

**The Cromwellian ‘Other House’ and the Search  
for a Settlement, 1656-1659**

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Balliol College  
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Michaelmas Term 2010

A thesis submitted in fulfilment of the requirements for the degree of Doctor of Philosophy

## **Abstract**

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This thesis seeks to illuminate a blind spot in the scholarship of the later Cromwellian Protectorate by focusing on an intriguing innovation in the parliamentary constitution of 1657 – the creation of an upper chamber or ‘Other House’. The Other House may have filled the void left vacant by the defunct House of Lords, but it did not necessarily mean that the Protectorate was backsliding its way towards the ancient constitution of King, Lords and Commons. Although many aspects of ceremony and procedure remained exactly the same as its predecessor, its functions were reformulated and its membership was significantly different. The life peers nominated by Oliver Cromwell to sit there were politically, religiously, socially and geographically diverse. Yet, Cromwell’s attempt to nominate a chamber that would please all sides ultimately ended up pleasing nobody; instead of bringing definition to the constitutional arrangement, his choices simply muddied the waters further. The resulting mood was one of apathy among civilian Cromwellian MPs in the second session of the second Protectorate Parliament towards both the Other House and the settlement as a whole. More importantly, the Other House was never a bulwark for the military Cromwellians; it did not institutionalise the army’s position within the constitution. Although this posed no immediate problem under the Protectorate of Oliver Cromwell, it came to the fore following the succession of his conservative-minded son Richard. When the Commons and Protector united behind an anti-military programme in April 1659, the military Cromwellians found themselves outnumbered and outmanoeuvred in the Other House. Unable to protect their interests by constitutional means, the military men turned to their ultimate source of strength – the army. In forcing the Protector to dissolve Parliament, they undermined completely the constitutional arrangement and effectively sealed the end of the Protectorate regime.

## **Long Abstract**

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There is a pressing need for a re-examination of the final years of the Cromwellian Protectorate. Usually written off in the historiography as a brief interlude on the inevitable road to Restoration, the political dynamism and potential of the Protectorate has been ignored. This thesis seeks to galvanise this forgotten period of Interregnum studies by concentrating upon the constitutional history of the later Protectorate – specifically the introduction in 1657 of a new upper chamber or ‘Other House’. By exploring the functions, membership and activities of this upper chamber, as well as the debates surrounding its creation and recognition in the House of Commons, this thesis will help to answer a number of key questions relating to the Protectorate’s demise.

Primarily, it challenges the assumption that the Protectorate was in terminal decline following Oliver Cromwell’s refusal of the Crown. Although the Other House assumed a position analogous to that of the defunct House of Lords it was more than a ghostly relic of the old institution. Its functions were reconceptualized, and its membership was far removed from that of its predecessor. Secondly, besides highlighting the crucial role played by upper chambers in seventeenth century parliaments, this study illuminates further the issue of Oliver Cromwell’s troubled relationship with his parliaments. Thirdly, it touches upon the role of the army within

the Protectorate and the limited success with which the regime could ever break free from its military foundations. Finally, it provides a basis for a comparative study of the divergent approaches of Oliver and Richard Cromwell to the task of ruling.

The first chapter explains why the decision was taken to revive bicameral parliaments after eight years without an upper chamber. Fundamentally, the Other House provided answers to many of the constitutional difficulties that had plagued the various Interregnum regimes throughout the 1650s. On the one hand, it provided a judicial balance over the House of Commons. This was certainly a pressing issue in the wake of the 1656 case of James Nayler in which the Commons had claimed the judicial powers of the defunct House of Lords to proceed against the Quaker without prior consultation with the Lord Protector. The whole episode confirmed to Cromwell that a check upon the persecuting spirit of the Commons was vital. Yet, the judicial powers given to the Other House were not simply a restitution of those previously enjoyed by the House of Lords. Although the rules established under the *Humble Petition and Advice* offered a safeguard against arbitrary judicial proceedings for the future they also provided a crucial check against the sort of burgeoning judicial claims that emanated from the House of Lords in the 1620s and 1640s.

The Other House was also of vital importance because of its ability to operate as a legislative check over the Commons. The House of Lords had been abolished in 1649 because it would not stomach the political coup initiated by a committed minority in the House of Commons. Yet, without an upper chamber, the unicameral parliaments of the Interregnum had been relatively unfettered and, from Cromwell's point of view, were often uncontrollable. Obsessed with ensuring that the 'godly' interest was

preserved, Cromwell resorted to a series of purges, exclusions or dissolutions when Parliament failed to live up to his expectations. The Other House, however, provided a new opportunity for Cromwell by establishing a permanent, institutionalised balance to preserve his minority interest without recourse to the sort of arbitrary actions seen in the previous decade.

The final portion of the first chapter deals with the constitutional origins of the Other House. It is suggested that while the civilian and military Cromwellians were divided over the offer of the Crown to Cromwell, both sides agreed on the necessity of resurrecting an upper chamber – albeit for very different reasons. Moreover, following Oliver Cromwell’s refusal of the kingship in May 1657 the Other House became the focus of civilian and military Cromwellians alike for the future direction of the settlement as a whole. With the constitution left in a highly anomalous position, Cromwell’s nominations to the upper chamber would provide greater definition to the likely nature of the future settlement. Both sides hoped to institutionalise their position within the constitutional arrangement and trusted that the Lord Protector would choose a membership that would represent their own interest.

The second chapter examines those choices in detail to discover what they reveal about Cromwell’s aspirations for the Other House. The relative lack of old English peers summoned is highly suggestive. Besides being a source of disappointment for the civilian Cromwellian supporters of the regime, it also provides further evidence against suggestions that the Protectorate was backsliding its way towards the ancient constitution. Indeed, Cromwell was conspicuously keen to distance himself from the hereditary peerage and consciously sought to separate hereditary titles from

parliamentary office. Rather, the majority of those chosen were men without titles and of comparatively low birth compared to the old House of Lords. Although there were clearly a high number of Cromwell's friends and relations among the membership they were also mostly men experienced in the government of the nation over the previous decade and heavily interested – both financially and politically – in the future success of the Protectorate regime.

Cromwell's nominations to the Other House also suggest an attempt to achieve a degree of balance. Contrary to the assertions of contemporary critics and credulous historians the Other House was never a bastion for the army or the military interest. Although the military Cromwellians had a sizeable minority of members in the Other House they were not the preponderant influence there. Indeed, the membership was relatively balanced in terms of its political outlook – albeit there was a slight majority given to the civilian supporters of the Protectorate. Moreover, the membership of the Other House was also weighted conspicuously in favour of men who shared Oliver Cromwell's religious outlook. Although a small number of religious conservatives were chosen, the overall majority were men who were firm advocates of liberty of conscience and limited toleration. The result was that the membership of the Other House mirrored Cromwell's contradictory personality – it was largely conservative in politics but also radical in religion. Finally, the Other House was also geographically representative of both England and the British Isles as a whole. Like the Commons, the membership deliberately incorporated a number of members for both Scotland and Ireland, thereby creating a truly 'British' Parliament.

Chapter three examines what happened when the Other House met for the first time in January 1658. A number of high-profile absentees among those summoned to the Other House meant that the careful balances that Cromwell had tried to construct were undermined. Moreover, the return of those MPs excluded from the first session of the second Protectorate Parliament, coupled with the elevation of many of the government's most influential supporters to the Other House, had a significant impact on the nature of the parliamentary session. Disillusioned by Cromwell's choices to the Other House, many of those who had once been strong advocates for the Other House now fell silent. Although, the response of Cromwell and a number of leading courtiers was to style the Other House as a 'House of Lords' – thereby hoping to placate conservative sensibilities while also providing the upper chamber with a foundation that was not simply grounded in the Commons' parliamentary constitution – few were willing to recognise it as such.

In this climate of parliamentary paralysis the Republican opponents of the regime were able to capitalise. The arguments they launched against the Other House represented a clever two-pronged attack that played to the fears of radical and conservative men alike. In the mean time the Other House, lacking any acknowledgement from the lower chamber, was left to its own devices. Although it would attempt to initiate communications with the Commons through a series of messages to the lower chamber, these served to exacerbate rather than soothe relations between the two Houses.

Cromwell soon lost his patience with the whole situation. Not only did the prospects of fostering a working relationship between the Commons and Other House look to

be a long way off but also the deliberations within Parliament had sparked a potentially dangerous agitation campaign outside of it. Fearing that the army were about to be subverted, Cromwell acted swiftly – abruptly dissolving parliament and cashiering recalcitrant army officers. Ultimately, this survey of the Other House during the short-lived second session of the second Protectorate Parliament provides two significant conclusions. First, that Cromwell’s vision of a settlement based upon compromise and balance was not shared by the majority of his supporters; frustrated by the continued ambivalence that shrouded the constitutional arrangement many fell silent as the regime’s opponents took the lead in debate. Second, and more importantly, it shows that for all his talk of compromise, Cromwell always ensured that the needs of the army took priority over any other political considerations or constitutional niceties.

The manner in which Oliver’s son and successor, Richard Cromwell, dealt with both Parliament and the army is a different matter. Although it has been suggested recently that Richard was both a victim of circumstance and a much shrewder politician than his father, the final portion of this thesis implicitly questions this rehabilitation of his reputation as Lord Protector.

Chapter four, which examines the nature of debate in the House of Commons concerning the Other House during the third Protectorate Parliament, provides a reprise of some of the themes suggested in the previous chapter. This chapter provides detailed analysis of the way in which the opponents of the regime operated and co-operated during the parliament and offers a check to the assertions of those revisionist

historians who stress the inherently consensual nature of parliamentary politics in this period.

Undoubtedly, the nature of Richard Cromwell's House of Commons was significantly different to that of the previous Protectorate Parliaments. Not only was it much larger but also there was a significant influx of inexperienced conservative members. The presence of these men did much to colour the nature of the debates over the Other House. As in 1658, debate increasingly hinged upon the absence of the old peers and there were numerous calls to restore the ancient peerage to their birthright of sitting in the upper chamber. When pursued to their logical conclusions, especially in the speeches of a number of crypto-Royalist MPs, such arguments had an extremely damaging potential for the Protectorate regime. As such, those close to the Court strove to defuse those pleas for the old lords by absorbing them into the broader issue of transacting with the incumbent Other House.

Frustrated by the way they were being outmanoeuvred by the Court the opponents of the regime – both Republican and crypto-Royalist – joined together in an intriguing, but wholly cynical, alliance designed to dissuade the majority in the Commons from voting in favour of transacting with the Other House. Their ultimate failure to prevent the passage of the Commons' vote in favour of recognising and transacting with the Other House, however, effectively confirmed the impotence of the government's opponents and prompted them to look for political influence elsewhere – most notably in the army.

The final chapter then turns to the Other House itself and its role in the events that led up to the dissolution of the third Protectorate Parliament. Although Richard Cromwell had a golden opportunity to alter significantly the membership of the Other House at his accession to the lord protectorate he chose not to do so. It was not a matter of constitutional straitjacketing, but reflected his own political preferences – the majority of those already sitting in the Other House were his conservative, civilian allies. As this chapter demonstrates, the consequences of Oliver Cromwell’s nomination of a founding membership that leaned towards the civilian interest was brought into sharp focus during the third Protectorate Parliament. It became all too obvious for the military contingent that the Other House was not a sufficient bulwark for their interest.

The activities of the Other House prior to their recognition by the Commons are touched upon briefly. Unlike the 1658 parliamentary session, the Other House did not attempt to force the issue upon the lower chamber through high-handed messages but occupied itself with a range of business, establishing numerous committees along the way. Only when the Commons had finally accepted the Other House as integral within Parliament, however, could the two Houses finally set about parliamentary business. It was at this point that the imbalance in the membership of the Other House became increasingly obvious for the military Cromwellians. Already alienated by a number of anti-military actions and outbursts in the Commons, the army grandees in the Other House felt exposed, turning to the General Council of Officers for relief. When Richard and the Commons launched a pre-emptive strike designed to prevent all future meetings of the General Council and send the officers back to their regiments, the military found they had no constitutional means to uphold their

interest. Although they tried to prevent the passage of these anti-military resolutions through the Other House their resistance proved to be nothing more than delaying the inevitable. Unable to control parliament from within, the army grandees applied external force instead.

The military Cromwellians had become painfully aware that the Other House offered them very little. The whole experience of the third Protectorate Parliament had reinforced the growing sense of isolation felt by the military Cromwellians during Richard Cromwell's Protectorate. Their response, in the wake of the collapse of the Protectorate regime, was to seek to establish a select senate of army officers to act as a balance upon future parliaments that would institutionalise their position in a manner that the Other House had failed to do.

The ultimate failure of the Protectorate is neatly encapsulated in the history of the Other House. Conceived by Oliver Cromwell, it was designed to please a wide range of interests but ended up satisfying very few. Although the military Cromwellians were not allowed a majority there by the Protector, this mattered little under Oliver. When parliamentary business appeared to be moving in a direction which compromised the army's interest, he simply intervened and removed parliament altogether. Richard, on the other hand, had no such sympathies and leaned decisively in the opposite direction, to the regime's civilian supporters. Unable to trust in the Protector, the military Cromwellians strove to counter the conservatism of the parliamentary majority in the Other House. When this failed they turned to their ultimate locus of power – the army – using force against both Protector and Parliament.

## **Acknowledgements**

Like Oliver Cromwell, I find myself having to look into the providential factors that brought this work into being. In that respect my first acknowledgement should be to the Arts and Humanities Research Council; without their generous funding this research would never have been possible.

But while my financial burdens have been light, I have accrued a number of intellectual debts during the course of researching and writing this thesis. Besides the extremely useful comments I have received at numerous seminars and conferences at Oxford, Cambridge, the Institute of Historical Research and the History of Parliament, there are three individuals to whom I owe particular gratitude. First and foremost, I must thank Lyndal Roper who, from my very first term at Oxford, inspired me greatly – her enthusiasm and encouragement for history, even when faced with my most prolix of undergraduate essays, continues to astound me to this day. My apprenticeship in all things Cromwellian was facilitated greatly by the Commonwealth and Protectorate Special Subject in my final year as an undergraduate. My tutors, who furnished me with the skills of my trade, were two men who have since become very dear friends: George Southcombe and Clive Holmes. Indeed, a special word should go to Clive who, as my long-suffering supervisor, has commented tirelessly on numerous drafts of my work and whose knowledge and enthusiasm for the Interregnum have been both an invaluable source of encouragement and a bottomless mine of information. Our regular coffee meetings, in the Senior Common Room of Lady Margaret Hall, may not have had the same mystery as those clandestine meetings between the Protector and his confidants in the

smoke-filled chambers of Cromwellian Whitehall, but they were every bit as lively and enthralling for me.

I must also thank Ruth Faram, Paul Howard, Grant Tapsell and Daniel Walters who have provided me with unreserved encouragement and have managed to keep me sane throughout the entire process of researching and writing this thesis. My ultimate gratitude, however, goes to my parents and family. They continue to be my inspiration and have given their unquestioned love and support even in the most difficult of times. It is to them that I dedicate this work.

Finally, I would like to thank the staff of all the libraries and archives that I have visited while conducting the research for this thesis. Particular thanks go to Adrian Ailes of the National Archives, Sally Larkin and Hazel Forsythe of the Museum of London and the archivist of Sidney Sussex College Library Nicholas Rogers. I also wish to express my thanks to the Duke of Northumberland for permission to consult and quote from His Grace's unpublished manuscripts.

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## Abbreviations and Conventions

Bodl.	Bodleian Library, Oxford
BL	British Library, London
<i>Boyle State Letters</i>	T. Morrice (ed.), <i>A Collection of the State Letters of the Right Honourable Roger Boyle</i> (1742).
<i>Burton</i>	J.T. Rutt (ed.), <i>The Diary of Thomas Burton</i> (4 vols., 1828).
<i>Carlyle</i>	T. Carlyle (ed.), <i>The Letters and Speeches of Oliver Cromwell</i> , rev. S.C. Lomas (3 vols., 1904).
<i>CJ</i>	<i>Journal of the House of Commons.</i>
<i>Clarke Papers</i>	C.H. Firth & F. Henderson (eds.), <i>The Clarke Papers</i> (5 vols., Camden Society, 1891-1901, 2005).
<i>CSPD</i>	<i>Calendar of State Papers, Domestic.</i>
<i>CSPV</i>	<i>Calendar of State Papers, Venetian.</i>
DRO	Derbyshire Record Office, Matlock.
<i>EHR</i>	<i>English Historical Review</i>
<i>Gardiner, Constitutional Documents</i>	S.R. Gardiner (ed.), <i>The Constitutional Documents of the Puritan Revolution, 1625-1660</i> , 3rd edn. rev. (Oxford, 1906).
<i>Gaunt, Lansdowne</i>	P. Gaunt (ed.), <i>The Correspondence of Henry Cromwell, 1655-1659: From the British Library Lansdowne Manuscripts</i> (Camden Society, 5th Series, 31, 2007).
<i>G.E.C., Baronetage</i>	G.E. Cokayne, <i>The Complete baronetage</i> (6 vols., Exeter, 1900-1909).
<i>G.E.C., Peerage</i>	G.E. Cokayne, <i>The Complete peerage of England, Scotland, Ireland, Great Britain, and the United Kingdom, extant, extinct, or dormant</i> , rev. V. Gibbs et al. (13 vols., 1910-1959).

Guizot, <i>Richard Cromwell</i>	F.G.P. Guizot, <i>History of Richard Cromwell and the Restoration of Charles II</i> , trans. A.R. Scoble (2 vols., 1856).
<i>HMC Lords</i>	Historical Manuscripts Commission, <i>The Manuscripts of the House of Lords, Volume IV: 1699-1702</i> , new series (1908), pp. 503-67 [Appendix: 'The Journal of the Protectorate House of Lords'].
<i>LJ</i>	<i>Journal of the House of Lords</i>
<i>Ludlow</i>	C.H. Firth (ed.), <i>Memoirs of Edmund Ludlow</i> (2 vols., Oxford, 1894).
<i>Merc. Pol.</i>	<i>Mercurius Politicus</i>
Mus. of Lon.	Museum of London
<i>Nicholas Papers</i>	G.F. Warner (ed.), <i>The Nicholas Papers: Correspondence of Sir Edward Nicholas</i> (4 vols., 1920).
<i>ODNB</i>	<i>Oxford Dictionary of National Biography</i>
<i>Pub. Int.</i>	<i>The Publick Intelligencer</i>
Schilling	W.A.H. Schilling, 'The Parliamentary Diary of Sir John Gell, 5 February – 21 March 1659' (Vanderbilt University, M.A. thesis, 1961).
Stephen	W.S. Stephen (ed.), <i>Register of the Consultations of the Ministers of Edinburgh and some other Brethren of the Ministry</i> (2 vols., Scottish History Society, Edinburgh, 1930).
<i>Thurloe</i>	T. Birch (ed.), <i>Collection of the State Papers of John Thurloe</i> (7 vols., 1742).
TNA	The National Archives.
Vaughan	R. Vaughan (ed.), <i>The Protectorate of Oliver Cromwell, and the State of Europe during the early part of the Reign of Louis XIV</i> (2 vols., 1839).
<i>Wariston Diary</i>	J.D. Ogilvie (ed.), <i>The Diary of Sir Archibald Johnston of Wariston, Volume III, 1655-1660</i> (Scottish History Society, 3rd series, 34, Edinburgh, 1940).

*Whitelocke Diary*

R. Spalding (ed.), *The Diary of Bulstrode Whitelocke, 1605-1675* (British Academy, Records of Social and Economic History, new series, 13, Oxford, 1990).

Worc. Col. Oxf.

Worcester College, Oxford.

In quotations from early modern material I have retained the original spelling (except that ‘u’, ‘v’, ‘i’ and ‘j’ have been rendered according to modern usage), punctuation and use of italics. Dates are given in old style, but the year is taken to start on 1 January. The place of publication of printed works in the above list, and in the footnotes, is London unless otherwise stated.

## Introduction

### The Other House and the Search for a Settlement, 1656-1659

Too often the Cromwellian Protectorate has been written-off as a period of inevitable, terminal decline. Categorised by revisionists as marking a ‘retreat from revolution’, the Protectorate was a monarchy in all but name – a hair’s breadth away from the ancient constitution so forcefully removed in 1649.<sup>1</sup> In particular, the period following Oliver Cromwell’s rejection of the Crown in 1657 has excited little interest among modern scholars. It is too often consigned to the briefest of epilogues in studies of the Interregnum or a cursory introductory paragraph to the Restoration.<sup>2</sup> With the story seemingly so well known, there has been little interest among historians to give it further consideration; in Patrick Little’s nice phrase, the Protectorate has been cast in the role of the ‘Cinderella of Interregnum studies’.<sup>3</sup> It is time for a rethink. The Restoration was never inevitable; it was the culmination of over a decade of political trial and error, with numerous wrong turns and blind alleys along the way. In particular, there is a pressing need to re-examine the final years of the Protectorate to explain both why the regime failed and whether its decline really was ineluctable. Some steps have already been taken in this direction; most noticeably

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<sup>1</sup> B. Coward, ‘Introduction’, in P. Little (ed.), *The Cromwellian Protectorate* (Woodbridge, 2007), p. 2; R. Sherwood, *Oliver Cromwell: King In All But Name, 1653-1658* (Stroud, 1997). This view has also been given fresh emphasis in K. Sharpe, *Image Wars: Promoting Kings and Commonwealths in England, 1603-1660* (New Haven, 2010), pp. 463-537.

<sup>2</sup> Firth’s two-volume history of the final years of the Protectorate was supposed to form the concluding volumes of S.R. Gardiner’s, *History of the Commonwealth and Protectorate* – continuing his narrative ‘down to the Restoration of Charles II’. It concludes, however, with Oliver’s death, omitting Richard’s Protectorate completely, see C.H. Firth, *The Last Years of the Protectorate, 1656-1658* (2 vols., 1909), ii, 305-7; G.E. Aylmer, *Rebellion or Revolution? England 1640-1660* (Oxford, 1986), p. 190; T. Barnard, *The English Republic, 1649-1660*, 2nd edn. (Harlow, 1997), pp. 67-69; T. Harris, *Restoration: Charles II and His Kingdoms, 1660-1685* (2005), p. 43; C. Holmes, *Why Was Charles I Executed?* (2006), pp. 175-6. Notable exceptions are G. Davies, *The Restoration of Charles II, 1658-1660* (Oxford, 1955); A.H. Woolrych, ‘Historical Introduction (1659-1660)’ in R.W. Ayers (ed.), *The Complete Prose Works of John Milton, Volume VII: 1659-1660*, rev. edn. (New Haven, 1980), pp. 1-228; A.H. Woolrych, *Britain in Revolution 1625-1660* (Oxford, 2002) pp. 707-79; R. Hutton, *The Restoration: A Political and Religious History of England and Wales, 1658-1667* (Oxford, 1985), pp. 3-123.

<sup>3</sup> Little (ed.), *Cromwellian Protectorate*, p. i.

scholars have begun a serious investigation of the political institutions of the Protectorate. By looking more closely at the inner-workings of the Cromwellian constitution and the Protector's role within that arrangement, it has been possible to shed more light on the inherent dynamism and progressive nature of the regime. Most fruitful in this respect have been a number of investigations into the Cromwellian Privy Council and a more recent volume on the nature of parliaments and politics under the Protectorate.<sup>4</sup>

This thesis will develop this trend by examining another Cromwellian institution that has been given comparatively little attention in most studies of the Protectorate: the 1657 creation of a new parliamentary upper chamber or 'Other House'.<sup>5</sup> Although it only ever sat for two brief parliamentary sessions, its significance was much greater than historians have previously recognised. It will be the contention of this thesis that by studying more closely the Other House it is possible to advance our understanding of the final years of the Cromwellian Protectorate in four key areas.

First, it will bring into question the supposed retrograde tendencies of the Protectorate regime. The fact that the Other House filled the void left by the defunct House of Lords means there are obvious comparisons to be made between the new chamber

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<sup>4</sup> See for instance P. Gaunt, '“The Single Person's Confidants and Dependents”? Oliver Cromwell and his Councillors', *Historical Journal*, 32 (1989), pp. 537-60; P. Gaunt, '“To Create a Little World out of Chaos”: The Protectoral Ordinances of 1653-1654 Reconsidered', in Little (ed.), *Cromwellian Protectorate*, pp. 105-26; J. Peacey, 'The Protector Humbled: Richard Cromwell and the Constitution', in Little (ed.), *Cromwellian Protectorate*, pp. 32-52; B. Worden, 'Oliver Cromwell and the Council', in Little (ed.), *Cromwellian Protectorate*, pp. 82-104; P. Little & D.L. Smith, *Parliaments and Politics during the Cromwellian Protectorate* (Cambridge, 2007).

<sup>5</sup> By far the most detailed published study remains C.H. Firth, *The House of Lords during the Civil War* (1910), esp. pp. 240-68. A detailed biographical study of the membership is provided by G.E.C., *Peerage*, iv, 585-648: 'Appendix G: The Protectorate House of Lords'. More recently, the Other House has been examined in Little & Smith, *Parliaments and Politics*, esp. chps. 7 & 8, but this pays more attention to the Other House's judicial functions and touches lightly on the chamber beyond its relationship with the Commons. The most detailed but unpublished study is M. C. Hart, *The Upper House During the Protectorates of Oliver and Richard Cromwell* (University of London, M.A. Thesis, 1929).

and its predecessor. It provides a pertinent case study for whether the Protectorate was backsliding into the ancient constitution of King, Lords and Commons. By looking closely at the functions and personnel of the Other House, it will be possible to test the characterisation of the Protectorate as either a dynamic or a regressive regime. As such, the central purpose of this thesis is to discover whether the Other House really was just a House of Lords in all but name or if it was something different – an innovation rather than a restoration of what went before. Indeed, in the wake of Oliver Cromwell’s refusal of kingship, it is arguable that this Other House took central importance as the lynchpin for the success of the Cromwellian settlement as a whole. For the Protectorate’s supporters it held the key to the future direction of the settlement; the nature of the Other House provided a good indicator of whether the regime was ever likely to revert to monarchy or not.

The second area to which this thesis will make a significant contribution is the study of Parliaments in the mid-seventeenth century. Not only does it explain the fundamental necessity for upper chambers or senates during this period, but it also provides a deeper insight into the tempestuous relationship between Oliver Cromwell and his parliaments. While few now subscribe to Trevor-Roper’s characterisation of Cromwell as the bumbling back-bencher incapable of keeping his parliaments in check, there is also reason to question the revisionist trend, typified by the work of Peter Gaunt and Derek Hirst, which stresses the considerable degree of consensus in Cromwellian parliaments.<sup>6</sup>

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<sup>6</sup> H. R. Trevor-Roper, ‘Oliver Cromwell and His Parliaments,’ in Roots (ed.), *Oliver Cromwell: A Profile* (1973), pp. 91-135; D. Hirst, ‘Concord and Discord in Richard Cromwell’s House of Commons’, *EHR*, 103 (1988), pp. 339-58; P. Gaunt, ‘Oliver Cromwell and his Protectorate Parliaments: Co-operation, Conflict and Control’, in I. Roots (ed.), *“Into Another Mould”: Aspects of the Interregnum*, 2nd edn. (Exeter, 1998), pp. 70-97; Little & Smith, *Parliaments and Politics*, pp. 102-5.

Following a string of purges and forced dissolutions throughout the previous decade, the return to bicameral parliaments in 1657 presented fresh problems and opportunities for the Protector in his quest to bring Parliament into line with his own worldview. The Other House provided Cromwell with a legislative and judicial balance over the freely elected representative that was completely of his own choosing. Indeed, much of the effectiveness of the Other House as a balance would rest in Cromwell's nominations to that chamber. In examining who he chose to sit there – including their political, religious, social and geographical backgrounds – it is possible to uncover further Cromwell's aspirations for both his Parliaments and the settlement as a whole. Indeed, this study will provide fresh emphasis to the work of David Smith by suggesting that Cromwell's forlorn hope of reconciling the godly interest with the nation at large was an inherent part of his thinking in nominating the Other House.<sup>7</sup>

Moreover, the Other House was itself a matter of intense debate during both the second and third Protectorate Parliaments. Although the parliamentary constitution that brought it into being was conceived by the House of Commons, there was a growing reluctance in the lower chamber to own the Other House as their superiors. This paradox is in need of some explanation and can be attributed largely to the choices that Oliver Cromwell made when nominating its membership. Throughout these debates over the propriety of having an upper chamber, one can discern a number of arguments that touched upon the very foundations of political power. Not

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<sup>7</sup> D.L. Smith, 'Oliver Cromwell, the first Protectorate Parliament and Religious Reform', *Parliamentary History*, 19 (2000), pp. 38-48; D.L. Smith, 'Oliver Cromwell and the Protectorate Parliaments', in Little (ed.), *The Cromwellian Protectorate*, pp. 14-31; Little & Smith, *Parliaments and Politics*, pp. 127-70.

only are these debates fascinating in themselves but they also reveal a great deal about the nature of ‘opposition’ during the Protectorate. Analysis of these debates must question any suggestion that the Protectorate Parliaments conformed to a model of consensus. Instead, it will be suggested that the way in which the regime’s opponents operated – particularly the Republicans – was much more nuanced than historians such as Roots, Peacey or Hirst have recognised. Their tactics were never as crude as simple filibuster nor were they the actions of principled politicians striving to uphold the letter of parliamentary procedure.<sup>8</sup>

The third theme on which this thesis touches is the involvement of the military in politics during the Interregnum. Although it is anachronistic to suggest that the Cromwellian Protectorate was a ‘military dictatorship’ akin to the totalitarian regimes of twentieth century Europe, it is indisputable that it was inherently ‘military’ in character.<sup>9</sup> Ever since the army had first taken to politics in the spring of 1647, it had established itself as a significant player in the future settlement of Britain. It was the army that had facilitated the series of political coups that ended with the establishment of the Protectorate; it was a group of army officers who first brought the regime into being by drafting the *Instrument of Government*. At times of political and spiritual crisis, Oliver Cromwell relied heavily on the military; most notably during the short-lived major-generals experiment. Undoubtedly, the army was a key issue with which the regime had to contend – both in terms of the massive financial

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<sup>8</sup> I. Roots, ‘The Tactics of the Commonwealthmen in Richard Cromwell’s Parliament’ in D. Pennington & K. Thomas (eds.), *Puritans and Revolutionaries, Essays in Seventeenth-Century History presented to Christopher Hill* (Oxford, 1978), pp. 283-309; Hirst, ‘Concord and Discord’, pp. 339-58.

