thus, Lord Chief Justice Hale rightly stated<sup>18</sup> that, while refusing õto derogate from the study of the [Roman] Civil Law...we must not carry our veneration so far as

<sup>16</sup> Sir M. Hale: *History of the Common Law of England*, Butterworth, London, 1820 ed., pp. xxxiv.

<sup>17</sup> *Ib.*, pp. xxvii-xxxiii.

<sup>18</sup> *Op. cit.*, p. ii.

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to sacrifice our Alfred and Edward to the *manes* of Theodosius and Justinian. We must not prefer the edict of the praetor or the rescript of the Roman Emperor to our own immemorial customs or the sanctions of an English Parliament ó unless we can also prefer the despotic monarchy of Rome and Byzantium...to the free Constitution of Britain!ö

### The ever-increasing resistance to the tyranny of King Charles II

In 1672, Charles's brother the Duke of York ó the later King James II ó openly embraced Romanism. Indeed, the evidence would suggest that King Charles himself had already embraced Romanism in secret ó probably as early as, and even more probably soon after ever since, the 1670 *Treaty of Dover*.

As much as they could, the Protestants within the Anglican Parliaments of the romanizing Charles offered resistance. Thus the *Test Act* of 1673 required that the king's officers...receive the sacrament of the Lord's Supper according to the usage of the Church of England at or before the first day of August in the year of our Lord 1673.ö This indeed discriminated against Dissenters. Yet even the latter supported its enactment ó because **it denied "any transubstantiation."**<sup>19</sup>

It is true that matters were not helped when the *Protestant Securities Bill* failed in 1674. Fortunately, however, Charles's attempted dictatorship was thwarted in 1675.

Moreover, his alliance with the Romish French was broken in 1677 ó when his niece Mary married the Calvinist William of Orange. Too, the growing power of the papists in Britain was checked by the *Parliamentary Test* of 1678. The Cavalier Parliament was dissolved, and the Short Parliament convened.

The *Parliamentary Test* was: öAn Act for the more effectual preserving the king's person and government, by disabling papists from sitting in either House of Parliament.ö Under its provisions, öNo Peers or Members of the House of Commons shall sit or vote without taking the oaths of allegiance and supremacy, and a declaration repudiating the doctrine of transubstantiation, the adoration of the virgin, and the sacrifice of the mass.ö Not till 1829 in the reign of George IV ó well after the spread of the influence of the American Revolution of 1776 and even the French Revolution of 1789 ó was this *Parliamentary Test* repealed.<sup>20</sup>

In 1678, however, Titus Oates's öpopish plotö finally compromised King Charles. Even his own wife, Queen Catherine of Braganza, was accused of complicity. In this matter, the Dissenter Titus Oates alleged the advance of an öinternational popish plot to imprison England ó involving the assassination of the king and the installation of James II in his stead.ö

Titus Oates was the maverick son of the Anabaptist Samuel Oates. He had been Chaplain to the infamous Colonel Thomas Pride ó the later General in the New Model

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<sup>19</sup> Brewer: *op. cit.*, p. 474.

<sup>20</sup> *Ibid.*

Army. It was Colonel Pride who had purged the Parliament of Presbyterians in 1648 and who had recommended the execution<sup>21</sup> of Charles I in 1649.

There is little doubt that Titus Oates was an unreliable person. Yet his popish plot and Jenkes's case both gave impetus to the good and useful enactment of the *Habeas Corpus Act*.

The *Habeas Corpus Act* was enacted in 1679. It required jailers to produce unarraigned jailees on demand (usually within three days of applying for the writ) and against an amount of bail deemed to be not excessive. British Barrister Owen Flintoff<sup>22</sup> has called *habeas corpus*: "that great bulwark of our Constitution."

As pointed out in the *New Illustrated Columbia Encyclopedia*,<sup>23</sup> the writ of *habeas corpus* meaning "you have the body" is directed by a judge to some person who is detaining another. The writ commands him to bring the body of the person in his custody speedily, and at a specified time to a specified place, and for a specified purpose.

Its function is to secure release from unlawful imprisonment. It has come to be viewed as the great writ of liberty, and was highly regarded by British Colonists in America. Wrongful refusal to issue it was one of the grievances before the American Revolution. Consequently, Article 1 Section 9 of the *Constitution of the United States* provides that: "The privilege of the writ of *habeas corpus* shall not be suspended etc."

Dr. J.M. Landis, Professor of Legislation at Harvard Law School, rightly remarked<sup>24</sup> that writs of *habeas corpus* were issued even before *Magna Carta* in 1215. The writ was used as early as the twelfth century, to prevent imprisonment on vexatious appeals of felony.

Indeed, this writ is specifically mentioned in Article 36 of *Magna Carta* which provides that it shall be issued gratuitously, and not be refused. In the Middle Ages, *habeas corpus* played an important part in enabling a person to avoid trial by battle and to obtain trial by jury. The *Habeas Corpus Act* of 1679 simply streamlined this historic remedy of the Common Law.

In Scotland, the result of repressing the Covenanters backfired. A rebellion in 1679, which culminated in a rout at Bothwell Bridge, was met with harsh repression as was the resistance of Richard Cameron and his followers. They issued the *Sanquhar Declaration* in 1680. Troubles there only ended with the Glorious Revolution of 1688 which restored the Presbyterian Church in Scotland.

The Short Parliament was prorogued seven times until Charles dissolved it in 1681. Thenceforth, he ruled as an absolute monarch until his death in 1685.

On his deathbed, it was revealed he had secretly converted to Romanism quite some time before he died and went to his own everlasting abode. The Episcopalian

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<sup>21</sup> See art. *Pride, Thomas*, in 14th ed. of *Enc. Brit.*

<sup>22</sup> *Op. cit.*, p. 200.

<sup>23</sup> Art. *Habeas Corpus* (in *NICE* 10:2924).

<sup>24</sup> J.M. Landis: *Habeas Corpus* (art. in *Enc. Brit.*, 14th 1929 ed., Vol. 11 pp. xi & 53).

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Bishop Gilbert Burnet<sup>25</sup> rightly branded Charles as a secularist. Observed the bishop: "He shook off Presbyterianism as a viper; utilised Episcopacy as the readiest political tool; and finally put on Popery as a comfortable shroud to die in."

### The disastrous romanizing reign of the Romanist King James II

Though Charles had many bastard children by his various mistresses, he had no legitimate descendants by Queen Catherine. Consequently, his brother "an open Romanist" then ascended the throne as James II.

In 1685, the latter's co-religionist Louis XIV of France had just revoked the 1598 *Edict of Nantes*. That had guaranteed full liberties to French Protestants, and Calvinist control of some two hundred cities in France. Nevertheless, French Romanists still continued to persecute the French Protestants "and in 1685 Louis XIV revoked the *Edict* altogether.

This led to a massive exodus of Protestants from France to Holland and Britain. James II then asked the Scottish Parliament to repeal its laws against Romanists. He met, however, with stiff resistance.<sup>26</sup>

The reign of James is characterized by one blunder after the other. He illegally levied customs. He also released Roman Catholic prisoners, just because of their religious affiliation. Meantime, the dissenters Titus Oates and William Baxter were brutally treated "as too were the rebels Argyle and Monmouth.

In the so-called "Bloody Assizes" of 1685, Judge Sir George Jeffreys "James II's right hand man (whom the king later appointed Lord Chancellor) " sentenced 841 men to slavery in the West Indies. One of those then accused seems to have testified he was a Protestant, and indeed a good one at that. "Protestant!" said Jeffreys. "You mean Presbyterian! I'll hold you a wager of it! I can smell a Presbyterian forty miles!"<sup>27</sup>

Then there was the trial of Hampshire's Lady Alice Lisle (widow of the Commonwealth's Puritan Parliamentary Lord John Lisle). Lady Alice had compassionately given food to starving refugee soldiers, whether Puritan or Royalist. Charging her with high treason, James II's Chief Justice Jeffreys called all Presbyterians rogues and lying knaves "and promptly sentenced Alice to be burned alive."<sup>28</sup>

This was followed by a rash of "judicial" confiscations, extortions, slaughters and cruel persecution of Protestant dissenters. Next, King James: got at odds with the English Parliament; tampered with the Bench; usurped the dispensing power;

<sup>25</sup> G. Burnet: *History of our own Time*, Vol. II p. 464.

<sup>26</sup> Collins: *op. cit.*, p. 30.

<sup>27</sup> See *Historians' History*, XX pp. 373-76.

<sup>28</sup> *Ib.* pp. 369-73: "The Chief Justice began to storm: "But I will tell you. There is not one of those lying, snivelling, canting Presbyterians but, one way or another, had a hand in the rebellion. Presbytery has all manner of villany in it. Nothing but Presbytery could have made Dunne such a rogue. Show me a Presbyterian; and I'll show thee a lying knave... On the following morning sentence was pronounced. Jeffreys gave directions that Alice Lisle should be burned alive that very afternoon."

interfered with the Church of England; antagonized the Queen (who appealed to *Magna Carta* against him); and advanced England toward Romanism.

He also attacked the universities, and antagonized and dissolved the English Parliament. However, when James moved against the Scottish Parliament ó it refused to obey his command that it repeal the Anti-Catholic Laws in force within Scotland.

James's attacks on the academic integrity of Oxford and Cambridge ó bastions of the dissenters ó were now accelerated. On the death of the President of Oxford's famous Magdalene College, the king endeavoured to get the notorious Anthony Farmer ó an apostate dissenter who had but recently converted to Romanism ó appointed to the Presidency. When Magdalene College refused, the king himself came to Oxford; expelled the whole faculty; and turned the college into a seminary for the promotion of Romanism.<sup>29</sup>

James next revived the Court of High Commission (previously abolished by the Puritans). He brought the Romanists to power in Ireland, and expelled the Protestant freemen there. He appointed the Earl of Castlemain as Ambassador Extraordinary to the Vatican ó in order to express his own obedience to the pope, and also in an attempt to bring the kingdom of Britain into communion with Rome.

The king also annulled charters, and started to change magistrates at will. James violated the *Test Act*. He increased the Army; broke with Parliament; and alienated the Anglicans. The Catholics triumphed ó in that James gave benefices to Romanists.

### **James's dramatic and decisive *Declaration of Indulgence***

In the last days of his reign during 1688, the republished *Declaration of Indulgence* gave rights of public worship in Britain to nearly all Non-Anglicans ó both Protestant and Romish. Some of the simpler Dissenters rejoiced at this relief ó not perceiving its true intent.

Its real design, of course, was to try to strengthen Romanism in Britain by promoting a coalition of Romanists and Puritans against the Episcopalians alias the Anglicans ó after James had failed to promote a coalition of Anglicans and Romanists against the Puritans. Presbyterians, however, were now to be permitted to exercise public worship only in private houses ó while all laws whatsoever against Romanists, were suspended.

In the 1687 *Declaration of Indulgence* ó it was claimed that the Parliament of the British monarch provided that "we will protect and maintain our archbishops, bishops, and clergy, and all our other subjects of the Church of England, in the free exercise of their religion as by law established.... We do likewise declare that...from henceforth the execution of all...penal laws in matters ecclesiastical for not coming to church...or for any other nonconformity to the religion established...be immediately suspended....

óTo the end that by the liberty hereby granted, the peace and security of our government in the practice thereof may not be endangered, we have thought fit, and

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<sup>29</sup> *Ib.* pp. 375-88; also see Richard Heath's articles: *The Revolution of 1688 on its Religious Side*, 5th of 6 (in *Sunday at Home* in 1888). Reprinted in *Focus*, 6 Orchard Rd., Lewes, Sussex, 1988.

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do hereby straitly charge and command all our loving subjects, that...we do freely give them leave to meet and serve God after their own way and manner ó be it in private houses, or places purposedly hired or built for that use.... We will maintain them in all their properties and possession, as well of church and abbey lands ó as in any other [of] their lands and properties whatsoever.ö

When the *Declaration of Indulgence* was ordered read in all churches, only four churches out of a hundred in London and Westminster complied. Even seven Anglican bishops objected ó whom James II's stooge, Judge Jeffreys, promptly sent off to the Tower of London.

However, sadly for the king, when the Romanist James II tried to romanize Britain in all these ways ó the latter now precipitated his removal from the throne. The last straw was reached when he in 1688 proclaimed his new son and heir apparent ó born on June 10th 1688 ó to be a Roman Catholic. Almost simultaneously, two nominally Anglican Lords thereupon publicized their prior apostasy from Protestantism, and their subsequent secret embracing of Romanism.

The public uproar in Britain about this, was also immediate. The seven Episcopalian bishops were brought to trial ó but were acquitted on June 29th. On June 30th, a document was signed by leading noblemen and military leaders in England ó and sent to the Protestant Prince of Orange in Holland, inviting him to come to the relief of the English.<sup>30</sup> As a result, James II was forced to retire and to vacate his office. He swiftly fled to France.

Hallam rightly remarked<sup>31</sup> in his *Constitutional History of England* that the government of James II will lose little by comparison with that of his father (Charles I). Both were proud of their judgment as well as their station, and still more obstinate in their understanding than in their purpose.

Both of them were unfitted for the condition in which they were meant to stand ó the **limited** kings of a wise and free people; the chiefs of the English Commonwealth. Yet they were both more open and somewhat better persons than James's elder brother, his devious predecessor the öcrypto-Romanistö Charles II.

Thus ó but for the mild Anne who was yet to reign ó ended the dynasty of the Stuarts. It had run, thus far, from the reign of James I in 1603 ó to the termination of that of James II in 1688. To a man, they had all embraced the erroneous doctrine of the ÷divine right of kingsø (alias *rex lex*) ó and precipitated a Puritan Parliamentary hegemony emphasizing the divine right of God's Law (alias *Lex Rex*).

Yet, in spite of her civil wars, Britain had become wealthier during that dynasty. Her population had increased. The navy had grown vastly, and international trade had mushroomed. North America had been colonized ó from Canada and New England, through Pennsylvania and the Carolinas.

Many skilful French Calvinists had migrated to Britain and her Colonies, since the revocation of the Edict of Nantes in 1685. With the Romish Stuart James II having

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<sup>30</sup> *Historians' History*, XX p. 405.

<sup>31</sup> Cited in *ib.*, XX p. 359.

fled, and the Presbyterian Orangeman William III now ascending the throne, the future looked bright indeed.<sup>32</sup>

### **The arrival and entrenchment in Britain of King William and Queen Mary**

The Romanist James was succeeded first by his Protestant daughter Mary, and her husband Willem III of Orange. After their death, they in turn were succeeded by Mary's Protestant sister Anne.

The Calvinistic Dutch King, Willem III of Orange, was himself the nephew of James II and the grandson of Charles I. Consequently, Willem was very acceptable to most of the people of the British Isles and became William III of England, Ireland and Scotland.

A brief note on Willem from an unbiased and an uncalvinistic source in the *Historians' History of the World* is appropriate at this point. The courage and the transcendent skill and perseverance with which this prince resisted the concentrated power of France, explains the *Historians' History*,<sup>33</sup> is a matter of record.

No struggle in the history of ancient or modern warfare has called forth a greater display of those qualities which command and deserve admiration. Prince Willem had kept Louis XIV, the French king and great despot of Europe, at bay. When Willem became the husband of Princess Mary, it was clear that in the event of the death of Charles and James without children his consort would become Queen of England. Of necessity, this fact now brought Willem into more frequent and much nearer connection with the politics of England. Indeed, the Prince of Orange was by far the greatest man of his time. Thus the *Historians' History*.

In November 1688, Willem landed in England and marched on London. James had scurried off to the Continent and ended up in Romish France. Parliament now resolved that he had deserted rather than abdicated the throne. It thanked Willem for delivering them from popery and from arbitrary power. Finally, in February 1689, it offered to crown Willem and his wife as King William and Queen Mary of England.

This was the practically bloodless Glorious Revolution. At that point in time and indeed until the 1789 French Revolution fully a century later the word "Revolution" simply implied a sudden and significant change of government. Only after 1789 and indeed because of the bloody and ungodly nature of the 1789 French Revolution did the word "Revolution" acquire a new and indeed a bad meaning in politics. This was a meaning which the 1776 American Revolution just thirteen years earlier, never bore.

In 1688, the crown was settled on the Prince and Princess of Orange. The sole administration was to vest in the Prince, but the succession was to rest in William and Mary and their issue. Thereafter, it was next to vest in Mary's issue by any subsequent husband that might be suitable; then in her sister Anne and her children; and lastly, in the children of William.

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<sup>32</sup> Brewer: *op. cit.*, pp. 516f.

<sup>33</sup> *Op. cit.*, XX pp. 405f.



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To this Settlement, the Convention Parliament annexed a *Declaration of Rights* ó before formally offering William and Mary the crown. By that *Declaration*, all British monarchs were thenceforth to be required to maintain God's Law. The *Declaration* was then soon confirmed and extended ó by the British *Bill of Rights*.<sup>34</sup>

The Romanist James had sought to advance papists, preferentially, to political power ó and to suppress public worship by certain Protestants (and notably by Presbyterians). The Protestant William would tolerate public worship by Romanists ó but not their admission to Parliament nor to places of public trust. In the latter regard, he was strongly supported by Tories, Whigs, Anglicans, Dissenters and indeed especially by Parliament itself.<sup>35</sup>

King William III of the British Isles remained a Presbyterian ó as he had formerly been in his capacity of Willem III of the Netherlands. He clearly understood he would occupy the thrones of England and Ireland and Scotland only as long as he ruled with the consent of Parliament. The regal absolutism of the Stuarts was gone for ever.<sup>36</sup>

Yet there was indeed much talk about the Romish James II, from France, re-invading Britain. However, this never materialized. He had made himself so unpopular that ó alarmed even by mere rumours of this ó many English communities adequately and speedily organized themselves to resist any such attempt to restore Papalism in the land.