<sup>9</sup> A.H. Woolrych, ‘The Cromwellian Protectorate: A Military Dictatorship?’, *History*, 75 (1990), pp. 207-31; D. Massarella, ‘The Politics of the Army and the Quest for Settlement’, in Roots (ed.), *“Into Another Mould”*, pp. 101-133.

burden needed to pay it and the perennial threat of renewed civil war should it divide or turn against the ruling powers.

Traditionally, the Other House has been seen as yet another example of the omnipotence of the military within the regime. Historians have tended to take the ‘strong military flavour’ of the Other House as a fact so well known that it merits neither qualification nor citation.<sup>10</sup> But it is a view that has been taken for granted for too long. This thesis will re-examine the composition of the Other House in order to discern whether the position of the army, or more specifically the military Cromwellians, really was institutionalised under the *Humble Petition and Advice*. It will be contended that the reality was much less gratifying to the military group than historians have previously realised. By moving beyond the accusations of hostile commentators a much more complex reality emerges. Indeed, it will be suggested that it was the inherent weakness of the military men in the Other House that ultimately helped to hasten on the collapse of the Protectorate regime.

Finally, this work offers a much needed comparative study of the two Lord Protectors. Recently, attempts have been made to ‘rehabilitate’ Richard Cromwell’s reputation as Lord Protector. Richard, we are told, was never as inept or inexperienced at the task of ruling as many of his opponents would claim. Rather, he was a victim of circumstances; trapped within the bounds of a constitutional arrangement that offered him very little room to manoeuvre. Whereas Oliver Cromwell acted unscrupulously, bulldozing constitutional niceties whenever he felt

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<sup>10</sup> See for example P. Little, ‘Introduction’, in P. Little (ed.), *Oliver Cromwell: New Perspectives* (Basingstoke, 2009), p. 13; Firth, *Last Years*, ii, 23-4; Firth, *House of Lords*, pp. 248-9, 252; Davies, *Restoration*, pp. 48, 59-60; D. Hirst, ‘Concord and Discord’, pp. 350-1.

the need to do so, Richard sedulously sought to uphold an inadequate constitution and was ultimately undone by it.<sup>11</sup>

By looking at the Other House and its role in the Cromwellian constitution under both Oliver and Richard it is possible to test this thesis, and the corollary suggestion that Richard was the ‘shrewder politician’ of the two Lord Protectors, further.<sup>12</sup>

Ultimately, personality is still a key factor for explaining the survival of the regime – it was Oliver Cromwell’s willingness to operate outside of the rules at moments of political crisis that ensured that the Protectorate survived before his death. As this thesis demonstrates, Oliver knew all too well the importance of balance – placating both civilian and military opinion while never totally falling into the hands of either. Richard, on the other hand, had none of his father’s tact. He leaned heavily upon his civilian, conservative allies thereby alienating those leading army officers who had helped orchestrate his succession to the Protectorate. In dealing with the Other House, Richard left the military Cromwellians solely at the mercy of the constitutional arrangement – failing to intervene when matters turned against them. This was not simply a matter of constitutional straitjacketing; it was a reflection of Richard’s political preferences. True, there is a case for claiming that the regime was growing stronger under Richard; the very fact he was not in the same mould as his father reconciled a great deal of the conservative nation at large. Yet, it was nothing more than a chimera. The constitutional arrangement was no substitute for the finer arts of man-management; the Protectorate only ever worked so long as the Protector was a man who was willing to operate outside of the constitution rather than be subsumed by it.

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<sup>11</sup> J. Peacey, ‘“Fit for Public Services”: The Upbringing of Richard Cromwell’, in Little (ed.), *Oliver Cromwell: New Perspectives*, pp. 241-64; Peacey, ‘Protector Humbled’, pp. 32-52.

<sup>12</sup> Little & Smith, *Parliaments and Politics*, pp. 300-1.

## A Note on Sources

Although problems with specific sources have been highlighted in the footnotes and bibliography, there are two groups of sources which require further comment and explanation.

This thesis relies heavily upon the parliamentary diaries of Thomas Burton, Guibon Goddard and John Gell. Of these three diaries, only that of Thomas Burton MP for Westmorland is readily available in print.<sup>13</sup> But the utility of this edition is weakened by a significant number of errors in transcription, compounded by the idiosyncratic editing practices of John Toland Rutt. Rutt's edition of Burton is the most readily available account for the Cromwellian period as a whole – covering, with only a few gaps, the entire sitting of the second and third Protectorate Parliaments – but it is replete with problems especially the third and fourth volumes which cover Richard's parliament.

The problem stems from the fact that Rutt also utilised the parliamentary diary of the Norfolk MP Guibon Goddard, which covers the first Protectorate Parliament (from its opening to 18 December 1654) and the third Protectorate Parliament (from its beginning to 5 March 1659).<sup>14</sup> As the only surviving record of debate in the first Protectorate Parliament, Rutt published the first portion of Goddard's diary as a preface to his first volume of *Burton's Diary*.<sup>15</sup> Yet, Rutt also made use of Goddard for his volumes covering Richard's parliament as well. For the first few days of debate, Rutt is diligent enough to reproduce the contents of Goddard as a series of

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<sup>13</sup> The original manuscript of Burton's diary is at BL, Additional MS 15859-64.

<sup>14</sup> BL, Additional MS 5138 (Goddard's Diary), pp. 1-283. The manuscript is an eighteenth century copy of the original, which is now lost.

<sup>15</sup> *Burton*, i, i-ecxii.

footnotes beneath the relevant sections of Burton's account, thereby providing a useful parallel text.<sup>16</sup> But Rutt soon abandons this practice and simply inserts material from Goddard without advertising the fact.

The consequence is that debate during the third Protectorate Parliament looks a lot more tedious and tautological than it actually was. Often a speech seems repetitive, not because Burton recorded it that way, but because Rutt has combined both Burton's and Goddard's account into a single text without removing or combining those sections that record the same details or, even worse, contradict one another.<sup>17</sup> As such, there is a pressing need to re-examine the original manuscript of Burton's diary, especially for the period before 5 March 1659 when the accounts of Burton and Goddard overlap. That historians have been reluctant to engage in this task is understandable – Burton's handwriting is extremely difficult to read – but the rewards of perseverance are great.<sup>18</sup> Therefore, all key quotations in this thesis have been checked against the original manuscripts of both Burton and Goddard and, where there are any significant differences, the appropriate references have been given.

The third and final parliamentary is that of John Gell, MP for Derbyshire in Richard Cromwell's parliament. Part of this diary, covering the period from 5 February to 21 March 1659, has already been edited by William Albert Hayden Schilling as an unpublished M.Phil. thesis. However, Schilling did not consult the original manuscript (now at the Derbyshire Record Office in Matlock) but relied on a

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<sup>16</sup> See for example *Burton*, iii, 7, 11, 13-16, 26-30, 36-7, 49, 51, 58-60.

<sup>17</sup> A salient example of this is the speech made by John Hobart on 28 Feb. 1659. See chapter 4, pp. 235-8 for more discussion on this.

<sup>18</sup> Although an 'updated' version of Rutt emerged in 1974, there was no effort to check Rutt's transcription against the original or unpick the two diarists for the 1659 session. See J.T. Rutt, *The Diary of Thomas Burton*, rev. I. Roots, P. Pinckney & P.H. Hardacre (New York, 1974).

microfilm at Vanderbilt University and appears to have been oblivious to the fact that there was an additional manuscript that takes Gell's account up to 8 April 1659.<sup>19</sup> Gell's diary is much shorter than the other two and is generally more difficult to follow – especially during the period from 5 February to 1 March when the diarist failed to note the names of speakers. As such, much of the utility of Gell is through comparison with the other two diaries; albeit, as will be demonstrated in this dissertation, there are occasions when Gell records details missed by Burton or Goddard. Schilling's transcription has been cited throughout this thesis but has been checked against the original and corrected where necessary.

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The second group of sources that need further discussion concern the Other House itself. Undoubtedly, part of the reason why the Other House has been given relatively little attention by historians is the paucity of source material. While there is much information from parliamentary diaries on the debates in the Commons there are no equivalent sources for the Other House. The best source for understanding the scope of the Other House's business is the little-known draft journal of the Other House that survives among the Tangye Manuscripts at the Museum of London.<sup>20</sup> Although this document has been transcribed and is available in print, it has been given very little attention by historians.<sup>21</sup> I have cited the printed version of the journal throughout the thesis apart from where argument turns on the physical appearance of the original.

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<sup>19</sup> Schilling, pp. 1-2. The original of Gell's Diary is DRO, MS D3287/60/8 a-c and DRO, MS D258/10/9/2, fols. 1-32.

<sup>20</sup> Mus. of Lon., Tangye MS 11a, fols. 1-62r.

<sup>21</sup> *HMC Lords*, pp. 503-67.

Intriguingly, there also survives a fragment of the ‘finished’ version of the journal among the archives at Sidney Sussex College, Cambridge covering the period 28-30 January 1658.<sup>22</sup> Why only this section of the finished journal has survived is a matter of conjecture, but it is instructive that the majority of its pages contain a copy of the Lord Protector’s speech to Parliament on 25 January 1658, making it the sole surviving ‘official’ record of that speech.<sup>23</sup> Overall, however, the draft journal of the Other House remains the focus of this dissertation, because it provides an outline of the activities of the upper chamber throughout the second and third Protectorate Parliaments. Although the information given in the draft journal is of minimal quantity – amounting to little more than the heads of debates and attendance lists – it will be demonstrated that, if one looks deeper and reads the material alongside contemporary correspondence and other printed accounts, much can be gleaned from this hitherto neglected source.

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<sup>22</sup> Sidney Sussex College Library, Cambridge, MS 109, fols. 1-4v.

<sup>23</sup> See discussion in chapter 3, p. 170.

## **Chapter 1: The Origins of the Other House**

The parliamentary constitution of 1657 has long been debated by historians because of its offer of kingship to Oliver Cromwell. It represented Cromwell's best opportunity to secure a firm and lasting settlement by returning to the 'known ways' of the ancient constitution. By contrast, studies of the Protectorate beyond Cromwell's refusal of the Crown in May 1657 tend to be fleeting and stress a process of inevitable and terminal decline. This fixation with the offer of the Crown has intensified in recent years, with a number of studies seeking to explain why Cromwell was offered the Crown rather than why he went on to refuse it.<sup>1</sup> The origins of the 'kingship' party have been attributed to the growing weariness among the moderate majority of MPs with the arbitrary, military direction in which the regime had been heading. The *Humble Petition and Advice* offered Cromwell the chance to break free from 'military' influence and establish a regime that would find acceptance among the nation at large.

Yet, this shift of emphasis has meant the man at the centre of the debate has been conspicuously sidelined. Few now agree with the notion that Cromwell sought the Crown; the caricature of a Machiavellian Cromwell scheming for the kingly title, but prevented from doing so at the eleventh-hour by military pressure, is largely absent from recent historiography.<sup>2</sup> Yet, with explanations of self-aggrandisement discounted, there has been very little explanation of what Cromwell actually did want

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<sup>1</sup> See for example C. Egloff, 'Settlement and Kingship: The Army, The Gentry, and The Offer of the Crown to Oliver Cromwell' (Yale Univ. D.Phil. thesis, 1990); P. Little, *Lord Broghill and the Cromwellian Union with Ireland and Scotland* (Woodbridge, 2004); Holmes, *Why Was Charles I Executed?*, ch. 7.

<sup>2</sup> B. Coward, *The Cromwellian Protectorate* (Manchester, 2002), pp. 89-90; B. Worden, 'Oliver Cromwell and the Sin of Achan', in D. Beales & G. Best (eds.), *History, Society and the Churches: Essays in Honour of Owen Chadwick* (Cambridge, 1985), pp. 123-45.

from constitutional settlement.<sup>3</sup> It will be the contention of this chapter that in order to understand Cromwell's constitutional aspirations one should turn away from the kingship clause and concentrate instead on the relatively overlooked resurrection of bicameral parliaments through the creation of an 'Other House'.

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On 27 February 1657, just four days after Sir Christopher Packe had presented the *Humble Remonstrance* to the House of Commons, a deputation of around a hundred army officers went to Whitehall to confront the Lord Protector.<sup>4</sup> Ostensibly, the officers had come to make a plea, or rather a warning, to the Protector: 'that his Highnesse would not harken to the title (King) because it was not pleasing to his Army, & was [a] matter of scandall to the People of God'.<sup>5</sup>

In response, Cromwell made a 'long harangue' that served both to ridicule those behind this agitation and to highlight what he believed was the real issue at stake at Westminster.<sup>6</sup> The meeting opened with a bombshell, the effects of which would have stunned the assembled company. The 'tyme was' Cromwell revealed 'when they bogled not at the word (King) for the Instrum[en]t by which the Gov[ern]m[en]t now stands was presented to his Highnesse with the Tyle (King) in it'. This was no

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<sup>3</sup> A notable exception is Smith, 'Oliver Cromwell and the Protectorate Parliaments', pp. 14-31; Little & Smith, *Parliaments and Politics*, ch. 6.

<sup>4</sup> An account of this meeting is misleadingly reproduced by Rutt in *Burton*, i, 382-5 as the entry for 7 Mar. 1657. The origins of this account are not Burton's manuscript but a later copy of an anonymous letter, dated 7 Mar. 1657, at BL, Additional MS 6125, fols. 61v-63v. The original MS is quoted here because of minor inaccuracies with Rutt's transcription. Many of the details in this letter are similar to BL, Lansdowne MS 821, fols. 314-15: Morgan to H. Cromwell, 3 Mar. 1657. Other brief accounts of the meeting are given in *Clarke Papers*, iii, 92-3; *Thurloe*, vi, 93: Thurloe to H. Cromwell, 3 Mar. 1657; *Wariston Diary*, iii, 68.

<sup>5</sup> BL, Additional MS 6125, fol. 61v.

<sup>6</sup> *Wariston Diary*, iii, 68.

fabrication, Cromwell assured his audience, for ‘some there present could witness, pointing at a Principall officer then in his eye’.<sup>7</sup> The officer in question was most likely the leading author of the *Instrument* and foremost opponent of the *Humble Remonstrance*, John Lambert. It was a revelation that would have surprised many of the junior officers present and left the army grandees red-faced.

Yet, no matter what the supporters of the *Humble Remonstrance* thought, this episode was not an admission of Cromwell’s desire to take the kingly mantle. If anything, the exact opposite was true. He was merely stating that ‘hee might have bin King longe since if hee had delighted to weare a feather in his hat’ but he did not then, and would not now – ‘those vaine titles hee was never taken with’.<sup>8</sup> Instead, Cromwell chastised the army officers for their short-sightedness. Obsessed with the title of king, they were blinded to the many other things the *Humble Remonstrance* had to offer. It had become painfully obvious that the *Instrument of Government* was an ‘imperfect thing w[hi]ch will neither preserve our religious or civil Rights’.<sup>9</sup> For Cromwell, it was ‘tyme to come to a Settlement, & lay aside Arbitrary Proceedings, soe unacceptable to the nation’.<sup>10</sup> The constant routine of military-inspired purges and dissolutions of parliament was not a viable means for a lasting settlement.

Yet, this should not be construed as confirmation of the Trevor-Roper thesis that Cromwell was repulsed by the very thought of parliamentary management.<sup>11</sup> Rather, he realised that there were more effective means of keeping Parliament in check. Instead of pro-actively excluding MPs from the Commons, they needed to put an

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<sup>7</sup> BL, Additional MS 6125, fols. 61-63; *Clarke Papers*, iii, 92-3; *Wariston Diary*, iii, 68, 70-1.

<sup>8</sup> *Clarke Papers*, iii, 92; BL, Additional MS 6125, fol. 62r.

<sup>9</sup> BL, Lansdowne MS 821, fol. 314r; *Clarke Papers*, iii, 92-3.

<sup>10</sup> BL, Additional MS 6125, fol. 62v.

<sup>11</sup> Trevor-Roper, ‘Oliver Cromwell and His Parliaments’, pp. 91-135.

effective balance over them. Chiding the officers for being ‘offended at a House of Lords’, Cromwell retorted that:

Unless you have some such thing as a balance you can not be safe but either you will grow upon ye civill liberties by secluding such as are elected to sitt in P[arliamen]t (next time for ought I know you may exclud[e] 400) or they will grow upon y[ou]r liberty in Religion.<sup>12</sup>

Indeed, encroachment upon the fundamental of ‘liberty of conscience’ not to mention the threat of Parliamentary tyranny were all too fresh in Cromwell’s mind following the Commons’ recent savage treatment of the Quaker James Nayler. By the proceedings of ‘this Parliament’ it was obvious to Cromwell that ‘they stand in neede of a Check, or ballancing Power’; ‘for the Case of James Naylor, might happen to be your owne Case’. By ‘their Judiciall Power’, the Parliament ‘fall upon Life, & member’, Cromwell warned, ‘and doth the Instrument in being inable me to controll it?’<sup>13</sup>

It was obvious to Cromwell that it was time for constitutional change. Although those around him were obsessed with the offer of the Crown, for Cromwell the importance of the proposed parliamentary constitution was in its provision for an Other House. The return to bicameral parliaments offered two major benefits; a clarification (or rather restraint) of Parliament’s judicial powers and an effective legislative balance upon the Commons. As this chapter will demonstrate, these were much needed solutions to problems that had plagued the various Interregnum regimes since 1649.

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<sup>12</sup> BL, Lansdowne MS 821, fol. 314v.

<sup>13</sup> BL, Additional MS 6125, fol. 63r; BL, Lansdowne MS 821, fol. 314v; *Clarke Papers*, iii, 92-3.

## **The Other House and Judicial Powers**

The debates over James Nayler's case, which began on 5 December 1656, proved to be extremely divisive. They cut across the boundary between the government's usual supporters and detractors, often dividing future 'civilian' and 'military' Cromwellians among themselves rather than against one another. Indeed, the religious heat generated by Nayler's supposed crimes left many momentarily senseless to the wider constitutional consequences of their arguments. For example, an ardent supporter of the Protectorate such as Major-General William Goffe could be found openly admitting that 'I shall not entertain an irreverent thought of *The Instrument of Government*. I shall spend my blood for it. Yet if it hold any thing to protect such persons I would have it burnt in the fire'.<sup>14</sup>

Others attempted to temper the zeal of the parliamentary majority. John Lambert claimed to be as 'ready to give my testimony against him as any body, if it appears to be blasphemy', but warned the Commons that 'you are jurors, judges, and all, in this case, I would have you careful in your manner of proceeding'.<sup>15</sup> It was this central issue of which way to proceed that vexed the Commons throughout the ensuing days of rambling debates. Most were convinced of Nayler's guilt yet few could agree on what he was guilty of, or the extent to which his actions could be punished. Much would depend on the authority by which Parliament claimed to act. Essentially, there were two alternative paths open to them.

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<sup>14</sup> *Burton*, i, 108-110 (11 Dec.).

<sup>15</sup> *Ibid.*, i, 33 (5 Dec.).

The first, and more contentious, course was for the Commons to act as a court of judicature. Prior to 1649, the House of Lords had stood at the apex of the judicial system; it dealt with appeals from inferior courts and judged certain cases upon its own authority. By contrast, the closest the Commons came to acting in the judicial sphere was in the initiation of impeachment proceedings; but even then it was the Lords who acted as judges of the case. Following the abolition of the upper chamber, however, the location of the Lords' judicial powers remained anomalous and no clarification was provided under the *Instrument*. While the supreme legislative authority of the nation was to reside in the Lord Protector and a unicameral Parliament, there was no explicit definition of where the supreme 'judicial' authority would lie. During the course of the Nayler debates, however, it was suggested that the Commons could claim these judicial powers for their own. Indeed, according to Lord Chief Justice of the Upper Bench John Glynne, speaking on 5 December, there was no issue; for him it was clear that 'whatsoever authority was in the House of Lords and Commons, the same is united in this Parliament'.<sup>16</sup>

The fundamental problem, however, was that, even if the Commons claimed the House of Lords' judicial authority, there simply was no law by which to try Nayler's crimes. In part, this was a by-product of the religious provisions of the *Instrument*. Article thirty-seven gave protection to all who 'profess faith in God by Jesus Christ' even if they differed from 'doctrine, worship or discipline publicly held forth'.<sup>17</sup> As Adam Baynes explained on 8 December, even Nayler could claim protection under this hazy clause; 'the *Instrument of Government* says, all shall be protected that

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<sup>16</sup> *Ibid.*, i, 30 (5 Dec.).

<sup>17</sup> Gardiner, *Constitutional Documents*, p. 416.

profess faith in Jesus Christ, which, I suppose, this man does'.<sup>18</sup> Moreover, article thirty-eight of the *Instrument* voided all 'laws, statutes and ordinances' that were 'contrary of the aforesaid liberty'.<sup>19</sup> Whether the 1650 Blasphemy Act still stood under this arrangement was a moot point.<sup>20</sup> It was this absence of a clearly defined law rather than any uneasiness about claiming the House of Lords' powers which provided the major stumbling block to the Commons proceeding judicially against Nayler.

In order to overcome this shortcoming, others suggested that the Commons should act upon their legislative power instead. On 8 December, Bulstrode Whitelocke professed that he could not recall a case when 'the Parliament hath given judgment in any matter where there was not a law before'. He was certain 'they have not proceeded in that case, but by Act of Parliament' – that is, by bill of attainder. As such, Whitelocke advised the House to 'order a bill to be brought in with a blank for the punishment'. By these means Parliament could deal with extraordinary crimes on an *ad hoc* and *ex post facto* basis. He reminded his audience that the 'like case was the Bishop of Rochester's cook' who for poisoning his master's guests 'by Act of Parliament, had new punishment appointed him, (i.e.) to be boiled in a hot lead'.<sup>21</sup>

The obvious benefit, as well as the biggest problem, with this way of proceeding was that it gave Parliament free licence to act arbitrarily. In stark parallel with the cases of Stafford and Laud, the Parliament, faced with the prospect of a difficult or potentially embarrassing trial, sought to circumvent judicial proceedings by drawing

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<sup>18</sup> *Burton*, i, 59 (8 Dec.).

<sup>19</sup> Gardiner, *Constitutional Documents*, p. 416.

<sup>20</sup> For example, *Burton*, i, 38-9 (Cox, 6 Dec.); 110-13 (Thurloe, 11 Dec.).

<sup>21</sup> *Ibid.*, i, 57-8 (8 Dec.).

up a bill of attainder. As Robert Beake reminded the Commons on 6 December, ‘if you want a law, who can supply it, as in the case of a Strafford, but a Parliament?’ He questioned whether ‘punctilios and modalities and forms’ should ‘bind and tie up a Parliament’. They were not ‘this strait laced’; ‘arguments from consequences are not good in these cases’.<sup>22</sup>

This worried a number of Courtiers. William Sydenham did not know ‘what you mean by a Bill of Attainder, if it be not to take away a man’s life’. He would ‘choose rather to live in another nation, than where a man shall be condemned for an offence done, by a subsequent law’; adding emphatically that he was ‘against the Bill of Attainder’.<sup>23</sup> Walter Strickland noted how in both the cases of Strafford and Laud, there had at least been the pretence of a trial - ‘counsel was heard on both sides’ - before they were ‘attainted of treason’. Although Strickland conceded that ‘this House is a living law’ they should ‘make as little use of the legislative power as you can’.<sup>24</sup>

There was, however, a major hurdle facing those hoping to proceed upon the legislative power. Under the first article of the *Instrument* the supreme legislative authority was held jointly between the Parliament and Lord Protector; any bill of attainder would need the Protector’s assent to have force of law. As Adam Baynes reminded the Commons on 8 December, if they were to proceed ‘upon the legislative’ power, then ‘my Lord Protector must have a negative’. Given that the Commons’ punishment of Nayler could be interpreted as an attack on the provisions for liberty of conscience in article thirty-seven of the *Instrument*, Baynes was convinced that

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<sup>22</sup> *Ibid.*, i, 43-44 (6 Dec.). See also Onslow, *Ibid.*, i, 90 (12 Dec.).

<sup>23</sup> *Ibid.*, i, 86 (9 Dec.).

<sup>24</sup> *Ibid.*, i, 87-88 (9 Dec.).

Cromwell's 'opinion may stick and demur as to the offence' thereby blocking Parliament's proceedings indefinitely.<sup>25</sup>

Many of the Protectorate's leading lawyers were also conspicuously keen to lessen the severity of the Parliament's actions.<sup>26</sup> Whitelocke, who had been among the first to advocate the attainder, warned that 'it will be of a dangerous consequence for you to make a law for punishing an offence by death, which was not so punishable before'. As such, Whitelocke counselled them that 'we ought to look for our posterity, and the danger to leave such a precedent upon your records'.<sup>27</sup> Similarly, Glynne, who had been so keen to uphold the Commons' judicial authority on the opening day of proceedings, qualified his remarks on 9 December. 'As this is without precedent', he was 'altogether unsatisfied in passing sentence of death against him'. Although Glynne continued to stress that they should proceed 'by a judicial way', he claimed to be uncertain 'whether it be solely in the Parliament, or in them and his Highness, as affairs now stand'. What had been clear to Glynne just four days earlier had become murky.<sup>28</sup>

Those pushing for moderation scored a significant victory on 16 December when the vote to put the question for the 'higher punishment' against Nayler was rejected by fourteen votes.<sup>29</sup> With capital punishment abandoned, however, the majority of Nayler's more virulent critics turned away from proceeding by a bill of attainder, which was deemed unnecessary in the case of a lesser punishment. Sir William Strickland, who differed markedly from his brother's moderate stance, summed up

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<sup>25</sup> *Ibid.*, i, 59 (8 Dec.).

<sup>26</sup> Bodl., MS Carte 228, fol. 79v.

<sup>27</sup> *Ibid.*, i, 128-31 (13 Dec.).

<sup>28</sup> *Ibid.*, i, 90-1 (9 Dec.).

<sup>29</sup> 96 to 82. See *CJ*, vii, 468 (16 Dec.).

the need for the Commons to assert their judicial power. The Commons were ‘a judicial Court’ and if they were to ‘lose this privilege’ and ‘own it not now’, they would ‘have much ado to resume, to regain it’. Strickland was convinced that if they ‘talk of a Bill’ the whole business would ‘all come to nothing’.<sup>30</sup>

Yet, the final resolution reached on 16 December was an inconclusive mess. No clear definition of Nayler’s crimes or the grounds on which they had proceeded were given. Instead the Commons merely ‘resolved’ on both the sentence and that Nayler be brought to the bar the next day to ‘receive his judgment’. Clearly, the Commons believed they had acted upon their judicial authority but there was some uncertainty about the form in which it had occurred. When the House assembled the following day, Speaker Widdrington was perplexed about the procedure he should adopt for passing sentence on Nayler. ‘What shall I say to him?’, he queried, ‘Shall I ask him any question? or, if he speak, what shall I answer? Shall I barely pronounce the sentence, and make no preamble to it?’; Widdrington was lost and professed to be able to do ‘nothing but by your directions’.<sup>31</sup> From the wording of the resolution of 16 December it was uncertain whether the Commons had passed an order or a judgement.<sup>32</sup> To solve the problem, William Lenthall moved that the Commons ‘add to your votes... that the Parliament doth *adjudge* this sentence’.<sup>33</sup> Accordingly, it was resolved that ‘these words be added to the former vote, “and the Parliament hath adjudged it accordingly”’.<sup>34</sup>

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<sup>30</sup> *Burton*, i, 157 (16 Dec.).

<sup>31</sup> *Ibid.*, i, 161 (17 Dec.).

<sup>32</sup> *Ibid.*, i, 161-2 (17 Dec.).

<sup>33</sup> *Ibid.*, i, 162 (17 Dec.).

<sup>34</sup> *Ibid.*, i, 162; *CJ*, vii, 469.

By this simple resolution, the Commons had finally asserted their judicial power. Yet, it was not without a great deal of unease. Indeed, so flimsy were the Commons' claims to act in this manner that they resolved against letting Nayler speak at sentencing.<sup>35</sup> As Glynne argued, what if 'the devil within him [i.e. Nayler] should say by what authority do you pass this judgment? What can you say then?' Although Glynne was still sure that 'you have the authority of the House of Lords united to you', he was equally certain that 'they would never proceed in a judicial way, but according to law'.<sup>36</sup> Uncertain about the authority by which they had acted and hoping to prevent a debilitating challenge that could halt proceedings indefinitely, the Commons passed sentence without hearing the disgruntled defendant.<sup>37</sup>

The aftershocks from these unashamedly arbitrary proceedings reverberated around Whitehall and Westminster in the coming days, culminating in a letter from the Protector to the Commons on 26 December. Cromwell, 'having taken notice of a judgment lately given by yourselves against one James Nayler', was keen for answers. Although he was quick to assert that he did 'detest and abhor the giving or occasioning the least countenance to persons of such opinions and practices' as Nayler, Cromwell was uncomfortable with the way in which Parliament had proceeded against him:

We, being entrusted in the present government, on behalf of the people of these nations; and not knowing how far such proceedings (wholly without Us) may extend in the consequence of it, do desire that the House will let Us know the grounds and reasons whereupon they have proceeded.<sup>38</sup>

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<sup>35</sup> *CJ*, vii, 469 (17 Dec.).

<sup>36</sup> *Burton*, i, 163 (17 Dec.).

<sup>37</sup> *Ibid.*, i, 166-67.

<sup>38</sup> *Carlyle*, iii, 20.

Although some MPs, either out of acute naivety or delusion, argued that Cromwell's letter was not intended as a challenge to the Commons' proceedings, the majority of MPs were acutely aware of its implications.<sup>39</sup> A number of lawyer-MPs took the Protector's letter as further opportunity to pontificate about the jurisdictional limits of the Commons. Lord Commissioner John Lisle was 'clear that this House has a judicial power' in certain areas, but was equally 'clear that, in some cases' it did not, especially if 'there is no law in being'. In Lisle's opinion the Commons should not, by themselves, decide what was against the law and act judicially upon that impulse; they 'must not confound the legislative and judicial power together'.<sup>40</sup> Echoing Lisle's sentiments, Lord Chief Justice Glynne stressed that it was unacceptable, even in cases of 'slight punishment' for the Parliament to proceed unless 'we have a known law for it'; it would 'be of a very dangerous consequence to Englishmen to be ruled by a court of will'.<sup>41</sup>

A number of privy councillors tried to assert the Lord Protector's right to question the Commons' judgment. Tendentiously, it was Lambert's assertion that 'as you are constituted, your power is joined with his in the jurisdiction', and that Parliament and Protector should go 'hand in hand in your judgments'.<sup>42</sup> In a similar vein, Sir Charles Wolseley argued that 'this House cannot put any thing but an affirmative upon a law or a judgment. The negative lies in his Highness'.<sup>43</sup> By subtle means these councillors were striving to right the deficiencies of the constitution by claiming that the judicature – like the legislature – was shared jointly.

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<sup>39</sup> See, for instance, *Burton*, i, 248, 254, 262 (Downing, 26 Dec. & 27 Dec.).

<sup>40</sup> *Ibid.*, i, 271 (30 Dec.).

<sup>41</sup> *Ibid.*, i, 277-9 (30 Dec.).

<sup>42</sup> *Ibid.*, i, 255-6 (26 Dec.).

<sup>43</sup> *Ibid.*, i, 257 (26 Dec.) Emphasis added; See also speeches by Fleetwood, Pickering and Desborough, *Ibid.*, i, 253-4, 270-1 (26, 30 Dec.).

Many in the Commons, however, viewed the Lord Protector's questioning of their judicial proceedings as a flagrant challenge to Parliamentary liberty. Francis Rous, unlike his fellow Privy Councillors, did not believe that it was the Protector's place to dabble in Parliament's judicial power. Instead, he urged that the Commons should 'return this short answer to his Highness's letter, "We had power so to do"', he did not doubt that 'you will satisfy my Lord Protector with it'.<sup>44</sup> Others suggested that the Commons should respond with their own set of queries concerning the arbitrary actions of the executive powers in recent years. Thomas Bampffield hoped that while the Commons were debating the laws and rules by which they had acted 'something may... be brought under examination on the other side'. He wondered 'if it should be asked, by what law the recognition was placed upon this door last Parliament, by what law were decimations or the late monthly tax laid, how would the council answer this?'<sup>45</sup>

With debate threatening to descend into a mud-slinging match, a number of MPs urged a detente. 'The Instrument of Government is but new', warned George Downing, 'and our jurisdiction is but new too'. As such, it was 'dangerous either for him to question our power, or for us to question his, in matters that are for the public safety: we must both wink'. Yet, this suggestion that Protector and Parliament should merely 'wink at one another' was hardly a sound means to prevent future confrontations.<sup>46</sup> The fundamental problem was best summarised by Lambert Godfrey's speech to the Commons on 26 December. Dramatically, he portrayed the debates as being between two irresistible and irreconcilable forces: 'Here is your

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<sup>44</sup> *Ibid.*, i, 253 (26 Dec.).

<sup>45</sup> *Ibid.*, i, 273-4 (30 Dec.).

<sup>46</sup> *Ibid.*, i, 254 (26 Dec.).

power asserted on one hand; the supreme magistrate, on the other hand, desiring an account of your judgment. Where shall there be *tertius Arbiter*? The answer was nowhere; in Godfrey's opinion there was 'no judge upon earth' that could act in that mediatory role.<sup>47</sup>

In the short-term all sides agreed to let the matter drop quietly. On Tuesday 30 December the House resolved to adjourn the debate until the following Friday, but it was never resumed. Burton believed the business would 'never be mentioned again' and 'if it be, I dread the consequence'.<sup>48</sup> Yet the matter was never truly forgotten. It had become all too clear that a massive chasm had been exposed in the foundations of the government. Some, like Lambert and a junto of privy councillors, had tried to save the incumbent constitutional arrangement by papering over the cracks; retrospectively interpreting the role of the Protector within the judicial sphere. Yet this was woefully inadequate. As the winding debates from 26-30 December had proven, even if the executive and legislative powers balanced one another in the questioning of erroneous judgments, there was no mechanism for redress in the event of deadlock; there was no *'tertius Arbiter'*.

Therefore, it is not difficult to see why Cromwell welcomed the creation of the Other House under the *Humble Remonstrance*. As he told the hundred officers, it was clear 'by the proceedings of this Parliam[en]t' that they were in 'neede of a Check'. His foremost fear was that 'the Case of James Naylor, might happen to be your owne Case'. That is, the Commons 'by their Judiciall power' could claim a right to 'fall

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<sup>47</sup> *Ibid.*, i, 249 (26 Dec.).

<sup>48</sup> *Ibid.*, i, 294-6 (2 Jan. 1657).

upon Life, & member' but the Instrument did not 'inable me to controll it'.<sup>49</sup> The inconclusive debates that followed the presentation of his letter to the Commons had confirmed Cromwell's growing opinion that 'this Instrum[en]t of Gov[e]r[nmen]t will not doe your worke'.<sup>50</sup> It was time to embrace a new constitutional arrangement that would provide a more adequate means of restraining those judicial powers.

Yet, despite Cromwell's optimistic reading of the new parliamentary constitution, the degree to which it provided an adequate solution to the issues raised in Nayler's case was not immediately clear. Indeed, the authors of the *Humble Remonstrance* were more concerned with rebuilding the ancient constitution as a counter to the military Cromwellians than fixing the finer points of judicial authority. The draft constitution failed to define the judicial functions of the Other House in any way. Article five set down basic rules for the composition and nomination of the new chamber but said nothing of its role. Instead, the proposed constitution had to be read as a package; given that Cromwell was to be King, the natural assumption was that the 'Other House' would adopt the position of the old House of Lords alongside the Commons – both legislatively and judicially.<sup>51</sup>

Only when the Commons debated, and redrafted, the various clauses of the *Remonstrance* did they remedy this glaring omission concerning the judicial functions of the Other House. On 12 March, having worked their way through the various rules for nominating the members of the new chamber, the Commons resolved 'that it be

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<sup>49</sup> BL, Additional MS 6125, fols. 62v-63r.

<sup>50</sup> BL, Lansdowne MS 821, fols. 314-15; Gaunt, *Lansdowne*, pp. 214-15.

<sup>51</sup> For the original draft of the *Humble Remonstrance* as presented on 23 Feb. 1657 see Bodl., Clarendon MS 54, fols. 118-119v.

referred to a Committee, to consider of the judicial Proceedings of the other House'.<sup>52</sup> The forty-eight-man committee represented a number of lawyer-MPs who had already proffered their opinion on Parliamentary jurisdiction in Nayler's case – including Bacon, Glynne, Lenthall, Lisle and Whitelocke. When this committee came to make its report five days later, it was Whitelocke who acted in the capacity of its spokesperson.<sup>53</sup>

The first section of the committee's report dealt with the Other House's judicial authority in 'civil cases'. That the committee should seek to define this area of the upper chamber's powers is not too surprising. During the early seventeenth century, it had represented an expanding, and highly nebulous, component of the jurisdiction of the House of Lords. The upper chamber saw a significant rise in private party petitions during the 1620s and 1640s concerning both appeals from inferior courts and cases of the 'first instance'.<sup>54</sup> What had once been a relatively obscure power had gradually come to dominate the business of the upper chamber, prompting the House to establish a standing committee for petitions in 1621.<sup>55</sup> Throughout the 1620s there was a sense that in dealing with these petitions the House of Lords felt its way 'into the process through trial and error'. By the 1640s, however, procedure had crystallized and petitions flowed into the House of Lords – receiving well over four hundred petitions in the first six months of the sitting of the Long Parliament.<sup>56</sup> In order to expedite this business more quickly, the House allowed its committee for petitions to come to certain decisions on their own authority – such as referring cases

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<sup>52</sup> *CJ*, vii, 502 (12 Mar.).

<sup>53</sup> *CJ*, vii, 506 (17 Mar.).

<sup>54</sup> See J. S. Hart, *Justice Upon Petition: The House of Lords and the Reformation of Justice, 1621-1675* (1991), esp. Chps. 1-2.

<sup>55</sup> See E.R. Foster, *The House of Lords 1603-1649: Structure, Procedure, and the Nature of its Business* (North Carolina, 1983), pp. 101-11 for origins and functions of Committee for Privileges.

<sup>56</sup> Hart, *Justice Upon Petition*, pp. 64-9.

back to trial at law, ordering a stay of proceedings in inferior courts, or even bringing matters to a resolution themselves.<sup>57</sup>

The rules governing the judicial powers of the Other House in ‘civil causes’, reported by Whitelocke on 17 March 1657 and incorporated into article five of the *Humble Petition and Advice*, revived many of those functions that the House of Lords had appropriated during the first half of the century. Yet, the phraseology of these rules governing the Other House’s judicial powers also hinted at a restriction of former excesses rather than an unqualified restitution. It asserted:

That the other House do not proceed in any Civil Causes, except in Writs of Error; In Cases adjourned from inferior Courts into the Parliament, for Difficulty; In Cases of Petitions against Proceedings in Courts of Equity; and, in Cases of the Privileges of their own House.<sup>58</sup>

Clearly, there was little here that would be unfamiliar to the House of Lords in the 1620s and 1640s. More interesting, however, is what the *Humble Petition* failed to say. James Hart has observed how the rules governing the chamber’s judicature were ‘plainly defined in negative terms’ but adds that ‘it is misleading to place too much emphasis’ on their ‘proscriptive nature’. If the *Humble Petition* is ‘read carefully’, he contends, then it is clear that ‘the new house was left with essentially the same jurisdiction in civil causes which the House of Lords had exercised since the 1620s’. Yet, there is one obvious omission that Hart is conspicuously keen to overlook – there was no specific power for the Other House to hear petitions concerning causes in the first instance. Given that petitions of that nature had accounted for a sizeable part of the House of Lords’ expanding jurisdiction during the seventeenth century, it is

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<sup>57</sup> Foster, *House of Lords*, pp. 101-11.

<sup>58</sup> *CJ*, vii, 506 (17 Mar.); Gardiner, *Constitutional Documents*, p. 452.

understandable that Hart defends its continued utility to the Interregnum regime and presents its omission as a mistake.<sup>59</sup>

Moreover, Hart's concomitant assertion that there was 'nothing particularly contentious about that aspect of the Lords' civil jurisdiction' is highly erroneous. In the 1620s and 1640s, cases brought by petition in the first instance had flourished out of a realisation that the legal system as a whole was broken. With little hope of redress from the inferior courts, many had turned to the House of Lords for direct relief. This was hardly an aspect of the Lords' jurisdiction that the Protectorate regime was keen to retain. Reform of the legal system was what was needed not the institutionalisation of practices that reinforced the failures of that system. As the conclusion of the *Humble Remonstrance* had stated, it was hoped that once the constitutional settlement was concluded, there would follow the 'settling of such things, as shall be further necessary for the good of these kingdoms' including 'the regulating Courts of Justice, and abridging both the delays and charges of law-suits'.<sup>60</sup> It was fallacious to assume that the deficiencies of the overburdened law courts could be solved simply by bypassing them and appealing to a higher authority. As the example of the 1640s had proven, the long-term result was likely to be an equally overburdened upper chamber. In this way, the authors of the *Humble Petition* were more forward looking than reactionary.

Further evidence that the Commons, in drafting the *Humble Petition*, were not eager to continue the extensive judicial powers exercised by the House of Lords is demonstrated by yet another proscription accepted upon the committee's advice:

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<sup>59</sup> Hart, *Justice Upon Petition*, pp. 218-25.

<sup>60</sup> Bodl., Clarendon MS 54, fols. 118-119v.

That no final determinations or judgments be by any members of that House, in any cause there depending either civil, criminal or mixed, as Commissioners or Delegates, to be nominated by that House, but all such final determinations and judgments to be by the House itself, any law or usage to the contrary notwithstanding.<sup>61</sup>

Clearly, this left no scope for the practice, that became the norm by the 1640s, of the Lords' standing committee for petitions coming to resolutions upon their own authority and retrospectively reporting their determinations to the House. The Other House would have to be much more diligent in such matters – hearing all cases in camera before coming to a judgment. Time saving measures designed to cope with a high volume of appeals were not permitted. Again, it suggests a deliberate limiting of the upper chamber's judicial powers rather than an untrammelled continuation of trends witnessed during the first half of the century.

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The *Humble Petition and Advice* also provided rules for the Other House's jurisdiction in 'criminal causes'. This side of the House of Lords' judicial power had also seen a significant increase during the first half of the seventeenth century – the revival and routine use of impeachment proceedings in the 1620s and 1640s being the most conspicuous example of this. According to John Selden, theoretically, there were four ways in which the Lords could give judgment 'against Delinquents as well for Capital crimes as misdemeanors'. Besides the Commons initiating proceedings 'either by their Complaints, or their Impeachments', it was also possible that an accusation could be brought by the King ('*ex parte Dom. Regis*'), upon the 'complaint of private persons' or by the 'appeal of some of the Lords in Parliament' – albeit the

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<sup>61</sup> Gardiner, *Constitutional Documents*, p. 452.

latter course had been abolished in Henry IV's reign.<sup>62</sup> Indeed, accusations by the Commons, King and private persons had all occurred during the first half of the seventeenth century with varying levels of success.<sup>63</sup>

By comparison, the new rules governing the Other House's powers in criminal causes represented a significant tightening of previous practices. The initial suggestion, reported by Whitelocke from the Commons' committee on 17 March 1657, was that the Other House should 'not proceed, in any Criminal Causes whatsoever, against any Person criminally, but upon an Impeachment of the Commons assembled in Parliament, or by their consent'. Evidently, even this was seen as too indefinite and the final part of the clause was altered by the Commons to read 'and by their consent', thereby precluding altogether the possibility of proceedings being initiated by any other means than an impeachment.<sup>64</sup>

These rules were clearly designed to avoid a repeat of the problems encountered in Nayler's case. First, they ensured that the two Houses were balanced – the Other House could not proceed without first receiving an accusation from the Commons. Indeed, the Other House could do nothing unless it had the Commons' assent; accusations from private persons or the single person were now prohibited. Second, and more importantly, it was also resolved that the Other House 'do not proceed in any Cause, either Civil or Criminal, but according to the known Laws of the Land, and the due Course and Custom of Parliament'.<sup>65</sup> The chief objection against the Commons' proceedings in the Nayler case, apart from their dubious appropriation of

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<sup>62</sup> J. Selden, *Of the Judicature in parliaments: a posthumous treatise, wherein the controversies and precedents belonging to that title are methodically handled* (1681), pp. 8-11.

<sup>63</sup> See Foster, *House of Lords*, pp. 162-79.

<sup>64</sup> *CJ*, vii, 506 (17 Mar.).

<sup>65</sup> *CJ*, vii, 506 (17 Mar.).

the House of Lord's judicial authority, had been their willingness to proceed to judgment without a law on which they could claim to act. By restricting the Other House to proceed only upon 'known laws' it was unlikely that there would be a repeat performance.

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Taken as a whole, the rules governing the judicial authority of the Other House – in both civil and criminal causes – were not simply a restitution of what had gone before. Instead, they curbed the excesses witnessed under the House of Lords and provided a viable solution to the issues raised during Nayler's case. Admittedly, finding answers to these problems was not the primary concern of those behind the offer of the Crown to Cromwell; the *Humble Remonstrance* presented to Parliament on 23 February 1657 had said nothing of the judicial powers of the Other House and concentrated solely on rebuilding the ancient constitution. Only during March – and, somewhat conspicuously, following Cromwell's outburst to the hundred officers – did the Commons address the specific powers that should be given to the Other House. In drafting these rules, the Commons were forced to admit that lessons had been learnt since December 1656. In many ways, Speaker Widdrington's remarks as he presented the *Humble Petition and Advice* to Cromwell on 31 March 1657 were both a comment on the Other House and a tacit excuse for the Commons' proceedings against Nayler:

Their [i.e. the Other House's] judicial power is... limited and circumscribed, and it is necessary to be so; for it is so natural for all men to be lovers and promoters of the latitude of their own jurisdictions, that it is now believed by many to be a very honest maxim, which the civilians have, *Boni judicis est ampliare jurisdictionem*.<sup>66</sup>

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<sup>66</sup> *Burton*, i, 405.

Over three months after asking, Cromwell had finally received an answer, or rather an apology, for the dubious grounds on which the Commons had proceeded against Nayler. Yet it also came with a promise that it would not happen again. With the new upper chamber suitably bounded it was unlikely the Parliament would ever repeat the mistake of promoting the ‘latitude of their jurisdiction’ beyond the law.

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### **The Other House as a Legislative Balance**

A fundamental problem facing the various Interregnum regimes of the 1650s was their inability to reconcile the unpopular aims and actions of a godly, radicalised, minority with the nation at large. Since the outbreak of the Civil War, the supporters of the Parliamentary cause had been gradually winnowed down into the ‘revolutionary’ residue of zealous MPs and army officers who pushed forward the events of late-1648 and early-1649. Arguably, the opening months of 1649 marked the apogee of minority rule – the point at which the nation was hi-jacked by a religiously charged few bent on divine vengeance. Unable, or rather unwilling, to consult the majority of the nation in their plans for regicide, this minority resorted to the destruction of the ancient constitution to secure their ends.

The House of Lords had fruitlessly attempted to block the preparations for Charles I’s trial. On 2 January 1649 they rejected both a vote from the Commons declaring it ‘treason in the King of England for the Time being to levy War against the Parliament and Kingdom of England’ and an ‘ordinance’ for ‘erecting a High Court of Justice,

for the Trial of the King'.<sup>67</sup> They could not hold back the tide, however. Resolving to press on, the army and purged remnant of the Commons decided to ignore the Lords completely. The result was a series of momentous resolutions on 4 January that served to uphold the House of Commons as the sole legislative authority. It was declared that 'the People are, under God, the Original of all just Power' and that, as such 'the Commons of England... being chosen by, and representing the People, have the Supreme Power in this Nation'. The natural conclusion, therefore was that 'whatsoever is enacted, or declared for Law, by the Commons... hath the Force of Law' even though 'the Consent and Concurrence of King, or House of Peers, be not had thereunto'.<sup>68</sup> Two days later the Commons passed their 'act' for erecting the High Court of Justice; an 'act' which had neither the King's nor the Lords' assent.<sup>69</sup>

On 6 February, in the wake of the regicide, the Commons continued to uphold their resolution of 4 January, rejecting by forty-four votes to twenty-nine that 'this House shall take the Advice of the House of Lords, in the Exercise of the Legislative Power'. With its existence rendered pointless, it was resolved 'that the House of Peers in Parliament is useless and dangerous, and ought to be abolished: And that an Act be brought in, to that purpose'.<sup>70</sup> Read for the first time on 5 March, the act was eventually passed, following minor alterations, on 19 March.<sup>71</sup> The Lords were forbidden from meeting or sitting 'in the said House called the Lords' House, or in any other house... as a House of Lords'. The Lords could no longer 'claim, have, or

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<sup>67</sup> *LJ*, x, 641-2 (2 Feb. 1649).

<sup>68</sup> *CJ*, vi, 111 (4 Jan. 1649).

<sup>69</sup> *CJ*, vi, 113 (6 Jan.); Gardiner, *Constitutional Documents*, pp. 357-8.

<sup>70</sup> *CJ*, vi, 132 (6 Feb.).

<sup>71</sup> *CJ*, vi, 157, 158, 163, 166, 168 (5, 7, 14, 17, 19 Mar.).

make use of any privilege of Parliament, either in relation to his person, quality, or estate'; the whole status of 'peer' was effectively eradicated.<sup>72</sup>

Clearly the extent to which the upper chamber was 'useless and dangerous' rested largely with its inability to stomach the Commons' actions in January 1649. Only a minority within the Lords were willing to back the direction in which the Rump of the Long Parliament was taking the nation. Throughout the 1640s, its numbers had dwindled and in the wake of Pride's Purge attendance fell further still. From 6 December 1648 to early January 1649 daily attendance barely broke half a dozen. Significantly, the highest turnout during that period came on 2 January 1649 – the day that the Commons' preparatory legislation for the king's trial was under consideration – when twelve members sat.<sup>73</sup> Thereafter, only a hardcore of eight peers continued to sit before the abolition.<sup>74</sup> Following the abolition, a handful of 'faithful' Lords were absorbed into the Rump's new government. Five of them – Pembroke, Salisbury, Denbigh, Mulgrave and Grey of Warke – were nominated to the Council of State; the latter two, however, refused to take the engagement to serve.<sup>75</sup> Pembroke, Salisbury and Howard of Escrick were also elected to vacant seats in the Rump parliament.<sup>76</sup> Yet, the majority of peers kept their distance – refusing to give legitimacy to their own annihilation.

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<sup>72</sup> Gardiner, *Constitutional Documents*, pp. 387-88.

<sup>73</sup> *LJ*, x, 641 (2 Jan.).

<sup>74</sup> Earls of Denbigh, Kent, Mulgrave, Nottingham, Pembroke and Salisbury; Lords Howard of Escrick and Hunsdon.

<sup>75</sup> Lord Grey of Warke refused outright; Denbigh, Pembroke and Salisbury only agreed to sit after the engagement was amended. Mulgrave continued to oppose even after the amendments. Lord Howard of Escrick would also be elected to later Councils of State under the Rump. See Firth, *House of Lords*, ch. 7.

<sup>76</sup> Two of these Lords only enjoyed short-lived terms in Parliament; Pembroke died on 23 Jan. 1650 and Lord Howard was expelled in 1650 for corruption.

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As Firth points out, ‘the question why the House of Lords was abolished is not difficult to answer’; the real problem is explaining ‘ why the soldiers who had effected its abolition endeavoured to devise some substitute for it’.<sup>77</sup> It is evident, however, that even in its destruction were sown the seeds for the revival of an upper chamber. The Lords were abolished to secure the aims of a minority – to ensure that a radical policy was pursued to its grisly conclusion. It created a rupture that was not immediately reparable, but, given time, the scars would heal.

Moreover, it should not be taken for granted that those who remained at Westminster were in universal approval of what was done. Oliver Cromwell was among those who were ambivalent over the House of Lords’ fate. In late 1644, frustrated by the lethargic attitude towards the war effort by his aristocratic commanders, Cromwell had allegedly claimed ‘that he hoped to live to see never a noble man in England, and he loved such better than others because they did not love Lords’.<sup>78</sup> This image of Cromwell as an ‘anti-establishment’ hero proved an enduring one. In particular, it would be used to savage effect in John Wildman’s *Putney Projects* of late 1647. Criticising Cromwell’s willingness to pursue a negotiated treaty, which subordinated the Commons’ rights to those of the King and Lords, Wildman wondered whether this was the same ‘*Cromwell* who professed to *Manchesters face*, that *England would*

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<sup>77</sup> Firth, *House of Lords*, p. 240.

<sup>78</sup> BL, Thomason Tracts, E.903[3]: A handwritten copy of ‘The Earl of Manchester’s Narrative in the House of Peers.... Concerning Donnington Castle’, pp. 15-16; *LJ*, vii, 76 (28 Nov. 1644).

*never flourish, untill he was only Mr Mountagu, nor the publicke affairs be managed successfully, whilst a house of Peeres are extant?’<sup>79</sup>*

Yet, Cromwell’s vexation with aristocratic military incompetence should not be misconstrued as a wholesale condemnation of the peerage or the House of Peers. In reality, his attitudes towards the upper chamber were favourable, not least because of his close political ties with a number of the Independent Peers, including Viscount Saye, Lord Wharton and the earl of Northumberland. Apparently, at a meeting at Wharton’s house in 1648, Cromwell had professed that ‘the Lords had as true a Right to their Legislative and Jursidictive power, as he had to the Coat on his back; and that he and the Army would support the same’.<sup>80</sup> Moreover, on 9 January 1649, Cromwell was reportedly ‘very violent’ against suggestions that the ‘house of Peeres might be wholly supprest’, asking the Commons if they ‘were all madd, to take these courses, to incense all the Peeres of the whole kingdome ag[ains]t them, at such a time where they had more need to study a neere union with them’. In a vote later that day, Cromwell was reportedly among the majority of MPs who voted with the *Yeas* in agreeing to receive a message from the House of Lords, in spite of the Commons’ votes of five days earlier.<sup>81</sup> Thus, even though Cromwell eventually acquiesced, for necessity’s sake, in the decision to abolish the Lords, it did not mean he was totally convinced with that expedient.

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<sup>79</sup> J. Lawmind [i.e. Wildman], *Putney Projects. Or the Old Serpent In a new Forme. Presenting to the view of all the well affected in England, the Serpentine deceit of their pretended friends in the Armie...* (1647), pp. 41-2; See also *A Second Narrative of the Late Parliament (so called)* (1658), p. 5 (first pagination). For a discussion of the difficulties of this source see the bibliography.

<sup>80</sup> W. Prynne, *A Plea for the Lords And House of Peeres: Or A full, necessary, seasonable, enlarged Vindication of the just, antient hereditary Right of the Lords, Peeres, and Barons of this Realm to sit, vote, judge in all the Parliaments of England* (1658), p. 46.

<sup>81</sup> Bodl., Clarendon MS 34, fols. 73-4: John Lawrans to Edward Hyde, 12 Jan. 1648/9.

Indeed, Cromwell was far from content with the unicameral parliamentary system that was left in the wake of the regicide. He had consistently backed the army's desires for parliamentary reform, epitomised in the 14 June 1647 *Representation*, which demanded that 'the authority of this kingdom in the Parliaments rightly constituted, free, equally and successively chosen, according to its original intention, may ever stand and have its course'. The remedies prescribed became a regular feature of all of the proposed constitutions of the following decade: fixed length, regular Parliaments with seats allocated according to a more equal rule. The naive assumption was that 'the people may have an equal hope or possibility, if they have [made] an ill choice at one time' then they could 'mend it another'. It rested on a totally impractical belief that 'the people', when left to their own devices, could be trusted to make the 'right choice'.<sup>82</sup>

Throughout the 1650s, however, both Cromwell and the army came to appreciate that their desire for 'free' parliaments was incompatible with their desire for 'godly' rule. As David Smith has convincingly argued, it was this contradiction that lay at the centre of Cromwell's complex, and ultimately failed, relationship with Parliament. Cromwell hoped 'to reconcile the interests of the English nation as a whole with those of a godly minority (including himself) who embraced a radical religious agenda'. He believed that 'through Parliament the nation and the godly people could become coterminous'.<sup>83</sup> Yet, whenever it came to a straight choice, Cromwell was prepared to exercise his 'authoritarian streak' to override parliament and secure the godly interest.<sup>84</sup>

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<sup>82</sup> A.S.P. Woodhouse (ed.), *Puritanism and Liberty* (1938), pp. 405-6.

<sup>83</sup> Little & Smith, *Parliaments and Politics*, p. 127; See also Smith, 'Oliver Cromwell and the Protectorate Parliaments', pp. 14-31.

<sup>84</sup> Little & Smith, *Parliaments and Politics*, pp. 132-6.

With the abolition of the House of Lords and the legislative authority residing wholly in unicameral parliaments, control of the Commons' membership was arguably more pressing than it had ever been before. As much as the army called for freely elected parliaments, this was never without limits. It had already been widely accepted during the late 1640s that all those who had fought for, or abetted, the Royalist cause would be excluded from being both electors or elected for a stated amount of time.