Thus, even before the end of 1688, the Westmorlanders marched from Kendal (the place of this writer's birth) to Kirkby Lonsdale ó to resist such a rumoured invasion (which never took place). Indeed, when James II's son Prince James in 1715 marched through Kendal with Scottish soldiers ó on his unsuccessful way to claim the throne of England ó he did not gain a single recruit in Kendal. Even when Prince James's son ðBonnie Prince Charlieö marched from Scotland into Kendal in 1745 with a similar objective ó the Westmorlanders resisted.<sup>37</sup>

On February 13th 1689, the English Parliament got William and Mary to approve its *Declaration of Right*. As History Professor J.R. Green pointed out,<sup>38</sup> the *Declaration* recites the misgovernment of James and the determination of Parliament **to assert the ancient rights and liberties of Englishmen**. It then **denied the right to any king to suspend or dispense with laws**, save by consent of Parliament.

It then asserts for citizens the right to petition, the right to a free choice of representatives in Parliament, and the right to a pure and merciful administration of justice. It declares Parliament's liberty of debate. It demands security for the free exercise of religion by all Protestants, and it binds the monarch to maintain the Protestant religion ó and the law and liberties of the realm.

There was no requirement that the Presbyterian William needed to become an Episcopalian. Indeed he did not. However, only when William and Mary indicated

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<sup>34</sup> Brewer: *op. cit.*, p. 515.

<sup>35</sup> See *Historians' History*, XX p. 407 n. 1.

<sup>36</sup> Collins: *op. cit.*, p. 34.

<sup>37</sup> Sister Agnes: *op. cit.*, pp. 57f.

<sup>38</sup> *Op. cit.*, p. 683.

they would uphold the foregoing *Declaration* if were they offered the Crown. They accepted this offer on these terms, and William declared their resolve to maintain the laws and to govern by Parliament.

### **The Historian Lord Macaulay's assessment of the British *Declaration of Right***

A paraphrase of the salient points on the above in Lord Macaulay's famous *History of England*, will be helpful. Macaulay stated<sup>39</sup> that the House of Commons was here insisting that **the Ancient Constitution** of the kingdom needed to be restored in full, and that William and Mary should then govern according to the existing laws.

The *Declaration* recapitulates the crimes of James which had necessitated this Glorious Revolution. He had invaded the legislature; regarded petitioning as a crime; levied taxes without parliamentary consent; violated the freedom of elections; and perverted the course of justice. He had permitted juries to become corrupted; excessive bail and fines to be imposed; barbarous and unusual punishments to be executed; and the estates of those accused of crimes, to be confiscated prior to their conviction.

In light of the above, the Commons and the Lords had now resolved in Parliament assembled that if after the example of their ancestors if they would **assert the ancient rights and liberties of England**. The nation had the right to receive **a pure and merciful administration of justice according to the spirit of its own mild laws**. These things the Convention Parliament claimed in the name of the whole nation if **as the undoubted inheritance of Englishmen**.

The Lords and Commons thus vindicated the principles of the Constitution. They were entirely confident that the new king would hold sacred the very **laws and liberties** which he himself had just rescued. So they resolved that William should be declared King of England.

William then responded on behalf of himself and his wife Mary: "We thankfully accept what you have offered us." Then, for himself, he assured Parliament that the laws of England, which he had already vindicated, should be the rules of his conduct.

Thereupon, Parliament urged all Englishmen to pay, from that moment onward, allegiance to William and Mary. For through them God had brought about so signal a deliverance of both Church and Nation.

Very significantly, **not a single new right was then being given to the people**. The whole of **English Law** was if in the judgment of all the greatest lawyers such as Holt, Treby, Maynard and Somers if exactly the same immediately **after the "Glorious Revolution"** as **before it**.

For the Glorious Revolution was a **vindication of ancient rights**. In almost every word of the *Declaration*, one discovers a profound reverence for the past. Even the estates of the realm were to be deliberated according to the old rules. The ancient

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<sup>39</sup> In *Historians' History*, XX pp. 414-19.

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constitutional traditions of the State were to be respected. Even the assertors of liberty said not a word about the natural equality of men nor about any alleged sovereignty of the people.

This Glorious Revolution has also been of all revolutions the most beneficial ó the most -glorious.ø It protects the popular element, ever since De Montfort and before, against monarchical tyranny. The officer who proclaimed William and Mary to be the king and the queen, announced there was now a union between the throne and the Parliament; that the ancient laws of England would be held as sacred as the royal prerogative itself; and that those laws would be followed out to all their consequences.

By implication, the *Declaration* also contained many germs of better things yet to follow. It implied: religious freedom to dissenters; the independence of the judiciary; the regulating of the duration of Parliaments; the liberty of the press (under the protection of juries); and the ability and desire to improve the representative system. The Glorious Revolution was Britain's last revolution. That is its highest commendation. Thus Lord Macaulay.

### ***The Oath of Allegiance, the Toleration Act, and the Coronation Oath***

William and Mary had approved the *Declaration of Right* of the English Parliament on February 13th 1689. The House of Commons then took the Oath of Allegiance to William and Mary, on March 5th 1689. Some of the Anglican clergy refused the oath, and were therefore called non-jurors (alias non-swearers).

This enabled Presbyterian King William to display his predilection for dissenters ó towards whom he was naturally inclined by his own religious beliefs. Accordingly, the bill known as the *Toleration Act* ó to relieve Protestant dissenters (such as the king himself) from certain existing penalties incurred by absenting themselves from the Anglican State Church in England ó was introduced in the English Parliament. It should be added that, though Romanists were not included under the new Act, William always treated them with leniency.<sup>40</sup>

The bill became law on 24th May 1689. All who took the new oaths of allegiance and supremacy, and made a declaration against transubstantiation, were thereby exempted from the penalties incurred by absenting themselves from the Anglican Episcopal Church. The ancient penal Statutes remained, however ó unrepealed. Hence, **persons who denied the Trinity** [such as Judaists and Muslims] ó as well as Papists ó **were excluded from the benefit of the new Act.**

William and Mary were crowned in Westminster Abbey on April 11th 1689. Because the Highchurch Anglican Archbishop Sancroft declined to act in this matter, the ceremony was performed by Bishop Compton of London.

The Scots had declared that James the Second had forfeited the throne of Scotland. Yet (unlike the solidly -Pro-Williamø England) there were still skirmishes and battles there ó between supporters of James II and those who favoured William.

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<sup>40</sup> *Ib.*, p. 423.

The latter was proclaimed King of Scotland on April 11th 1689. Still the skirmishes continued. However, when the supporters of William irrevocably got the upper hand, on June 13th 1689 the whole of Scotland gave its allegiance to William. In return, he abolished Episcopacy there and **Presbyterianism was re-established as the State Religion in Scotland.**

Though the Papist James II failed miserably to re-occupy Protestant Britain, he did have a little success in preponderantly Romish Ireland. Before James had fled from England, he had appointed the Romanist Tyrconnel as his Lord Deputy in Ireland.

Tyrconnel had then attacked Irish Protestants; deprived many of the towns of their charters; and filled the public offices with Romanists. Alarmed by William's successes in Britain, Tyrconnel then invited James to Ireland.

There, James arrived on 12th March 1689 complete with French ships and soldiers.<sup>41</sup> However, King William himself finally went to Ireland. There, he thrashed James who forsook his own troops and at the decisive Battle of the Boyne<sup>42</sup> in July 1690.

### **The 1689 British *Bill of Rights* or the *Act for Declaring Rights and Liberties***

Meantime, the British *Bill of Rights* was finalized in June 1689, confirming the *Declaration of Right* of February 1689 and including a *Settlement of the Crown*. It would seem, however, that it became effective finally<sup>43</sup> only on December 16th 1689.

This *Act for Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown*<sup>44</sup> had many outstanding features. Here are some of its more salient provisions.

The *Act* begins: "Whereas [1] the Lords Spiritual and Temporal and Commons assembled at Westminster, lawfully...representing all the estates of the people of this realm...**in the year of our Lord 1689** present unto their majesties...William and Mary...of Orange...a certain declaration in writing made to the said Lords and Commons in the words following; viz. and

"Whereas [2] the last King, James II and by the assistance of divers evil counsellors, judges and ministers employed by him did endeavour **to subvert and extirpate the Protestant Religion and the laws and liberties of this kingdom** etc. Here, note especially the words: "the **Protestant Religion**."

The twelve clauses of that previous 1689 *Declaration of Right* are then set out in this new *Act*. They are stated in the latter, immediately after and to prove the claim made in this second "Whereas" (as set out above).

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<sup>41</sup> Brewer: *op. cit.*, pp. 524f.

<sup>42</sup> See R.H. Green's *op. cit.*, pp. 692f; and Brewer's *op. cit.*, pp. 527f.

<sup>43</sup> V.M. Hall: *Christian History of the Constitution of the United States of America*, American Christian Constitution Press, San Francisco, 1966, I p. 44.

<sup>44</sup> Full text in Brewer's *op. cit.*, pp. 544f.

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Included among those twelve clauses, are also the following three accusations. (1) James had been raising and keeping a standing army...without consent of Parliament, and...**contrary to law**. (2) He had been causing several...Protestants to be disarmed at the same time when Papists were both armed and employed **contrary to law**. (3) Excessive bail hath been required of persons committed in criminal cases, to **elude the benefit of the laws** made for the **liberty of the subjects**. The section then concludes with the significant statement: "All [of] which are utterly and directly **contrary to the known laws and statutes and freedom of this realm**."

The *Act* then continues: "And whereas [3] the said last king, James II, having abdicated the government, and the throne being thereby vacant, his highness the **Prince of Orange** (whom it hath pleased Almighty God to make the **glorious instrument of delivering this kingdom from popery and arbitrary power**) did by advice of the Parliament cause letters to be written to the Lords Spiritual and Temporal being Protestants...in order to such an establishment as that their religion, laws and liberties might not again be in danger of being subverted" etc. Here, note the words: "being **Protestants**!"

Referring back to the *Declaration of Right*, the *Act* then states that the Members of Parliament now "for the vindicating and asserting of their **ancient rights and liberties**" declare: "1. Suspending of laws...by regal authority without consent of Parliament, is illegal. 2. Regal authority, as it hath been assumed and exercised of late, is illegal. 3. The...erecting...commissioners for ecclesiastical causes and all other commissions of like nature, are illegal and pernicious. 4. Levying money for...the use of the Crown...without grant of Parliament...is illegal. 5. It is the right of the subjects to petition the king....

"6. Keeping a standing army...in time of peace unless...with consent of Parliament, is against the law. 7. The subjects which are Protestants may have arms for their defence...as allowed by law. 8. Election of Members of Parliament ought to be free. 9. The freedom of speech...in Parliament ought not to be impeached.... 10. Excessive bail ought not to be required, nor excessive fines imposed, **nor cruel and unusual punishments inflicted**. 11. Jurors ought to be duly impanelled.... 12. All...fines...before conviction are illegal.... 13. For redress of all grievances...and preserving of the laws, Parliament ought to be held **frequently**."

The Members of Parliament next claimed, demanded and insisted upon all and singular of the above premises, "as **their undoubted rights and liberties**. To which demand of their rights they are particularly encouraged, by the declaration of the Prince of Orange, and have an entire confidence that...the Prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights...and from all other attempts upon their religion, rights and liberties."

In the next section, Section II, the succession of the House of Orange is set out through William and Mary, and also through the latter's sister "Princess Anne of Denmark." Then, in Section III, the oaths of allegiance and supremacy are set out. To wit: "I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to their majesties King William and Queen Mary: So help me God." And: "I, A.B., do swear that I do from my heart abhor, detest and abjure as impious and

heretical, that damnable doctrine and position that princes excommunicated or deprived by the pope...may be deposed or murdered by their subjects.... I do declare that no foreign prince...or potentate hath or ought to have any jurisdiction...or authority ecclesiastical or spiritual within this realm: So help me God.ö

Sections IV to VIII are not particularly relevant to our discussion. Section IX, however, then states öit hath been found by experience that it is inconsistent with the safety and welfare of this Protestant kingdom [note well: “this Protestant kingdomö!] to be governed by a popish prince, or by any king or queen marrying a papist.ö Consequently, Parliament resolves öthat all and every person...[as shall] hold communion with the see or Church of Rome or shall profess the popish religion...shall be excluded and be for ever incapable to inherit...the crown and government of this realm...ö

Section X ó before the last three Sections (XI to XII) which are not here relevant ó then states öthat every king and queen of this realm who at any time hereafter shall come to and succeed in the imperial crown of this kingdom shall on the first day of the meeting of the first parliament nextö ó make a Protestant Profession of Faith before the officer öwho shall administer the coronation oath to him or her.ö Namely, the one to be crowned shall ömake, subscribe and audibly repeat the declaration made in...*An Act for the more effectual preserving the King’s Person and Government by disabling Papists from sitting in either House of Parliament*.ö

As J.H. Stephen observes in his famous *Commentaries on the Laws of England*, all aspects of the *Bill of Rights* antedated the latter. William and Mary had to sign to uphold it ó that is, to uphold the long-standing British Common Law of which the *Bill of Rights* was merely a summary. For, as Mayesø *Parliamentary Practice* insists ó there was nothing at all new in the *Bill of Rights*.

## The Triumph of Puritanism at the Glorious Revolution in the British Isles

The Glorious Revolution and its accompanying British *Bill of Rights* had brought about a remarkable re-affirmation of the Common Law ó and a further setback to Roman Law in Britain. Romanists (like James II) ó and those (like Charles I & II) who marry the same ó were no longer permitted to accede to the throne of England.

Provision was made for the joint sovereignty and succession of the Protestant and indeed even Presbyterian couple, William and Mary of Orange. Also, with the expulsion of the false doctrine of the ÷divine right of kingsöó the Ancient-Irish (con-feder-al or con-tract-ual or coven-ant-al aspect of the coronation oath and of popular con-sent, now came to the fore. King, Parliament and People are in a tri-une *foed-us* or covenant with one another ó all together with the same *fides* or trust, and in öleagueö with and under the Holy Trinity.

English History Professor J.H. Green<sup>45</sup> has drawn the correct conclusion from all this. An English monarch is now as much the creature of an Act of Parliament, as is

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<sup>45</sup> *Op. cit.* pp. 688f.

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the pettiest tax-gatherer in his realm ó and monarch and parliament and tax-gatherer are all finally responsible to the Triune God.

The modern British Jurist, Rev. Dr. Pascoe Goard (LL.D.), rightly observed<sup>46</sup> in his book *The Law of the Lord or the Common Law* that when the Mayflower went out on its adventurous journey to North America in 1620 ó the Common Law was, next to the Gospel, the most precious part of her cargo. It was then the bone of contention in Britain. For it was the attempt to set aside the Common Law and to establish personal rule in Britain, which cost King Charles the First his head in 1649 ó and James the Second his throne in 1688.

In Britain, the fight waxed fast and furious ó as skirmishes and wars shook the country. It was the king on the one side, fighting for personal authority; and on the other hand, the people fighting for the continuance of rule according to the Common Law of the land. Not until the final flight of James the Second was the matter settled in England. It was settled by the restoration of the full force of the Common Law (under the Glorious Revolutionary Settlement). Thus Goard.

No different is the view of Church History Professor Rev. Dr. Heron. After the death of Cromwell in England, explained Heron,<sup>47</sup> Puritanism did seem to have been defeated. In reality, however, it had been victorious.

The expulsion of the Puritans from their positions after the Restoration under Charles the Second ó though at the time disastrous ó was in the long run fruitful. The principles of representative and constitutional government for which the Puritans contended, found their way into the British Constitution at the time of the 1688f Glorious Revolution.

S.R. Gardiner rightly pointed out that in the Revolution of 1688, Puritanism did the work of civil liberty which it had failed to do in that of 1642. How this came about, is very well explained by Dr. J.F. Bright, in his *History of England*.

There, Bright explained<sup>48</sup> that the agitations of the Reformation had given birth to Presbyterianism (alias church government by congregationally-elected officers elected by the congregation) ó as contrasted with government by episcopally-imposed priests. Thus, even in the sphere of religion, the idea of official representative government supplanted the idea of authority based on the so-called ÷divine right of kings.ø

Then there arose the question: Is even the king, after all, not a proprietor ó but only an officer? And if an officer ó whence is his authority derived ó if not from God as ÷The Sourceø of all official authority? Thus there arose, in the place of ÷divine rightø authority, the idea of official or constitutional royalty. Cf. Romans 13:1f.

Slowly but steadily, Puritanism introduced its seriousness and purity into English society, English literature, and English politics. The whole history of English progress since the Restoration, on its moral and spiritual sides, had been the history of Puritanism. Thus Dr. Bright.

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<sup>46</sup> *Op. cit.*, p. 17.

<sup>47</sup> *Op. cit.*, pp. 229f.

<sup>48</sup> J.F. Bright: *History of England*, p. 538.

Professor Dowden has pointed out that Puritanism carried the genius of the Scriptures into the very heart and soul of England. Puritanism is still a living power in the world. The great Non-Anglican Evangelical Churches which exist and prosper today ó the Presbyterian, Congregational, Methodist, Baptist and other Nonconformist Communities ó far outnumber the Members of the Anglican Communion (throughout the English-speaking World). Thus the traditions of Puritanism are still preserved and maintained. Especially is this the case in that land where almost eighty per cent of all English-speaking people now reside ó the United States of America.

Rev. Professor Dr. Philip Schaff declared in his famous *Creeds of Christendom* (I:724f) that the Revolution of 1688 was a political triumph of Puritanism. It secured constitutional liberty and the Protestant religion for the nation. Moreover, Puritanism lived on also in New England, which was born of the persecutions and trials of its fathers and founders in Old England.

In America, Puritanism gave birth to a republic truer, mightier, and more enduring than the ephemeral military Commonwealth of Cromwell. Indeed, it will continue to preserve and spread all over the (Anglo-)Saxon World the love of purity, simplicity, spirituality, practical energy, liberty, and progress in the Christian Church. Thus Schaff.

### **From the 1688f Glorious Revolution till the 1701 Act of Settlement**

The thirteen-year period 1688 till 1701, from the Glorious Revolution till the Act of Settlement, is a period of great consolidation. In this period, remarked British Barrister Owen Flintoff,<sup>49</sup> many salutary laws were passed ó such as the *Bill of Rights* (anent the ancient laws protecting the citizens of England); the *Toleration Act* (anent the practices of Nonconformist Protestants); and the *Act of Settlement* (requiring the Protestant succession of all future monarchs in Britain). Indeed, also the *1707 Act of Union* (uniting England and Wales with Scotland as the United Kingdom of Great Britain) soon followed.

In his famous *History of Civilisation in England*, H.T. Buckle has rightly remarked<sup>50</sup> that it is difficult to conceive the full amount of the impetus given to English civilization by the expulsion of the House of Stuart. Among the most immediate results, the following may be mentioned.

First, the limits that were set to the royal prerogative; second, the important steps taken toward religious toleration; third, the remarkable and permanent improvement in the administration of justice; fourth, the final abolition of a censorship over the press; and fifth, the rapid growth of those great monetary interests by which the prejudices of the superstitious classes have been counterbalanced.

These are the main characteristics of the reign of William III. It is the most successful and the most splendid recorded in the history of any country. It is perhaps best characterized by the judgment of Lord Chief Justice Sir John Holt, when in the

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<sup>49</sup> *Op. cit.*, p. 202.

<sup>50</sup> Cited in *Historians' History*, XX p. 420.



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1693 case of *Blankard v. Galdy* he rightly proclaimed that **under British Common Law such laws of annexed countries "cease...as are against the Law of God."**

When King William's wife Queen Mary died without issue<sup>51</sup> in 1694, it became problematical whether the surviving spouse himself would ever have children. King William never did. So, in terms of the order of succession set out in the 1688 *Declaration of Right*,<sup>52</sup> all eyes were fixed upon the surviving heir to the throne – Mary's sister the Protestant Princess Anne of Denmark.

She had produced many children, but all save one died before 1700. When in that year also her last surviving child died<sup>53</sup> it became crucial to redefine the order of succession to the throne of Britain. For James II and his children were still alive – and the only child of Henrietta the daughter of Charles I had herself gone and married the Roman Catholic Duke of Savoy.

Although the Protestant Princess Anne of Denmark was still next in line to the throne after her brother-in-law the reigning Presbyterian King William III – she was now childless. So it was clear that she too would die without issue.

Provision therefore needed to be made timeously that her successors on the English throne would be, and would remain, **Protestants** – and would also associate themselves closely with specifically the Church of England (which had never really warmed up to the dour Dutch Presbyterian William III).

As English History Professor J.H. Green explained,<sup>54</sup> it was therefore necessary to fall back on the line of James I. His daughter Elizabeth had married the Elector Palatine. Her only surviving child, Sophia, was the wife of the late and the mother of the then-present Elector of Hanover. So it was in Sophia and her heirs, being **Protestants**, that the new 1701 *Act of Settlement* then vested the Crown of Britain.

It was enacted that every future English sovereign must be in communion with the Church of England, as by law established. All future kings were forbidden to leave England, without the consent of Parliament. All foreigners were excluded from public posts. The independence of the Judiciary was established by a clause which provided that no judge should be removed from office save on an address from Parliament.

All of these provisions were highly important safeguards to the liberty and welfare of the country.<sup>55</sup> In these ways, the parliamentary Constitution of England was then completed.

At this point, one should add that the independence of the judiciary from the crown was not a new concept. It was rather a resurrection of an ancient right – after the Stuart tyrannies had deviated therefrom.

As Stephen Pfiel has pointed out in his 1951 *Encyclopedia Americana* article on "Common Law"<sup>56</sup> – the independence of the judiciary from the royal prerogative, and

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<sup>51</sup> Brewer: *op. cit.*, p. 540.

<sup>52</sup> *Ib.*, p. 515.

<sup>53</sup> Green: *op. cit.*, p. 705.

<sup>54</sup> *Id.*

<sup>55</sup> Brewer: *op. cit.* pp. 541f.

the answerability of judges to God and their own conscience and to no other authority whatsoever, were pronounced already in a defiance of King James the First by Lord Chief Justice Coke. The latter anticipated the United States Supreme Court by nearly 200 years in passing upon the constitutionality of statutes, when Coke said that **the Common Law doth control acts of Parliament and adjudge them void when against common right and reason.**

Shortly after the passage of the above-mentioned 1701 *Act of Settlement*, James II died in exile during the same year. Then King William himself died, in 1702. Excerpts from Lord Macaulay's assessment of the latter event, are appropriate at this point.

Lord Macaulay's sister was Lady Trevelyan. In her preface to the last volume of her brother's works, she called William III a Macaulay's "great hero."

Nature, wrote T.B. Macaulay himself in his *History of England*,<sup>57</sup> had endowed William with the qualities of a great ruler. His theological opinions were even more decided than those of his ancestors. The tenet of predestination was the keystone of his religion. He often declared that, if he were to abandon that tenet, he must abandon with it all belief in a superintending Providence.

Also courage like that of William, is rare indeed. The audacity of his spirit was the more remarkable because his physical organization was unusually delicate. Foreign nations did ample justice to his great qualities. In every continental country where Protestant congregations met, fervent thanks were offered to God for William III of England.

The Englishman and famous 1765 jurist Sir William Blackstone later rightly remarked that in the Revolution of 1688-9, the authority of William and Mary was "the act of the nation alone." This represented, in "plain certainty," a "contract" between "the people and their king." Indeed, "so long...as the English Constitution lasts," it is necessary that the power of the people, through Parliament, exist "absolute and without control." Blackstone's *Common Law Commentaries on the Laws of England* (I 204 & 157).

No wonder, then, that Blackstone would later serve as a model for the new American nation in 1776! For the latter then enshrined Biblical British Common Law as "the Law of the New World" previously taken there by the Puritan Fathers.

### **The English 1702-14 Reign of the Protestant Queen Anne (Princess of Denmark)**

Now William had died childless and thus terminating the British House of Orange. So his deceased wife Queen Mary's sister, the Protestant Princess Anne of Denmark, immediately became Queen.

None of her children survived, so that at her own death in 1714 the British House of Stuart also terminated. Thereafter, the descendants of James the First's

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<sup>56</sup> S. Pfeil: *Common Law*, in *Encyclopedia Americana*, Americana Corporation, New York/Chicago, 1951, Vol. VII, pp. 410-15.

<sup>57</sup> Cited in *Historians' History*, XX pp. 462-67f.

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granddaughter Sophia of the House of Brunswick would be imported from Germany to sit upon the throne of Britain.

The *Historians' History* discusses the spirit of those times as reflected in the views of also Thomas Hobbes and John Locke. In 1640f, Hobbes had stated the social contract to be a basic foundation of government. In 1700, Locke was arguing that the great chief end...of men uniting into Commonwealths and putting themselves under government is the preservation of their property under God's Law of Nature. Genesis 1:26f; 2:15-24; 3:3f; 4:3-14; 9:5f.

Just before the Union of England and Scotland under the flag of the Union Jack in 1707, **John Locke** rightly observed: "Those are not to be tolerated who deny the Being of God.... Society can have no hold upon an atheist.... The rule therefore of right, is the same that ever it was...."

"Our Saviour...tells them...He was not come to dissolve the Law, but to make it full and strict (Matthew 5:17f).... Thus, the Law of Nature stands as an eternal rule to all men, legislators as well as others." Thus John Locke.

Remarkably, the terms of the British *Bill of Rights* and the *Act of Settlement* which brought the conservative **Queen Anne** to the throne of Britain tended to reflect this. Anne was thirty-eight when she became the Queen of England. She was always a firm Protestant.

Union between England and Scotland was contemplated already in the first year of her reign. A bill to this effect was drawn up in 1707. Before Anne herself died in 1714, that 1707 Union between South Britain (alias England & Wales) and North Britain (alias Scotland) as the British United Kingdom (a constitutional monarchy) had performed satisfactorily.

Already in 1704, the Scottish Parliament passed an *Act of Security*. It stated that in the event of the death of Queen Anne without issue, the Scottish Parliament would appoint Scotland's next sovereign. It would be a **Protestant**, yet a different person to the successor to the throne of England unless the independence of Scotland and her Parliament and religion and trade and liberty had been secured previously against English influence.<sup>58</sup>

If the object of this was to frighten the English into a union of the two kingdoms by the terror of a separation of the two British crowns it was eminently successful. With the rise of a commercial spirit in Scotland, England would have to pay a price and one which also the Scots themselves could not easily withstand.

Nevertheless, two-thirds of the Scottish nation was opposed to Union. However, after the Presbyterian form of church government was secured for Scotland by separate act it was ratified in the Scottish Parliament itself by the large majority of one hundred and ten.<sup>59</sup> Now, it was argued, Scotland could and should unite with England.

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<sup>58</sup> *Ib.*, pp. 478f.

<sup>59</sup> *Ib.*, p. 480.

Frankly, however, the two nations should have established a **Confederacy** rather than a **Union**. Among mankind, confederating parties retain their own sovereignties even after confederation ó so that secession or rather defederation is always possible. Unions of two parties, however, absorb the two uniting parties and transubstantiate them into a *tertium quid* (or some **third thing**). Consequently, any later dis-unity which might arise ó then lacks all voluntary constitutional mechanisms for its resolution.

In the next two centuries, this fact would become painfully obvious. Especially in North America ó as regards the 1781 *Articles of Confederation*, the 1787 *Constitution of the United States of America*, and the 1861 *Confederate Constitution*.

Indeed, in the twentieth century (and the next), it would become equally obvious also in Britain ó especially since the discovery of oil in the North Sea, off the coast of Scotland. Thus the recent setting up of regional Parliaments in Scotland and even in Wales, distinct from that of the United Kingdom (dominated by the English), were very predictable.

In the 1990s, the dismemberment of the Soviet **Union** and the Yugoslav **Federation** and the makeshift republic of **Czecho-slovakia** ó and the increasing tensions anent Quebec within the Federation of Canada ó are all important portents. Further, increasing tensions between Tamils and others in Sri Lanka ó and between Afrikaners and Xhosas and Zulus in Mandela's new South Africa ó almost predict yet-future de-centralizations.

Even the Englishman, History Professor R.H. Green, has made some very important observations about the 1797 Union between England and Scotland. In 1706, he explained,<sup>60</sup> Scottish proposals advocating a (con-)federation rather than a legislative union were set aside. Instead, it was proposed that the succession to the crown of this proposed ðUnited Kingdomø ó be ruled by the provisions of the 1701 English *Act of Settlement*.

The Scottish Church and Scottish Law were to be left untouched, but all rights of trade were to be thrown open ó and a uniform system of coinage was promised. One single Parliament would henceforth represent the ðUnited Kingdomø ó and 45 Scottish Members would be added to the 513 English Members of the Commons, with 16 Scottish Lords to be added to the 108 then forming the English House of Lords. Thus Professor Green.

The comment of also an eminent Scottish historian on the issue of the 1707 Union, is very illuminating. Explained Mackenzie,<sup>61</sup> all over Scotland the excitement was equally great. Every man's blood was at fever heat. Scotland with one voice was against the Union. For if Scotland gave up her own government ó what treatment may not her Church and her commerce receive at the hands of that powerful sister [in Old England] who had shown herself so jealous and grasping?

However, the *Act of Union* nevertheless passed. For the votes of a large majority of the Scottish Parliament had been bought with English gold! Thus Mackenzie.

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<sup>60</sup> *Op. cit.*, pp. 714.

<sup>61</sup> *Op. cit.*, pp. 656f.

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On the 1st day of May 1707, the Act ó having been passed also in the English Parliament ó came into operation. The two nations, which in the course of their history had fought with each other three hundred and fourteen battles, and slain of each other's subjects more than a million of men, were now one. From the period of the Union, Scotland ó now amalgamated with England into one Britain ó ceased to have a separate history.

Scotland did, of course, henceforth enjoy the incalculable advantage of being united with a great and powerful nation ó Britain (alias England and Wales). Also, Scotland has since then fully shared in the marvellous prosperity of the British Empire.

Since that 1707 Union, Scotland's [and Great Britain's] imports of foreign merchandise have increased; her exports, still more vastly; and her revenue, yet more. Scottish agriculture is perhaps the best in the World. The Scot James Watt and his steam-engine enabled Great(er) Britain to manufacture for the World. The Scot Adam Smith taught Great(er) Britain the great principle of free trade ó which then gave expansion to her commerce and increase to her wealth.

The *Act of Union* of 1707 was undoubtedly the greatest event of that decade. For the rest, however, the reign of Queen Anne was propitious also as regards the history of the Common Law.

She was, explained Keightley in his *History of England*,<sup>62</sup> a woman of good intentions; a model of conjugal and maternal duty. The title of "Good Queen Anne" given to her, evidences that the public sensed her virtues.

During her reign, Nonconformists were given even more liberties. Judges became fully independent ó retaining their places during good behaviour. They were removable only after commission of some great offence ó and by Parliament alone.

### **The House of Brunswick imported from Germany for the childless British throne**

With the death of the childless Queen Anne in 1714, the House of Stuart came to an end. In terms of the 1689 British *Bill of Rights* and the 1701 *Act of Settlement*, the granddaughter of James I ó Queen Sophia and her descendants in the Hanover House of Braunschweig (or Brunswick) ó were now next in line to accede to the throne of Great Britain. Sophia had died just two months before Anne.<sup>63</sup> Consequently, the throne now passed to her son the German-born Prince Georg.

Georg of Hanover thus suddenly became George the First of Britain. As English History Professor Brewer explained,<sup>64</sup> Georg succeeded Anne as quietly as if he had been the undisputed heir to the throne.

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<sup>62</sup> Cited in *Historians' History*, XX pp. 496f.

<sup>63</sup> Brewer: *op. cit.*, p. 565.

<sup>64</sup> *Ib.*, pp. 566f.

No sooner had the Queen expired, than Georg ó who could not speak a word of English! ó moved to England. He was proclaimed óKing Georgeö not only in London but also in Dublin and Edinburgh, without opposition or tumult. Fifty-four years old, and ignorant of England's customs and language ó he was nevertheless honourable, benevolent and sincere. A courageous soldier yet a lover of peace, his German subjects were sorry to see him leave them.

Thus the 1707 Union of Britain (alias England & Wales) with Scotland into Great(er) Britain, was soon followed by the 1714 importation from Germany's Hanover of the German-speaking House of Brunswick ó in order to occupy the throne of the United Kingdom. It still does, though now under the changed name of: the House of Windsor.

Precisely by these two occurrences ó the 1707 *Act of Union*, and the 1714 importation of a German monarch for Britain ó permanently elevated the British Parliament and its Constitution over the kings of the new Royal House. So much was this the case, that the latter were even forbidden, without parliamentary permission, to leave the British dominions ó until this was repealed in 1716, in order to enable King George again to visit his native Hanover.

Also in 1716, the *Triennial Act* of 1694 was repealed ó and replaced with the *Septennial Act*.<sup>65</sup> This too **greatly strengthened Parliament**. For this reason, the later American Revolution of 1776 should really have been directed more against the British Parliament as the paramount offender ó rather than against the latter's puppet the English King George III (great-grandson of the unilingual German George the First)!

In 1727, the year of the death of George the First, Christianity was still stronger in Britain and her Empire than just about anywhere else on Earth. This was made clear, when in that year 1727 a person was indicted in Britain for a libel against the Trinity. He was convicted and sentenced.<sup>66</sup> See *R[ex]. v. Carl*, 1727, 1 Str. at p. 790.

George I was succeeded by his son, the **German-born George the Second** (1727-60). The fact that he and his father were both foreign-born ó and indeed maintained a specifically Germanic respect for the law of the land ó enabled both the Common Law and Parliament, especially a wayward British Parliament (rather than the Common Law!) to flourish in Britain as never before.

During the long reign of George II: the use of Latin was abolished in the law courts in 1731; a bill was passed (and then repealed) for the naturalization of Jews in 1753; and from 1754 onward, Britain conquered Canada and the Ohio from the French. Sadly, his son Frederick predeceased him. Consequently, Frederick's son became king in 1760 ó upon the death of George II.

From the point of view of **weakening Britain's trinitarian theocracy**, the so-called *Jew Bill* of 1753 is of some importance. When passed ó even though

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<sup>65</sup> *Ib.*, p. 571.

<sup>66</sup> See W.S. Holdsworth: *History of English Law*, Methuen, London, 1937 ed., VIII p. 408.

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subsequently soon repealed so it enabled all Jews to prefer bills of naturalisation in Parliament, without first receiving the sacrament of holy baptism.<sup>67</sup>

Objected Sir John Barnard in Parliament, somewhat prophetically: "If the Jews should come to be possessed of a great share of the land of the kingdom so how are we sure that Christianity will continue to be the fashionable religion? Christianity alone is the legitimate continuation of the trinitarian Old Testament; and unitarian Judaism is a Post-Christian religion antagonistic to Christianity. To put Jews or any other foreigners upon an equal footing with native British Christians so added Sir John so would be to take the bread out of the mouths of Christian Britons.