Throughout the 1650s, however, Cromwell and the army advocated more stringent qualifications than the exclusion of known Royalists. As Cromwell readily admitted in the wake of the dissolution of the Rump, 'free' elections would be extremely prejudicial to the godly; he feared that if the 'concourse of people' were allowed to vote then 'the power would be put into the hands of men that had very little affection to the cause'.<sup>85</sup>

Something had to be done to preserve the minority interest. One expedient was a retreat away from elected parliaments altogether and the creation of a Nominated Assembly; comprising of 'divers Persons fearing God, and of approved fidelity and honesty' chosen by the Council of Officers.<sup>86</sup> When this expedient failed to achieve the sort of reforms envisaged by Cromwell and his allies, the response was the establishment of the Protectorate and the return to a parliamentary system, albeit subject to much more stringent controls. Under the *Instrument of Government*, Royalists were excluded from electing, or serving in, the subsequent four Parliaments, while Irish rebels and Catholics were banned for life. More importantly, article

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<sup>85</sup> *Carlyle*, i, 284-7 (4 July 1653).

<sup>86</sup> Gardiner, *Constitutional Documents*, p. 403; A.H. Woolrych, *Commonwealth to Protectorate* (Oxford, 1982), pp. 103-43.

seventeen, in terms conspicuously close to the criteria used for choosing the

Nominated Assembly, stated:

That the persons who shall be elected to serve in Parliament, shall be such (and no other than such) as are persons of known integrity, fearing God, and of good conversation, and being of the age of twenty-one years.<sup>87</sup>

In this deliberately hazy phraseology, rested the grounds for the godly to exclude those whom they saw as a threat. The terms were indefinable unless interpreted by those that were entrusted with their enforcement – those of ‘known integrity’ to one might be the certain enemies of others. As such, the importance of clause seventeen of the *Instrument* lay not in what it said, but who was to interpret it.

That task fell to the Council. Article twenty-one stated that for the following three Parliaments, the Council was to ‘peruse’ the election returns ‘and examine whether the persons so elected and returned be such as is agreeable to the qualifications’.<sup>88</sup>

The founding members of the Council, written into the finished version of the *Instrument* were men who the Protector could trust – as Worden notes, they ‘might as well have been picked by Cromwell’.<sup>89</sup> As such, the likelihood that the Council would take decisions contrary to Cromwell’s wishes were slim. As one critic mocked, the ‘best quality you shall fynd in those who usually sitt’ in the Council ‘is that they are the single persons confidents & dependents p[er]fectly own[e]d by him & his 30,000 myrmidons’.<sup>90</sup>

The Council’s powers to exclude members were used only lightly before the first Protectorate Parliament met in September 1654 – less than a dozen members being

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<sup>87</sup> Gardiner, *Constitutional Documents*, pp. 410-11.

<sup>88</sup> *Ibid.*, p. 412.

<sup>89</sup> Worden, ‘Oliver Cromwell and the Council’, p. 85.

<sup>90</sup> Bod Lib., Tanner MS 52, fols. 156r-62v.

barred from sitting.<sup>91</sup> Those that took their seats at the beginning of the first Protectorate Parliament included a mixture of Republicans and Presbyterians MPs both of whom were quick to question the legitimacy of the new regime. In response, Cromwell took matters into his own hands, forcing MPs to sign a 'Recognition' not to alter the government in 'one person and a Parliament' – around eighty MPs refused and absented themselves from the Commons.<sup>92</sup> Two years later, and determined not to make the same mistake again, the elections to the second Protectorate Parliament were monitored much more closely. Not only did the major-generals attempt to manage the elections in the localities but the Council, acting upon their advice, also excluded around one hundred members before the Parliament assembled in September 1656.<sup>93</sup>

The majority of those barred from the House in September 1656 were not radical Republicans or Royalists, but conservative Presbyterians who were suspected to be potential trouble-makers in the upcoming session.<sup>94</sup> It was an exemplar of the Protectorate regime's desperate attempts to enforce dubious qualifications that would exclude men who were dangerous simply because they were 'neuters'. When asked by the remnant of the Commons to explain the grounds for excluding so many members, Nathaniel Fiennes, speaking on the Council's behalf, explained that they had not 'refused to approve any who have appeared to them to be persons of integrity to the government, fearing God and of good conversation'. Fiennes' subtle change in

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<sup>91</sup> See Gaunt, 'Cromwell's Purge? Exclusions and the First Protectorate Parliament', *Parliamentary History*, 6 (1987), pp. 1-22; Little & Smith, *Parliaments and Politics*, pp. 81-3.

<sup>92</sup> Gaunt, 'Oliver Cromwell and his Protectorate Parliaments', p. 88.

<sup>93</sup> See C. Egloff, 'The Search for a Cromwellian Settlement: Exclusion from the Second Protectorate Parliament', *Parliamentary History*, 17 (1998), pp. 178-97, 301-21; Little & Smith, *Parliaments and Politics*, pp. 87-91; See also Worden, 'Cromwell and the Council', pp. 100-103.

<sup>94</sup> See Egloff, 'The Search for a Cromwellian Settlement', pp. 178-97, 301-2; Egloff, 'Settlement and Kingship', pp. 90-162; Little & Smith, *Parliaments and Politics*, p. 90.

the definition of the terms of article seventeen – to exclude men who were not of ‘known integrity *to the government*’ – betrays the reasons lurking behind those mass-exclusions.<sup>95</sup> Unable to trust in the people’s choices, the Council and the army officers took steps to ensure that the minority interest was preserved.

The high-handed, arbitrary, manner in which this purge had been achieved did much to set in motion a ‘civilian’ Cromwellian backlash that would later lead to the parliamentary constitution of February 1657.<sup>96</sup> It also added fuel to Cromwell’s resolution that it was time to ‘lay aside arbitrary proceedings, so unacceptable to the nation’. In both 1654 and 1656, Cromwell had been keen to distance himself from the pre-session exclusion of MPs and never attempted to defend what the Council had done. The army grandees, in particular, may have seen the exclusions as a means to keep out those most likely to question their position in the constitutional settlement. Yet, the long-term consequence of their connivance in the exclusion process was a general antipathy to military rule that brought about the end of the Major Generals experiment and accelerated agitation for a new constitution that included the offer of the Crown.

Unsurprisingly, as part of that new constitutional settlement, proposals were advanced to terminate the Council’s control over the Commons’ membership. In the *Humble Remonstrance* the Council’s role was modified to that of joint-partner, along with a committee from the outgoing House of Commons, to ‘examine whether the persons so elected and returned be either disabled or not qualified...to sit or serve in Parliament’. Those persons would be excluded until ‘their case... be brought before

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<sup>95</sup> *CJ*, vii, 426 (22 Sept. 1656); Egloff ‘The Search for a Cromwellian Settlement’, pp. 181-2; Egloff, ‘Settlement and Kingship’, pp. 18-22; Little & Smith, *Parliaments and Politics*, p. 94.

<sup>96</sup> Egloff, ‘Settlement and Kingship’, pp. 64-5, 161-2.

the House... and then determined'.<sup>97</sup> In the subsequent iteration of the constitutional settlement, the Council was removed from the exclusion process altogether. Instead, 'forty-one commissioners' were to be 'appointed by Act of Parliament', any 'fifteen or more' of which were 'authorised to examine and try whether the members to be elected for the House of Commons in future Parliaments be capable to sit'. If the commissioners found any unqualified then they were authorised to 'suspend them from sitting' until the Commons reviewed their case.<sup>98</sup>

This proposal was clearly worrying to Cromwell as it invoked those same suspicions he had harboured against the Rump Parliament; namely, the potential for the Commons to 'perpetuate' itself. The committee of forty-one, chosen by the outgoing House of Commons, was in a position to ensure that its successor was packed with the same personnel, or, at the very least, men of the same spirit as themselves. It was most likely for this reason that Cromwell would request that the whole proposal be dropped. Cromwell disliked this measure, for those 'commissioners are uncertain Persons'. He did hope that the commissioners would 'be always good men – but if they should be bad, then perhaps they will keep out good men'. Cromwell believed that 'if there be *no* Commissioners, it would be never a whit the worse'. Instead, the incoming Parliament should judge its own membership – imposing fines or imprisonment upon the offenders.<sup>99</sup> There was also much to recommend in allowing the Commons the freedom to be the adjudicator of its own membership. Henry Cromwell, after learning the terms of the *Humble Remonstrance*, wrote to Thurloe in praise of the 'way of approveinge members for future parliaments, as whereby the distaste or rejecting such whome the country hath chosen, will less reflect upon his

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<sup>97</sup> Bodl., Clarendon MS 54, fols. 118-19v; *Clarke Papers*, iii, 89-90: Thurloe to Monck, 24 Feb. 1657.

<sup>98</sup> Gardiner, *Constitutional Documents*, p. 451.

<sup>99</sup> *Carlyle*, iii, 107-8, 492 (21 Apr.).

highness'.<sup>100</sup> Indeed, Cromwell probably felt this way too; although he asked for the forty-one commissioners to be dropped he did not seek to put anything else in its place and did not demand that the Council have their powers of exclusion confirmed.

That Cromwell was happy to let the approbation of the Commons by the Council lapse is largely explained by the provision for an Other House. The resurrection of an upper chamber provided an opportunity to reconstruct the legislative balance that had been noticeably missing since the abolition of the Lords in 1649. It offered a reactive check upon the excesses of the Commons, thereby precluding the necessity of proactively removing opponents from the lower chamber. There was a great irony here: the House of Lords had been abolished in 1649 precisely because it would not stomach the activities of a minority in the Commons; by 1657, however, the restoration of an upper chamber was seen by Cromwell as the best way to preserve that minority interest while simultaneously striving to reconcile the majority of the nation through 'freely' elected parliaments.

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### **The Constitutional Foundations of the Other House, February - June 1657**

It is unlikely the authors of the parliamentary constitution of 1657 saw the Other House in quite the same way as Cromwell. For them, the restoration of bicameral parliaments was a logical and necessary by-product of the principal clause for reviving monarchy. Its status only made sense in reference to the offer of the Crown; kingship and the revival of a second chamber were inseparable components in a

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<sup>100</sup> *Thurloe*, vi, 93-4: H. Cromwell to Thurloe, 4 Mar. 1657.

constitutional package that would rebuild the ancient constitution of King, Lords and Commons. Such was the implicit understanding that this was a restitution of what had gone before, that the clauses defining the upper chamber were left remarkably brief. Article two provided for future parliaments ‘consisting of two Houses’ while article five stated:

That your Highnesse will consent that none may be called to sitt & vote in the other House, but such as are not disabled, but qualified as aforesaid & that they exceede not seventy in number nor be under the number of forty, & that as any of them doe dye, or be legally removed noe new one be admitted to sitt & vote in their roomes, but by consent of the House it selfe.<sup>101</sup>

No more information was given; there was no clarification of the legislative or judicial functions of the chamber and scant mention of the procedure for nominating its membership, beyond oblique reference to choosing replacement members. Taking these clauses in isolation, the Other House was shapeless. Only by fitting it within the traditional framework of the ancient constitution did it begin to take form.

The very hint of the restoration of a House of Lords made the military Cromwellians baulk. Charles Fleetwood complained to his brother-in-law Henry Cromwell that, not only did the *Humble Remonstrance* make Cromwell a king, but it ‘also sett[s] up anothe[r] howse of parliam[en]t in the nature of A howse of Peeres’. Such a change in government would be most ‘unseasonable because some things in itt have bine Against o[u]r Latter Engagements & Resolucons’.<sup>102</sup> According to the Scottish Protestor Archibald Johnston of Wariston this latest constitutional offer only served to highlight the almost-farcical series of ‘overturnings, overturnings, overturnings’ in the past decade. It all began with:

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<sup>101</sup> Bodl., Clarendon MS 54, fols. 118-19v; See also *Clarke Papers*, iii, 90-2: Newsletters from J.R. and G.M.

<sup>102</sup> Gaunt, *Lansdowne*, p. 201: Fleetwood to H. Cromwell, 24 Feb. 1657.

Ane overturning of King Charles and his familye and Monarchie into a Comonwealth, from that a 2d unto a Protector, Counsel and a Parliament; and now the 3d overturning of that unto a Monarchie agayn and House of Peers... and so maik the circle round and proove the emptyness, vanity, naughtinesse [and] folly of man.<sup>103</sup>

The opponents of the offer of the Crown, feared that the Other House represented yet another cog in the machine that would take the nation through a full ‘revolution’ that returned back to its starting point.

In the face of anticipated resistance, the civilian Cromwellians grew nervous. On 24 February, Sir John Reynolds was less than sanguine about the prospects of success when he informed Henry Cromwell that ‘the business is so raw at present, as it will ensure onely gentle handling, the other house, or ballance goes heavily on’.<sup>104</sup> Barely a week later, another correspondent of Henry Cromwell, John Bridges, noted that ‘that wee feare will most stick w[i]th us is the ballance, or house of Lords as some call it’ – albeit he did hope ‘to see an issue w[i]thin 4 dayes’.<sup>105</sup> Thurloe, also reporting to Henry on 3 March 1657, confirmed the gloomy forecast. ‘Tomorrow wee are to debate, whether another house shal be erected, as a third estate, which for ought I see will prove a very hard and doubtfull question’.<sup>106</sup>

When the second article of the *Humble Remonstrance*, for establishing bicameral parliaments, came under the Commons’ scrutiny on 4 March there were signs of the sort of delay that many had feared. The lack of progress that day was summed up in one army newsletter: ‘Wednesday [4 March]... the Parliament considered of the part of the bill for nominating 70 persons to bee another 3d estate in the nature of a House

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<sup>103</sup> *Wariston Diary*, iii, 72.

<sup>104</sup> Gaunt, *Lansdowne*, pp. 206-7.

<sup>105</sup> *Ibid.*, pp. 217-18.

<sup>106</sup> *Thurloe*, vi, 93.

of Peeres, but came to no result'.<sup>107</sup> Yet, any opposition proved to be short-lived as the following day it was resolved without a division that it be part of the draft constitution that 'your Highness will, for the future, be pleased to call Parliaments, consisting of Two Houses'.<sup>108</sup> Thurloe, writing to Monck later that day, triumphantly reported how 'yesterday and this day wee spent in Parliament in the debate whether his Highnesse should nott bee advised for the future to call Parliament consisting of 2 Houses, and at last it was resolved very unanimously that hee should'.<sup>109</sup>

The apparent unanimity with which the Commons acted is revealing. Firth attaches the 'diminished vigour' of the military leaders in the House at this juncture to the stinging rebuke they had lately received from Cromwell on 27 February.<sup>110</sup> Yet, it is also likely that they did relatively little to resist the creation of the Other House because, upon consideration, they saw its potential benefit.<sup>111</sup> Given its position as a legislative balance over the Commons, it was vital that the 'right' people were nominated to sit there. Writing to Monck on 5 March, Thurloe expected that the Other House would 'bee a great security and bullwarke to the honest interest' and will 'not bee soe uncertaine as the House of Commons which depends upon the election of the people'.<sup>112</sup> The Other House offered a solution to the perennial problem of the Interregnum – how to preserve a minority interest in a political system that relied on the participation of the majority. The problem, however, was that the Protectorate's supporters were divided over who represented the true 'honest interest' in the nation.

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<sup>107</sup> *Clarke Papers*, iii, 94-5: Newsletter from 'G.M.', 7 Mar. 1657.

<sup>108</sup> *CJ*, vii, 498 (5 Mar.).

<sup>109</sup> *Clarke Papers*, iii, 93-4; See also *CSPV 1657-59*, pp. 27-9: Giavarina to Doge and Senate, 6/16 Mar. 1657.

<sup>110</sup> C.H. Firth, 'Cromwell and the Crown', *EHR*, 18 (1903), pp. 59-60.

<sup>111</sup> For the softening of military attitudes see Gaunt, *Lansdowne*, pp. 213-15, 245-6; *Wariston Diary*, iii, 64-66.

<sup>112</sup> *Clarke Papers*, iii, 93-4; See also *Ibid.*, iii, 89-90: Thurloe to Monck, 24 Feb. 1657.

For the civilian Cromwellians, this ‘honest interest’ was undoubtedly a conservative one, freed from military interference. It was out of such a spirit that Henry Cromwell wrote to Thurloe on 4 March hoping that the Protector would ‘see howe howe much safer it is to rely upon persons of estate, interest, intergritie, and wisdom.’<sup>113</sup> For the military Cromwellians, however, the ‘honest interest’ meant something altogether different. As Fleetwood complained to Henry Cromwell shortly after the presentation of the *Humble Remonstrance* to Parliament, it was the hopes of ‘honest men’, a phrase that undoubtedly meant Fleetwood and his fellow military adherents, that ‘the Lord will so manage his Highnes hart in this busines’.<sup>114</sup> Both sides claimed to speak for the ‘honest interest’ and both hoped that the Other House would provide a safeguard for their particular interpretation of that interest against their opponents in the Commons.

As such, the more difficult question, was how that chamber should be composed and what powers it should be given. Indeed, such was the eagerness to deal with this issue, that, despite the Commons’ resolution to read and debate each article of the *Humble Remonstrance* in turn, debate on 5 March immediately skipped forward to article five, which dealt with defining the nature of the Other House.<sup>115</sup> According to Thurloe, a great deal was discussed that day concerning the qualifications of the membership:

The other House is to bee called by writt in the nature of the Lords’ House, but is not to consist of the old Lords, but such as have never been against the Parliament, but are to bee men feareing God and of good conversation, and such as his Highnes shall bee fully satisfied in, both as to their interest, affection, and integrity to the good old cause.

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<sup>113</sup> *Thurloe*, vi, 93-4.

<sup>114</sup> Gaunt, *Lansdowne*, p. 201.

<sup>115</sup> *CJ*, vii, 496 (24 Feb.).

It was also suggested that those that sat in the Other House should ‘bee for life, and as any dye, his place is to bee filled up with the consent of that House it selfe, and not otherwise’.<sup>116</sup> Clearly, the Commons did not intend the restoration of *the* House of Lords but they did expect the incorporation of those peers who had remained faithful to Parliament. At the same time, however, they chose to style the qualifications of the membership in an ambiguous language analogous to that used in the *Instrument*. What determined an individual’s ‘interest, affection, and integrity to the good old cause’, for instance, was open to a great deal of interpretation.

Mabbott reports how the debate stretched into 6 March leading to resolutions that the ‘number of the other House should bee not above 70, nor under 40; That they should be chosen by his Highness; That when any of them dye others in their stead shall bee appointed by the said House’. Moreover, Mabbot claimed that a much more detailed list of qualifications for the membership were agreed upon:

That no Irish rebels, or such as were actors, ayders, councillors, or abettours in the late warre against the Parliament since 1642, unles such as have since given signall testimonyes of their good affection to the present Government, shall be capable of sitting in the said House.<sup>117</sup>

Yet, Mabbott’s report is erroneous. According to the Commons’ Journal, debate on 6 March began with the reading of the fourth article of the *Humble Remonstrance* – which dealt with qualifications upon MPs – thereby taking the document in order as originally intended. Clearly, at this point, some members moved that the qualifications on the Other House should also be debated in tandem with those on the Commons. This was met with a resolution that the House should stick to their original intention of debating everything in order. That is, ‘when the Fifth Article comes into

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<sup>116</sup> *Clarke Papers*, iii, 93-4: Thurloe to Monck, 5 Mar. 1657.

<sup>117</sup> *Ibid.*, iii, 94-5: 7 Mar. 1657.

Debate, not only the Qualifications of the Persons to be of the other House shall then be taken into Consideration, but also by whom and how the Persons of that House shall be chosen'.<sup>118</sup>

The official debate on the fifth article of the *Remonstrance*, however, did not occur until the following week on 11 March. Predictably, a neurotic Thurloe feared for the worst, informing Henry Cromwell on 10 March that soon 'wee shall come to the manner of choosinge the other house' and that 'the debates will be very longe, I feare'.<sup>119</sup> Once again, however, his worries proved unfounded. The opening clause of article five was confirmed – 'That your Highness will consent, that none be called to sit and vote in the other House, but such as are not disabled, but qualified, according to the Qualifications mentioned in the former Article'.<sup>120</sup> As Mabbott had predicted on 7 March, the qualifications devised for the Commons in article four were to be applied to the Other House as well.

The next resolution taken by the Commons was to confirm the second clause of the fifth article of the *Remonstrance*: that the Other House 'exceed not Seventy in Number, nor be under the Number of Forty'. A debate followed over the number of members necessary to make a quorum in the Other House – the initial figure touted being thirty-one. Given that this was just nine less than the minimum number of nominated members, it is unsurprising that the proposal was rejected – the question for putting the question failing by ninety-six votes to fifty-three. Instead a more

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<sup>118</sup> *CJ*, vii, 499 (6 Mar.); Bodl., Clarendon MS 54, fols. 118-19v.

<sup>119</sup> *Thurloe*, vi, 107.

<sup>120</sup> *CJ*, vii, 501 (11 Mar.); Gardiner, *Constitutional Documents*, p. 452.

realistic figure of twenty-one, just over half the lower limit of members, was agreed upon.<sup>121</sup>

With the qualifications and number of members resolved, there still remained the issue of who should nominate the Other House. The *Remonstrance* was silent on this subject – the inference being that it was Cromwell’s choice alone. Thurloe, writing to Monck on 24 February, was sure that ‘my lord protector by that paper is to name’ the Other House ‘for the first tyme’.<sup>122</sup> Taking the kingly mantle, Cromwell would issue out writs of summons to those he chose to sit in the upper chamber.<sup>123</sup> This right was confirmed explicitly by the Commons on 11 March with the resolution that ‘the Lord Protector be pleased to nominate the Persons to sit in the other House’. Yet, contrary to the original *Remonstrance*, this power was not left unfettered. Significantly, it was also resolved ‘nemine contradicente’ that ‘the Persons, so nominated by the Lord Protector, shall be approved of by this House’.<sup>124</sup> Cromwell would no longer be the sole judge of the qualifications for the membership of the Other House – each ‘lord’ would pass the Commons’ scrutiny before being allowed to sit.

That the Commons decided to implement this safeguard speaks volumes about the suspicions that many harboured over Cromwell’s ability to nominate the ‘right’ men. It also did much to undermine the status of the Other House as a balance upon the Commons. There was a real chance that the Commons, like the Council in 1656, could exclude those lords they found objectionable on such ethereal grounds as not being of ‘known integrity, fearing God and of good conversation’. The result would

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<sup>121</sup> *CJ*, vii, 501-2 (11 Mar.).

<sup>122</sup> *Clarke Papers*, iii, 89-90.

<sup>123</sup> *Ibid.*, iii, 93-4.

<sup>124</sup> *CJ*, vii, 502 (11 Mar.).

be a purged Other House that merely conformed to the whims of the majority of the House of Commons – thereby making unlikely the possibility that it would ever block legislation from the lower chamber. It also set up the potential for a debilitating stalemate between the single person and the Commons, should the former challenge the judgment of the latter.

The rules governing the nomination of succeeding members to the Other House were more opaque. According to article five of the *Remonstrance*, when any of the original members ‘do die or be legall removed, no new one be admitted to sit or vote in their rooms, but by consent of the House itself’.<sup>125</sup> It was unclear whether the Other House was left with the sole right of choosing subsequent members or whether they would simply confirm nominations made by the single person. Either way, it ensured that once the original nominations to the Other House had been confirmed it was unlikely that the ‘temper’ of those men nominated to that chamber would alter much. In theory, even though kings would come and go, the complexion of the Other House would remain constant – recruiting men who they found favourable and rejecting those they did not. Indeed, Thurloe commended this provision to Monck on 5 March because it ensured that ‘if that House bee made good at first it is likely to continue soe for ever, as farre as man can provide’.<sup>126</sup> It ensured that the Other House would remain consistent in an otherwise shifting political scene. It also reinforced the importance of the choice of the founding members – an error there could mean perpetual misery for either the Commons or the single person.

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<sup>125</sup> Bodl., Clarendon MS 54, fols. 118-19v.

<sup>126</sup> *Clarke Papers*, iii, 93-4.

It is unsurprising, therefore, that some MPs attempted to remedy this situation when debate on the fifth article resumed on 12 March. Specifically, it was propounded that the House should amend the clause so that subsequent members would need the consent of ‘both Houses’ rather than just the Other House alone. Yet, the question for putting the question was defeated and the original clause from the *Remonstrance* was upheld.<sup>127</sup> The unwillingness of the majority in the Commons to back this change suggests that most believed their initial check upon the founding members would be sufficient. To subject the Other House to further control by the Commons in the future would have condemned it to a position of eternal weakness.

Arguably, however, the constitutional reform that led to the creation of the Other House was already inherently flawed from the beginning. Theoretically, one of the major reasons for establishing an Other House was to provide a balance over the Commons without having to resort to the high-handed tactics hitherto employed during the Interregnum. The ultimate irony, however, lay in the fact that the Commons themselves were entrusted with constructing that balance – they had to be their own executioners. Richard Cromwell highlighted the contradiction when he reported to his brother on 7 March, that ‘the howse hath made themselves the commons by voting another howse’.<sup>128</sup> After eight years of being styled simply as ‘*the Parliament*’, the elected assembly would have to revert back to its status as the ‘lower’ chamber or ‘House of Commons’; they would have to effectively renege their claims to sovereignty of 4 January 1649. Unsurprisingly, they showed reluctance to surrender power completely – seeking some degree over the founding membership to ensure it was more palatable.

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<sup>127</sup> *CJ*, vii, 502 (12 Mar.).

<sup>128</sup> Gaunt, *Lansdowne*, pp. 220-1.

These provisions were hardly acceptable to Cromwell. What the Commons were offering was not the absolute legislative check that Cromwell would have wished for, nor was it a guaranteed bulwark for the ‘godly’ interest. Although he could nominate such men as he pleased, there was no guarantee they would find ready acceptance. Cromwell had complained to the hundred officers how ‘the interest of the godly people of the 3 nations could nott bee secure as the Government is now establish’t under the *Instrument*, because of the free licence it gave to the persecuting spirit of the Commons.<sup>129</sup> Yet, if the Commons adjudged the membership of the Other House, it was inevitable that the so-called balance would reflect their attitudes and prejudices too. In all likelihood, the ‘honest interest’ that the Other House would come to represent under these rules would be at a variance to the ‘godly interest’ as defined by Cromwell.

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The debates over the Other House in early March had done much to define the nature of the chamber. Unlike the *Humble Remonstrance*, it was now clear who was to nominate the founding members and how they would be qualified and approved. The size of the Other House was confirmed as were the number required to make a quorum. On 12 March there had also been a significant last-minute addition to article five that ‘the Votes of the Persons to be of the other House shall not be by Proxies’.<sup>130</sup> This meant it was not longer possible, as had been the practice in the House of Lords, for an absent Lord to ‘give’ his vote by proxy to a member then sitting. All members

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<sup>129</sup> *Clarke Papers*, iii, 92-3.

<sup>130</sup> *CJ*, vii, 502 (12 Mar.); Gardiner, *Constitutional Documents*, p. 452.

of the Other House would have to be personally present at Westminster to give their vote. Clearly, some grey areas remained; the nomination process for subsequent members was not entirely clear and, although the judicial powers of the chamber were studiously considered by a committee of MPs and enumerated at large in the revised constitution, the Other House's legislative powers were left ambiguous. Yet, on the whole, the revisions made in Parliament gave much greater definition to the extremely amorphous body described in the February *Remonstrance*.

Significantly, however, this search for definition also had an unintended consequence for the civilian Cromwellians. The provisions in the *Remonstrance* had been so meagre that the Other House could only possibly make sense when put in the context of the offer of the Crown in the first article. With the greater definition afforded by the Commons' revisions, however, it was much easier to understand the Other House without reference to the kingly title. In part, this was an unavoidable result of the method in which the Commons had debated the *Remonstrance* as a whole. Leaving the first clause of the first article concerning the kingship until the very end meant that the rest of the constitution was resolved upon before it was certain what the title of the single person would be. The Commons' resolution on 11 March concerning the nomination of the members, for instance, referred to Cromwell by his current title of 'Lord Protector' rather than 'the king' or the suitably ambiguous 'his Highness'.<sup>131</sup> In effect, the Commons were building the constitution backwards – erecting the structure before laying the foundations. The title became an interchangeable brick rather than the bedrock on which everything stood. By defining the Other House without first deciding on the title, it became much easier to detach it from that title.

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<sup>131</sup> *CJ*, vii, 502 (11 Mar.).

In order to prevent that from happening, the majority in the Commons had resorted to a previous vote on 28 February that ‘no Vote that shall be passed upon the Debate of this Paper, shall be binding to this House, until all the Particulars thereof be resolved’.<sup>132</sup> This expedient served to uphold artificially the status of the first clause as integral to the constitution as a whole; if that clause was not agreed upon then none of the other articles were valid. On 26 March, the spirit of this resolution was also incorporated into the final article of the revised constitution, which was now titled the *Humble Petition and Advice*: unless Cromwell give his ‘Consent to all the Matters and Things in this humble Petition and Advice... then nothing in the same be deemed of Force to oblige the People of these Nations in any the Particulars therein contained’.<sup>133</sup> Two days later, Robert Beake MP for Coventry revealed the anxieties that lurked behind this last-minute addition. He noted how the army, hostile to the kingly title, were ‘by their perswasions’ hoping to ‘worke his highness’ to refuse the Crown ‘and to declare an acceptance of the rest’. In order ‘to obviate this’, Beake explained, ‘the parliament have voted that if he take not all, noe parte should binde’.<sup>134</sup>

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For his part, Cromwell was unwilling to accept the centrality of kingship to the proposed constitution. Throughout the ensuing month of debate between Cromwell and the committee of ninety-nine MPs, Cromwell repeatedly stressed his reasons,

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<sup>132</sup> *CJ*, vii, 497 (28 Feb.).