To naturalize (unbaptized) Jews, said another Member of Parliament so was to rob Christians of their birthright. To allow Jews, said another, to purchase and hold land estates so was to give the lie to all the prophecies of the New Testament: that they are to remain without any fixed habitation, until they acknowledge Christ to be the Messiah.

The bill carried in the Commons, by a majority of forty-one. It passed also in the Lords. However, it was then attacked by pamphlets; hooted by mobs; and apparently then repealed. Not till 1858, were Jews allowed to vote in Britain. And New Hampshire maintain her Christian Constitution till 1926.

### **The long and epoch-making reign of George III (1760-1820)**

Frederick's intellectually-impaired son was crowned as George III in 1760, at the tender age of but twenty-two. He then reigned for sixty years until his death in 1820.

Sadly, the well-meaning but weak-minded and uninfluential George III was only twenty-two when he became king in 1760. Frustrated by the arrogance not of George III but of Whig politicians in an increasingly-absolutistic British Parliament, the American Declaration of Independence of 1776 (masterminded by astute American politicians) became predictable.

During that long period, Britain built her Indian Empire. Yet she also antagonized her American Colonies so which had steadily been gaining power ever since their establishment in the days of James I. Britain gave offence to her American sons through her impolitic 1765 *Stamp Act* and taxation measures. That triggered off a tragic war. Mercifully, however, it nevertheless ended in England's recognition of America's independence in 1783 so in the Name of the most Holy & undivided **Trinity**.<sup>68</sup>

Thereafter the weak George III told the representative of the strong other George (Washington), that he himself (George III) welcomed the friendship of the United States as an independent power. Sadly, since then, both lands had by the end of the twentieth century all but renounced the Trinity. And in the twenty-first century, King George (Bush) now wields far more power over his own Parliament/Congress than

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<sup>67</sup> *Historians' History*, XX pp. 572 & 668.

<sup>68</sup> See R.B. Morris: *The Peacemakers – The Great Powers & American Independence*, Harper & Row, New York, 1965, p. 461.

weak George III could only have wished he could have had *vis-a-vis* the British Parliament!

Indeed, immediately after the American War of Independence, a weakened England had to ward off the evil influences of the ungodly French Revolution of 1789 and of its reaction, the resulting threat of the Great Dictator Napoleon Bonaparte in its wake. This in turn produced the ugly triplet daughters of humanism, socialism and communism<sup>69</sup> as well as the unitarian twins of Islam and Judaism — all of which have continued to challenge both British Common Law and **Trinitarian Christianity** even down to the present time.

Lord William Mansfield (1705-93) reflected the trinitarian stability of the Georgian era. He had a great influence on his even more famous contemporary — the great Common Law authority Sir William Blackstone. Born in Scotland at Scone — where the Coronation Stone had rested, and where the Covenants had often been re-confirmed — Mansfield attended Westminster School, and then went off to Oxford.

Becoming Attorney-General in 1754, Mansfield was Chief Justice of the King's Bench — from 1756 till 1788. He it was who tried to combine the Common Law with Equity; who reduced Commercial Law almost to an exact science; and who had great influence even on the young American Republic. He too it was who followed Coke and Holt in the 1774 case of *Campbell v. Hall*, when he declared the universality and antiquity of the maxim at Equity that the Law of God should never be overridden by legal irregularities or technicalities.<sup>70</sup>

The great 1903-1908 London University Professor of Constitutional Law Professor Sir William Holdsworth has written a seminal book titled: *Sources and Literature of English Law*. There, he stated:<sup>71</sup> "Five books stand out pre-eminently in the history of English Law — Glanvil, Bracton, Littleton, Coke and Blackstone." It is to Lord Mansfield's great contemporary, Sir William Blackstone, that we must now turn.

### **Blackstone's 1765 book on the Common Law: from Creation to the Reformation**

Dr. Stanley N. Katz serves as Professor of Legal History at Princeton University. He wrote the *Introduction* to the 1979 edition of Blackstone's own *Commentaries on the Laws of England*. There, Katz explains<sup>72</sup> that the London-born 1723-80 Blackstone's legal training began at the Middle Temple, after he graduated from Oxford. In 1758, he was named the initial incumbent of the Vinerian Chair — the first Chair ever to be established for English Law.

Blackstone's *Commentaries* soon gave him renown. From 1761 to 1770, he served as a Member of Parliament. In 1770, he became a justice in the Court of Common Pleas. He died four years after the outbreak of the American War for Independence. With the adoption of the *U.S. Constitution* in 1789, and of its Seventh Amendment

<sup>69</sup> See F.N. Lee: *Communist Eschatology*, Craig, Nutley N.J., 1974.

<sup>70</sup> See art. *Mansfield, William Murray, 1st Earl of*, (in 1929 *Enc. Brit.* 14:825).

<sup>71</sup> W.S. Holdsworth: *Sources and Literature of English Law*, Clarendon, Oxford, 1952 ed., p. 137.

<sup>72</sup> S.N. Katz: *Introduction to Blackstone's Commentaries*, University Press, Chicago, 1979 rep., I pp. iii-iv & 476.



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anent the Common Law in 1791, also Americans increasingly turned to Blackstone's *Commentaries* as a model for their own legal system.<sup>73</sup>

Now the Protestant Christian Blackstone grounded Common Law solidly ó and **triumely** ó in God's work of creation; in His Law of Nature;<sup>74</sup> and in His Holy Bible.<sup>75</sup> Thereafter, he also traced it: through Ancient Celto-British Law;<sup>76</sup> through Ancient Germano-Saxon Law;<sup>77</sup> and through the early-mediaeval British law codes of Alfred, Edward the Elder, Athelstan, Edgar, and Edward the Confessor.<sup>78</sup>

The ancient Celto-Brythonic and Anglo-Saxon legal and political systems, Blackstone declared, were ó unlike Roman Law and the Romish Papacy ó all representative.<sup>79</sup> They were grounded, at root, in Mosaic institutions such as those of the hundreds and the tithings.<sup>80</sup> Exodus 18:12-25 *cf.* Deuteronomy 1:13-16.

The political institutions which preceded and produced what we now call Parliament ó themselves go back to the ðages of antiquityö as found ðamong the northern nations.ö As such, explained Blackstone, they include the institutions of many ð[Celto-Brythonic] manors and [Anglo-Saxon] townships.ö<sup>81</sup>

Deterioration came when the Papacy arose, and especially when **the Romish Normans** arrived in Britain. ðThe antient British Church,ö explained Blackstone,<sup>82</sup> ðwas a stranger to the Bishop of Rome and all his pretended authority..... We read of no civil authority claimed by the pope in these kingdoms [of England and Ireland and Scotland] till the aera of the Norman conquest....

ðThe Romish clergy themselves paid the most implicit obedience to their own superiors or prelates; and they, in their turns, were as blindly devoted to the will of the -sovereign pontiffø whose decisions they held to be infallible.... All the wealth of Christendom was gradually drained, by a thousand channels, into the coffers of the holy see.... The pope became a feudal lord.

ðThe ultimate property of all lands, and a considerable share out of the present profits, were vested in the king ó or by him granted out to his Norman favourites.... >From so complete and well-concerted a scheme of servility, it has been the work of generations for our ancestors to redeem themselves and their posterity.... That state of liberty which we now enjoy...is...a gradual restoration to that antient constitution whereof our Saxon forefathers had unjustly been deprived ó partly by the polity, and partly by the force, of the Norman.ö

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<sup>73</sup> *Ib.*, I pp. iv, v & xii.

<sup>74</sup> *Ib.*, I pp. 38f; II pp. 2f; and IV pp. 189 & 194.

<sup>75</sup> *Ib.*, I pp. 41f and IV pp. 8f.

<sup>76</sup> *Ib.*, I pp. 17, 34f, 63f, 73 & 93; and IV p. 401 & 405.

<sup>77</sup> *Ib.*, I p. 396; and IV p. 403.

<sup>78</sup> *Ib.*, I pp. 64f & 397; and IV p. 405.

<sup>79</sup> *Ib.*, IV pp. 405-7.

<sup>80</sup> *Ib.*, I p. 110; III pp. 30f; and IV p. 403.

<sup>81</sup> *Ib.*, I pp. 34f & 143; and III pp. 30f.

<sup>82</sup> *Ib.*, IV pp. 102f & 412f.

Nowhere is this as clearly seen than with the Late-Norman, King John. Blackstone further declared<sup>83</sup> that in 1213 Pope Innocent III had at length the effrontery to demand and King John had the meanness to consent to a resignation of his crown to the pope whereby England was to become for ever St. Peter's patrimony. Fortunately, the 1215 *Magna Carta* checked this.

Blackstone dedicated his book *The Great Charter* to the Earl of Westmorland. In his Introduction thereto, Blackstone declared:<sup>84</sup> "It is agreed by all our historians that the Great Charter...was for the most part compiled from the antient customs of the realm or the laws of King Edward the Confessor [A.D. 1042-66] by which they usually mean the old Common Law."

Blackstone continued:<sup>85</sup> "Edward the First [A.D. 1272-1307]...our English Justinian...gave a mortal wound to the encroachments of the pope and his clergy... He improved upon the laws of King Alfred, by that great and orderly method of watch and ward, for preserving the public peace and preventing robberies.... The legal treatises written in his time as Britton, Fleta, Hengham, and the rest are for the most part law at this day."

### **Blackstone on the restoration of Common Law from the Reformation onward**

The next period of our legal history, observed Blackstone,<sup>86</sup> is "the reformation of religion." This constituted, after many centuries, "an entirely new scene in ecclesiastical matters the usurped power of the pope being now for ever routed.... The incorporation of Wales with England...added dignity and strength.

"The religious liberties of the nation," continued Blackstone, were thus "established (we trust) on an eternal basis...against papists.... By the [1628] *Petition of Right*, enacted to abolish these encroachments, the English Constitution received great alteration and improvement." Notwithstanding that Charles I, Charles II and James II all tried to thwart it.

However, at "the Convention in 1688," the people's representatives "declared that King James [the Second] had broken the original contract between king and people.... Mr. Locke...and other theoretical writers have held<sup>87</sup> that "there remains still inherent in the people a supreme power to remove or alter the legislators, when they find the legislative act contrary to the trust reposed in them. For when such trust is abused, it is thereby forfeited and devolves to those who gave it.... So long therefore as the English Constitution lasts, we may venture to affirm...the power of Parliament."

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<sup>83</sup> *Ib.*, IV p. 418.

<sup>84</sup> Sir W. Blackstone: *The Great Charter*, Clarendon, Oxford, 1969 ed., *Introduction*.

<sup>85</sup> Sir W. Blackstone: *Commentaries*, IV pp. 418-20.

<sup>86</sup> *Ib.*, IV pp. 423f; I pp. 425f; IV p. 429; and I pp. 429f & 226 & 155f.

<sup>87</sup> J. Locke: *On Government*, 1690, p. 2, paras. 149 & 227.

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There was, for that reason, then a need to import King William and Queen Mary of the Protestant House of Orange in 1688. Remarkd Blackstone:<sup>88</sup> "From the Revolution in 1688 to the present time [1765]... many laws have been passed.... The *Bill of Rights*, the *Toleration Act*, the *Act of Settlement* with its conditions [and] the *Act for Uniting England with Scotland* [1707]...have confirmed and exemplified the doctrine of resistance when[ever] the executive magistrate [*viz.* precisely the king himself] endeavours to subvert the Constitution." Such parliamentary acts "have maintained the **superiority of the laws above the king**."

In conclusion, observed Blackstone,<sup>89</sup> "the absolute rights of every Englishman are founded on nature and reason." The 1701 *Act of Settlement* was "for better securing our **religion, laws, and liberties; which the statute declares to be 'the birthright of the people of England' according to the antient doctrine of the Common Law**."

Blackstone concluded: "I have endeavoured to delineate...outlines of a plan for the history of our laws and liberties: from their first rise and gradual progress among our British and Saxon ancestors.... Our religious liberties were fully established at the Reformation.... The recovery of our civil and political liberties, was a work of longer time ó they not being thoroughly and completely regained...nor fully and explicitly acknowledged and defined, till the aera of the "Happy Revolution."

By the "Happy Revolution" Blackstone naturally means Britain's "Glorious Revolution" of 1688. That, of course, was almost a century before the constitutional American Revolution of 1776 ó and more than a century before the ungodly counter-constitutional 1789 *coup d'etat* in France.

Discussing finally the best possible kind of government, the Englishman **Blackstone followed Calvin** and wrote as follows:<sup>90</sup> "In a "democracy" ó popular assemblies are frequently **foolish** in their contrivance and **weak** in their execution.... In "aristocracy" ó there is **more wisdom** to be found than in the other frames of government, being composed (or intended to be composed) of the most **experienced citizens**.... A "monarchy" is indeed the most powerful of any.... But then there is imminent danger of his [the monarch's] employing that strength to improvident or **oppressive** purposes....

"But happily for us of this island, the British Constitution...(I trust) will long continue a standing exception to the truth of this observation.... With us, the executive power of the laws is lodged in a single person" (the British king) **constitutionally** ó *cf.* the later U.S. President. On the one hand, the laws "have all the advantages of strength and disputation that are to be found in the most absolute monarchy." On the other hand, mercifully, "the Legislature of the kingdom [or government] is entrusted to **three distinct powers entirely independent of each other**." Compare too the later executive, legislative, and judicial powers in the U.S.A.

What, in the 1765 Blackstone's Britain, are those three powers? He explained: "First, the king [*cf.* the U.S. President]; secondly, the Lords spiritual and temporal [*cf.* the U.S. Senate], which is an aristocratical assembly of persons selected for their

<sup>88</sup> *Op. cit.*, IV pp. 433f.

<sup>89</sup> *Ib.*, I pp. 123f; and IV p. 435.

<sup>90</sup> *Ib.*, I pp. 49f.

piety, their birth, their wisdom, their valour, or their property; and thirdly, the House of Commons [*cf.* the U.S. House of Representatives], freely chosen by the people from among themselves.ö

Blackstone's *Commentaries on the Laws of England* thus uphold Common Law and Christianity for Britain and her Colonies. In one word, as Blackstone had himself stated:<sup>91</sup> Christianity is part of the Law of England.ö

### **Blackstone on Common Law, Roman Law, Civil Law, and Canon Law**

University of Michigan Law Professor Thomas A. Green wrote the *Introduction* to the fourth volume of the 1979 edition of Blackstone's *Commentaries on the Laws of England*. There, Green maintains<sup>92</sup> that Blackstone was passionately anti-papist, and scorned the slavish blind devotion of Roman Catholics to their Church.

We ourselves would prefer to say that Blackstone was not Anti-Catholic ó but indeed both anti-papal and Anti-Romish. Writing of the -Early-Catholicø or Orthodox Proto-Protestant Pre-Saxon Celto-Culdees, Blackstone rightly remarked:<sup>93</sup> öThe antient British Church was a stranger to the Bishop of Rome and all his pretended authority..... We read of no civil authority claimed by the pope in these kingdoms till the aera of the Norman Conquest.ö That, of course, was then later again rectified by the Pre-Reformation (Edward III and Wycliffe) and further especially by the Protestant Reformation (Luther and Calvin).

Seeing the papacy actually amalgamated pagan Ancient Roman Law with Christianity ó as seen in Canon Law ó a more important question is the attitude of Blackstone toward Ancient Roman Law itself. How, then ó in Blackstone's opinion ó does pagan Ancient Roman Law compare to Ancient British Common Law?

Blackstone was not much enamoured with pagan Ancient Roman Law ó nor even with its Post-Christian syncretism with Hebrew thought in the format known as Romish Canon Law. For, from both pagan Roman Law and mediaeval Romish Law, Blackstone carefully distinguished the Early Christian Law of Britain ó as well as the Early-Christian Law of Rome.

Blackstone rightly revered the Law of Nature in much of the contents of Pre-Christian Ancient British Law ó and rightly rejected the usefulness of most of Pre-Christian Ancient Roman Law. Yet he did have considerable respect for the Semi-Christianized Later-Roman Law of Theodosius and Justinian *etc.* We should, held Blackstone, therefore esteem not just Early-Christian British Law ó but also -venerateø (though to a lesser degree) even the later Semi-Christian Law of Post-Pagan Rome, before the rise of the papacy from around 600 A.D.

However, continued Blackstone (following Hale), öwe must not carry our veneration so far as to sacrifice our Alfred and Edward to the *manes* of Theodosius

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<sup>91</sup> *Op. cit.*, IV:57.

<sup>92</sup> T.A. Green's *Introduction* to the 4th Volume of Blackstone's *Commentaries*, University Press, Chicago, 1979 rep. ed., p. v.

<sup>93</sup> *Ib.*, IV pp. 102f & 412f.

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and Justinian. We must not prefer the edict of the praetor or the rescript of the Roman emperor [from merely B.C. 366 onward], to our own Immemorial Customs ó in part deriving from the B.C. 1440 Mosaic Law. Nor may we prefer the laws of Rome to the sanctions of an English Parliament ó unless we can also prefer the despotic monarchy of Rome and Byzantium...to the free Constitution of Britain!<sup>94</sup>

Moreover:<sup>95</sup> The Civil and Canon Laws [of pre-mediaeval and mediaeval Rome], considered in respect to any intrinsic obligation, have no force or authority in this kingdom.... Justinian's *Pandects* soon brought the Civil Law into vogue all over the west of Europe.... But it did not meet with the same easy reception in England, where a mild and rational system of laws had been long established, as it did upon the Continent.... Though the monkish clergy (devoted to the will of a foreign primate) received it with eagerness and zeal ó yet the laity, who were more interested to **preserve the old Constitution** and had already severely felt the effect of many Norman innovations, continued wedded to the use of **the Common Law** throughout the British Isles.

Now the Roman Law itself, explained Blackstone,<sup>96</sup> was founded: first, upon the regal constitutions of their antient kings [B.C. 753-510]; next, upon the [B.C. 450] Twelve Tables of the *Decemviri* during the B.C. 510 to B.C. 70 of Roman Republic. Next, Roman Law was developed further upon the laws or statutes enacted by the senate or people; the edicts of the praetor; and the *responsa prudentum* or opinions of learned lawyers ó especially from B.C. 70 onward.

Lastly, added Blackstone, Roman Law rests upon the imperial decrees or constitutions of successive emperors [especially from B.C. 27 onward].... They were computed to be many camels' load...by an author who preceded Justinian.

That heavy load as it were weighed down the camels of the Continent ó but not one straw of it was ever placed on the back of Englishmen.

There was also mediaeval Rome's Canon Law. The Canon Law, explained Blackstone,<sup>97</sup> is a body of Roman Ecclesiastical Law, relative to such matters as **that** Church either has, or pretends to have, the proper jurisdiction over. This is compiled from the opinions of the antient Latin Fathers, the decrees of General Councils, [and] the decretal epistles and bulls of the Holy See [in the Vatican].... To these have been since added some decrees of later popes in five books.... All these together...form the *Corpus Juris Canonici*, or body of the Roman Canon Law.

### **Blackstone on the mandatory death penalty for murder and certain other crimes**

On the Common's Law's death penalty for murder, Blackstone stated in his *Commentaries* (IV p. 194): "Consider the crime of deliberate and **wilful 'murder'** – **a crime at which human nature starts**" (or is startled by). **It is (and certainly**

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<sup>94</sup> *Ib.*, I p. 5.

<sup>95</sup> *Ib.*, I pp. 14-18.

<sup>96</sup> *Ib.*, I pp. 80f.

<sup>97</sup> *Ib.*, I p. 82.

should be) “punished almost universally throughout the World, with death.ö Indeed, in Ancient Common Law ó before the destruction of the tower of Babel and the consequent scattering abroad of humanity into different nations ó this was always the case. Genesis 4:14 & 9:1-7 *cf.* 11:1-9.

öThe words of the Mosaical Law (over and above the general precept to Noah that ÷whoso[ever] sheddeth manø blood, by man shall his blood be shedø), are very emphatical in prohibiting the pardon of murderers. ÷Moreover, ye shall take no satisfaction for the life of a murderer, who is guilty of death; but he shall surely be put to death. For the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it.ø Genesis 9:6 *cf.* Numbers 35:31.

öTherefore,ö Blackstone explained further, öour law has provided one course of prosecution...wherein [**even**] **the king himself is excluded the power of pardoning murder**.... [Even] were the king of England so inclined ó he could not imitate that Polish monarch...who thought proper to remit the penalties of murder to all the nobility in an edict with this arrogant preamble: *nos divini juris rigorem moderantes &c.* ö ó namely ÷we by divine right moderating the rigourø *etc.*

öThe killing may be by poisoning, striking, starving, drowning, and a thousand other forms of death.... So too, if a man hath a beast that is used to do mischief; and he, knowing it, ÷suffersø it to go abroad and it kills a man ó even this is manslaughter in the owner. But if he had purposely ÷turned it looseø ó though barely to frighten people and make what is called sport ó **it is with us (as in the Jewish Law) as much murder as if he had incited a bear or a dog to worry them.**ö *Ib.* IV pp. 195f, *cf.* Exodus 21:28f.

What about deliberate abortion? States Blackstone: ö**If the child be born alive and dieth by reason of the [poisonous] potion or bruises it received in the womb, it is murder** in such as administered or gave them.... If any woman be delivered of a child which if **born alive** should by law be a bastard; and endeavours privately to conceal its death by **burying** the child or the like ó **the mother so offending shall suffer death**, as in the case of murder, unless she can prove by one witness at least that the child was actually born dead.ö

Premeditated murder must, of course, carefully be distinguished from involuntary manslaughter. Yet even the latter is a serious if lesser crime ó especially if amounting to negligent or culpable homicide. öFor the law,ö explained Blackstone, ösets so high a value upon the life of a man, that it always intends some misbehaviour in the person who takes it away ó unless by the command or express permission of the law.... He who slays his neighbour, without an express warrant from the law so to do, shall in no case be absolutely free from guilt.ö *Ib.*, IV pp. 186f.

öNor is the Law of England,ö continued Blackstone, ösingular in this respect. Even the slaughter of enemies required a solemn purgation among the Jews; which implies that the death of a man, however it happen, will leave some stain behind it. And the Mosaic Law (Numbers chapter 35 and Deuteronomy chapter 19) appointed certain cities of refuge for him ÷who killed his neighbour unawaresø... But it seems he was not held wholly blameless, any more than in the English Law. Since the avenger of blood might slay him before he reached his asylum, or if he afterwards stirred out of it till the death of the high priest.ö *Ib.*, IV pp. 187.

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However, Blackstone explained, felonious homicide is an act of a very different nature from the former, being the killing of a human creature of any age or sex without justification or excuse. This may be done either by killing one's self, or another man.

So the general principle, concluded Blackstone, is: Death is ordered to be punished with death.... This is the highest penalty that man can inflict, and tends most to the security of the World by removing one murderer from the Earth, and setting a dreadful example to deter others. *Ib.*, IV pp. 9f & 12f.

The other remaining offence of a capital nature on a par with murder and deliberate abortion, explained Blackstone, is manstealing. Kidnapping being the forcible abduction or stealing away of man, woman or child from their own country and selling them into another was capital by the Jewish Law. He that stealeth a man, and selleth him or, if he be found in his hand he shall surely be put to death. Exodus 21:16. So likewise in the civil law, the offence of spiriting away and stealing men and children...was punished with death. This is unquestionably a very heinous crime.... Therefore the Common Law of England has punished it. *Ib.* IV p. 219.

So to Blackstone and the Common Law murder, deliberate abortion, and manstealing alias kidnapping all merit the death penalty. So too do suicide, rape, bestiality, lesbianism and sodomy about which later.

**Blackstone on excellence of British Common Law  
above all forms of Roman Law**

We have already noted Blackstone's convictions that Ancient British Law is anchored in God's act of creation, in His laws of nature, and in the B.C. 1440f Mosaic Law. However, Roman Law even in its earliest form is anchored at base most deeply only in the B.C. 753f regal constitutions of the ancient kings of pagan Rome. Consequently, Ancient British Common Law is very much older indeed, immemorial (explains Blackstone) than is Ancient Pagan Roman Law.<sup>98</sup> However, we shall now see that also the contents of British Common Law is legally superior to that of Roman Law in all its changing forms.

Let us hear Blackstone first on the Law of Persons. In British Common Law, he explained,<sup>99</sup> "natural persons are such as the God of nature formed.... The absolute rights of man are co-extensive with his natural liberty, made as the image of that highly-personal God. Natural liberty consists properly in a power of acting as one thinks fit, without any restraint or control unless by the Law of Nature being a right inherent in us by birth, and one of the gifts of God to man at his creation.... Life is the immediate gift of God, a right inherent by nature in every individual.... It begins, in contemplation of law, as soon as an infant is able to stir in the mother's womb."

Ancient Roman Law, however, gave a father the right of life and death [*jus vitae et necis*] over his own child. Consequently, even abortion and infanticide thrived among the ancient Romans. Even under the later Christian Roman Emperors, the

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<sup>98</sup> See our text above at its nn. 94-96.

<sup>99</sup> Sir W. Blackstone: *Commentaries*, I pp. 119-28.

protection of tiny humans was inadequate. “For the Edicts of the [Culdee-Christian and Celto-Brythonic] Emperor Constantine, commanding the public to maintain the children of those who were unable to provide for them ó in order to prevent the murder and exposure of infants..., though comprised in the Theodosian Code ó were rejected in Justinian’s [Roman-Romish] collection.” Thus Blackstone.

On Political Rights, Blackstone greatly esteemed the British practice above the Roman. Said he:<sup>100</sup> “The Commons consist of all such men of any property in the kingdom as have not seats in the House of Lords ó every one of which has a voice in Parliament either personally or by his Representatives.” Roman mobocracy, however, soon led to tyranny. “When after the [B.C. 135f] social war all the burghers of Italy were admitted free citizens of Rome and each had a vote in the Public Assemblies, it...paved the way for Marius and Sylla, Pompey and Caesar ó to trample on the liberties of their country and at last to dissolve the Commonwealth...”

“In so large a State as ours [Britain] ó it is therefore very wisely contrived that the people should do that by their Representatives which it is impracticable to perform in person.” In other words, Blackstone favoured the republican or qualified representation of the people of Britain above the one-man-one-vote “democratic” system which finally destroyed the Roman Republic and produced the tyranny of the populist dictatorship of the Caesars.

Coming now to “Master and Servant” ó Blackstone insisted<sup>101</sup> that unlike the situation in Roman Law, “pure and proper slavery does not (nay cannot) subsist in England.... The three origins of the right of slavery assigned by Justinian, are all of them built upon false foundations.”

Also in the Law of Marriage, British Common Law is clearly superior to Roman Law. For Common Law stresses not just the rights but also the duties of both spouses to one another, and also toward their children ó far more than does Roman Law.<sup>102</sup> Indeed, they are confederate alias covenantal in nature. Genesis 2:23f; Malachi 2:14f; Matthew 28:19; Ephesians 6:1-4f.

### **Blackstone on the excellence of British Common Law above Roman Law (continued)**

We now turn to the British Common Law of Things. Blackstone noted<sup>103</sup> that “tithes...are defined to be the tenth part of the increase yearly arising and renewing from the profits of lands, &c.... Such a right certainly commenced...with the Jewish theocracy [Genesis 4:3f & 14:20 & 28:22 *etc.*]... All municipal laws have provided a liberal and decent maintenance for their national priests or clergy. Ours in particular have established this of tithes, probably in imitation of the Jewish Law.” This concept, however, is foreign to ancient Roman Law.

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<sup>100</sup> *Ib.*, I p. 154.

<sup>101</sup> *Ib.*, I pp. 411f.

<sup>102</sup> *Ib.*, I pp. 423-48.

<sup>103</sup> *Ib.*, II pp. 21-25.



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The British Common Law against trespass is clearly superior to that in Roman Law. "Trespass," explained Blackstone,<sup>104</sup> "signifies no more than an entry on another man's ground without a lawful authority, and doing some damage (however inconsiderable) to his real property.... The Roman laws seem to have made a direct prohibition necessary in order to constitute this injury...."

"But the Law of England, justly considering that much inconvenience may happen to the owner before he had an opportunity to forbid the entry, has carried the point much farther.... A man is answerable for not only his own trespass, but that of his cattle also. For if by his negligent keeping they stray upon the land of another...and they tread down his neighbour's herbage and spoil his corn or his trees, this is a trespass for which the owner must answer [cf. Exodus 21:35f]...."

"By the Common Law and custom of England, the poor are allowed to enter and glean upon another's ground after the harvest in order to be guilty of trespass. This humane provision seems borrowed from the Mosaic Law. Leviticus 19:9 & 23:22; Deuteronomy 24:19 etc."

The British Common Law of Succession certainly reflects the Bible [Proverbs 13:22 cf. Second Corinthians 12:14] in rather than pagan Roman Law. Wrote Blackstone:<sup>105</sup> "Testaments are of very high antiquity. We find them in use among the ancient Hebrews.... In Rome, they were unknown till the [B.C. 450] laws of the Twelve Tables were compiled, which first gave the right of bequeathing.... With us in England, this power of bequeathing is co-eval with the first rudiments of the law: for we have no traces or memorials of any time when it did not exist."

We now come to the British Common Law of Private Wrongs alias Torts or Delicts. "A Hundred Court" in wrote Blackstone<sup>106</sup> is the basic body to right private wrongs in Britain. "Its institution was probably co-eval with that of hundreds themselves..., being derived from the polity of the ancient Germans." Indeed, it seems to be more remotely derived from Ancient Israel (cf. Exodus 18:21f) in via the Ancient Britons. For speaking of the Celto-Britons in his *Gallic Wars*, the B.C. 55 Julius Caesar speaks positively of the judicial power exercised in their hundred courts....

"The hundredors or jury...were taken out of the common freeholders, and had themselves a share in the determination.... When the [sixth-century A.D.] *Pandects* of Justinian were discovered afresh..., they were studied by the popish ecclesiastics.... The bishops of Rome affected in all points to mimic the imperial [Roman] grandeur.... [This] banished the intervention of a jury (that bulwark of Gothic liberty)."

"When the people of Rome were little better than sturdy shepherds or herdsmen [around B.C. 450], all their laws were contained in...Twelve Tables.... The English Law is less embarrassed in declared Blackstone.<sup>107</sup> Thus, "the right of possession may be restored to him that is unjustly deprived thereof. But the right of possession (though it carries with it a strong presumption) is not always conclusive evidence of the right of property, which may still subsist in another man [cf. Exodus 22:7f].... The

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<sup>104</sup> *Ib.*, III pp. 208-13.

<sup>105</sup> *Ib.*, II pp. 490f & 519f.

<sup>106</sup> *Ib.*, III pp. 34f & 99f.

<sup>107</sup> *Ib.*, III pp. 327f & 190, and IV pp. 237-41.

Roman Law punished more severely than other thieves the *abigei* or stealers of cattle.... The *saccularii* or cutpurses were more severely punished than common thieves by the Roman and Athenian laws.<sup>ö</sup>

In respect of Britain, Blackstone explained<sup>108</sup> that trial by jury hath been used time out of mind in this nation ó and seems to have been co-eval with the first civil government thereof...as high as the Britons themselves, the first inhabitants of our island.... Certain it is that they were in use among the earliest Saxon colonies.... The trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English Law.... Rome, Sparta and Carthage have lost their liberties.... Rome, Sparta and Carthage were strangers to the trial by jury.<sup>ö</sup>

### **Blackstone on the excellence of British Common Law above Roman Law (concluded)**

Finally, we come to the British Common Law of Public Wrongs alias Crimes. Here Blackstone dealt with murder, manslaughter, suicide, adultery, bigamy, rape, bestiality, sodomy, assault, drunkenness, and religious crimes. Throughout, the Roman Law punishments of these crimes were mercurial. They usually differ(ed) from the more reasonable punishments prescribed thereagainst ó by British Common Law.

What about suicide? Blackstone explained<sup>109</sup> that self-murder, the pretended heroism but real cowardice of the Stoic philosophers who destroyed themselves to avoid those ills which they had not the fortitude to endure ó though the attempting it seems to be countenanced by the [pagan Roman] Civil Law ó yet was punished by the Athenian Law....

öThe Law of England wisely and religiously considers that no man hath a power to destroy life, but by commission from God the Author of it [*cf.* Acts 16:27f & Ephesians 5:28f].... The suicide is guilty of a double offence; one spiritual, in invading the prerogative of the Almighty and rushing into His immediate presence uncalled for; the other temporal, against the king, who hath an interest in the preservation of all his subjects.

öIt seems to be consonant to natural reason...that the punishment due to the crime of which one falsely accuses another, should be inflicted on the perjured informer.<sup>ö</sup> Deuteronomy 19:18-21. However, öwe may observe that punishments of unreasonable severity ó especially when indiscriminately inflicted ó have less effect in preventing crimes and amending the manners of a people [*cf.* Genesis 38:24], than such as are more merciful in general yet properly intermixed with due distinctions of severity [*cf.* Matthew 7:1]....

öFor the excessive severity of laws...hinders their execution. When the punishment surpasses all measure, the public will frequently ó out of humanity [alias humaneness] ó prefer impunity to it.... The laws of the Roman kings [B.C. 753-510], and the Twelve Tables of the *Decemviri* [B.C. 450], were full of cruel punishments.... Under

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<sup>108</sup> *Ib.*, III pp. 347-42 & 379 & 402-33.

<sup>109</sup> *Ib.*, IV pp. 188f.

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the emperors [B.C. 55f], severe punishments were revived ó and then [A.D. 300f], the Empire fell!ö<sup>110</sup>

Blackstone considered drunkenness in a very serious light. öVoluntarily contracted madness, by ðrunkennessø or intoxication ó while depriving men of their reason ó puts them in a temporary phrenzy. Our Law looks upon this as an aggravation of the offence.... The Roman Law [however,] indeed made great allowances for this vice: *per vinum delapsis capitalis poena remittitur* [ðthrough wine...a capital crime is remittedø]. But the Law of England, considering how easy it is to counterfeit this excuse ó and how weak an excuse it is (though real) ó will not suffer any man thus to privilege one crime by another!ö<sup>111</sup>

As to religious crimes, the Bible is much more in evidence as a standard in British Common Law than under Roman Civil Law. Thus, specifically papalism but not Catholicism is regarded as politically subversive under the former.<sup>112</sup> On the other hand, **public denial of the Trinity invites "penalties and incapacities"**<sup>113</sup> at **Common Law**.

Indeed, öblasphemy against the Almighty...or by contumelious **reproaches of our Saviour Christ**ö and öall profane scoffing at the Holy Scripture...are offences **punishable at Common Law by fine and imprisonment** or other infamous corporal punishment. For **Christianity is part of the laws of England**. Somewhat allied to this...is the offence of profane and common ðswearingø and ðcursingø... **If in any strange play, interlude or shew the Name of the Holy Trinity or Any of the Persons therein be used jestingly or profanely ó the offender shall forfeit.**ö Hollywood, note well!