<sup>133</sup> *CJ*, vii, 513 (26 Mar.); Gardiner, *Constitutional Documents*, p. 458.

<sup>134</sup> C. Egloff, ‘Robert Beake: A Letter Concerning the Humble Petition and Advice, 28 March 1657’, *Historical Research*, 68 (1995), pp. 233-9.

both worldly and providential, for declining the kingly title.<sup>135</sup> Time and again, Cromwell vented his frustration at the ‘all or nothing’ component of the *Humble Petition*; initially refusing the kingly title outright on 3 April 1657, he asked whether the Commons would ‘refuse to accept’ the ‘good things so well provided for in this Instrument... because of such an Ingredient?’<sup>136</sup> As Beake predicted, it was a belief that was increasingly shared by many among the military Cromwellians as well. As early as 7 April, William Jephson revealed how ‘Fleetwood did... professe himselfe to mee to bee a greate enemye to arbitrary government and manifested his unwillingnesse to a totall breach, and perswaded rather to quit the title and accept the rest’.<sup>137</sup> On 21 April, Thurloe also noted that ‘my lord-deputy [Fleetwood] and generall Desbrowe oppose themselves with all earnestnes against the title, but thinke the other thinges in the Petition and Advice are very honest’.<sup>138</sup> The civilian Cromwellians grew wary of this plot. As Sir John Reynolds noted on 14 April, ‘we are at present in suspense, that which is offered by some as an expedient not being pleasing to the house, viz, that the present settlement be established without the title of king, which the sense of the parliament doth much oppose and dislike’.<sup>139</sup>

The tautological debates between Cromwell and the committee of ninety-nine did little to break the deadlock. As such, Cromwell decided to change tack on 20 April 1657. Leaving the issue of the Crown aside, Cromwell revealed that he had ‘looked a little upon the Paper, the Instrument [i.e. *Petition and Advice*]... in the other parts of it, unconnected with this of the Kingship’ and had found ‘very many particulars’ worth

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<sup>135</sup> The details of the kingship debates are already well-known, the best outline remains C.H. Firth, ‘Cromwell and the Crown’, *EHR*, 17 (1902), pp. 429-42; 18 (1903), pp. 52-80.

<sup>136</sup> *Carlyle*, iii, 31-33.

<sup>137</sup> Gaunt, *Lansdowne*, pp. 246-7, wrongly dated 6 Apr.

<sup>138</sup> *Thurloe*, vi, 219-20: Thurloe to H. Cromwell, 21 Apr. 1657.

<sup>139</sup> Gaunt, *Lansdowne*, pp. 259-60: Reynolds to H. Cromwell, 14 Apr. 1657.

considering – ‘some of general reference and others specified, and all of weight to the concernments of these Nations’.<sup>140</sup> This paper of objections, which he presented to the committee the following day, touched upon a number of seemingly trivial matters, backed by a tantalising promise from Cromwell of a final resolution over the settlement as a whole. After enumerating those points he found objectionable - including, among other things, the laxity of the qualifications upon Scottish and Irish MPs; the forty-one commissioners to examine the Commons’ membership; the inadequacy of the proposed annual government revenue; and the lack of provision for the reformation of both law and manners – Cromwell closed by stating his intention to do business with the Parliament.<sup>141</sup> Once the committee ‘shall have been pleased among yourselves to take consideration of these things’, then Cromwell professed that he would ‘be very ready.... to discharge myself of what, in the whole and upon the whole, may be reasonably... expected from me, as God shall set me free to answer you in’.<sup>142</sup>

These deliberately slippery remarks struck a chord with many of the civilian Cromwellians. William Jephson, brushing aside Cromwell’s paper of objections as matters of ‘lesser moment, wherein, I suppose, it will not bee hard to give satisfaction’, concentrated on the tacit promise at the end of the speech. ‘In conclusion of his Highness’ discourse’, Jephson revealed, ‘wee made ourselves believe wee had greate reason to Percyve that if satisfaction were given in the particulars, the thinges in the petition beeing soe desirable, and settlement a thing of soe absolute necessitye, that he should hardlye know how to deny it with all its

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<sup>140</sup> *Carlyle*, iii, 75-84 (20 Apr.).

<sup>141</sup> *Ibid.*, iii, 102-123 (21 Apr.).

<sup>142</sup> *Ibid.*, iii, 123.

appurtenances'.<sup>143</sup> Thurloe, also writing to Henry Cromwell on 21 April, believed that 'those things, which his highness offered this day, are not of the essence of the paper, but are such as the parliament will, without much difficultye, comply with him in'. Cromwell's 'carriage in this debate was such, that it gave great hopes to some, that he would at last comply with the parliament'.<sup>144</sup>

Arguably, Cromwell had provoked precisely the reaction he wanted. The civilian majority in Parliament, excited by the implied promise of a resolution on the Crown, were all-too-willing to compromise with Cromwell over those proposals of 'lesser moment'. Yet, these points were not quite so circumstantial as they might at first seem. True, many of them were only slight alterations to clauses within the *Humble Petition*, but they were alterations all the same. If the Parliament admitted changes to other, lesser, parts of the constitution then it was possible they could be brought to change the more significant parts too. If the terms of the constitution were no longer fixed but open to question and revision then the status of the document as an 'all or nothing' settlement would be severely compromised.

Interestingly, the matter of nominating the Other House, specifically the nomination of successive members, was one such issue which found its way into Cromwell's paper of queries. As already noted, the clause in the *Humble Petition* was highly ambiguous – it simply stated that 'as any of them do die, or be legally removed, no new ones be admitted to sit and vote in their rooms, but by the consent of the House itself'.<sup>145</sup> As Cromwell explained, although the nomination of the original membership was clear enough – 'the House is to be nominated as you there design it

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<sup>143</sup> Gaunt, *Lansdowne*, p. 262: Jephson to H. Cromwell, 21 Apr. 1657.

<sup>144</sup> *Thurloe*, vi, 219-20.

<sup>145</sup> Gardiner, *Constitutional Documents*, p. 452.

[i.e. by the Protector], and the approbation is to be from This House [the Commons]’ – the manner in which those ‘shall be subsequently named, after the Other House is sat’ was much less certain. ‘Though it seems to refer to the same rule that the first original election doth’, he continued, ‘yet it doth not so clearly intimate this; that the nomination shall be, where it was, in the Chief Officer, and the approbation in the other House.’ Evidently, Cromwell was keen to ensure that he asserted his control over the nomination process and that any possible ambiguity was removed. His intentions were made clear from the note he scribbled in the margin of his paper: ‘the chief to nominate’.<sup>146</sup>

Spurred on by Cromwell’s promise of a speedy resolution to the whole affair, the Commons were prepared to accept his suggested amendments with little objection. Few heeded Nathaniel Bacon’s warning that by doing so they put ‘things into a loose way’, and left ‘the chief magistrate to choose, and leave what part of the Petition he likes’.<sup>147</sup> When the Commons’ turned its attention to Cromwell’s query about the nomination of the Other House on 24 April, Thurloe was keen to allay any fears about the Lord Protector’s intentions, claiming that the proposed modification to article five was minimal. ‘Comparing the beginning and the latter end of the article’, Thurloe explained, ‘you may clear it without a vote; and only declare, that it is your intention, that as to this doubt, the nomination shall be in the chief magistrate’.<sup>148</sup> Lambert Godfrey, however, was unconvinced about the wisdom of allowing the Lord Protector any degree of power in nominating the Other House. He complained how ‘this will be the way to set up another House quite contrary to the interest of the House of Commons’. The Commons did intend the Other House to be ‘a balance, a medium

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<sup>146</sup> *Carlyle*, iii, 109, 491-3.

<sup>147</sup> *Burton*, ii, 21 (24 Apr.); See also speeches by Bacon, Broghill and Whitelocke in *Ibid.*, ii, 17-18.

<sup>148</sup> *Ibid.*, ii, 20-22: speeches by Thurloe, Jones and Bond (24 Apr.).

between the House and the single person'. Yet, as it stood 'of necessity, they must adhere to the interest of the single person, and so cease to be that balance and medium they were intended for'.<sup>149</sup>

Godfrey's misgivings offer an intriguing insight into the unease which some still felt about allowing the Protector a hand in the nomination of the upper chamber.

Although the founding nominations were fettered in such a manner as would suit the Commons, there remained the danger of the subsequent membership of the Other House gradually coming to reflect the interest of the single person. Ultimately, however, Godfrey was ignored by the majority and the amendment was resolved upon; 'That the Nomination of the Persons to supply the Place of such Members of the other House, as shall die, or be removed, shall be by the Chief Magistrate'.<sup>150</sup>

This resolution was itself the subject of some confusion. Major-General Goffe queried 'who shall approve of these persons, which was doubtful in the article, which only relates to admitting them'. The provisions of article five simply stated that 'no new ones be admitted to sit and vote in their rooms, but by consent of the House itself'. Whether 'the House' meant the Other House or the Commons was not totally explicit nor was the extent to which their 'consent' was an approbation of the Protector's choice or merely a formalised 'admittance' of the new members to the Other House. Clearly, the Commons did not have time for such matters – as Burton tellingly notes 'nothing was done' to answer Goffe's question. Hastily pushing forward with the changes in anticipation of Cromwell's 'final' answer to the constitution, the

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<sup>149</sup> *Ibid.*, ii, 22 (24 Apr.).

<sup>150</sup> *CJ*, vii, 523 (24 Apr.).

Commons ignored the finer wording of the document, thereby leaving this particular clause conspicuously vague.<sup>151</sup>

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Ultimately, the civilian Cromwellians were to be sorely disappointed with Cromwell's final response on 8 May. Once again, he stressed how the 'Act of Government doth consist of very excellent parts, in all but that one thing of the Title', and that he could not 'undertake this Government with that Title of King'.<sup>152</sup> Such was the shellshock among the civilian majority in the Commons that the report of the Protector's answer was deferred for three days.<sup>153</sup> Although Thurloe complained to Henry Cromwell on 12 May that it was 'hard to guesse what wil be done next', he had a good idea what the likely outcome would be. 'The souldiers partie, who have opposed this advise as to the title', he explained, 'doe pretend, that they are very well pleased with all the rest, and will desire noe alteration therein, but the title from kinge to protector'. Of course, the only problem was 'the countrye gentlemen are very averse from this; and soe longe as they keepe together, it will scarce be effected'. Yet, Thurloe believed, in the wake of Cromwell's refusal, 'it is very probable many of them will be gone, and then this or what else shall be thought fitt may be done'.<sup>154</sup>

Indeed, the issue split the kingship party in two. While some continued to resist, there were others, including Anthony Morgan, who were ready to 'lay the consideration of

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<sup>151</sup> *Burton*, ii, 22-3.

<sup>152</sup> *Carlyle*, iii, 126-9.

<sup>153</sup> *CJ*, vii, 531 (9 May.).

<sup>154</sup> *Thurloe*, vi, 281.

it aside for a time till wee hope his Highnes may have time to be better informed'.<sup>155</sup>

After debating the Protector's answer for several days, the House finally came to a resolution on 19 May: 'That "Lord Protector" shall be the Title to be inserted in the humble Petition and Advice; and that it be referred to a Committee, to consider how that Title may be bounded, limited, and circumstantiated'.<sup>156</sup> Crucially, the committee's suggested changes for bounding the chief magistrate under the title of Lord Protector, reported to the House on 22 May, were minimal:

That your Highness will be pleased, by and under the Name and Style of Lord Protector... to hold and exercise the Office of Chief Magistrate of these Nations; and to govern, according to this Petition and Advice, in all Things therein contained; and in all other Things, according to the Laws of these Nations, and not otherwise.<sup>157</sup>

As Ludlow put it, they had resolved to 'present their Humble Petition and Advice to him again, with the sole alteration of the word King into that of Protector'.<sup>158</sup> By a margin of just three votes, the House resolved to agree to committee's report and the kingship clause was finally dropped from the *Humble Petition*.<sup>159</sup>

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A number of historians have highlighted the fundamental problems created by the incoherence and ambiguity of the kingless *Humble Petition and Advice*. Ralph Catterall, writing over a century ago, contended that the 'imperfection of the constitution was made irretrievable by the alteration of the title from king to protector'; the *Humble Petition* was 'astonishingly imperfect and a 'complete

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<sup>155</sup> Gaunt, *Lansdowne*, pp. 271-2: Morgan to H. Cromwell, 12 May 1657.

<sup>156</sup> *CJ*, vii, 535 (19 May).

<sup>157</sup> *CJ*, vii, 537 (22 May).

<sup>158</sup> *Ludlow*, ii, 28.

<sup>159</sup> *CJ*, vii, 537 (22 May). Passed by 53 to 50.

failure'.<sup>160</sup> More recently, Jason Peacey has stressed how the kingless *Humble Petition* was 'less thorough than the Instrument, and too vague to be a serious written constitution'; it was 'inadequate, incomplete and inconsistent'.<sup>161</sup> Yet, too much can be made of the removal of the kingly title. Instead, it could be contended that the anomalous nature of the kingless *Humble Petition and Advice* was as much its greatest redeeming feature as its terminal flaw. The removal of the kingship gave the document a chameleon-like quality that seemed to offer something for everybody. Both the 'civilian' and 'military' Cromwellians believed that the constitution, as it stood, was a 'half-way house' to a more favourable outcome in the future. The constitution had potential precisely because it lacked definition. It left a significant amount of leeway for both sides to believe that it could be moulded for their ends.

Central to this search for 'definition' was the Other House. With the kingship removed from the *Humble Petition* the upper chamber became the focus for the aspirations and fears of both sides in regard to the future direction of the settlement. For the 'civilian' Cromwellians the benefits of retaining the bicameral system within the constitution were obvious. Conceived in the original *Humble Remonstrance* as a reconfigured House of Lords in all but name, the civilian Cromwellians had no doubt that the Other House would fill the void vacated by the old upper chamber. In the minds of the civilian Cromwellians, its position was inexorably linked to that of the king – it was one of the three pillars of the ancient constitution. So closely were the kingly title and Other House connected that some MPs had questioned whether, in the event of Cromwell retaining his title of Lord Protector, 'such thinges as may be therein inconsistent with this title may not be expunged, as House of Lords and such

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<sup>160</sup> R.C.H. Catterall, 'The Failure of the Humble Petition and Advice', *American Historical Review*, 9 (1903), pp. 41, 44, 54.

<sup>161</sup> Peacey, 'Protector Humbled', pp. 35, 51-2.

like, and the whole remayne'.<sup>162</sup> By leaving the Other House in the constitution, however, the civilian Cromwellians left the door open for a return to the kingship question in the future.

Conversely, the military Cromwellians had good reason to fear the Other House precisely because it was tainted by the offer of the Crown. Yet, the fact that they made no attempt to remove it from the constitution – even when they enjoyed a majority in the wake of Cromwell's rejection of the Crown – suggests that they saw some utility in having an upper chamber. Throughout the kingship debates, a number of the army grandees – most notably Fleetwood and Desborough - had stressed their satisfaction with the *Humble Petition* in all but the kingship clause. For them, the benefit of the Other House lay in its potential to act as a safeguard for their own interests. If they could establish themselves in that chamber they would be well placed to block any attempts in the Commons to renew the offer the Crown.

Indeed, for both civilian and military Cromwellians the composition of the Other House was of vital importance. The nominations would allow further 'definition' to this area of the constitution; once it was clear who would sit in the upper chamber it would become equally apparent which interest it would serve. Much depended upon the rules governing the nomination and approbation of the founding membership in order to ensure that the 'right choice' was made. Therefore it is unsurprising that as the *Humble Petition and Advice* was re-examined throughout June and, in deference to Cromwell's wishes, an *Additional and Explanatory Petition and Advice* was drafted in order to tie up the constitutional loose ends, the Commons took the

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<sup>162</sup> *Clarke Papers*, iii, 108: Newsletter from 'G.M.', 15 May 1657.

opportunity to modify profoundly the rules affecting the composition of the Other House.

In particular, a number of last-minute modifications made in the Commons on 24 June – just two days before Cromwell’s inauguration under the new constitution – had a significant impact on the nomination of the Other House. On the previous day, a committee had been appointed both to ‘prepare a Draught of an Oath to be taken by the Lord Protector’ and to ‘offer to the House what they think fit, touching... such other Matters as they shall think necessary, in pursuance of the humble Petition and Advice, and the additional Petition and Advice’.<sup>163</sup> The committee’s report, made the following day, exploited fully this latter mandate. Besides presenting three papers concerning the form of oath for the Protector, Privy Councillors and MPs, the committee had also prepared a ‘fourth paper’ for the Commons’ consideration touching upon the summoning of the Other House. The first clause of this paper was read that afternoon and, revealingly, upon the question agreed upon without the need for a division:

That your Highness would be pleased... before the next Meeting of this Parliament, to cause several Summons, in due Form of Law, to be issued forth to such Persons as your Highness shall think fit, being qualified according to the *humble Petition and Advice*...to sit and serve as Members in the other House of Parliament.<sup>164</sup>

Given that the Parliament was due to adjourn two days later, this clause meant the ‘approbation’ of the founding members of the Other House by the Commons could only be retrospective at best. As Burton noted, it allowed Cromwell ‘to summon the members by writ, whereas the *Petition and Advice* says, they shall be first approved

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<sup>163</sup> *CJ*, vii, 570 (23 June).

<sup>164</sup> *CJ*, vii, 572 (24 June).

by this House'.<sup>165</sup> The Lord Protector would already have made his choices and sent out his writs of summons before the Commons could reassemble – by which point it would be difficult for the lower house to question the membership of the upper chamber. The matter was emphasised further when the Commons moved onto the second clause of the committee's report:

That the said Persons so summoned and assembled together shall be, and are hereby declared to be, the Other House of Parliament; and shall and may, from such Time of their Meeting proceed to do and perform all such Matters and Things, as the Other House of Parliament ought to do and perform.

In order to ensure the meaning of the first clause was made explicit, it was then moved that 'these words "without further Approbation," be inserted in this Clause, next after the Words "shall and may"'.<sup>166</sup>

A number of civilian Cromwellian MPs were quick to criticise the suggested amendments for the irreparable damage they did to the constitutional settlement as a whole. Joachim Matthews and Thomas Bampfield were adamant that what was offered was 'expressly against the Petition and Advice' adding that it was 'such a trust as is not to be transferred. It is a considerable part of the privilege of the Commons. Have we not gone too far already?' By allowing the Protector an unfettered choice over the Other House, the Commons would be 'parting with our power further', allowing him an over-dominant role in the constitution. The whole point of the provisions in the *Humble Petition* had been to ensure the Protector was not given free-license to appoint a body of men that would be prejudicial to the interests of the civilian majority in the Commons. With this safeguard removed, the Other House could become a permanent millstone.<sup>167</sup>

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<sup>165</sup> *Burton*, ii, 297-8 (24 June).

<sup>166</sup> *CJ*, vii, 572-3 (24 June).

<sup>167</sup> *Burton*, ii, 298, 300.

The opposition raised by these amendments was not confined solely to the civilian Cromwellians, however. Leading military Cromwellian William Sydenham could not see the validity of arguments ‘against tumbling men up and down’. In his opinion it was fit to have a check on the nominations; those that sat in the Other House should be ‘such persons as would look about them, and abide tumbling and a trial’. He feared suggestions that ‘divers members will come in, upon the account of right, such as have not forfeited’. If this were allowed to extend to ‘the old Lords’ Sydenham believed they ‘had as good, indeed, rake in a kennel as tumble some of them up and down’. If ‘the old Lords shall be admitted upon the account of birth-right or privileges’ then ‘a returning to another line’ would surely follow. It would only be a matter of time, Sydenham feared, before the old Lords voted the return of Stuart monarchy. To prevent this, Major Lewis Audley suggested that any old Lords who were chosen to sit should ‘sign some such Recognition’ confirming that they ‘approve of the death of the late King... Of laying aside his family... Of taking away the House of Lords’. Clearly, Audley’s hope was that, given these impossible terms, the old Lords would choose to stay away.<sup>168</sup>

On the whole, however, the majority of members – on both sides – were keen to accept this significant change and move on. Even though military Cromwellian Charles Fleetwood was sure that what was offered was ‘contrary to the *Petition and Advice*’, he thought it ‘fit that, at your next meeting, you should have a trial of that other House, and see how your constitution will stand’; they should let the Protector nominate and give the Other House a ‘trial’ period. Fleetwood reminded the House

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<sup>168</sup> *Ibid.*, ii, 299, 300.

that ‘your time is short; that you cannot approve them now’ so, instead, ‘I shall move that approbation be in his Highness’. By the same token, civilian Cromwellian Philip Jones also believed it was appropriate to leave the nominations solely with the Protector ‘without further approbation’. He reasoned that it was better to remove this check, as ‘some persons will scruple to have their names scanned over here’.<sup>169</sup>

That those who backed the plan to give the sole right of nomination to the Protector came from both sides of the kingship debate is, on the face of it, perplexing. Even the committee of thirty-one MPs that had devised this expedient represented a mixture of political outlooks; military Cromwellians such as Desborough, Cooper and Berry rubbed shoulders with civilian Cromwellians Montagu, Onslow and Wolseley. Moreover, it is interesting to note that almost half of those appointed to that committee would be nominated by Cromwell as members of the Other House in December 1657. Colonel Alban Cox was not far wrong in his suspicion that the members of that committee ‘themselves hope to be named, and fear disapprobation here’.<sup>170</sup>

Ultimately, the decision neatly encapsulates the mutual fears that both sides had about leaving the approval of the membership of the Other House to the Commons. If the Protector’s nominations were left open to debate it would make a working relationship between the two houses virtually impossible. As Desborough put it, ‘if his Highness should send you a list of names, and they lie before you, and some think that they ought to be named that are left out, they will stir up obstructions in the approbation of others’. In Desborough’s opinion, it was not fit to ‘lay a foundation of

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<sup>169</sup> *Ibid.*, ii, 297-8 (24 June).

<sup>170</sup> *CJ*, vii, 570 (23 June); *Burton*, ii, 299 (24 June).

heat and difference'; leaving the nomination in Cromwell's hands would 'answer your ends as well as if it were in your approbation'.<sup>171</sup>

The military Cromwellians' aversion to the Commons' approbation is easy enough to explain – they were wary that the large civilian Cromwellian contingent there would object to a strong military presence in the upper chamber. Ironically, however, it seems the civilian Cromwellians were also willing to allow the approbation to drop because they were equally fearful of resistance in the Commons. Ever since Cromwell's denial of the kingly title on 8 May, the civilians had seen their numbers dwindle – they no longer enjoyed the sort of majority they had in February or March. Moreover, given that the *Humble Petition* allowed all those members excluded by the Council in September 1656 to resume their sitting, there was also no guarantee that the civilian Cromwellians would enjoy a majority when the Commons reassembled in the future.

The willingness of both sides to place the nomination of the Other House solely in the Protector was predicated on mutual suspicions and a shared confidence that Oliver Cromwell alone would make the 'correct' choice. When it was finally put to the vote whether the Other House should meet 'without further Approbation', it passed by ninety votes to forty-one; a resounding majority of forty-nine. Given the closeness of some of the votes in mid-May concerning the alteration of the title of the supreme magistrate, the much larger margins involved in this vote suggest that it had support from more than just the 'military' Cromwellian opponents of the kingly title. With

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<sup>171</sup> *Burton*, ii, 299 (24 June).

both sides nervous about their relative strength in the Commons, they decided to put their trust in the Protector instead.

The last-minute additions made to the *Additional and Explanatory Petition and Advice* on 24 June 1657 were as vague as possible on the nature, powers and composition of the Other House. Although the Commons had a perfect opportunity to give greater definition to this part of the constitution, they were satisfied to leave it in an anomalous state. In particular, the *Additional Petition* concluded with a litany of unspecific and contradictory statements concerning the Other House's powers. For instance, the Other House was to give 'their advice and assistance, and to do such things concerning the great and weighty affairs of this Commonwealth, as to the other House of Parliament doth appertain by the said humble Petition and Advice'. Even more ambiguously, this House, 'from such time of their meeting' were to 'proceed to do and perform all such matters and things as the other House of Parliament ought to do and perform, and shall and may have and exercise all such privileges, powers and authorities as the other House of Parliament ought... the said humble Petition and Advice, or anything therein contained to the contrary thereof notwithstanding'.<sup>172</sup>

These amendments were seemingly designed to breed confusion more than firmness. Francis Thorpe was right when he later lamented how 'the last words of the [Additional] Petition whip up the heels of whatever you have done in the Petition and Advice, so that all that ever you have limited them [the Other House] in, is gone'.<sup>173</sup> That was the whole point. The majority in the Commons were striving to keep the status of the Other House as ill defined as possible – relying instead on the Protector's

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<sup>172</sup> Gardiner, *Constitutional Documents*, pp. 463-4; *CJ*, vii, 572-3 (24 June).

<sup>173</sup> *Burton*, ii, 447 (4 Feb. 1658).

discretion. In effect, the success of the whole constitution rested on the nominations that Cromwell would make to the Other House. Once the membership became clearer, the ambiguous state of the Other House would be resolved and, with it, the future direction of the settlement.

## **Chapter 2: The Membership of the Other House**

I did tell you... that I would not undertake it unless there might be some other persons between me and the House of Commons, who had the legislative power, to prevent tumultuous and popular spirits, and it was granted I should name another House, and I named it of men that should meet you wheresoever you goe, and shake hands with you, and tell you it is not titles, nor Lords, nor party they value, but a Christian and an English interest; men of their own ranke and quality, who would not only be a ballance unto you, but to themselves while you love England and Religion.<sup>1</sup>

For anyone seeking to understand Cromwell's motives in nominating the Other House, this passage from his speech to Parliament on 4 February 1658 is crucial. Cromwell's brief oration offered a vigorous defence of the incumbent constitutional arrangement and his role within it. Explaining his reasons for accepting the *Humble Petition*, he made it abundantly clear that, for him, the Other House was the deciding factor. In nominating that chamber, Cromwell reveals, he ensured that he constructed a balanced chamber of men without lordly aspirations, free from party interest and imbrued with a deep sense of religion and care for the English Commonwealth.

Yet, as revealing as Cromwell's words are, it would be wrong to accept them at face value. Not for the first time, the Lord Protector's speech was a robust defence of his actions which contained a fair share of providential hyperbole and tendentious claims. This was to be Cromwell's final speech to Parliament; after just over two weeks of stalling debate, mostly over the Other House, the Lord Protector brought the second Protectorate Parliament to a close with a volley of recriminations aimed at the Commons. Instead, it is more appropriate to start at the beginning; to look at the choices Cromwell actually made in late 1657 to see how they compare to the defence he would later offer in a fit of pique.

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<sup>1</sup> *Clarke Papers*, iii, 137.

As such, the first section of this chapter will examine the chronology of the nomination process. If Cromwell's later claims are to be verified it is first important to consider whether the membership of the Other House was actually of his own choosing. The remainder of the chapter then focuses upon those nominations to explain what they reveal about Cromwell's desires and aspirations for the Other House. It will be demonstrated that, on a number of levels, Cromwell's nominations proved that the Other House was designed to be a 'ballance... to themselves'.

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### **Civilian and Military Expectations**

Cromwell's nominations to the Other House had been a matter of prolonged speculation among contemporaries. As early as 8 April 1657, Thomas Burton predicted that 'if we have a house of Lords, the names will be knowne presently after the bill [i.e. the *Humble Petition*] pass'.<sup>2</sup> Indeed, a fortnight after Cromwell's second investiture as Lord Protector on 26 June 1657, there were indications that he was already starting to sound out the opinion of potential candidates.<sup>3</sup> Yet, given that parliament had adjourned itself until 20 January 1658 there was no immediate pressure on Cromwell to make his choices. Distracted by other matters, including the settling of the Privy Council and the weddings of two of his daughters, Cromwell appears to have allowed the issue of the Other House to slide into abeyance over the summer.

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<sup>2</sup> Bodl., MS Carte 228, fol. 84: Burton to Wharton, 8 Apr. 1657.

<sup>3</sup> *Wariston Diary*, iii, 92-3 (15 July 1657).