öProfanation of the Lordø day or **'sabbath-breaking' is...punished by the municipal laws** of England.... The laws of [King Alfredø grandson the A.D. 940] King Athelstan forbad all merchandising on the Lordø day, under very severe penalties.ö<sup>114</sup> See Exodus 31:13f & Nehemiah 13:15-22.

öAnother **felonious offence**,ö added Blackstone,<sup>115</sup> öis what our law...calls ð**bigamy**ø... For ðpolygamyø can never be endured under any rational civil establishment [Genesis 2:23f cf. Malachi 2:14f] ó whatever specious reasons may be urged for it by the eastern nations, the fallaciousness of which has been proved fully by many sensible writers.

öBut in northern countries, the very nature of the climate seems to reclaim against it. It never having obtained in this part of the World ó even from the time of our German ancestors who...are content with one wife.ö This is in stark contrast to the filthy morals of the pagan Romans ó especially during the early imperial period, as described so luridly by their own writers Suetonius and Tacitus themselves.

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<sup>110</sup> *Ib.*, IV pp. 14-17.

<sup>111</sup> *Ib.*, IV pp. 20-26.

<sup>112</sup> *Ib.* IV pp. 51-54.

<sup>113</sup> *Ib.* IV pp. 44-50 & 59.

<sup>114</sup> *Op. cit.*, IV pp. 61-63.

<sup>115</sup> *Op. cit.*, IV pp. 163f.

A very grave offence against the female part...of His Majesty's subjects, continued Blackstone,<sup>116</sup> is the crime of **rape**.... This, by the **Jewish Law (Deuteronomy 22:25)**, was **punished with death**.... Rape was punished by the **Saxon Laws, particularly those of King Athelstan, with death**.... But [under Romish-Norman influence] this was afterwards thought too hard. Held the great Puritan Jurist Lord Chief Justice **Sir Matthew Hale, however: "Rape is a most detestable crime, and therefore ought severely and impartially to be punished with death**."

Lastly, Blackstone discussed<sup>117</sup> the unnatural crimes of bestiality and homosexuality (*viz.* **sodomy and lesbianism**). These unnatural crimes of the voice of nature and of reason and the express Law of God (Leviticus 20:13-15) determine to be **capital** of which we have a signal instance long before the Jewish dispensation, by the destruction of two cities by fire from Heaven [Genesis chapter 19]....

Our ancient law in some degree imitated this punishment (Britton chapter 9)... This offence of **being in the times of popery only subject to ecclesiastical censures** was made single felony by the Statute 25 of Henry VII...and felony without benefit of clergy by Statute 5 of Elizabeth.

How very superior, then, is British Common Law to Pagan Roman Law! And how much better is Christian English Law to papal Romish Law! For, according to Blackstone, the Common Law of England is far better than Roman Law as it prohibits abortion, infanticide and life-long slavery.

British Common Law protects liberty and private property to the hilt. It holds men fully accountable for private torts. It strenuously promotes true religion and undefiled or alias Biblical Protestantism. Indeed, it properly condemns not only theft and robbery but especially all kidnapping, murder, rape, and crimes against nature.

Only six years after the publication of Blackstone's *Commentaries*, the 1771 first edition of the *Encyclopaedia Britannica* appeared. Very significantly, it too asserted the Biblical Common Law capital punishments for murder, rape and blasphemy.

### **William Pitt or the Earl of Chatham on the Americans' right to be independent**

Just after the publication of Blackstone's *Commentaries* in 1765, William Pitt himself previously a Prime Minister of Britain adopted to the full the constitutional claim of America. According to English History Professor R.H. Green,<sup>118</sup> Pitt gloried in the colonial resistance (which was denounced by others in the British Parliament as rebellion).

In my opinion, said Pitt, this kingdom has no right to lay a tax on the Colonies.... I rejoice that America has resisted. Three millions of people so dead to all the feelings of liberty as voluntarily to submit to be slaves, would have been fit

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<sup>116</sup> *Ib.*, IV pp. 210-15.

<sup>117</sup> *Ib.*, IV p. 216.

<sup>118</sup> *Op. cit.*, p. 770.

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instruments to make slaves of the rest of the English-speaking people also in Britain herself. For America and Britain then as too now shared the same rights to enjoy the same liberties of the same Common Law.

After the 1766 repeal of the iniquitous *Stamp Act* of 1765, Pitt waxed even more eloquent in a speech before the British Parliament. "There is an idea in some," he stated,<sup>119</sup> "that the colonies are virtually represented in this House. I would fain know by whom an American is represented here? Is he represented by any knight of the shire, in any county in this kingdom? Would to God that respectable representation was augmented to a greater number! Or will you tell him that he is represented by any representative of a borough or a borough which perhaps its own Representative never saw?"

"This is what is called 'the rotten part of the constitution.' It cannot continue the century! If it does not drop, it must be amputated. The idea of a virtual representation of America in this House, is the most contemptible idea that ever entered into the head of a man. It does not deserve a serious refutation.

"The Commons of America, represented in their several Assemblies, have ever been in possession of the exercise of this, their constitutional right, of giving and granting their own money. They would have been slaves, if they had not enjoyed it!" Thus William Pitt.

### The Irishman Edmund Burke and his views on the American Revolution

Particularly after the Union of Britain (alias England & Wales) with Scotland in 1707; the termination of the British House of Orange upon the death of William in 1702; the expiry of the House of Stuart upon the death of Queen Anne in 1714; and the importation from Germany of Hanover of the House of Brunswick from that date onward the British Parliament and its Constitution had been elevated loftily over the monarchs of the new Royal House. The latter could, at first, not even leave the British dominions or without the permission of Parliament!

Consequently, the American Revolution of 1776 should have been directed more against the British Parliament than against the latter's "puppet" and "prisoner" King George III of England and America. Nevertheless, there were many in Britain and even in her Parliament who considered the American colonists were being wronged. One such British Parliamentarian was Edmund Burke or one of the greatest names in the history of political literature.

Burke was born in Dublin in 1729, the son of a successful attorney or solicitor. He became a student at Trinity College in 1743, and then went to the London Temple in 1750.

According to the *Encyclopaedia Britannica* and the *Encyclopedia Americana*,<sup>120</sup> the famous conservative Irish Protestant Edmund Burke or though a British patriot or

<sup>119</sup> Cited in *Historians' History*, XX:606.

<sup>120</sup> Arts. *Burke, Edmund* (in 1951 *Enc. Amer.* 5:45f and *Enc. Brit.* 4:412f).

was sympathetic to the American Revolution. In 1757, he wrote or helped write an *Account of the European Settlements in America*, and in 1758 he produced his *Abridgment of the History of England*.

The strong-arm methods of the English Whig Government in taxing the Americans during 1763, disgusted the British nation and at length even King George III. It did not, however, disgust the British Parliament. For the British Prime Minister, George Grenville, was out to enforce the supremacy of the British Parliament over everyone in the English-speaking countries. To Grenville, Britain's Parliament should dominate the British people; the British king; the people in the American colonies; and even the various American colonial legislatures.

Both Grenville and the previous Prime Minister Bute contrived to disadvantage both the American legislatures and the British king. But Grenville did this also through the enactment and/or execution of rigorous navigation laws; through taxes, under the *Stamp Act*, on all legal documents issued within the American colonies; and later through the *Regency Act* (which advanced the British Parliament by insulting the Queen Dowager).<sup>121</sup>

In 1765, Blackstone's *Commentaries* appeared. In that same fateful year, the British Parliament and with its *Stamp Act* infuriated the Americans.

Burke was Private Secretary to Lord Rockingham when the latter became Prime Minister, and was himself soon elected to Parliament. Within two weeks, he had strongly urged the repeal of the *Stamp Act*. Here he was successful. However, the damage in sowing American distrust of the British Government in London had already been done.

In 1770, Burke published his moderate and conservative *Thoughts on the Cause of the Present Discontents*. "Our Constitution," he wrote, "stands on a nice equipose and with steep precipices and deep waters upon all sides of it." Six years later, the British Parliament pushed the American legislatures over the edge of those precipices.

But first, in 1773, Burke visited France. There he observed with concern the rise of atheism and revolutionism and accurately predicted the coming of the bloody French Revolution (of 1789). He rightly denounced the French philosophers as miscreants and wretches. In his parliamentary speeches, he would always go to the root of things. Tirelessly he emphasized that, in the long run, violence defeats itself.

Burke's 1774 *Speech on American Taxation* and his 1775 *Speech on Conciliation*, are classics. In the first, he argued that the tea duty was useless to England for revenue, and served only to irritate the Americans. In the second, he urged England to be reconciled with America and by yielding to modest colonial demands. Burke (as too Pitt) clearly saw that in resisting the encroachments of parliamentary privilege in Britain and he was fighting a battle for the liberties of Britons too.

Edmund Burke himself no more adopted the doctrines of Jefferson in 1776 and than he adopted the doctrines of Robespierre in 1793. He says nothing about men being

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<sup>121</sup> R.H. Green: *op. cit.*, pp. 766-70; Brewer: *op. cit.*, pp. 611f.

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born free and equal. Nor does he ever deny that the British Parliament, being sovereign, had the right to tax the colonies.

What he does say, however, is this. The exercise of such a right was not practicable. Even if it were practicable, it would still be inexpedient. Even if it had not been inexpedient, once the colonies had taken to arms ó to crush their resistance militarily would not only be highly uncomfortable to the Americans. Far worse, it would be disastrous for the preservation of the ancient liberties of the Britons themselves. òThe question with me,ö explained Burke, òis not whether you have a right to render people miserable ó but whether it is not in your interest to make them happy!ö

**The international 1783 *Paris Peace Treaty*  
between Great Britain and the U.S.A.**

After the cessation of the tragic war between America and Britain, a felicitous *Definitive Treaty of Peace* ó beginning òin the Name of the most Holy & undivided **Trinity**ö was signed. This not only shows that it was not a Unitarian but a Trinitarian document. This also shows how strong Christian Trinitarianism still was in both Britain and America, at the time peace was signed between the two nations in Paris during 1783.

The document then went on<sup>122</sup> to assert that it has òpleased the divine Providence to dispose the hearts of the most serene and most potent Prince George III, by the grace of God King of Great Britain [on the one hand]ö ó òand of the United States of America [on the other] ó to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which they mutually wish to restoreö *etc.*

Significantly, this Christian peace treaty was signed on behalf of Great Britain not by the king ó but by òDavid Hartley Esq., Member of the Parliament of Great Britain.ö This shows where the power in Britain had long resided. This Christian peace treaty then appropriately concluded: òDone at Paris, this third day of September, **in the year of our Lord** one thousand seven hundred & eighty-three.ö

Thus did these **two Trinitarian-Christian Protestant nations** now go forth, each on its own way ó significantly, òin the Name of the most Holy & undivided Trinity.ö It is also significant that they also went forth ó on the way of the undivided Common Law.

The comments of English History Professor Brewer on the events immediately preceding and succeeding the signing of the above-mentioned treaty, are full of instruction. Evidencing a fine spirit of Christian conciliation between the two Protestant powers, they are worth quoting in full.<sup>123</sup>

òLord Shelburne hastened to renew the negotiations for a separate treaty with America. Dr. Franklin, and the three other American commissioners in Paris, did not

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<sup>122</sup> See R.B. Morris: *op. cit.*, pp. 461-65.

<sup>123</sup> *Op. cit.*, pp. 632f.

hesitate to respond to the advances of the British government. Great Britain recognized and satisfied the claims of the American loyalists, to the extent of nearly ten millions sterling for losses of real or personal property and for loss of income in trades or professions ó a splendid instance of good faith after so expensive a war.

õIt was not till June 1785 that George III had an interview with Mr. Adams, the first [Foreign] Minister from the United States. The king received Mr. Adams with affability and frankness. He remarked that he wished it to be understood in America that, though he had been the last to consent to a separation ó he would be the first to welcome the friendship of the United States as an independent power.ö

### **The Irishman Edmund Burke and his views on the ungodly French Revolution**

Eloquently, History Professor R.H. Green wrote in his *History of the English People*<sup>124</sup> that already in 1783 Burke clearly saw rising across the British Channel the embodiment of all that he hated ó an overturning founded on scorn of the past. For Burke was even then sensing the foreshocks and forerumbings of the French Revolution.

It threatened with ruin the whole social fabric which the past had reared ó the ordered structure of classes and ranks crumbling before a doctrine of social equality; a State rudely demolished and reconstituted; a Church and a nobility swept away in a night. Against the enthusiasm of what **he rightly saw to be a new political religion**, Burke resolved to rouse the enthusiasm of the old.

Six years later, in 1789, the Anti-Trinitarian French Revolution broke out. It was quite the worst calamity since the fall of man and the crucifixion of Christ. For **the French Revolution, in a very real sense, was the crucifixion of Christianity** ó and the immediate ancestor of humanism, socialism and communism.

Since then, its influence has spread internationally ó striving increasingly to dechristianize the West, and striving increasingly to thwart the christianization of the East. **We do not hesitate to label the French Revolution as radically Anti-Christian** ó because Anti-Trinitarian. As Professor Brewer stated in his edition of *Hume's History of England*: õThe Unitarians were the most ardent admirers of the French Revolution.ö<sup>125</sup>

Burke had seen the increasing atheism and revolutionism in France during 1773, and had even at that time predicted the French Revolution of 1789. Now, in November 1790, he aggressively proclaimed<sup>126</sup> his opinions further ó in his *Reflections on the Revolution in France*.

In the contest of Britain vs. America, the problem had been tyranny of the **British** Parliament over the Americans and their own colonial Parliament(s). **In France herself, however, the problem had been that new idol called õThe Peopleö ó versus**

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<sup>124</sup> *Op. cit.*, pp. 801.

<sup>125</sup> *Op. cit.*, p. 642.

<sup>126</sup> *Arts. Burke, Edmund* (in 1951 *Enc. Amer.* 5:45f and *Enc. Brit.* 4:412f).



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their own French Parliament. In both Britain and (to a lesser extent even in) France, however, the monarchs themselves were mere side-shows.

Edmund Burke had always insisted that liberty is inseparable from order. In France, he now saw nothing but disorder. More and more, Burke would now condemn the French Revolution of 1789.

After him, Groen van Prinsterer would dissect it<sup>127</sup> in his *Unbelief and Revolution*. Lenin in his work *Can 'Jacobinism' Frighten the Working Class?* would identify the French Revolution<sup>128</sup> as the Mother of Communism. Indeed, in his five-volume masterpiece *The Threat to the West*, Dr. J.G.J.C. Nieuwenhuis condemned both the French Revolutionary mother together with her three daughters Humanism, Socialism and Communism.<sup>129</sup>

In his own *Reflections on the Revolution in France*, the Irishman Edmund Burke though an ardent reformer became startled by the dangerous extravagances of democracy. According to Britain's Barrister Owen Flintoff,<sup>130</sup> in condemning the French Revolution the great Irish statesman spoke out against what he called this unreasoning liberty and its alliance with the worst form of slavery.

Explained Burke yet further of the French Revolutionists: This distemper of remedy is grown habitual and relaxes and wears out, by a vulgar and prostituted use, the spring of that spirit which is to be exerted on great occasions.... They see no merit in the good and no fault in the vicious management of public affairs. They rather rejoice in the latter, as [being all the] more propitious to revolution!

### Union between Britain and Ireland and the constant extension of the franchise

By the beginning of the nineteenth century, Union between the British and the Irish within the British Isles was seen as the only way of keeping them from drifting ever further apart. So in 1801, that Union was brought about thereby introducing many more Irishmen into the British Parliament.

This created the United Kingdom of Great Britain and Ireland, under the present British flag (the Union Jack). However, it also promoted the emancipation of the overwhelmingly Romanistic population in Southern Ireland<sup>131</sup> and helped prepare the way for the complete emancipation of Romish Britons themselves, some three decades later, also in England and Scotland.

Once again, the real solution was confederation, not union. The subsequent history of the creation of the Republic of Eire in the South of the island and its separation from the rest of Ireland during the twentieth century is not to speak of the

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<sup>127</sup> G.G. van Prinsterer: *Unbelief and Revolution*, Bottenburg, Amsterdam, 1908 ed.

<sup>128</sup> V.I. Lenin: *Can 'Jacobinism' Frighten the Working Class?* (in Lenin's *Collected Works*, Foreign Languages Publishing House, Moscow, 1961 ed.).

<sup>129</sup> J.G.J.C. Nieuwenhuis: *The Threat to the West*, Wever, Franeker, n.d., I-V.

<sup>130</sup> *Op. cit.*, p. 230.

<sup>131</sup> R.H. Green: *op. cit.*, pp. 814-17.

still unresolved problem of her relation to Royalist Ulster in Northern Ireland (with all of the internal political and religious tensions within both territories) ó surely establishes the unwisdom of the Union of 1801.

Far worse. From 1802 onward, Europe (and later even America) now became increasingly infected by the unholy aftermath of the 1789 atheistic French Revolution. Yet Britain was by and large, and to some extent still is, spared this *trauma*. Indeed, her Common Law was ó and to a considerable extent still is ó in place. It was her grounding anchor, amid the storms of the nineteenth and twentieth centuries ó and must still be, also beyond.

In 1828, the *Test Act* and the *Corporation Act* were repealed ó thus liberalizing the religious commitment till then needed to become a Member of Parliament in Britain. Instead of the test of being in harmony with the Anglican Communion, the person entering Parliament now had to pledge not to use his influence to subvert the Established Church.

To this, the clause ðon the true faith of a Christianö was inserted ó on motion by the Lord Bishop of Llandaff. That had the effect of excluding the Jews from Parliament, till the year 1858. But the clause was, even in 1828, very easily regarded as the forerunner of Roman Catholic emancipation.<sup>132</sup>

The passing of the *Roman Catholic Relief Bill* in 1829, required the following oath to be taken by every Roman Catholic before assuming his seat in Parliament: ðI do swear that I will defend to the utmost of my power the settlement of property within this realm, as established by law.... I do solemnly swear that I never will exercise any privilege to which I am or may become entitled, to disturb or weaken the **Protestant religion or Protestant government of the United Kingdom.**<sup>133</sup>

This was an over-reaction to prior discrimination of too vigorous a nature. This over-reaction soon led to an unhealthy voluntarism and humanism ó evidenced first by the *Reform Act* of 1832, next by the *Emancipation of Slavery Act* of 1834, and later by the *Jewish Emancipation Act* of 1858. Predictably, in 1859 a new uniform oath was instituted for all Members of Parliament. By 1866, Roman Catholics were no longer required to take a separate oath.<sup>134</sup>

As regards the *Reform Act* of 1832, certainly some adjustment was needed, as a result of the depopulation of the rural areas following the industrial revolution. It was obvious that a redistribution of parliamentary seats was called for. Progressive elements seized upon this to bring about an extension of the franchise itself.

As British Barrister Owen Flintoff remarked,<sup>135</sup> the *Reform Bill* of 1832 was finally carried under a Non-Conservative -Whigø Government. It was effected in a violent and sudden manner ó thereby teaching the unreflecting mass of people how to -forceø a continual and uneasy thirst for change.

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<sup>132</sup> Brewer: *op. cit.*, pp. 699f.

<sup>133</sup> Flintoff: *op. cit.*, p. 212.

<sup>134</sup> Brewer: *op. cit.*, p. 721.

<sup>135</sup> *Op. cit.*, p. 230.

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Since that time, in Britain and throughout the World, much of the very legitimate Christian concern for social conditions has degenerated more and more into Non-Christian Socialism. Yet the Common Law has endeavoured to hold its ground.

Especially as a result of the forces unleashed by the industrial revolution and the resulting economic and social dislocation, the need became pronounced for law and equity to become more integrated. This led to the passage of the *Judicature Act* of 1873.

According to London University Professor of Constitutional Law J.H. Morgan, K.C., the 1873 *Judicature Act* consummated the fusion of Common Law in Equity ó to be administered in the High Court öconcurrentlyö and indeed conjointly. As Maitland has stated (mindful of Matthew 5:17): öEquity had come not to destroy but to fulfilö the Common Law.<sup>136</sup>

**England's famous Social Scientist Walter  
Bagehot's dislike of Socialism**

British constitutionalist Walter Bagehot wrote his classic book *The English Constitution* in 1872. That was after the *Reform Bill* of 1832, and in an era when even further extensions of the franchise were being considered in Britain and elsewhere. His outline of the development of the British Constitution up till his own time, is full of instruction.

Referring to the time prior to the rise of Late-Mediaeval Statute Law, Bagehot explained<sup>137</sup> that in those old Parliaments the king could not change what was then the almost sacred *datum* of the Common Law. Even in the *Magna Carta* of 1215, the notion of new enactments was secondary. It was a sort of compact defining what was floating custom. Such great Charters were rather treaties between different orders and factions, confirming ancient rights.

The second period of the British Constitution begins with the accession of the House of Tudor [Henry VII in 1485], and goes down to 1688. It is in substance the history of the growth, development and gradually-acquired supremacy of the new Great Council. The slavish Parliament of Henry VIII grew into the murmuring Parliament of Queen Elizabeth, the mutinous Parliament of James I, and the rebellious Parliament of Charles I. The steps were many, but the energy was one ó the growth of the English middle-class, using that word in its most inclusive sense, and its animation under the influence of Protestantism.

A strong Evangelical spirit (as we should now speak) and a still stronger anti-papal spirit entered in to the middle sort of Englishmen. Hence the saying that Cromwell founded the English Constitution. His Dynasty was rejected, his Republic cast aside; but the spirit which culminated in him never sank again. The Corporation of London was for centuries a bulwark of English liberty. The conscious support of the near and organized capital gave the Long Parliament (from 1640 onward) a vigour and vitality.

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<sup>136</sup> See J.H. Morgan's art. *Common Law*, in 1929 *Enc. Brit.*, VI pp. ix & 23.

<sup>137</sup> W. Bagehot: *The English Constitution*, Nelson, London, 1872, pp. 369f.

The Glorious Revolution of 1688 changed the dynasty from a *de facto* Romanism under James II to a *de jure* Protestantism under William III. The rule of Parliament was definitely established in 1688. Here too, the appendages of a monarchy have been converted into the essence of a republic. British freedom is the result of centuries of resistance, more or less legal. It is only a "disguised republic" which is suited to such a being as the Englishman in a century such as the nineteenth. Thus Bagehot.

In his own pre-socialistic era, Walter Bagehot was not a Conservative but a Liberal. Nevertheless, he could still write:<sup>138</sup> "I am exceedingly afraid of the ignorant multitude of the new constituencies. I wish...to resist it.... Now that the suffrage is -universal- the average intellect and the average culture of the constituent bodies are excessively low.... The ultra-democratic theory...demands that every man of twenty-one years of age (if not every woman too) should have an equal vote in electing Parliament.

"Such a Parliament could not be composed of moderate men.... The electoral districts would return an unmixed squirearchy. The scattered small towns, which now send so many Members to Parliament, would be lost in the clownish mass.... The agricultural part of England would choose its representatives from quarter-sessions exclusively.... Town districts...would send up persons representing the beliefs or unbeliefs of the lowest classes....

"Each class would speak a language of its own; each would be unintelligible to the other.... The only thriving class would be the immoral representatives, who were chosen by corrupt machination, and who would probably get a good profit on the capital they laid out in that corruption.

"I do not consider the exclusion of the working classes from effectual representation, a defect" wrote Bagehot before the yet-further extension of the vote toward a fully-universal franchise. "The working classes contribute almost nothing to our corporate public opinion, and therefore the fact of their want of influence in Parliament does not impair the coincidence of Parliament with public opinion."

In many ways, Bagehot was a prophet. He tried to warn his nation against the idiocies and immoralities of the then-advent of 'Democratic' Socialism. A century later, in our own day and age, his predictions have come to pass.

### **Bagehot on the respective strengths of the British and American Constitutions**

Yet Bagehot still considered the British system to offer more real freedom than its American offspring. Said he:<sup>139</sup> "I have made many remarks on the American Constitution, in comparison with the English.... The English system is by far the best.

"The English Premier being appointed by the selection and being removable at the pleasure of the preponderant Legislative Assembly, is sure to be able to rely on that

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<sup>138</sup> *Ib.*, pp. 28, 53, 227f & 248.

<sup>139</sup> *Ib.*, pp. 56f.

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Assembly.... But the American President has no similar security. He is elected in one way at one time, and Congress (no matter which House) is elected in another way at another time. The two have nothing to bind them together, and in matter of fact they continually disagree.

öThe distinguishing quality of [British] Parliamentary Government is that in each stage of a public transaction, there is a discussion; that the public assist at this discussion; that it can, through Parliament, turn out an administration which is not doing as it likes, and can put in an administration which will do as it likes. But the characteristic of a Presidential Government is, in a multitude of cases, that there is not such discussion; that when there is a discussion, the fact of government does not turn upon it, and therefore the people did not attend to it.ö

On the other hand, continued Bagehot,<sup>140</sup> öthe division of the sovereign authority in the American Constitution is far more complex.... The Congress rules the law, but the President rules the administration.... The President can only make treaties -provided two-thirds of Senators presentøconcur....

öThe South, after a great rebellion [1861-65], lies at the feet of its conquerors. Its conquerors have to settle what to do with it.... A race...formerly enslaved, is now at the mercy of men who hate and despise it; and those who set it free, are bound to give it a fair chance.... The slave was formerly protected by his chains; he was an article of value. But now he belongs to himself. No one but himself has an interest in his life; and he is at the mercy of the -mean whites.øö

It might be objected that Britain's monarchy **inherently** implies a greater potential for tyranny than does American republicanism. However, Bagehot explained:<sup>141</sup> öMonarchy is a strong government.... It is an intelligible government.... It retains the feelings by which the heroic kings governed.... We have progressed....

öA **royal family** on the throne, is an interesting idea..... The women ó one half the human race at least ó care fifty times more for a [royal] marriage than a [political] ministry.... The English monarchy strengthens our government with the strength of religion.... The king...was the Lord's anointed.ö

Especially since the end of the eighteenth century, the British Constitution had become exemplary. Observed Bagehot:<sup>142</sup> öAccording to the *Act of Settlement* passed by the Whigs, the crown was settled on the descendants of the -Princess Sophiaø of Hanover, a younger daughter of a daughter of James I.... The Whigs...passed over...Catholics, and selected the Princess Sophia who...was a Protestant....

öIt was quite impossible to say that it was the duty of the English people to obey the House of Hanover upon any principles which do not concede the right of the people to choose their rulers.... Throughout the greater part of his life, George III was a kind of -consecrated obstruction.ø Whatever he did, had a sanctity.... He lived in a changing time.... When the French Revolution excited the horror of the World, and

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<sup>140</sup> *Ib.*, pp. 308f.

<sup>141</sup> *Ib.*, pp. 106f.

<sup>142</sup> *Ib.*, pp. 115f.

proved democracy to be ÷impiousøó the piety of England concentrated upon him, and gave him tenfold strength.

øThe Queen [Victoria] is the head of our society. If she did not exist, the Prime Minister would be the first person in the country.... A ÷republicø has **insinuated** itself beneath the folds of a **monarchy**.... Society in London...is no more ÷monarchicalø in fact than the society of New York.... We have come to regard the crown as the head of our **morality**. The virtues of Queen Victoria and the virtues of George III have sunk deep into the popular heart.

øThe American Constitution was made upon a most careful argument, and most of that argument assumes the king to be the administrator of the English Constitution ó and an unhereditary substitute for him, viz. a President, to be peremptorily necessary [for the United States].... There is indeed much excuse for the American legislators in the history of that time.ö

Though George III was an exemplary family man, his increasing insanity during his long reign (from 1760 till 1820) helped divide the English ÷Ephraimø from the American ÷Manasseh.ø Even the Englishman Bagehot conceded:<sup>143</sup> øDuring a great part of his life, George IIIø's reason was half upset.... He prolonged the American war; perhaps he caused the American war.... Constitutional royalty under an active and half-insane king, is one of the worst of governments.ö

Yet, ever before (and ever since) the establishment of the great American Republic, the monarch of Great Britain has had far less power than the President of the United States. For this reason, ever since the *U.S. Constitution of 1797*f, Britons have had more **constitutional** freedom than even Americans ó at least until Bagehotø's own time (1872).

Explained Bagehot:<sup>144</sup> øThe queen can, by law, do without consulting Parliament.ö However, øthere are two checks.... The first is the check of impeachment. Any minister who advised the queen so to use her prerogative as to endanger the safety of the realm, might be impeached for high treason ó and would be so.... The second is that it is only one House of Parliament which has much to say to this remedy.... The House of Commons only, can remove a minister by a vote of censure.... The Lower House is the ruling and the choosing House.ö

However, whereas the U.S. President may still veto his own Congress, øthe queen has no such veto. She must sign her own ÷death-warrantø ó if the two Houses unanimously send it up to her.... We must not bring the queen into the combat of politics, or she will cease to be revered by all....

øNow, the best Liberal politicians say...÷When history is written, our children may know what we owe to the Queen [Victoria] and Prince Albertø... During the period of the present reign [of Victoria]...the duties of a constitutional sovereign have...been well performed.ö Thus Bagehot. The same must be said of Queen Elizabeth II today ó F.N. Lee.

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<sup>143</sup> *Ib.*, pp. 163f.

<sup>144</sup> *Ib.*, pp. 36f & 131f.

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In comparing the British House of Lords with the American Senate, Bagehot observed<sup>145</sup> that the former is a hereditary repository of nobility of mind ó rather than a shrine representing the interests of the several States. Seeing the American Senate is elected on the basis of **locality**, it tends to compete against the Lower House ó much more than the British Lords have ever done against the Commons since even before the time of Cromwell.

On the other hand, the British House of Commons has far more power than the American House of Representatives. Explained Bagehot:<sup>146</sup> “The Commons is an Electoral Chamber. It is the assembly which chooses our president [the Prime Minister].... It dismisses whom it likes, too.... Its relations to the Premier are incessant.”

Unlike the American President in relation to his Congress, the British Premier coheres to Parliament. “He is to them, what they are to the nation. He only goes ó where he believes they will go after him.... The ultimate authority in the English Constitution, is a newly-elected House of Commons.”

Yet the 1872 Englishman Bagehot also lavishly praised America.<sup>147</sup> “Where education is diffused, and political intelligence is common ó it is easy for the mass of the people to elect a fair legislature. The idea is roughly realized in the North American Colonies of England [alias Canada], and in the whole free States of the Union [alias the United States].

“In these countries, there is no such thing as honest poverty. Physical comfort such as the poor cannot imagine here [in Britain], is there easily attainable by healthy industry.... The New England States [in both Canada and the U.S.A.]...have an education, a political capacity, and an intelligence such as the numerical majority of no people equally numerous has ever possessed.”

Till recently that has been true not only of Canada and the U.S.A., but also of Australia and New Zealand. Whether all four of those countries shall maintain their freedom or not, very much depends upon their ongoing reverence for their Common Law.

**The rise of British Socialism and its attacks  
against British Common Law**

Let us now take a brief look at the general condition of Britain at the end of the nineteenth and the beginning of the twentieth century. Here we see increasing attacks from Humanism, Socialism and Statism ó against the Biblical and Christian basis of British Common Law. This is not surprising. For the two fathers of Communism, Karl Marx and Friedrich Engels, laboured in Britain from 1849 onward ó for many decades.

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<sup>145</sup> *Op. cit.*, pp. 165f.

<sup>146</sup> *Id.*, pp. 209f & 313.

<sup>147</sup> *Ib.*, pp. 350f.

There, they infected the British Labour Movement ó at first directly (through their International Working Men's Association) and then indirectly (through Fabian Socialists like George Bernard Shaw). In this way, the British Labor Party (and so too its Australian offshoots) was fast turned into one of the most radical in the World. Mercifully, the Labor Party in both of those lands has since the end of the twentieth century sharply veered somewhat toward the right.

Edmund Burke had rightly warned, toward the end of the eighteenth century: "Whenever Parliament is persuaded to assume the offices of executive government ó it will lose all the confidence, love and veneration which it ever enjoyed whilst it was supposed to be the corrective and control on the acting powers of the State."

This had come to pass by 1914. Then, Oxford English Law Professor A.V. Dicey wrote: "During [the last] forty years, faith in Parliamentary Government has suffered an extraordinary decline.... This change is visible in every civilised country."<sup>148</sup>

It was the Statist Satan who had showed Jesus all the kingdoms of the World and alleged: "All these things will I give you, if you will fall down and worship me!" Matthew 4:8-9. As Lord Acton declared, among fallen humanity: "All power corrupts; and absolute power corrupts absolutely."<sup>149</sup> Especially during and right after the First World War (1914-18), there was a shift toward this kind of totalitarianism ó not just in Russia, but even in Britain herself.

Yet worldwide, things were then worst of all in Russia. Amid the chaos unleashed by the international dislocation during and following World War I, the great Russian Empire succumbed to the 1917 Communist Revolution. It was replaced, over an area of one-sixth of our planet's land surface, with the atheistic Soviet Union. This, Lenin rightly remarked, was the product of the French Revolution of 1789 ó and the socialist revolutions of 1848 and 1871 (*viz.* the "German Insurrection" and the "French Proletarian Revolution" and the "Paris Commune").

Yet, for several decades early in the twentieth century, the great London University Professor of Constitutional Law Sir William Holdsworth toiled on his greatest work ó the twelve-volume *History of English Law*. There he documented the earlier prosecution in Britain of somebody who had libelled the Trinity.<sup>150</sup>

Indeed, after himself becoming perhaps the leading legal historian in Britain, he observed: "Christianity is parcel of the Common Law of England, and therefore to be protected by it.... Whatever strikes at the very root of Christianity, tends manifestly to the dissolution of civil government."<sup>151</sup>

Eric Butler alleged in his book *The Essential Christian Heritage*<sup>152</sup> that till 1917 British Lord Chancellors had expressly stated Christianity was part and parcel of the English Common Law. But in 1917, a British House of Lords ó formerly a vital part of the British constitutional system when it used to provide a check and balance concerning the use of power, but now weakened over the years by the attacks of the

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<sup>148</sup> J. Lee: *Conscience Voting*, Veritas, Morley W.A., Australia, n.d., p. 27.

<sup>149</sup> Cited in E. Butler: *The Essential Christian Heritage*, Barr, Fitzroy Vic., Australia, 1971, pp. 5f.

<sup>150</sup> W.S. Holdsworth: *History of English Law*, Methuen, London, 1937 ed., VIII p. 408.

<sup>151</sup> See in G. Booth: *Our English Heritage*, p. 31 at n. 29.

<sup>152</sup> *Op. cit.*, pp. 10f.



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British Liberals ó declared that Christianity was no longer a part of the law of England.

In actual fact, however, the 1917 case of *Bowman v. Secular Society*<sup>153</sup> did not so declare. It held only that an offence against Christianity was no longer necessarily cognizable in the courts.<sup>154</sup>

However, as Professor Holdsworth succinctly stated: "It is not unlikely that Caesar, now that he has deliberately abandoned the task of securing for God the things that are God's, will find considerably greater difficulty in securing for himself the things that are Caesar's." Subsequent events have confirmed Professor Holdsworth's timely warning.