Not until late autumn did rumours of Cromwell's impending nominations begin to intensify.<sup>4</sup> Edward Montagu, writing to Henry Cromwell on 5 December from Huntingdon, had heard that 'the list of the other house is every day expected' but knew 'nothings of the persons designed for it'.<sup>5</sup> Closer to the centre of affairs, Thurloe was acutely aware that the matter needed to be concluded swiftly, informing Henry on 1 December that 'there are but 7 or 8 days left for the finall resolution, there being a necessitye, that the writs issue 40 dayes before the parliament meets'. Like Montagu, Thurloe believed there was 'not yet any one man fully resolved upon' and 'noe man is able to say, who they shal be'.<sup>6</sup> Such was the delay that by 9 December one newsletter reported that 'the members of the other House (its said) will not be named'.<sup>7</sup>

Civilian and military Cromwellians waited nervously for the outcome, each group harbouring its own hopes and fears over what the membership would look like. It was taken for granted by the civilian Cromwellians that many of the old lords would be given seats in the Other House. This view was confirmed by Thomas Burton's prediction to Lord Wharton on 8 April that 'all the old lords that have not forfeited by delinquency will be restored'.<sup>8</sup> Burton's choice of language was instructive. The old peers would be 'restored' to the upper chamber, not nominated or chosen; they would sit because it was their right to do so. It was an assumption that stemmed back to the

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<sup>4</sup> Bod Lib., MS Carte 73, fol. 150: H. Cromwell to Montagu, 18 Nov. 1657; *Thurloe*, vi, 630-1: Fleetwood to H. Cromwell, 24 Nov. 1657; Bodl., Tanner MS 52, fol. 214: Berners to Hobart, 30 Nov. 1657.

<sup>5</sup> Gaunt, *Lansdowne*, pp. 355-56: Montagu to H. Cromwell, 5 Dec. 1657.

<sup>6</sup> *Thurloe*, vi, 647-8: Thurloe to H. Cromwell, 1 Dec. 1657; See also *Ibid.*, vi, 665: Thurloe to H. Cromwell, 8 Dec. 1657.

<sup>7</sup> *Clarke Papers*, iii, 129: Newsletter, 9 Dec. 1657.

<sup>8</sup> Bodl., MS Carte 228, fol. 84.

civilian Cromwellians' belief that the *Humble Petition and Advice* was a restoration of the ancient constitution – albeit with Cromwell as King and only a portion of approved, 'faithful' peers sitting in a reformulated House of Lords.

Indeed, the civilian Cromwellians never intended the membership of the Other House and the old House of Lords to overlap precisely. After all, under article five of the *Humble Petition and Advice*, the members of the Other House were to be life peers only; once a member died the Protector would nominate a replacement thereby precluding any hereditary right to sit there.<sup>9</sup> Moreover, even with the old faithful peers nominated, there was a latent assumption that, of necessity, a number of 'new' lords would also have to be summoned in order to make up the numbers. As Burton informed Wharton, although the old peers would make up part of the membership, 'the rest' were 'but only gues't att'.<sup>10</sup> No doubt, many civilian Cromwellian MPs hoped for a seat. Following Cromwell's refusal of the Crown in May 1657 – at a point when it looked as though the whole proposed constitution might fall through – Sir Francis Russell revealed that three of his fellow 'kinglings', 'little [Richard] Hampden, Sir John Hubbart and Jack Treavor' were 'very angerey' because 'they had strong dreames of being lords, but now they are awake find themselves but country gentlemen'.<sup>11</sup>

With the constitution patched up in its kingless guise there was still hope that the Other House could reflect the hybrid of old and new that the civilian Cromwellians had hoped for. Indeed, once Cromwell refused the Crown, the importance of the membership of the Other House grew immensely. The incorporation of a number of

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<sup>9</sup> Gardiner, *Constitutional Documents*, p. 452.

<sup>10</sup> Bodl., MS Carte 228, fol. 84.

<sup>11</sup> Gaunt, *Lansdowne*, p. 273: Russell to H. Cromwell, 25 May 1657.

old peers was now vital as it would invoke a sense of continuity with the Other House's defunct predecessor and keep alive hopes that the offer of the Crown could be revived in the future. It would leave the ancient constitution in a half-built state, needing only the top-stone of the kingly title to make it complete.

With the very future of the constitutional settlement hanging in the balance, it is unsurprising that the civilian Cromwellians awaited the Lord Protector's nominations with some trepidation. On 10 November 1657, Thurloe was already complaining to Henry Cromwell that 'a mistake here will be like that of warre and mariage; it admits noe repentance'.<sup>12</sup> Taking Thurloe's words on board, Henry Cromwell wrote to Edward Montagu on 18 November, stressing that he could 'not see how any maske can vayne his Highness very intentions, & inclinations in the choice of these men, by whose affections, and dispoitions, wee may guesse very much of our future settlement'.<sup>13</sup>

As the deadline for issuing the writs approached, there were growing fears over what the delay in Cromwell's nominations meant for the composition of the Other House.<sup>14</sup> Thurloe revealed to Henry Cromwell on 1 December that the 'difficulty proves great betweene those, who are fitt and not willinge to serve, and those who are willinge, and expect it, and are not fitt'.<sup>15</sup> On 8 December Thurloe's mood was gloomier still; he did 'begin to guesse who they are like to be; and I am content your excellencye should receive them by any other hand'.<sup>16</sup> Henry, writing to Lord Broghill a week later, was perplexed by Thurloe's brusque remarks. 'Whether mr. secretary were out

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<sup>12</sup> *Thurloe*, vi, 609: Thurloe to H. Cromwell, 10 Nov. 1657.

<sup>13</sup> Bodl., MS Carte 73, fol. 150: H. Cromwell to Montagu, 18 Nov. 1657.

<sup>14</sup> Bodl., MS Carte 73, fol. 156: Broghill to Montagu, 20 Nov. 1657.

<sup>15</sup> *Thurloe*, vi, 647-8. See also Gaunt, *Lansdowne*, p. 356.

<sup>16</sup> *Thurloe*, vi, 665.

of humour or no last week’, Henry pondered, ‘I cannot tell, as not liking the election of the other house; but he hinted nothing, who they were’.<sup>17</sup> There was a growing feeling – emanating largely from Thurloe – that the civilian Cromwellians were not going to get things all their own way; while those that were fit in their eyes were reluctant to sit, there was seemingly a queue of unfit men forming, ready to take their places.

The military Cromwellians, for their part, were hardly sanguine about the upcoming nominations either. Clearly, it was not in their interest to summon the old peers or have a chamber that was a rubber stamp for the civilian interest in the Commons. Rather, the military Cromwellians wanted an Other House comprising of men of their own ‘godly’ spirit – thereby providing an eternal check on the machinations of their conservative rivals. No doubt they shared the sentiments of Archibald Johnston of Wariston – a leading Scottish Protestor with close political connections to the army grandees – who, when asked his opinion on the Other House in March 1657, complained that upon ‘all governments’ his scruple was with ‘the qualification of the men as for God and godlynesse’; they needed ‘men of parts and graces and publik spirits for the work and people of God as their trade, calling, exercise, honor, profit, pleasur and very lyfe’. By mid-June Charles Fleetwood, sensing that the Protector presently ‘intended to nominat the House of Peers’, confessed to Wariston his fear that the godly would be ‘swallowed up in the spirit of the nation if God prevent it not, and desyred us to conferre and praye about it’. Upon the investiture of Cromwell as Lord Protector on 26 June it seemed as though those prayers had been answered when Robert Lilburne confidently reported to Wariston ‘that my Lord [Protector]’ was ‘to

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<sup>17</sup> *Thurloe*, vi, 680: H. Cromwell to Lord Broghill, 15 Dec. 1657. See also *Ibid.*, vi, 683: H. Cromwell to Thurloe, 16 Dec. 1657.

nominate al thes of his Counsel and the General Majors and som uthers to be in the House of Peers'.<sup>18</sup>

By late autumn, however, the military Cromwellians, like their civilian counterparts, began to doubt whether Cromwell's nominations would reflect their interests. On 24 November 1657, Fleetwood wrote to his brother-in-law Henry Cromwell about progress over the 'lord's house', complaining that there was 'much difficulty wheare to finde fit persons to answer that worke; the good presanse of the Lord is that we are only to wait for and rely upon, that we may have the mercy of a right choice'.<sup>19</sup> Colonel Thomas Cooper, reporting to Thurloe from Ireland in mid-December, hoped the Lord would 'direct the heart of his highness' in the 'great business of forming the other house' Cooper believed that 'the eyes of heaven as well as earth' were on this business, and 'God doth seem to say, whoe is on my side? whoe [is] for secureinge and providinge for a godly interest in these nations for posterety?'.<sup>20</sup> In Cooper's mind, the answer was undoubtedly the military Cromwellians, yet whether Cromwell thought so too was not entirely clear.

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### **The Nomination Process**

Although, in theory, the *Additional and Explanatory Petition and Advice* had left the nominations solely in the hands of the Lord Protector; in practice there are hints that he was in consultation with others. The most obvious source for Cromwell to seek

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<sup>18</sup> *Wariston Diary*, iii, 68-9, 79-80, 87-88 (2 Mar; 12, 26 June 1657).

<sup>19</sup> *Thurloe*, vi, 630-1: Fleetwood to H. Cromwell. 24 Nov. 1657.

<sup>20</sup> *Thurloe*, vi, 673: Cooper to Thurloe, 12 Dec. 1657.

advice was the Privy Council. Even though there was no constitutional mandate for the council to be consulted in the nomination process, there are strong indications that it had an advisory role. On 24 November 1657, for instance, Mabbott reported that ‘yesterday and today the Councill have spent much time in considering of the members of the other House, but there names are not yet knowne’.<sup>21</sup> Intriguingly, the Council’s minute book does not indicate that any meeting took place on 23 November; and although there was a meeting recorded on 24 November, there is no indication of the Protector’s attendance or that the Other House was a topic of discussion.<sup>22</sup> Yet, this omission does not necessarily mean that Mabbott’s report is false. As Worden has persuasively argued, contemporary reports of Council proceedings unrecorded by the official records are too frequent to be an anomaly. It could be that sensitive discussion was omitted from the ordinary minute books and committed to a, now lost, private book; or, as Worden argues, it probably reflected Cromwell’s predilection for informal, unminuted meetings with a number of confidants, not all of them necessarily council members.<sup>23</sup> Therefore, when a bystander as unversed in the inner workings of Whitehall as the Venetian resident reported on 27 November that ‘his Highness and the Council have devoted many hours a day this week in... selecting persons to compose the other House’ one should be wary of what he meant by ‘the Council’.<sup>24</sup>

According to Whitelocke, Cromwell’s smoke-filled chambers at Whitehall were where the real decisions were made. During the kingship debates, ‘the Protector often advised with Whitelocke about this & other great businesses’. Indeed, ‘severall times’

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<sup>21</sup> *Clarke Papers*, iii, 127: Newsletter from ‘G.M.’, 24 Nov. 1657.

<sup>22</sup> *CSPD 1657-1658*, pp. 180-2.

<sup>23</sup> Worden, ‘Oliver Cromwell and the Council’, pp. 92-3.

<sup>24</sup> *CSPV 1657-1659*, p. 139: Giavarina to Doge and Senate, 27 Nov. / 7 Dec. 1657. See also *CSPV 1657-1659*, pp. 140, 142-3, 149.

Cromwell ‘would send for the Lord Broghill, Pierrepont, Whitelocke, Sir Charles Oulsey & Thurloe & be shut up with them 3 or 4 hours together in private discourse’. Behind locked doors, Cromwell, ‘laying aside his greatnes... would be exceeding familiar with them’ and ‘commonly called for tabacco pipes’. Cromwell did this ‘often with them’ and ‘their Councell was accepted & followed by him in most of his greatest affayres’.<sup>25</sup> Of course, given that Whitelocke was hardly renowned for his modesty, one should take this account with a pinch of salt. Yet, assuming there is some truth in this junta of five close advisors, the names make for interesting reading. Only two of the five – Wolsey and Thurloe – were members of the Privy Council, thereby confirming the view that Cromwell looked beyond the Council chamber in taking advice.

It is possible that Cromwell consulted with this small group of intimate advisers when nominating the Other House. Indeed, in mid-October – just weeks before speculation over the nominations began to intensify – Whitelocke again claims he was ‘often with the Protector’ who would summon ‘him with the Lord Broghill, Sir Charles Oulsey and Thurlo into a private roome together & be there shutt up 2 or 3 hours discoursing of his greatest buisnesses’.<sup>26</sup> Yet there is reason to doubt the veracity of Whitelocke’s account. Not only is its similarity to the earlier entry from May 1657 cause for suspicion, but it is also erroneous in one key detail. Specifically, that Lord Broghill was absent in Ireland throughout the autumn of 1657, not returning to England until shortly before parliament reassembled.<sup>27</sup> Henry Cromwell, for one, lamented Broghill’s absence during the nomination process, believing if he ‘had been there

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<sup>25</sup> *Whitelocke Diary*, p. 464: 2 May 1657.

<sup>26</sup> *Ibid.*, p. 477: 18 Oct. 1657. Not mentioned in B. Whitelocke, *Memorials of the English Affairs* (1682), pp. 664-5.

<sup>27</sup> Broghill left for Ireland in August and would write to Thurloe from Youghal on 17 Oct., the day before Whitelocke’s entry, see *Thurloe*, vi, 468-9, 563-4.

time enough, your lordship might have been carpenter of a better house; but it doeth seem the other house hath mett with other craftsmen'.<sup>28</sup>

On the other hand, there are indications that William Pierrepont – who appeared in Whitelocke's earlier account, but was curiously omitted from his list of close advisers in October 1657 – was in consultation with the Protector over the Other House. Pierrepont was an enigmatic figure throughout the Protectorate. He had been a dominant force in the Newport Negotiations and was a staunch opponent of Pride's Purge – choosing to absent himself from the House in protest soon after. Although he re-emerged in 1654 when he was elected as MP for Nottinghamshire, he ultimately refused to take his seat. Yet, despite his seeming reticence to be associated with the Cromwellian regime, there are hints that Pierrepont was still prepared to guide his old political ally from behind the scenes. In February 1657, Irish MP Vincent Gookin reported that 'Pierpoint' and his former political ally Lord Chief Justice Oliver St John, had 'been often, but secretly, at Whitehall' to advise with Cromwell about the 'reducing of the gover[n]m[ent], &c to kingship'.<sup>29</sup> By November 1657, it appears Pierrepont was at Whitehall again, this time to discuss the Other House. The news came as great relief to Henry Cromwell, who confessed to Thurloe on 25 November that he was 'glad his highness consults with mr. Pierrepont in that weighty affaire of the other house'.<sup>30</sup>

Moreover, Cromwell did not confine himself solely to testing the opinion of his privy councillors and intimate associates. On 15 July 1657, for instance, Archibald Johnston

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<sup>28</sup> *Thurloe*, vi, 745: H. Cromwell to Broghill, 13 Jan. 1658; See also *Ibid.*, vi, 699: H. Cromwell to Broghill, 22 Dec. 1657.

<sup>29</sup> *Ibid.*, vi, 37: 3 Feb. 1657.

<sup>30</sup> *Ibid.*, vi, 632: H. Cromwell to Thurloe, 25 Nov. 1657.

of Wariston went to Whitehall for a conference with the Protector – largely to discuss the former’s recent re-appointment as Lord Clerk Register in Scotland.<sup>31</sup> In his diary, Wariston reveals that Cromwell, besides discussing Wariston’s new appointment, also sought his advice on a number of his fellow Scotsmen. In particular, Cromwell went on to ‘spak of [the earls of] Cassillis and Sutherland and of the Over House and of [Lord] Brodye, and hinted a little anent myself without ingaging himself’.<sup>32</sup> This meeting, like those with Whitelocke, Pierrepont and others of his inner circle, seems to be typical of the way that Cromwell operated. He conducted business through a series of intimate and informal meetings which often went unrecorded. During these conversations Cromwell would sound people out – listening intently to what they had to say but giving away very little about his own opinions.

Indeed, although Cromwell seems to have consulted widely over the membership of the Other House, he kept those around him, including Thurloe, guessing over his ultimate choices. As was often the case with Cromwell at times of political difficulty, he spent most of his time locked away, immersed in prayer and lengthy introspection. Thurloe, writing to Henry Cromwell on 10 November, only hoped that the ‘Lord be with’ the Protector in this ‘difficult worke of nameing another house’; it was some comfort to Thurloe that ‘in great actions, as this is, the Lord hath always helped him; and I trust he will now lead him in that’ business too.<sup>33</sup> For all the consulting and covert meetings, the final decision was Cromwell’s alone.

Moreover, despite the depressed forecasts of the civilian Cromwellians, Cromwell’s options for the membership of the Other House were never as limited as they liked to

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<sup>31</sup> *Wariston Diary*, iii, 77-78, 90.

<sup>32</sup> *Ibid.*, iii, 92-3 (15 July 1657).

<sup>33</sup> *Thurloe*, vi, 609, 630, 673.

believe. True, there may have been a plethora of candidates whom the civilian Cromwellians felt were unworthy or unfit but this does not mean Cromwell saw things that way. Indeed, Thurloe unwittingly revealed the Protector's dilemma when he reported to Montagu on 1 December that 'His Highnesse sitts now close upon the considerations of ye other house, he hath out of his great list extracted 80, these must goe through the furnace againe, & w[hi]ch will prove gold & w[hi]ch drosee, a little tyme will show'.<sup>34</sup> No doubt, Cromwell had been compiling his 'great list' for some time, probably as far back as June 1657 – adding and erasing names after each meeting or consultation with those around him. The fact that Cromwell had cut this 'great list' to the short-list of eighty described by Thurloe hints that he was hardly scraping the barrel for names to fill the Other House. Moreover, given that this reduced list of names was still ten greater than the maximum number of members allotted to the upper chamber by the *Humble Petition*, it is clear that Cromwell still had some painful excisions to make before the 10 December deadline.

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As the 'forty-day' deadline rapidly approached, Cromwell had still not fixed upon his final choices. On 8 December, with just two days to go before the 'writs must be sealed', Thurloe confessed to Henry that the 'list of the other house is not yet finished'.<sup>35</sup> Yet, progress was made on 9 December when, despite still being undecided on the entire membership, Cromwell authorized the first writ of summons to be sealed and directed to his eldest son Richard Cromwell. Although the fact that the first writ of summons went to the single person's eldest son mimicked regal

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<sup>34</sup> Bodl., MS Carte 73, fols. 166-7: Thurloe to Montagu, 1 Dec. 1657.

<sup>35</sup> *Thurloe*, vi, 665.

tradition, one should be wary of interpreting this as evidence that Cromwell was preparing the ground for Richard to assume the position of a Prince of Wales. It was more likely the product of punctilious adherence to technical precedents; Richard was the most logical choice to receive the first writ of summons because tradition dictated that, as eldest son to incumbent ruler, he should take precedence among those summoned. It highlighted the paradox of trying to reconcile a new political system that was inherently elective or nominative with precedents derived from a hereditary tradition.

Undoubtedly, however, Richard Cromwell's elevation to the Other House confirmed his arrival on the political stage. Interestingly, the nomination was made almost simultaneously with Richard's appointment as a privy councillor. On 8 December the Council made an order 'to advise his Highness to make Lord Richard Cromwell a member of the Privy Council'.<sup>36</sup> This consultation took place on 9 December, the very day that Richard's writ of summons to the Other House was sealed.<sup>37</sup> As was often the case with Cromwell's council, this convoluted process was most likely the confirmation by the Protector of a decision he had already taken. That Richard was made a Privy Councillor at the same moment his writ of summons to the Other House was sealed, however, is likely to have been more than just coincidence. Whether Oliver felt that his relatively inexperienced son was in need of an office more befitting his exalted position as first lord of the Other House is a matter of conjecture,

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<sup>36</sup> *CSPD 1657-1658*, p. 206 (8 Dec.).

<sup>37</sup> *Clarke Papers*, iii, 129: Newsletter, 9 Dec. 1657; The decision was not formally entered into the Council's order book until 10 Dec., see TNA, SP25/78, fol. 331; *CSPD 1657-1658*, p. 210.

but the almost simultaneous timing of the two appointments strongly suggests that one was very much dependent on the other.<sup>38</sup>

As the first writ of summons to be issued for the Other House, Richard Cromwell's writ was the prototype for all the others to follow. It was Richard's writ of summons that would eventually be enrolled in the Petty Bag as the official template or 'parliament pawn'; the clerks of the Petty Bag were ordered to 'lett the like writts be directed' to the Protector's other nominees.<sup>39</sup> The form of this writ had itself been a matter of some debate. Under the *Additional and Explanatory Petition and Advice*, Cromwell had to ensure that 'in convenient time' before the Parliament reassembled, he would 'cause several summons in due form of law, to be issued forth' to those he had chosen to 'sit and serve as members in the other House'. By these summons 'the said persons shall be respectively commanded to be, and personally to appear at a certain place and time, to be appointed by your Highness, to give their advice and assistance, and to do such things concerning the great and weighty affairs of the Commonwealth, as to the other House of Parliament doth appertain by the said humble Petition and Advice'.<sup>40</sup> To that end, on 26 June 1657 the matter was referred to the commissioners of the Great Seal 'with the Advice of such of the Judges as they shall think necessary to call to their Assistance, to prepare and frame a Writ, for summoning the Members of the Other House of Parliament'.<sup>41</sup>

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<sup>38</sup> For more on the 'rise' of Richard Cromwell see J. Peacey, 'The Upbringing of Richard Cromwell', pp. 253-7; An alternative reading in J. Fitzgibbons, 'Not in any doubtfull dispute'? Reassessing the nomination of Richard Cromwell', *Historical Research*, 83 (2010), pp. 286-89.

<sup>39</sup> TNA, C218/1/34. This source is explained in E.R. Adair & F.M. Greir-Evans, 'Writs of Assistance, 1558-1700', *EHR*, 36 (1921), pp. 356-72.

<sup>40</sup> Gardiner, *Constitutional Documents*, p. 463.

<sup>41</sup> *CJ*, vii, 576-77 (26 June 1657).

According to one newsletter, this consultation between the commissioners of the Great Seal and the judges took place in early November; the ‘Judges being lately required by his Highnesse to make the forme of writt whereby the intended members of the other House might be called to sit in parliament’. Yet, the talks faltered over the issue of whether those writs could actually be made in the first place. The terse advice from the judges, that ‘until his Highness did accept of the title of King noe legall writs could be made, nor house of Peeres constituted’, demonstrated that many still refused to forgive Cromwell for refusing the Crown.<sup>42</sup>

Unperturbed by the judges’ intransigence, however, the commissioners of the Great Seal pressed on with their work. The writ they devised was mostly a literal translation of a writ of summons to the House of Lords; as Whitelocke would note upon receiving his writ of summons, ‘the forme of the writ was the same with those which were sent to summon the Peers in Parlemt’.<sup>43</sup> The translation of the writs had itself proven to be a time-consuming task. In January 1659, the senior clerk of the Petty Bag, John Thompson, would petition the Privy Council because of his ‘greate charge in makeing out writts of summons for Parliament’. In particular, he complained that his burden over ‘these fower yeares last’ had been greatly enhanced ‘by reason of the alterations and translations in the writts of summons to Parliam[en]t’.<sup>44</sup>

The wording of the writ was very much in the traditional form. Given in the name of ‘Oliver Lord Protector of the Commonwealth of England, Scotland and Ireland’, it was directed ‘to our trusty and welbeloved sonne Lord Richard Cromwell’. As was

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<sup>42</sup> *Clarke Papers*, iii, 127: Newsletter, 17 Nov. 1657; See also Spencer Research Library, Univ. of Kansas, MS D87, fol. 356r: Lisle’s ‘Abridgments of Chancery Causes’.

<sup>43</sup> *Whitelocke Diary*, p. 481.

<sup>44</sup> TNA, SP18/200, fol. 57.

usual in a writ of summons issued during the prorogation of a Parliament, a brief account of both the summoning and adjournment of the second Protectorate Parliament followed. By this writ, Cromwell did ‘Command and firmly enjoyne’ the recipient – ‘all excuses being sett aside’ – to ‘be personally present at Westminster’ on 20 January 1658. There they were to ‘treate, conferr and give your advise with Us and with the great men and Nobles in and concerneing the affaires aforesaid’.<sup>45</sup> They were to do this ‘as you Love our honour and saftie and defence of the Commonwealth’ and should ‘in noe wise omitt’. Finally, the writ was ‘witnes our selfe at Westminster the nynth day of december in the yeare of our Lord one thousand six hundred ffiftie and seaven’.<sup>46</sup>

What was immediately striking about the writ, apart from the judicious use of the blatantly monarchical nosism, was its complete failure to mention the *Humble Petition and Advice* or the ‘Other House’. True, the writ adhered to the mandate in the *Additional Petition*, by commanding that the nominated person should ‘appear at a certain place and time’ and there to ‘give their advice and assistance, and to do such things concerning the great and weighty affairs of the Commonwealth’. But, it failed to state that this should be within the limits ‘as to the other House of Parliament doth appertain by the said humble Petition and Advice’; indeed, there was no mention of the ‘Other House’ at all. The writ was certainly couched ‘in due form of law’, but it looked conspicuously like the old law of the ancient constitution rather than that of the *Humble Petition*. The judges had questioned the legality of the writs because

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<sup>45</sup> In the Latin writ, the phrase was, ‘Nobiscum, & cum Praelatis, Magnatibus, Proceribus praedictis, super dictis negotiis tractaturus, vestrumque consilium impensuris’. Of course, there was no mention of the bishops in the Cromwellian writ of summons.

<sup>46</sup> TNA, C218/1/34; BL, Sloane MS 3246; Gardiner, *Constitutional Documents*, p. 464. See also Worc. Col. Oxf., Clarke MS 29, fol. 139v for a copy of Monck’s writ of summons, the formula of which is identical to Richard’s writ.

Cromwell was not king; the pragmatic response, however, as with many other legal problems during the period, was to proceed as if Cromwell was monarch and thereby avoid the headache of devising novel forms.

But, even with the form of the writ agreed upon and the first writ sealed, Cromwell continued to dither. Only on the following day, 10 December, did the names of those who would join Richard Cromwell begin to emerge. Even then, the information emanating from Whitehall was only patchy at first. Writing to the ambassador in France, William Lockhart during the course of that day, Thurloe announced that ‘H[is] H[ighness] hath agreed upon a list of the names of the other house of parliament; a copy whereof I herewith send you’. Intriguingly, however, the list that Thurloe sent to Lockhart proved to be incomplete. Only fifty-eight names were given, of which all but one would actually receive a writ of summons to the Other House.<sup>47</sup> The sole anomaly was the inclusion of Colonel John Clerk. Given that Clerk was Thurloe’s brother-in-law, it may have reflected wishful thinking on the Secretary’s part; or could even have been based on a half-promise from the Protector that ultimately went unfulfilled.<sup>48</sup> Either way, Thurloe’s faulty information was a further indicator that he was not totally in the loop over affairs at Whitehall and yet another sign that Cromwell, until the very last minute, was still undecided on some of the nominees.

Only late into the night was the list finally completed. Philip Jones writing to Edward Montagu soon after reported that ‘this evening hath H[is] H[ighness] with much difficulty finished the list for the other house’. Although Jones did not give names, he

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<sup>47</sup> *Thurloe*, vi, 668: Thurloe to Lockhart, 10 Dec. 1657; Bodl., Clarendon MS 56, fols. 325, 327.

<sup>48</sup> *A Narrative of the late Parliament (so called)*... (1657), p. 12.

assured Montagu that ‘Mr Secretary told me he would send your Lordship a copy of it’.<sup>49</sup> Indeed, Thurloe had a busy night as he also sent a copy of this list to the commander of the Scottish forces George Monck.<sup>50</sup> This was, almost certainly, a list of sixty members, subscribed ‘J.T.’, which Monck’s secretary William Clarke would later copy and file among his papers.<sup>51</sup> For the most part, the names on this list were identical to those sent to Lockhart and ran in exactly the same order. The only differences were that, both Sir Gilbert Pickering and Thomas Cooper had been inserted into the list, while Sir George Fleetwood filled the space between Thomas Pride and Richard Ingoldsby, which had previously belonged to John Clerk.<sup>52</sup> As such, it is highly probably that both the lists sent to Lockhart and Monck derived from the same source – most likely, a rough list compiled by Thurloe that day. As news of Cromwell’s nominations continued to come through, Thurloe would have amended the list – inserting the new names in their appropriate places and crossing out those who had been removed.

Within a few days, the names of the sixty members were confirmed in the official press; an identical full-page list ‘of those Honorable Persons, who are by Writ summoned to sit in the Other House of Parliament’ appeared in both the 14 December issue of *The Publick Intelligencer* and the 17 December edition of *Mercurius Politicus*. Being rushed to the press, the editor asked the reader ‘to excuse this List, if

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<sup>49</sup> Bodl., MS Carte 73, fol. 174: P. Jones to Montagu, 10 Dec. 1657.

<sup>50</sup> Monck acknowledged receipt of this list a week later, see *Thurloe*, vi, 686.

<sup>51</sup> This undated list, although mentioned by Firth in *Clarke Papers*, iii, 129 is not transcribed and can be found at Worc. Col. Oxf., Clarke MS 29, fols. 135-6. Firth erroneously claimed that it was ‘identical’ to *Thurloe*, vi, 668.

<sup>52</sup> *Thurloe*, vi, 668; Worc. Col. Oxf., Clarke MS 29 fols. 135-6.

the Names be not set down in their due Order, because the Copy came to my hand as here you see it'.<sup>53</sup>

Thus, despite the fact that Cromwell was empowered to nominate seventy members, he initially chose to keep ten places vacant. As Thurloe concluded at the end of the list he sent to Monck, the 'number for the pr[e]sent is butt 60, his Highnesse having left power to himself to issue out a writt for 10 more'.<sup>54</sup> That he did so is not too surprising. Not only did it offer an insurance policy in case those initially chosen proved to be unsatisfactory, but it would also act as an encouragement for others. Given that seats in the Other House were for life, there was no guarantee that places would have become quickly available for others coming through the ranks. As such, Cromwell kept his options open and chose to nominate sixty members only. It was not, as the civilian Cromwellians would claim, the symptom of the Protector scraping the barrel, picking through a motley group of men to make up the numbers. It was actually a shrewd political move by Cromwell designed to ensure a degree of flexibility for the future.

Indeed, even before Parliament resumed its sitting, Cromwell made use of those vacant places to issue a further two writs of summons; bringing the total membership to sixty-two.<sup>55</sup> One of these additional writs was sent to former Speaker of the Commons William Lenthall. If Ludlow is to be believed, Lenthall 'was very much

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<sup>53</sup> *Pub. Intel.*, 112 (7-14 Dec. 1657), p. 160; *Merc. Pol.*, 394 (10-17 Dec. 1657), p. 165; This list was reproduced in Jan. 1658 as a separate *Catalogue of the Names of those Honourable Persons, who are now Members of this present House of Lords* (1658).

<sup>54</sup> *Worc. Coll. Oxf.*, Clarke MS 29, fol. 136r.

<sup>55</sup> It is a consistent error in the historiography to suggest that the Other House had 63 members. The source appears to be Mark Noble's, *Memoirs of the Protectoral-House of Cromwell* (2 vols., 1787), i, 370-427 who mistakenly counts John Clerk among the members summoned. The mistake is repeated in Firth, *Last Years*, ii, 10-16; Firth, *House of Lords*, p. 248; Little & Smith, *Parliaments and Politics*, p. 138.

disturbed' that he had not received a writ of summons with the first sixty members. According to Ludlow, Lenthall was 'incapable of sitting in the House of Commons by his place as Master of the Rolls, whereby he was obliged to sit as assistant in the Other House'.<sup>56</sup> Technically, this statement is erroneous: Lenthall was not incapable of sitting in the Commons because of his office of Master of the Rolls, nor did his position oblige him to sit as an assistant in the Other House. The Master of the Rolls had, since the latter end of Henry VIII's reign, been frequently summoned to the House of Lords as an assistant but it was not a practice that was set in stone.<sup>57</sup> Moreover, there were numerous examples from the past – including Lenthall himself – of the Master of the Rolls sitting in the Commons instead.<sup>58</sup>

Yet, much to Lenthall's displeasure, he had received a writ of assistance to the Other House. Also a direct translation of that used by the House of Lords, this writ summoned the judges and government lawyers to act as legal advisers and assistants to the Other House, but it did not confer on them full membership of that chamber.<sup>59</sup> Interestingly, Lenthall's writ was witnessed and sealed on 9 December 1657 – the very same day that the first writ of summons was produced; clearly, Cromwell had resolved from the outset that he was going to condemn Lenthall to the position of adviser rather than a full-blown member of the upper chamber. It also suggests that, by 9 December, Cromwell had decided that Lord Chief Justices Glynne and St John would be given full membership of the Other House. This was a significant break with tradition, as the Lord Chief Justices had always sat as assistants to the upper chamber and it was usual practice for the writ of assistance to the Lord Chief Justice

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<sup>56</sup> Ludlow, ii, 31-2.

<sup>57</sup> Adair & Greir-Evans, 'Writs of Assistance', p. 364.

<sup>58</sup> For examples of Masters of the Rolls sitting in Parliament see *Ibid.*, p. 364, f.n. 3.

<sup>59</sup> See TNA, C218/1/34 for Lenthall's writ of assistance.

of the King's Bench to be sealed first. With Glynne and St John earmarked for full membership of the Other House, it was left to Lenthall, as chief of the Court of Chancery, to assume the place of the senior assistant to the upper chamber.

Put into this context, Lenthall's annoyance at not receiving a writ of summons to the Other House is understandable. His exile to the woolsacks was not defensible on the grounds of custom or tradition for, by summoning the Lord Chief Justices to sit as members, such rules had gone out of the window. He seems to have made a persuasive case, or at least created enough of a fuss to get his own way. According to Ludlow, with Lenthall's 'grievous complaint coming to the ears of Cromwel, he sent him a writ' of summons and thereby 'elevated the poor man' to the Other House as a full member.<sup>60</sup> The result of the whole affair left a paradox in the official records, with Lenthall appearing twice in the parliament pawns as both the chief assistant to the Other House and one of the members who received a writ of summons.<sup>61</sup>

Another late addition to the membership was Richard Hampden.<sup>62</sup> According to one hostile tract, 'this young Gentleman, Mr. Hampden, was the last of sixty two which were added singly by the Protector after the choice of sixty together'.<sup>63</sup> This commentator was justified in mocking his youth – at just twenty-six years of age, he was one of the youngest members to be summoned to the Other House. What Hampden lacked in experience, however, he made up for in pedigree. The eldest surviving son of John Hampden, 'that Noble Patriot and Defender of the Rights and

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<sup>60</sup> Ludlow, ii, 31-2.

<sup>61</sup> TNA, C218/1/34.

<sup>62</sup> TNA, C218/1/34; BL, Sloane MS 3246.

<sup>63</sup> *Second Narrative*, p. 20 (second pagination).

Liberties of the English Nation’, he was also a distant relation of the Lord Protector.<sup>64</sup> Sitting as MP for his native Buckinghamshire in 1656, he had been strongly in favour of the offer of the Crown and was one of those ‘Kinglys’ that ‘voted for a King’ in March 1657.<sup>65</sup> Why Cromwell felt compelled to send Hampden a writ of summons after the other sixty had already been issued is less obvious than in the case of the remonstrating Lenthall. One critic speculated that it was ‘very likely that Colonel *Ingoldsby*, or some other Friend at Court, got a Cardinals Hat for him, thereby to settle and secure him to the Interest of the new Court’.<sup>66</sup> Certainly, *Ingoldsby*’s agency is plausible; not only were the Hampdens and *Ingoldsbys* close neighbours in Buckinghamshire, they were also related.<sup>67</sup> Moreover, Hampden was one of those identified by Sir Francis Russell in May 1657 as having ‘strong dreames of being lords’ and being ‘very angerey’ when they thought their opportunity had lapsed.<sup>68</sup> Thus, it is not implausible that Hampden, upset at missing out on a seat in the upper chamber, worked on the Protector – possibly through others, like *Ingoldsby*.

With Hampden’s writ of summons sealed and delivered, the nomination process to the Other House was finally over. The debate over what those choices meant for both the civilian and military Cromwellians, however, was only just beginning. As Henry Cromwell had predicted to Montagu in mid-November once the names were out in the open then no ‘maske’ could ‘vayle his Highness very intentions’; by those choices they would be able to ‘guesse very much of our future settlement’.<sup>69</sup> It is to those

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<sup>64</sup> *Ibid.*, p. 20. Hampden’s grandmother was Oliver Cromwell’s aunt.

<sup>65</sup> *Narrative of the late Parliament*, p. 22.

<sup>66</sup> *Second Narrative*, p. 20 (second pagination).

<sup>67</sup> *Ingoldsby*’s maternal grandfather was Sir Oliver Cromwell who was also John Hampden’s uncle.

<sup>68</sup> Gaunt, *Lansdowne*, p. 273.

<sup>69</sup> Bodl., MS Carte 73, fol. 150: H. Cromwell to Montagu, 18 Nov. 1657.

choices, and what they reveal about Cromwell's aspirations for the Other House, that the remainder of this chapter will turn.

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### **The 'Old' Peers**

One of the major disappointments for the civilian Cromwellians was the lack of old peers among those summoned to the Other House. As Cromwell's nominations drew closer, there were already indications that there would be a 'cap' on the number of old lords. In August 1657, Mabbott reported that 'there is to bee of the other House 12 of the old nobility of England'.<sup>70</sup> In reality, the number summoned was smaller still: just seven old English nobles received writs of summons. Moreover, only five of these seven lords had previously sat in the upper chamber; these included the earls of Manchester, Mulgrave and Warwick, Viscount Saye and Sele and Lord Wharton. The other two nobles summoned, Lords Eure and Fauconberg had only inherited their titles in June 1652 and April 1653 respectively – after the House of Lords was abolished.<sup>71</sup> Similarly, Cromwell also nominated the eldest son of the earl of Leicester, Philip Sidney who, despite holding the courtesy title of 'Viscount Lisle' following his father's elevation to the earldom in 1626, was ineligible to sit in the House of Lords.

Why Cromwell chose to summon only a small number of old peers is a matter of some importance. Arguably, his options were limited; after all, the House of Lords

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<sup>70</sup> *Clarke Papers*, iii, 115: Newsletter from 'G.M.', 11 Aug. 1657.

<sup>71</sup> G.E.C., *Peerage*, v, pp. 182-3, 264-5.

had been abolished because a radicalised minority in the Commons could not garner the support of the conservative majority in the upper chamber. Assuming those peers summoned chose not to boycott the House and accepted the Protector's writ, there was no guarantee that they would vote in a way that was favourable towards Cromwell's interest.

Yet, this does not mean Cromwell was ready to shun all those repulsed by the events of 1649. Indeed, he seems to have aimed for a limited rapprochement with his political 'Independent' allies from the 1640s. This explains the nominations of William Fiennes Viscount Saye and Sele, and Philip fourth Baron Wharton, both of whom had once been close associates of Cromwell's but had broken with him in the wake of Pride's Purge and the Regicide. Ever since, Cromwell had been desirous to win these men back. Writing to Wharton from Ireland on 1 January 1650, Cromwell attempted to justify the actions of twelve months earlier. 'Be not offended at the manner of God's working', Cromwell pleaded, 'perhaps no other way was left'. Cromwell was upset that 'my friend should withdraw his shoulder from the Lord's work' as a result of his 'false mistaken reasonings'; 'You were with us in the Form of things', he exclaimed, 'why not in the Power?'<sup>72</sup> Over seven years later, Cromwell had still not convinced Wharton or Saye and Sele to join him in the 'Lord's work'. Their writs of summons to the Other House were just the latest in a series of olive branches extended to Cromwell's former political Independent allies.

Conversely, there were a number of peers who were overlooked by Cromwell despite the fact that they had demonstrated a clear willingness to remain active in politics

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<sup>72</sup> *Carlyle*, i, 521-3: Cromwell to Wharton, 1 Jan. 1650.

following the events of 1649. Of those eight peers, described in the previous chapter, who continued to sit in the Lords after the Commons' passed their act for the king's trial, only Edmund Sheffield, second earl of Mulgrave, would be nominated as a member of the Other House.<sup>73</sup> Mulgrave was by far the most obscure and least experienced of this group of lords – having only entered the House of Lords in October 1646 following the death of his grandfather, the first earl of Mulgrave. Moreover, Mulgrave was hardly the most 'revolutionary' of the old peers; unlike the earls of Pembroke, Denbigh and Salisbury, he had refused to take the engagement oath to serve on the Commonwealth's Council of State; unlike Pembroke, Salisbury and Howard of Escrick, he did not seek election to the Rump Parliament. Yet, by 1657, Mulgrave was one of the Cromwellian establishment having been made an additional member of the protectoral Council on 19 June 1654.<sup>74</sup> Unlike in 1653, Mulgrave readily accepted his seat – taking his oath before Cromwell and the Council on 30 June.<sup>75</sup> His subsequent nomination to the Other House was undoubtedly due to his membership of the Council as much as any deference to his lordly title.

Yet, if Cromwell's reasons for overlooking certain peers are murky, the explanation for why he nominated others is much easier to discern. In particular, the selection of the earl of Warwick and Lord Fauconberg made perfect sense given that both had recently become tied to the Cromwell family through marriage. During 1657, Robert Rich, second earl of Warwick, played a noticeably public role in the reconstituted Protectorate. It was a matter worthy of note in the official newsbooks that, at the investiture ceremony in Westminster Hall on 26 June 1657, it was 'the Earl of

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<sup>73</sup> See chapter 1, p. 35. Those 8 lords were Denbigh, Kent, Mulgrave, Nottingham, Pembroke and Salisbury; Lords Howard of Escrick and Hunsdon. Pembroke had died in Jan. 1650.

<sup>74</sup> *CSPD 1654*, p. 214 (19 June 1654).

<sup>75</sup> *CSPD 1654*, p. 230 (30 June 1654).

*Warwick*, who bare the Sword before his Highness' and assisted Speaker Widdrington in investing Cromwell with all the accoutrements of his office.<sup>76</sup>

Warwick's emergence after years of retirement was no doubt due to ongoing marriage negotiations between his grandson and heir Robert Rich, and the Lord Protector's daughter Frances. Since early 1656, Cromwell and Warwick had been bargaining over terms, with the Lord Protector feigning concern over the financial settlement as a cover for his misgivings over the prospective bridegroom – having heard 'som[e] reports of his being a visious man, given to play, and such lik[e] things'. Unperturbed, by Cromwell's stalling tactics, Warwick was apparently keen to make the marriage work, telling Cromwell 'to name what it was he demanded more, and to his utmost he would satisfy him'.<sup>77</sup> The whole episode is hardly evidence of Cromwell hastily seeking to ingratiate himself with the old nobility through lucrative marriage alliances. Rather, the impression is of Warwick desperately trying to tie his family to that of the ruling dynasty. On 11 November 1657, with the details finalised, the marriage ceremony finally went ahead at Whitehall.<sup>78</sup> With the families of Rich and Cromwell joined through matrimony, it was unsurprising that Warwick should be elevated to the Other House over a fortnight later; the real shock was that the Protector's new son-in-law Robert Rich was not given a seat too.

Indeed, Rich was unique among the four sons-in-law of the Lord Protector in not receiving a writ of summons to the Other House. No doubt, it was Fauconberg's marriage to Mary Cromwell at Hampton Court on 19 November 1657, which

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<sup>76</sup> *Merc. Pol.*, 369 (25 Jun – 2 July 1657), p. 7882-4; *Whitelocke Diary*, pp. 472-3; *Ludlow*, ii, 28-9.

<sup>77</sup> *Thurloe*, v, 146: Mary Cromwell to H. Cromwell, 23 June 1656. See also Gaunt, *Lansdowne*, pp. 220-1, 288; *Thurloe*, vi, 477.

<sup>78</sup> *Merc. Pol.*, 389 (4-12 Nov. 1657), p. 96; *Clarke Papers*, iii, 127: Newsletter, 17 Nov. 1657; *Thurloe*, vi, 573.

contributed to his nomination to the upper chamber.<sup>79</sup> Like Rich, Fauconberg came under the Protector's scrutiny before the marriage was confirmed, not least because he came from a family with a strong Royalist background.<sup>80</sup> In Thurloe's opinion, writing to Henry Cromwell in November 1657, Fauconberg was 'a person of very good abilities, and seemes very sober', while his estate was sizeable at '5000l. *per annum*'.<sup>81</sup> If Giavarina is to be believed, it was Fauconberg's sobriety that most recommended itself to Cromwell who 'seems infatuated with Falcombridge, considering him a solid man... and not given to vanities'.<sup>82</sup> Thus, in Fauconberg's case there were a number of motives underlying his nomination to the Other House. Not only was he the Protector's son-in-law, but he was also very much in Cromwell's mind at the time as a person of ability. Moreover, his youth – aged around twenty-nine in late 1657 – meant he was relatively untainted by the conflicts of the past two decades. Fauconberg represented a new generation; descended from Royalists but never in arms himself, it was important that Cromwell win over such men to his interest.<sup>83</sup>

Similar considerations may also explain Cromwell's nomination of George sixth Baron Eure. Succeeding to the barony, but not the estates, of his second cousin in June 1652, Eure was correctly described by one satirical tract as 'a Gentleman of *Yorkshire*, not very bulky or imperious for a Lord'.<sup>84</sup> Although Eure's first cousin once removed, William fourth Baron Eure, had been Royalist, George would mark

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<sup>79</sup> *Merc. Pol.*, 391 (19-26 Nov. 1657), p. 117; *Thurloe*, vi, 628, 665-66.

<sup>80</sup> *CSPV 1657-1659*, p. 134: Giavarina to Doge and Senate, 20/30 Nov. 1657.

<sup>81</sup> *Thurloe*, vi, 599-600, 628.

<sup>82</sup> *CSPV 1657-1659*, pp. 138-9: Giavarina to Doge and Senate, 27 Nov. / 7 Dec. 1657.

<sup>83</sup> Wolseley, Howard and Monck were other men with Royalist backgrounds nominated to the Other House.

<sup>84</sup> *Second Narrative*, p. 20 (second pagination).

himself out as a supporter of the various Interregnum regimes.<sup>85</sup> Not only was he chosen to be one of the Nominated Assembly, but he was also elected to both the first and second Protectorate Parliaments.<sup>86</sup> Like Mulgrave and Fauconberg, Eure seems to have been nominated to the Other House less because of his standing among the old peerage – of which he was a minor and recent addition – but because he was a strong adherent to the Cromwellian cause.

Of the seven old peers summoned, the least easy to explain is Edward Montagu second earl of Manchester. Besides his personal enmity towards Cromwell stretching back to their dispute in 1644, Manchester had played no active part in politics since the regicide and refused to take the engagement oath of loyalty to the Commonwealth regime.<sup>87</sup> There are intriguing hints that, by 1657, relations between the two men were thawing, however. According to Sir Francis Russell, on 20 June 1657, the ‘earle of Manchester, a great stranger at Whitehall’ went to see Cromwell to discuss the proposed marriage between Frances Cromwell and his nephew Robert Rich.<sup>88</sup> Cromwell’s reasons for nominating Manchester, however, may have been more than just a matter of reconciliation. From the time of losing his commission in the Parliamentary army through to Pride’s Purge, Manchester had regularly assumed the position of Speaker of the House of Lords. His appointment would have provided the added bonus of continuity with the past as well as a man with a degree of experience in the workings and procedure of the former upper chamber.

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<sup>85</sup> G.E.C., *Peerage*, v, 182-3.

<sup>86</sup> *Second Narrative*, p. 20 (second pagination).

<sup>87</sup> I. Gentles, ‘Montagu, Edward, second earl of Manchester (1602-1671)’, *ODNB*, online edn. (2008), [<http://www.oxforddnb.com/view/article/19009>, accessed 27 Feb. 2010].

<sup>88</sup> Gaunt, *Lansdowne*, p. 288: Russell to H. Cromwell, 20 June 1657.

Taken as a whole, Cromwell's motives in nominating the old peers to the Other House did not match the aspirations of those civilian Cromwellians who first conceived the revival of an upper chamber. Many of the old peers were summoned not because of their social standing, but because they were men of known loyalty, and in some cases relatives, to the Protector. Cromwell was averse to bringing in old lords simply for the sake of adding social weight to the upper chamber. As the marriage arrangements for his daughters demonstrated, Cromwell was not awestruck by names, but placed more emphasis on the character of the potential candidates. Instead, Cromwell sought to build a new peerage, incorporating a few loyal allies and past supporters, but for the most part detached from the nobility of the past.

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The relative scarcity of old peers also reflected Cromwell's hostile attitude towards hereditary office. In his speech at the dissolution of the first Protectorate Parliament, for instance, Cromwell had praised the *Instrument of Government* because 'it puts us off that hereditary way', professing that he would rather 'have men chosen, for their love of God, and to Truth and Justice' than to have it hereditary.<sup>89</sup> Arguably, it was an awareness of Cromwell's dislike for hereditary succession that did much to shape the parliamentary constitution of 1657. Although the initial stages of the agitation that led to the offer of the Crown began with calls for a revival of the hereditary principle, the final version of the *Humble Remonstrance* established nominative succession instead – most likely in deference to the Lord Protector's wishes.<sup>90</sup> It was to Cromwell's

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<sup>89</sup> *Carlyle*, ii, 422-23.

<sup>90</sup> For the origins of the kingship debates see Firth, 'Cromwell and the Crown' (1902), pp. 429-42. Although Firth notes the importance of these calls for the hereditary principle, he fails to explain its glaring omission from the parliamentary constitution subsequently presented to the Lord Protector.

relief in his speech of 4 February 1658 that by the *Humble Petition*, ‘there are not constituted Hereditary Lords, nor Hereditary Kings’.<sup>91</sup> Rather than summoning hereditary nobles, the Other House would comprise of ‘life peers’ only. As each lord died, the vacant place would be filled not by his heir, but by the Protector’s nominee approved by the Other House.<sup>92</sup>

That did not mean that Cromwell was vehemently opposed to conferring titles of honour, however. Indeed, during the course of his reign Cromwell would confer around thirty-seven knighthoods<sup>93</sup> and twelve baronetcies.<sup>94</sup> Most revealing, however, was Cromwell’s creation of two hereditary baronies by his letters patent. The form of the writ of creation, like the writs of summons, was largely a translation of that used by his regal predecessors. Indeed, in an astonishingly monarchical flourish, the writ emphasised that:

Among other the Prerogatives which adorne the Imperiall Crowne of these Nations none is of greater excellency or doth more amplifie our favours then to be the fountaine of honor and those who being of ancient Descents have ample patrimonies for their supportation and have deserved of us and the Publique to assume to titles of honor and Dignity for a regard to them and an encouragement to others.

These letters patent were granted by ‘us and our Successors’ to the recipient and the ‘heires males of his body’, so that they ‘shalbe forever hereafter reputed, knowne, and taken to be and shall and may hold and enjoy the same and the like priviledges, prehemineties, dignities and Immunities whatsoever with other Barons of England’.<sup>95</sup>

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<sup>91</sup> Carlyle, iii, 190, 506; *Clarke Papers*, iii, 136.

<sup>92</sup> Gardiner, *Constitutional Documents*, p. 452.

<sup>93</sup> W.A. Shaw, *The Knights of England* (2 vols., 1906), ii, 223-4; *The Perfect Politician Or, A Full View Of the Life and Action... of O. Cromwell...* (1660), pp. 357-9; Noble, *Memoirs of the Protectoral-House*, i, 439-46.

<sup>94</sup> *Perfect Politician*, pp. 356-7; G.E.C., *Baronetage*, iii, 3-9; Noble, *Memoirs of the Protectoral-House*, i, 439-46.

<sup>95</sup> Only a facsimile of Edmund Dunch’s writ of creation survives in Noble, *Memoirs of the Protectoral-House*, ii, 162-3. The original is now lost, as is Charles Howard’s writ of creation. Lisle suggest that the content of Howard’s writ agreed with that of Dunch, albeit Howard’s patent was granted ‘to him &

First to receive the Protector's letters patent was Charles Howard, who was created Baron Gilsland and Viscount Howard of Morpeth on 20 July 1657.<sup>96</sup> As it came shortly after Cromwell's second inauguration, it is plausible that it was intended as a sort of 'Coronation honour'.<sup>97</sup> It was also a vital test case; as Commissioner of the Great Seal John Lisle noted, this was 'the first patent of honor of a Baron or upwards granted by [the] lord Protector'.<sup>98</sup> The choice of Howard was a logical one. True, his background was suspect; as the satirical *Second Narrative of the Late Parliament* later mocked, 'his Relations... are most Papists and Cavaliers' and Howard himself had been raised a Roman Catholic and suspected of delinquency in his youth. Yet, Howard had proven to be a solid adherent to the Protector. He had fought for Parliament at Worcester in 1651; was nominated to Barebone's Parliament in 1653; was created a Colonel of horse and a councillor of state for Scotland in 1655; and had sat in both the first and second Protectorate Parliaments for Cumberland. With such a glittering career, the same hostile pamphleteer was unsurprised that Howard 'hath also tasted with the first, of that sweet Fountain of new honour, being made a *Viscount*'.<sup>99</sup> Indeed, according to Burton, as early as January 1657 Colonel John Fitzjames had joked that 'Major-General Howard was to be made Baron of Naworth'; to which the diarist added 'there is something in it, for they say Major General Howard's patent is ingrossed'.<sup>100</sup> Like Fauconberg, Howard represented a new

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his heires males' rather than the heirs male *of his body*. Spencer Research Library, Kansas., MS D87, fol. 263v.

<sup>96</sup> *Perfect Politician*, p. 356; Noble, *Memoirs of the Protectoral-House*, i, 439; *Second Narrative*, p. 10 (second pagination).

<sup>97</sup> G.E.C. *Baronetage*, iii, 2; Sherwood, *King In All But Name*, p. 106.

<sup>98</sup> Spencer Research Library, Kansas, MS D87, fol.. 263v.

<sup>99</sup> *Second Narrative*, p. 10 (second pagination).

<sup>100</sup> *Burton*, i, 321 (7 Jan. 1657).

generation of Cromwellians untainted by the conflict of the 1640s – he was only twenty-nine at the time of receiving his viscountcy from the Protector.

More importantly, a little under five months after being created Viscount Morpeth, Howard received a writ of summons to the Other House. On the face of it, there was nothing surprising about this. It was established practice by the early seventeenth century for the monarch's writ of creation to confer both a hereditary honour and the right of parliamentary peerage upon the recipient. Indeed, since the middle of Henry VIII's reign, there had been a specific clause in the letters patent that positively asserted the right of the recipient and their heirs male to have a seat in the Parliaments of the monarch and their successors.<sup>101</sup> As such, there were no grounds on which the nobility, once created, could be denied a writ of summons to sit in Parliament. It was this privilege that stood at the centre of the furore surrounding Charles I and his refusal to issue a writ of summons to John Digby first earl of Bristol in 1626.<sup>102</sup> As one Royalist author would later assert, the whole episode had firmly established a salient rule: 'that the Lords and Peeres, are to have their Writts of Summons, *Ex debito Justitiae*, which was not denied the Earl of *Bristoll* upon his petition'.<sup>103</sup>

It would be misleading, however, to assume that Cromwell's writ of summons to Howard shortly after he had conferred a viscountcy upon him was indicative of the Lord Protector conforming with traditional practices. First, the form of the letters patent used by Cromwell was subtly, but crucially, different to that of his monarchical predecessors in that it omitted the extra clause providing a seat for the recipient and their heirs male to successive parliaments. Second, if it had been the intention of

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<sup>101</sup> Prynne, *A Plea for the Lords*, pp. 49, 150.

<sup>102</sup> *LJ*, iii, 536-7, 544 (22, 30 Mar. 1626). See also Foster, *House of Lords*, pp. 13-18.

<sup>103</sup> *The Ancient Land-Mark Skreen* (1659). p. 9.

Cromwell to renew the old practice of summoning those holding writs of creation then one would have expected him to confer similar hereditary honours upon others subsequently nominated to the Other House.

There had been some speculation that this would be the case. On 11 August 1657, Mabbott reported that ‘His Highnes’ Councell here are to bee created Barons’, presumably in anticipation of their impending elevation to the upper chamber.<sup>104</sup> By early December, the Venetian resident was speculating that if those nominated by Cromwell to the Other House ‘do not possess the qualifications which render them worthy of such a honour, the Protector will endow them with these out of the absolute authority he wields’.<sup>105</sup> On 10 December 1657, Philip Jones wrote to Edward Montagu to inform him that ‘His Highnes when I was present gave mr. secretary commands to prepare a patent for a Barony for your Lordship’. Although ‘nothing hath yet been Dunne’ in the matter ‘because it is meet you should have pleasure your selfe to direct your title’, Jones believed it was ‘now past your refusall’. Ultimately, however, despite Jones’ confident assurances, Montagu received no letters patent to go with his writ of summons to the Other House.<sup>106</sup>

In fact, the only other person to ever receive letters patent conferring a hereditary barony from the Lord Protector was Edmund Dunch, who was created Baron Burnell of East Wittenham on 26 April 1658.<sup>107</sup> This hereditary honour was no doubt a reflection of Dunch’s close ties to the Protector. Besides being Cromwell’s cousin, he

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<sup>104</sup> *Clarke Papers*, iii, 115: 11 Aug. 1657.

<sup>105</sup> *CSPV 1657-1659*, p. 140: Giavarina to Doge and Senate, 4/14 Dec. 1657.

<sup>106</sup> Bodl., MS Carte 73, fol. 174: Jones to Montagu, 10 Dec. 1657.

<sup>107</sup> Noble, *Memoirs of the Protectoral-House*, ii, 162-3; *Perfect Politician*, p. 357.

had sat in both the first and second Protectorate Parliaments as MP for Berkshire.<sup>108</sup> Although he continued to sit in the Long Parliament after Pride's Purge, his views were undoubtedly conservative; he was identified as one of those 'kinglings' who voted in favour of Cromwellian monarchy.<sup>109</sup> Crucially, Dunch's elevation to the baronage did not give him a seat in the Other House. True, the letters patent came too late for Cromwell to summon Dunch to the Other House in 1658, but – significantly – he received no writ of summons to Richard Cromwell's Parliament either.

Clearly, Cromwell displayed a lack of interest in maintaining the once unimpeachable link between hereditary titles and parliamentary peerage. Holding a hereditary honour was never seen as a necessary condition to sit in the Other House. On the one hand, not all those ennobled by the Protector went on to be summoned to the Other House; on the other hand, not all those summoned received letters patent creating them barons or viscounts. Such was the incongruous nature of the new honours system that it was entirely possible for a 'lord' summoned to the Other House to receive a writ of creation *after* they had sat in the upper chamber. Indeed, if Whitelocke is to be believed, in August 1658 – over eight months after he had received his writ of summons to the Other House – there was 'a Bill signed by his Highness for a Patent to make *Whitelocke* a Viscount, and in Secretary *Thurlo's* hand to be passed'. But, ultimately, Whitelocke refused the offer because he 'did not think it convenient for him'.<sup>110</sup>

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<sup>108</sup> G.E.C., *Peerage*, iii, 436-7.