Today, human governmental authority itself has been undermined ó because the Fountain-head of all human authority, the Ontological Trinity, is denied. Truly, "the fool has said in his heart: "There is no God!" Psalm 14:1. Consequently, there will be no re-establishment of wise human authority ó until foolish men re-affirm the Almighty Triune God as the one and only Fountainhead in Whom they live and move and have their very existence. Acts 17:28.

Rightness in politics and economics will only be achieved ó when the scope, function and authority of human law is resolved. An eminent lawyer, Professor R.W. Chambers, has succinctly stated the issue. Declared Chambers: "Upon that difference ó whether or not we place Divine Law in the last resort above the law of the State ó depends the whole future of the World."

**Professor John Murray and his 1943  
article *The Christian World Order***

Wrote the renowned Scots-American Ethicist Professor John Murray of Westminster Theological Seminary in his 1943 article titled *The Christian World Order*: "It is the function of the Church to **proclaim** the world order to which God's sovereignty and Christ's headship obligate in every sphere.... The Bible is the only infallible rule of conduct for the civil magistrate in the discharge of his magistracy, just as it is the only infallible rule in other spheres of human activity....

"The civil magistrate derives his authority from God. Apart from divine institution and sanction, civil government has no right to exist. "The powers that be, are ordained of God." Romans 13:1.... It is responsible to God and therefore obligated to conduct its affairs in accordance with God's will.... The Word of God bears upon civil authority with all the stringency that belongs to God's Word.... Christian world order embraces the state. Otherwise there would be no Christian **world order**.

"To recede from this position or to abandon it, either as conception or as goal, is to reject in principle the sovereignty of God and of His Christ. The goal fixed for us by

<sup>153</sup> *Bowman v. Secular Society*. 1917 A.D. 406.

<sup>154</sup> See D.C. Mitchell's *Origins of the Australian [Legal] System*, in ed. I. Hodge's *Is This the End of Religious Liberty?* (Anzca, Homebush West, N.S.W., Australian, 1993, p. 22).

the Christian revelation is nothing less than a **Christian** state ó as well as Christian individuals, Christian families, and a Christian church....

ōCivil government, within its own well-defined and restricted sphere, must in its constitution and in its legislative and executive functions recognize and obey the authority of God and of His Christ and thus bring all of its functions and actions into accord with the revealed will of God as contained in His Word.ö *Collected Writings of John Murray*, I pp. 362-65.

### **The tragedy of the Second World War – and lawlessness as its awful aftermath**

Our present age has been, and is, one of great uprooting ó the direct consequence of the French Revolution and its attack against the Christian Social Order. The latter had governed the West for more than a millennium. The twentieth century, however, started off with the Anglo-Boer War of 1899-1902. Since then, humanity has witnessed two World Wars ó and enormous dislocation. At the time of this writing, 1993 ó war is still raging in Bosnia, Iraq, Somalia and various other places.

Significantly, one of the most influential Marxists of this century ó Professor Harold J. Laski (1893-1950), the famous Fabian Socialist Professor at the London School of Economics (and mentor of U.S. President John F. Kennedy) ó stressed that the idea of Christianity being an essential part of the British Constitution, must be rejected. Instead, Laski wanted to substitute the concept of the “sovereignty of Parliament” ó which to him seemed to mean the dictatorship of an atheistic Parliamentary Socialism.

This totalitarian concept is widespread today. As a result, modern governments now believe that if they can persuade a majority of electors to vote for them ó irrespective of how this is achieved, and without regard to the tininess of their majority ó they then have the “right” to do just as they like, at least until the next elections.<sup>155</sup>

Consequently, the “god” of so-called Democratic Socialism ó is “fifty percent plus” of the seats in Parliament. This democratic god of 50%+, is often attained by deceptively “bribing” universally-enfranchised voters into electing a party which ó through the mechanism of the socialistic graduated income tax ó will then redistribute wealth to the shifty, after overtaxing the thrifty.

This is a far cry from that period in England when, as described by Blackstone in his 1765 *Commentaries*, King Edward the First (1272-1307) had confirmed *Magna Carta* by Parliamentary Statute. “Thereby,” explained the great Blackstone, “the Great Charter was directed to be allowed as the Common Law. All judgments contrary to it, were declared void. Copies of it were ordered to be sent to all Cathedral Churches, and read twice a year to the people. And sentence of excommunication was directed to be...constantly denounced against all those that by work...or counsel acted contrary thereto, or in any degree infringed it.”

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<sup>155</sup> *Op. cit.*, pp. 10f.

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But now, the Second World War (1939-1945) brought about an even more significant slide toward Statism and Socialism. This can be seen in Wartime Britain and, even more sadly, even in Post-War Britain.

Formerly, maintained Butler,<sup>156</sup> as the Christian influence worked its way throughout Western Europe, it not only profoundly influenced the relations between individuals. It also had a modifying influence upon the manner in which military conflicts were conducted. Attempts were at that time made not to involve women, children, and the elderly. Mercy was then shown even to the defeated. Compare Deuteronomy 20:10-20.

However, with the erosion of the influence of Christianity on the modern highly-centralized Power State, this century has witnessed a return to the type of barbarism symbolized by the pagan Romans. "Total War" as practised during the Second World War saw a frightful destruction of churches and art treasures and many other physical products of Christian Civilization.

After the 1939-45 Second World War, the so-called "United Nations Organization" was manipulated by leftists. International treaties progressively continued to assail Christian Common Law and still do. Radical Islam, even more so.

**Queen Elizabeth II's 1953 Coronation Oath and  
the future of the Common Law**

Yet in 1953, Elizabeth II the new Queen of the British Commonwealth (the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, the Union of South Africa etc.) was asked<sup>157</sup> at her coronation: "Will you to the utmost of your power maintain the Laws of God and the true profession of the Gospel? Will you to the utmost of your power maintain in the United Kingdom the **Protestant Reformed Religion established by law**?" She responded: "All this I promise to do."

She was then given a Bible and told: "Our gracious Queen: to keep your Majesty ever mindful of the Law and the Gospel of God as the Rule for the whole life and government of Christian princes, we present you with this Book, the most valuable thing that this World affords. Here is Wisdom; This is the Royal Law [James 2:8-12]; These are the lively Oracles of God." Deuteronomy 17:14-20 & Romans 3:2.

Soon the prayer was rendered: "Hear our prayers, O Lord, we beseech Thee, and so direct and support Thy servant Queen Elizabeth that she may not bear the sword in vain; but may use it as the Minister of God for the terror and punishment of evildoers, and for the protection and encouragement of those that do well, through Jesus Christ our Lord." Romans 13:1-7.

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<sup>156</sup> *Op. cit.*, pp. 20.

<sup>157</sup> See the authoritative text of *The Coronation Service of her Majesty Queen Elizabeth II*, as found in ed. G. McLennan's *Understanding our Christian Heritage*, Christian History Research Institute, Orange NSW, Australia, 1987, pp. 48-56.

The queen was then given the sword, and told: “Receive this kingly sword.... With this sword do justice, stop the growth of iniquity, protect the holy Church of God, help and defend widows and orphans, restore the things that are gone to decay, maintain the things that are restored, punish and reform what is amiss, and confirm what is in good order; that doing these things you may be glorious in all virtue; and so faithfully serve our Lord Jesus Christ in this life, that you may reign for ever with Him in the life which is to come.”

The queen next had the orb, with its cross thereupon, placed in her hand. She was then told: “Receive this orb set under the Cross, and remember that **the whole World is subject to the power and empire of Christ our Redeemer.**”

Then the queen was given the royal sceptre, and told: “Receive the rod of equity and mercy. Be so merciful that you be not too remiss; so execute justice that you forget not mercy. Punish the wicked, protect and cherish the just, and lead your people in the way wherein they should go....”

“Be strong and of a good courage: **keep the Commandments of the Lord thy God, and walk in His ways! ... The Lord give you faithful Parliaments and quiet Realms; sure defence against all enemies; fruitful lands and a prosperous industry; wise counsellors and upright magistrates; leaders of integrity in learning and labour; a devout, learned and useful clergy; honest, peaceable and dutiful citizens!**”

The coronation was then concluded with the following moving Christian prayer: “Almighty and ever-living God..., grant that...Thy servant Elizabeth our Queen...may truly...administer justice, to the punishment of wickedness and vice, and to the maintenance of Thy true religion and virtue. Through Jesus Christ our Lord. Amen!”

### **Prime Minister Margaret Thatcher’s 1988 address to the Church of Scotland**

Precisely four centuries after Almighty God destroyed Romanism’s 1588 Spanish Armada, and precisely three centuries after the enthronement in Britain of the Presbyterian King William of Orange to replace the Romanist James II a very important event occurred. In 1988, the British Prime Minister addressed the General Assembly of the Church of Scotland.

There, Mrs. Thatcher identified herself as a Christian a believing in the substitutionary atonement of the Lord Jesus Christ. Like a modern Deborah, she then endeavoured to turn her nation back to the Lord God Who had made Britain “Great.”

Mrs. Thatcher declared:<sup>158</sup> “From the beginning, man has been endowed by God with the fundamental right to choose between good and evil.... We were made in God’s own image [Genesis 1:26f a and therefore we are expected to use all our own power of thought and judgment, in exercising that choice.

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<sup>158</sup> See M. Thatcher: *Christianity and Wealth* (in *Biblical Economics Today*, Institute for Christian Economics, Tyler TX, Aug.-Sept. 1988).

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øIf you try to take the fruits of Christianity without its roots, the fruits will wither. And they will not come again, unless you nurture the roots.... We must not profess the Christian Faith and go to Church simply because we want social reforms and benefits, or a better standard of behaviour ø but because we accept...the supreme sacrifice of Christ.

øMay I also say a few words about my personal belief in the relevance of Christianity to public policy ø to the things that are Caesarø? The Old Testament lays down: in Exodus the Ten Commandments as given to Moses; the injunction in Leviticus to love our neighbour as ourselves; and generally, the importance of observing a strict Code of Law.ø See Numbers and Deuteronomy.

øThe New Testament is a record of: the Incarnation; the teachings of Christ; and the establishment of the Kingdom of God.... I believe that by taking together these key elements from the Old and New Testaments, we gain: a view of the universe; a proper attitude to work; and principles to shape economic and social life.

øWe are told we must work and use our talents to create wealth. øIf a man will not work, he shall not eatø ø wrote St. Paul to the Thessalonians [Second Thessalonians 3:10].... You recall that Timothy was warned by St. Paul that anyone who neglects to provide for his own house[hold]...has disowned the faith and is øworse than an infidelø [First Timothy 5:8].... Intervention by the State must never become so great that it effectively removes personal responsibility. The same applies to taxation.

øPoliticians must see that religious education has a proper place in the school curriculum. The Christian religion...is a fundamental part of our national heritage. For centuries, it has been our very lifeblood.

øIndeed, we are a nation whose ideals are founded on the Bible. Also, it is quite impossible to understand our history or literature without grasping this fact. That is the strong practical case for ensuring that children at school are given adequate instruction in the part which the...Christian tradition has played in moulding our laws, manners and institutions.

øNowhere in the Bible is the word ødemocracyø mentioned. Ideally, when Christians meet as Christians to take counsel together their purpose is not (or should not be) to ascertain what is the mind of the majority ø but what is the mind of the Holy Spirit: something which may be quite different [Exodus 23:2].... No majority can take away God-given human rights.ø

As the American Christian economist Dr. Gary North has pointed out:<sup>159</sup> øMrs. Thatcher is doing the statesmanø job, and doing it well. She is calling a nation [the United Kingdom of Great Britain] ø back to its religious roots.ø

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<sup>159</sup> G. North: *Biblical Economics Today*, Institute for Christian Economics, Tyler TX, Aug.-Sept. 1988.

**The roots of the Common Law still ready to bear  
more fruits toward 2000 A.D.**

Thus spake Britain's Prime Minister Margaret Thatcher, in 1988. However, before then, two centuries had passed since the ungodly French Revolution of 1789 had raised its ugly head in Paris and sought to replace more than a thousand years of Christian Law with its own revolutionary new order.

Yelled Paris: "No God and no Master!" Indeed, the Russian Revolution of 1917 even according to Lenin was and is but the product of the French.

Since 1789 and especially since 1917, our Christian Common Law (rooted in the incorruptible Triune God) has increasingly been challenged by a humanistic sociologized law (proceeding from the unregenerate heart of fallen and corrupt mankind). Respect for all law has correspondingly dwindled. God's certain authority has more and more been replaced by mere pragmatic convention.

Predictably, social cohesion has increasingly broken down, and crime has rapidly increased. Humanists by and large have not yet realized that law as such cannot long be maintained once its ethical sub-structure and especially its religious foundation has been eroded. The legal flower has been amputated from its ethical stalk and particularly from its divine root. The cut flower currently still blooms though fadingly so. Soon it will shrivel and die unless re-engrafted onto the root which bore it.

Humanistic Law is actually a misnomer for pseudo-legal sociology and has no long-range future. Historically, it will collapse into anarchy or otherwise invoke the transcendent reaction of vertical religious recommitment. A resurgence of Christian-Biblical Law is provided it re-asserts its classic comprehensive scope, and resumes its confident eschatological focus and must necessarily replace the bankruptcy of humanism.

British Common Law is under attack. Since the enactment of the permissive *Abortion Act* of 1967, some four million Britons have been slaughtered before their births. The so-called European Community and its 1985 *Convention on Human Rights* would override the Common Law. Britain's sovereignty has been betrayed by her own ratification of the infamous *Maastricht Treaty*.

Indeed, her own *Housing and Urban Development Act* of 1993 thievlily enables leaseholding tenants to force unwilling owners to sell even their own ancestral real estate. Ungodliness and AIDS still increase. Islam and Romanism march again. Humanism and the "New Age" movement are on the advance.

Yet also since the 1990s, the World has seen Iron Curtain Communism crack and crumble. The Christian Triune Gospel is again going forth into all the World and conquering, and to conquer. Matthew 28:19f & Revelation 6:2 and till Revelation 15:3-4!

### Summary: Britain from the Restoration and the "Glorious Revolution" till 1993

We summarize. We have seen it was on the basis of the ancient Common Law liberties re-asserted by the Puritan Westminster Assembly and the Commonwealth of England, that there was a restoration of limited monarchy under Charles II. Sadly, the romanized Charles then broke his word and began to oppress the Puritans in his realm. Yet still, the Puritan Sir Matthew Hale was elevated to Lord Chief Justice of England. Indeed, the resistance to the tyranny of Charles constantly increased.

After the romanizing reign of his successor, the Romanist King James II, there followed the arrival and entrenchment in Britain of the Presbyterians King William and Queen Mary. The famous historian Lord Macaulay rightly assessed the British *Declaration of Right* at that time as being of major importance to constitutional freedom.

This can be seen also from the *Oath of Allegiance* to William, the *Toleration Act*, and the *Coronation Oath*. Indeed, the 1689 British *Bill of Rights* or the *Act for Declaring Rights and Liberties* evidences the triumph of Puritanism in the British Isles at the 1688 -Glorious Revolution.

After the *Act of Settlement* of 1701 and the death of William in the next year, there followed the 1702-14 reign of the Protestant Queen Anne. Britain (alias England & Wales) entered into Union with Scotland as Great Britain, in 1707. The land prospered.

On the death of Queen Anne, the House of Brunswick was imported from Germany to occupy the childless British throne. This led to a great strengthening of the British Parliament, at the expense of both the monarchy and the people.

The long and epoch-making reign of George III commenced in 1760. During that time, Sir William Blackstone wrote his immortal *Commentaries* on the Common Law of England in 1765. There, he traced its history from creation, to its being threatened by mediaeval Romanism; then through its fightback against the Norman Conquest, till the Protestant Reformation; and also as regards its increasing restoration thereafter. Comparing British Common Law to Ancient Roman Law, Civil Law and Canon Law Blackstone extolled the excellence of British Common Law above all forms of Roman Law. In this way, he strengthened the Common Law both in Britain and in her Colonies overseas.

Even in the British Parliament, William Pitt the Earl of Chatham championed the Americans' right to be independent. Also the conservative Irishman Edmund Burke was somewhat sympathetic there.

After the tragic war between America and Britain, the blessed international *Peace Treaty* of 1783 was signed in the Name of the most Holy and undivided Trinity. Yet Burke soon rightly excoriated an entirely different development of the ungodly French Revolution of 1789.

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Union between Britain and Ireland in 1801, rather than a preferable confederation, constantly stimulated the further extension of the franchise and, alas, also the gradual deprotestantization of the British Isles. As the eminent social scientist Walter Bagehot has shown, the rise of British Socialism and we ourselves would say, also because strengthened by the revolutionary residency of Marx and Engels in Britain for many decades and occasioned many attacks against British Common Law.

Also the tragedy of the First and Second World Wars produced a terrible lawlessness and as their awful aftermaths. Yet the future of the Common Law and of the Protestant Reformed Religion throughout the British Commonwealth was upheld in and is still being upheld by and Queen Elizabeth II's 1953 *Coronation Oath*.

This is why Prime Minister Margaret Thatcher could suitably remind the Church of Scotland in 1988 that we are a nation whose ideals are founded on the Bible. Consequently and especially after the recent collapse of Communism, and in spite of the onslaught of "New Age" thinking and the roots of the Common Law still stand ready to bear yet more fruits. Indeed, under the blessings of the Triune God, it will continue to do so and into the twenty-first century, and beyond.