<sup>109</sup> B. Worden, *The Rump Parliament, 1648-1653* (Cambridge, 1974), p. 389; *Narrative of the late Parliament*, pp. 17, 22.

<sup>110</sup> Whitelocke, *Memorials*, p. 675: 21 Aug. 1658; *Whitelocke Diary*, p. 495: 19 Aug. 1658.

Of course, there was also a great deal of pragmatism in Cromwell's approach. Retaining the old system of creating peerages by letters patent would have rendered the constitutional settlement inconsistent. Because the membership of the Other House was nominative not hereditary, there would be an obvious paradox in making writs of creation a necessary condition for a summons to the upper chamber. Moreover, if holding a noble title were upheld as a necessary condition for membership of the Other House, then it would have provided a strong argument for the restoration of the old nobility *en masse*. After all, the old peerage had sat by virtue of their titles and, as the earl of Bristol's case had demonstrated, no peer, once ennobled, could be refused a summons to the upper chamber.

By summoning the members of the Other House by writ of summons only, Cromwell could make a clean break. As Philip Jones explained to Edward Montagu on 22 December 1657, the situation had parallels with the thirteenth century when 'by a law that military Age produced, none of the Barons were to appeare in Parliam[en]t but such as were sumoned thither by the king's writt'. That period, Jones claimed, 'layed aside as many Lords (or I thinke more) as this call doth'.<sup>111</sup> Defending the Other House to the Commons the following February, Robert Beake reminded them of that 'crazy time... at the end of the Barons' wars' when the king 'found all the Barons direct traitors' and sent summons to 'gentlemen and knights' to fill the places 'just as now'; they 'must make new ones when you cannot have the old ones'.<sup>112</sup> Cromwell's writ of summons was in the old form but not all of them went to the old peerage. Rather than restoring the old House of Lords, Cromwell nominated a body of men that was very different in complexion to its predecessor. As he would rightly claim on

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<sup>111</sup> Bodl., MS Carte 73, fol. 186: P. Jones to Montagu, 22 Dec. 1657.

<sup>112</sup> *Burton*, ii, 416 (2 Feb. 1658).

4 February 1658, it was ‘not titles, nor Lords’ that they valued.<sup>113</sup> It is to these new Cromwellian peers, and the Protector’s motives in nominating them, that the remainder of this chapter will turn.

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### **The ‘New’ Cromwellian Lords**

Undoubtedly, the majority of those summoned to the Other House were close, both personally and professionally, to the Lord Protector. It was a fact not lost on many of the Protectorate’s critics. According to the vitriolic *Second Narrative of the Late Parliament*, these ‘ignoble Lords of the new Stamp’ were nothing more than the Protector’s ‘Sons and Kindred, Flattering Courtiers, corrupt Lawyers, degenerated Sword men, and a sort of luke-warm indifferent Country Knights, Gentlemen and Citizens, most of them self-interested Salary-men’.<sup>114</sup> To highlight this point, the tract provided a series of scathing biographies of the Cromwellian peers, highlighting their suitability ‘to be called Lords’. For instance, John Jones, who had ‘lately married the Protector’s Sister’ could ‘for Relations sake... be counted fit... to be called *Lord Jones*’.<sup>115</sup> Given that Sir Francis Russell’s daughter, Elizabeth, had married the Protector’s son Henry Cromwell, it ‘were a great pity if he should not also... be a Lord of the Other House, his Son-in-law being so great a Lord’.<sup>116</sup>

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<sup>113</sup> *Clarke Papers*, iii, 137; *Carlyle*, iii, 189, 505.

<sup>114</sup> *Second Narrative*, pp. 23-4 (second pagination); *Ludlow*, ii, 31-2.

<sup>115</sup> *Ibid.*, p. 17 (second pagination).

<sup>116</sup> *Ibid.*, pp. 17-18 (second pagination).

In all, there were seventeen nominees – over a quarter of those summoned to the upper chamber – who had some tie of kinship to the Protector.<sup>117</sup> Some were close relatives; there were Oliver's two sons, Richard and Henry; his sons-in-law, John Cleypole, Lord Fauconberg and Charles Fleetwood; and his brothers-in-law John Desborough and John Jones. There were also three of Cromwell's cousins: Edward Whalley, Richard Ingoldsby and Richard Hampden. Others, such as Sir Francis Russell and the earl of Warwick were related through the marriage of their offspring to the Protector's children. Finally, there was a clutch of members who could claim to be related to the Protector through marriage to his more distant relations. These included William Lockhart who married the Protector's widowed niece in 1654; Sir Gilbert Gerard, Sir John Hobart and William Goffe who all married the Protector's cousins; and Oliver St John who was first married to Cromwell's first cousin once removed Joanna Barrington and, following her death, married Cromwell's second cousin once removed Elizabeth Cromwell.

Yet, the damning claims of nepotism are in need of some qualification. Undoubtedly, their relationship to the Protector helped, but most of them also had a combination of experience, social standing and office that would have made them prime candidates anyway. Of course, this presents something of a circular argument predicated on the question of whether those persons would have held office, or gained experience, had they not been Cromwell's relations or *vice-versa*. It seems only natural, however, that in nominating a body of members on whose integrity and soundness the future of the Cromwellian constitution rested, that the Lord Protector chose men whom he knew well both for their fidelity to him and their willingness and ability to serve. Moreover,

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<sup>117</sup> See appendix.

the fact that at least one of his close relatives – his new son-in-law Robert Rich – received no writ of summons shows that Cromwell was unwilling to nominate inexperienced men just because they happened to be members of his family.

Indeed, experience – both in parliament and civil office – appears to have been an important criterion for Cromwell in choosing members for the Other House. Only three of the sixty-two members summoned had never sat in an English Parliament before. Over half of the members had sat at Westminster before 1649; besides the five old English nobles who had sat in the Lords prior to its abolition, there were also twenty-seven men nominated to the Other House who had been MPs in the Long Parliament. Nineteen of the members were also ex-Rumpers, while twenty of them were nominated to Barebone's Parliament. More significantly, forty-seven lords of the Other House had seats in at least one of the two Protectorate Parliaments; fifteen of them becoming MPs for the first time. Thus, the majority of the men summoned to the Other House had some knowledge of parliamentary proceedings – albeit just under half of the membership had only ever sat in the unicameral Parliaments of the Interregnum.<sup>118</sup> Cromwell was not far wrong when he informed the Commons on 4 February 1658 that the Other House were 'men of their own ranke and quality'.<sup>119</sup>

Certainly, the social standing of the Other House was much lower than a traditional House of Lords. Besides the seven old English peers and Scottish and Irish nobles Cassillis and Broghill, there was also a much larger group of 'Knights & gentlemen of auntient families & good estates'.<sup>120</sup> Ludlow notes how the Other House comprised of 'some of the gentry, who had considerable estates derived to them from their

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<sup>118</sup> See appendix.

<sup>119</sup> *Clarke Papers*, iii, 137.

<sup>120</sup> *Whitelocke Diary*, p. 481.

ancestors; such were Mr. [William] Pierpoint, Mr. Alexander Popham, Sir Richard Onslow, Sir Thomas Honywood, Mr. Edmund Thomas, Sir Gilbert Gerard and others'.<sup>121</sup> Yet, as the *Second Narrative* would mock, this group of 'luke-warm indifferent Country Knights' were a poor substitute for the ancient nobility, sardonically lauding the new peers for their mediocrity. For instance, Sir Richard Onslow was 'a Knight of the old Stamp, a Gentleman of *Surrey*, of good parts, and a considerable Revenue'; while Sir John Hobart was similarly described as a 'Knight Baronet of the old Stamp, a Gentleman of *Norfolk*, of a considerable Estate'.<sup>122</sup>

The critics of the Other House were also quick to stress the low-born nature those 'degenerated Sword men' who were completely bound to the Protector's interest. John Desborough was a 'Yeoman of about sixty or seventy pounds *per annum* at the beginning of the Wars' but had since 'grown considerable'; Thomas Pride was 'an honest Brewer in *London*' but was now 'grown very bulky and considerable'; John Hewson had started out as 'an honest Shoemaker or Cobler in *London*'. Others with lowly backgrounds included John Barkstead, 'sometime a Goldsmith'; Edward Whalley 'formerly a Woollen Draper'; William Goffe an apprentice to 'a Salter in *London*'; James Berry 'a Clerk of Overseer' in an 'Iron Works'; and Thomas Cooper 'sometime a Shop-keeper or Salter in *Southwark*'.<sup>123</sup>

Moreover, thirty-one members, exactly half of those nominated, held some form of office in the civil administration of Britain. They included fifteen of the sixteen active members of the Privy Council – Secretary John Thurloe being the sole councillor left

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<sup>121</sup> *Ludlow*, ii, 30-1.

<sup>122</sup> *Second Narrative*, pp. 18-19 (second pagination).

<sup>123</sup> *Ibid.*, pp. 3, 11-14 (second pagination); *CSPD, 1657-1658*, p. 232.

to manage the government's affairs in the House of Commons.<sup>124</sup> There were also a number of leading court lawyers including the two lord commissioners of the Great Seal, Nathaniel Fiennes and John Lisle, the Lord Chief Justices Glynn and St John and Master of the Rolls Lenthall. Court officials also gained seats, including lord chamberlain Sir Gilbert Pickering, comptroller of the household Philip Jones and master of the horse John Cleypole. Also summoned were a number of financial administrators of varying degrees, ranging from lord commissioners of the Treasury Bulstrode Whitelocke, Edward Montagu and William Sydenham to the pluralist Sir William Roberts, who under the Protectorate simultaneously held the places of auditor of the receipt, obstructions commissioner and wine licence agent.<sup>125</sup> No doubt, Cromwell chose many of these men not just because they were relatives and friends, but because they were effective administrators and office-holders, well known to him and experienced in running the government.

Undoubtedly, many had a vested financial interest in the regime too. According to one hostile pamphlet these men, like 'so many horse-leeches have sucked and drawn into themselves the expected fruit of all the blood and Treasure expended in the late War'.<sup>126</sup> Nathaniel Fiennes, for instance, holding the offices of privy councillor, commissioner of the Great Seal and keeper of the Privy Seal was estimated to be worth '3000*l* per annum'; Charles Fleetwood – until the expiration of his commission as Lord Deputy of Ireland in 1657 - was earning a substantial yearly salary from his numerous civil and military employments of '6620*l* 13s. 4d'.<sup>127</sup> Moreover, suspicions of corruption were rife among the government's critics. Most notoriously, Philip

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<sup>124</sup> See appendix.

<sup>125</sup> G.E. Aylmer, *The State's Servants: The Civil Service of the English Republic, 1649-1660* (1973), pp. 251-2; *Narrative of the late Parliament*, p. 16.

<sup>126</sup> *Narrative of the late Parliament*, p. 19.

<sup>127</sup> *Ibid.*, pp. 9-18.

Jones was identified as one of those who ‘made Hay whilst the Sun shin’d, and hath improved his Interest and Revenue in Land to 3000*l per annum*’ and was ‘very much suspected, having gotten so great an Estate in so short a time’.<sup>128</sup> Yet, Cromwell chose these men precisely because they were deeply interested in the survival of the Protectorate. As such, it was highly likely that they would ‘endeavour all they can to uphold that Interest they are hyred to serve, and whereby their own Incomes and Salaries may be continued’.<sup>129</sup>

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### **‘Civilian’ and ‘Military’ Cromwellians**

It would become an enduring characterisation that the Other House was nothing more than a ‘council of officers’.<sup>130</sup> Yet such claims, emanating largely from Republican polemicists, should be treated with a great deal of caution. Although, as will be shown in the following chapters, absenteeism may have skewed the subsequent complexion of the Other House to give this characterisation greater purchase, there is nothing to suggest that – when nominating the membership – Cromwell ever intended the upper chamber to be a stronghold for the military interest; quite the opposite in fact.

Although men holding military office would account for a sizeable minority in the Other House, they were by no means the dominant force there. Of the sixty-two men summoned by Cromwell in December 1657, there were only fourteen active army

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<sup>128</sup> *Second Narrative*, p. 7 (second pagination); B. Morgan, *Articles of Impeachment....against Col. Phillip Jones* (1659).

<sup>129</sup> *Narrative of the late Parliament*, p. 19; *CSPV, 1657-1659*, p. 149: Giavarina to Doge and Senate, 25 Dec. / 4 Jan. 1657/8.

<sup>130</sup> *Burton*, iv, 35 (Scot, 5 Mar. 1659).

officers commanding a total of nineteen regiments between them.<sup>131</sup> Admittedly, this figure is improved slightly by the fact that three other members would become army officers shortly after their nominations. By early January 1658, Richard Cromwell and Lord Fauconberg, who obviously continued to grow in the Protector's affections, had each been given the command of a horse regiment.<sup>132</sup> Around the same time, William Lockhart was made both a colonel of horse and overall commander-in-chief of the English forces in Flanders following the drowning of Sir John Reynolds.<sup>133</sup> Yet, even with these additions factored in, it meant that there were only seventeen serving officers, commanding a total of twenty-two regiments, who had received writs of summons and were eligible to sit in the Other House in January 1658.

The picture is distorted further, by the fact that there were other gradations of military service represented in the Other House. Besides active army commanders, there were also the two joint generals-at-sea Edward Montagu and John Desborough. More confusingly, there was also another group of members who, despite having no active command, were often styled with military titles. These included garrison commanders who carried the token title of 'Colonel' but had no army regiment, such as William Sydenham, Philip Jones and John Jones.<sup>134</sup> Philip Skippon was also often styled 'Major-General', but ill health meant that he transferred his military duties in London during the major-generals experiment to Lieutenant of the Tower John Barkstead. Unsurprisingly, the government's Republican critics, striving to inflate the numbers of military men in the upper chamber, chose to style members with their military titles

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<sup>131</sup> See appendix.

<sup>132</sup> C.H. Firth & G. Davies, *The Regimental History of Cromwell's Army* (2 vols., Oxford, 1940), i, 259, 286; *Clarke Papers*, iii, 132; Newsletter 12 Jan. 1658; Bod Lib., MS Carte MS 73, fol. 186; Jones to Montagu, 22 Dec. 1657.

<sup>133</sup> Firth & Davies, *Regimental History*, ii, 694-5.

<sup>134</sup> Governors of the Isle of White, Cardiff and Anglesey respectively.

irrespective of whether or not that title was simply honorary.<sup>135</sup> Moreover, there was no shortage of men in the Other House who had once held military office; if one were to simply look at experience as opposed to active service, then almost two-thirds of those summoned had seen action in the armed forces at some point during the 1640s and 50s.

In reality, it is wholly inappropriate to count the number of army officers in order to discover the proportion of ‘military’ Cromwellians nominated to the Other House. This group was far more complex than its appellation might suggest; it is erroneous to assume that all army officers were military Cromwellians in their political outlook. Indeed, if this group is defined simply as those who took a hostile stance to Cromwellian monarchy in 1657, then less than half of the serving officers nominated to the Other House can be described as military Cromwellians. This group included Charles Fleetwood, Desborough, Berry, Cooper, Hewson, Pride and Barkstead.<sup>136</sup> A further two officers – Whalley and Goffe – although initially believed to be opponents of the offer of the Crown in February 1657, were soon identified as ‘moderate opposers, almost indifferent’ and arguably fell into the ranks of civilian Cromwellians.<sup>137</sup>

This meant, somewhat paradoxically, that the majority of active army officers summoned to the Other House were actually ‘civilian’ in their politics. They included the nominal leader of the kingship group, Lord Broghill, who, despite commanding no regiment, was still accounted an active general officer in his capacity of Lieutenant

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<sup>135</sup> See *Second Narrative*, pp. 6-7, 17 (second pagination).

<sup>136</sup> See Gaunt, *Lansdowne*, pp. 205-6: Morgan to H. Cromwell, 24 Feb. 1657; *Clarke Papers*, iii, 91-2; *Thurloe*, vi, 93, 219-20; *Ludlow*, ii, 21-8; Desborough, Cooper and Hewson all acted as tellers in debates against the civilian Cromwellians, see CJ, vii, 510-11, 520 (24, 25 Mar; 4 Apr. 1657).

<sup>137</sup> Gaunt, *Lansdowne*, pp. 214, 236.

General of the Ordinance in Ireland.<sup>138</sup> There was also Richard Ingoldsby, Charles Howard and William Lockhart who had all voted for kingship on 25 March 1657.<sup>139</sup> Moreover, there were others – including Henry and Richard Cromwell, Monck and Fauconberg – who, while not present at the debates over the *Humble Petition* showed sympathy with the civilian Cromwellians at Westminster. Thus, if Whalley and Goffe are also added to this group, it is clear that those with civilian Cromwellian sympathies actually accounted for ten of the seventeen serving army officers to be nominated to the Other House.

Conversely, there were a number of those summoned to the upper chamber who were military Cromwellians but held no military office. For instance William Sydenham and the brothers Walter and Sir William Strickland were all leading opponents to the offer of the Crown in 1657.<sup>140</sup> Others are a little harder to categorise, such as Sir Gilbert Pickering who, according to the *Second Narrative*, was a man who ‘changed with all changes that have been since’ the Regicide and was ‘so finical, spruce, and like an old Courtier’ that he was made ‘Lord Chamberlain of the Protectors Household or Court’.<sup>141</sup> Yet, although Pickering’s political stance sometimes wavered, especially during the early months of Richard Cromwell’s Protectorate, he generally gravitated towards the military Cromwellians. In the opening days of the kingship debates, for instance, he was identified as one of the council who were ‘against it’.<sup>142</sup> Moreover, according to Vincent Gookin, the Protector was well aware that any words ‘spoken

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<sup>138</sup> Firth & Davies, *Regimental History*, ii, 588.

<sup>139</sup> *Narrative of the late Parliament*, pp. 22-3; Gaunt, *Lansdowne*, pp. 213-4: Jephson to H. Cromwell, 3 Mar. 1657; *CSPV 1657-1659*, pp. 35-6: Giavarina to Doge and Senate, 27 Mar. / 6 Apr. 1657.

<sup>140</sup> Gaunt, *Lansdowne*, pp. 205-6: Morgan to H. Cromwell, 24 Feb. 1657; All three men acted as tellers for the military Cromwellians during the course of the kingship debates. See *CJ*, vii, 496, 500, 511, 530, 535, 571-8 (23, 24 Feb; 9, 25 Mar; 5, 19 May; 24, 25, 26 June).

<sup>141</sup> *Second Narrative*, p. 4 (second pagination).

<sup>142</sup> Gaunt, *Lansdowne*, pp. 205-6.

before Sir Gilbert' would soon reach the army grandees, as he 'tells all to L[ord] D[eputy]' Fleetwood.<sup>143</sup>

Philip Skippon might be considered a shoo-in for a military Cromwellian, given his strong background in the army. Yet, according to Anthony Morgan, upon the presentation of the *Humble Remonstrance* in February 1657, Skippon was one of the privy councillors who were 'highly for it'.<sup>144</sup> There is nothing in the parliamentary records, however, to back this claim and he was not identified as one of those who voted for Cromwellian monarchy.<sup>145</sup> Indeed, commentators generally saw Skippon as an ally of the military interest. Edward Phillips, in his continuation of Baker's chronicle, claimed that Fleetwood, Desborough, Pickering, Sydenham, Walter Strickland and Skippon were all members of the Protectoral Council who 'were Favourers and Abettors of the Army'.<sup>146</sup> Even more enigmatic was Viscount Lisle. Like Pickering, Lisle was one of those who was seen as constantly shifting allegiance between the groups; the *Second Narrative* sardonically applauded him for 'having learned so much by changing with every Change, and keeping still... on that side which hath proved Trump'.<sup>147</sup> The fact that Lisle did not sit in the second Protectorate Parliament makes a definitive classification of his political beliefs in 1657 difficult. Lisle's prominent participation in the regal second inauguration of the Lord Protector on 26 June 1657 is testament to his adherence to Cromwell's interest; but given that

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<sup>143</sup> *Thurloe*, vi, 37: Letter from Gookin, 3 Feb. 1657.

<sup>144</sup> Gaunt, *Lansdowne*, pp. 205-6.

<sup>145</sup> *Narrative of the late Parliament*, pp. 22-3.

<sup>146</sup> R. Baker, *A Chronicle of the Kings of England*, rev. E. Phillips (1665), p. 659; See also *Thurloe*, vii, 495-6.

<sup>147</sup> *Second Narrative*, pp. 3-4 (second pagination); Baker, *Chronicle of the Kings* (1665), p. 659.

leading military Cromwellian Charles Fleetwood also attended the ceremony it should not be read as positive evidence that Lisle had converted to the civilian cause.<sup>148</sup>

Besides this core group of army grandees and Privy Councillors, there were a number of others nominated to the Other House who, at the very least, shared some common ground or had political dealings with those of a military Cromwellian outlook. Sir Archibald Johnston of Wariston, for instance, aligned himself closely with Fleetwood and the military Cromwellians during the second Protectorate Parliament in a bid to ensure that Scottish Protestant views were heard at Westminster and Whitehall.<sup>149</sup>

Similarly, William Steele and Sir Matthew Tomlinson can be considered supporters of the military Cromwellians albeit refracted through the lens of Irish politics. Both men were staunch supporters of Lord Deputy Charles Fleetwood and frustrated his replacement Henry Cromwell who strove to enforce 'civilian' conciliatory policies in Ireland.<sup>150</sup> Lord Eure can also be counted a 'military' Cromwellian if one considers that he acted as teller for the *yeas* in a vote on 2 March 1657 to postpone debate on the entire first article of the *Humble Remonstrance*; which, if successful, would have greatly hindered the passage of the proposed parliamentary constitution.<sup>151</sup> Finally, to those on the peripheries of the military Cromwellian group in the Other House might also be added a group of three regicides – Sir George Fleetwood, Sir Robert Tichborne and John Jones – who had all been members of the armed forces and whose radical credentials meant they were more likely to side with the military Cromwellians than take a 'civilian' standpoint.<sup>152</sup>

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<sup>148</sup> *Merc. Pol.*, 369 (25 June – 2 July 1657), pp. 7881-4.

<sup>149</sup> *Wariston Diary*, iii, 76-88, 90.

<sup>150</sup> See discussion of the 'Irish' membership below, pp. 136-8.

<sup>151</sup> *CJ*, vii, 493.

<sup>152</sup> In total, Cromwell nominated 9 regicides to the Other House: Barkstead, George Fleetwood, Goffe, Hewson, Ingoldsby, John Jones, Pride, Tichborne and Whalley.

Thus, at the absolute limit, Cromwell nominated no more than twenty men to the Other House who could be described as military Cromwellians. This is not to say by extension, however, that the other two-thirds of members were civilian Cromwellians. As with the military Cromwellians, a similar pattern emerges of a core group of men who were indubitably civilian Cromwellians allied with a range of candidates for whom the evidence of their political allegiance is fairly certain.

According to *A Narrative of the late Parliament (so called)* there were eighteen ‘Kinglings’ – those who had voted to insert the royal title into the first article of the *Humble Petition and Advice* on 25 March 1657 – who went on to become members of the Other House.<sup>153</sup> The number of civilian Cromwellians, however, was larger still. Besides those ‘civilian’ army officers listed above, those at the core of this civilian Cromwellian group in the Other House included the privy councillors Nathaniel Fiennes, Philip Jones, Edward Montagu, Sir Charles Wolseley and the Lord President Henry Lawrence.<sup>154</sup> The elderly Francis Rous and the earl of Mulgrave were also probably among this group of councillors, although their absence from the kingship debates makes any definitive classification difficult. There were also a number of court lawyers such as John Glynne, William Lenthall, John Lisle and Bulstrode Whitelocke who had all played an active part in the committee of ninety-nine which tried to convince Cromwell to accept the offer of the Crown in April 1657.<sup>155</sup> Other prominent members of this group included the man who first presented the *Humble*

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<sup>153</sup> *Narrative of the late Parliament*, pp. 22-23. See appendix: ‘politics’ column.

<sup>154</sup> Gaunt, *Lansdowne*, pp. 205-6; *Narrative of the late Parliament*, pp. 22-2; *Thurloe*, vii, 495-6.

<sup>155</sup> See *Monarchy Asserted, To be the best, most Ancient and legall form of Government, in a conference had at Whitehall with Oliver late Lord Protector & a Committee of Parliament...* (1660).

*Remonstrance* to the Commons Sir Christopher Packe, Cromwell's son-in-law John Cleypole and Sir William Roberts.<sup>156</sup>

Bolstering this core group of civilian courtiers, were a number of conservative country gentlemen. Anthony Morgan informed Henry Cromwell early in the kingship debates that the Surrey gentleman 'Sir Richard Onslow is head of the country party for it'.<sup>157</sup> Also in the vanguard was Sir John Hobart of Norfolk who, like Onslow, had been among the 'Presbyterian' critics of the *Instrument* in the first Protectorate Parliament. In 1657, Hobart acted as teller alongside other civilian Cromwellians on a number of occasions, including the vote for adhering to the *Humble Petition* on 4 April after Cromwell's initial refusal, and was justly labelled 'a great stickler among the late Kinglings' by *A Second Narrative*.<sup>158</sup> Hobart's brother-in-law Richard Hampden should also be added to this group along with Nathaniel Fiennes' younger brother John who, according to the same mocking author, would 'follow his brother... and will say *No* with the rest, when any thing opposes the interest of the new Court'.<sup>159</sup>

More uncertain, but likely to have been civilian in outlook, was Sir Thomas Honeywood who was described as 'rather soft in his spirit, and too easie (like a Nose of Wax) to be turn'd on that side where the greatest strength is; being therefore of so hopeful principles for the New Court interest'.<sup>160</sup> There was also Henry Cromwell's father-in-law Sir Francis Russell, whose enthusiasm for the offer of the Crown is abundantly evident from his correspondence with his son-in-law; it was unsurprising

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<sup>156</sup> *Narrative of the late Parliament*, pp. 22-23.

<sup>157</sup> Gaunt, *Lansdowne*, pp. 205-6. See also *Monarchy Asserted*, pp. 55-59.

<sup>158</sup> *CJ*, vii, 511, 520, 535 (25 Mar., 4 Apr., 19 May 1657); *Second Narrative*, p. 19 (second pagination).

<sup>159</sup> *Second Narrative*, pp. 19, 20 (second pagination).

<sup>160</sup> *Ibid.*, p. 19 (second pagination).

that his principles were ‘for Kingship and the new Court, being so greatly concern’d therein’.<sup>161</sup> For the same reasons, the earl of Warwick might also be counted a civilian Cromwellian, albeit there is no positive evidence for his attitude over the offer of the Crown.

When all these men are added together, it is clear that the civilian Cromwellians enjoyed a greater number in the House than the military. At most, there were as many as thirty-one men, or exactly half of those nominated to the Other House, who might be labelled as civilian in politics.<sup>162</sup> Yet this also left eleven members who did not fall neatly into either the civilian or military category. In some cases, such as Alexander Popham and the earls of Manchester and Cassillis, their apathetic stance towards the Protectorate makes any meaningful categorisation difficult. Equally shady was Edmond Thomas. According to the *Second Narrative*, Thomas was ‘a Friend of *Philip Joneses*, and allayed to *Walter Strickland*’ through marriage and was ‘brought in’ to the Other House ‘upon their account’.<sup>163</sup> Of course, this says little about Thomas’s political leanings given that Philip Jones and Strickland were from opposite ends of the political spectrum. The fact that Thomas acted as a teller in a division over the wording of the *Humble Remonstrance* on 17 March 1657 with Walter Strickland’s elder brother, Sir William, might be cited as evidence of his politics; but the fact that the division concerned an amendment to make more restrictive a clause concerning religion merely demonstrates that Thomas held the same Presbyterian tastes in religion as Sir William Strickland rather than a common political view.<sup>164</sup> Ultimately, Thomas is too shady to be placed definitively in one category or the other, but his

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<sup>161</sup> Gaunt, *Lansdowne*, pp. 201-2, 264, 272-3; *Second Narrative*, p. 18 (second pagination).

<sup>162</sup> See appendix.

<sup>163</sup> *Second Narrative*, p. 17 (second pagination).

<sup>164</sup> *CJ*, vii, 506.

country background and religious outlook, mean he is a more likely candidate for being a civilian, rather than a military, Cromwellian.

Sir Arthur Haselrig, on the other hand, can be placed in neither category because he was vehemently opposed to the Cromwellian regime in any guise. Indeed, Haselrig's nomination by the Protector is highly perplexing. His considerable wealth and landed interest in northern England was probably a factor, but this cannot explain away the fact that Haselrig was a committed Republican opponent of the Protectorate. Perhaps Haselrig's elevation to the Other House was testament to Cromwell's political vision of having a balanced and varied upper chamber. Yet, if this was the case, it was pure tokenism on the Protector's part as Haselrig was the sole Republican representative. More likely is that Cromwell saw the potential to remove a vociferous opponent from the House of Commons. Thus, as the *Second Narrative* complained bitterly, Haselrig 'was by the Protector' removed from the Commons and 'cut out for a Lord of the Other House' thereby giving him a 'wooden Dagger... with the rest' of the Cromwellian peers.<sup>165</sup> No doubt, the expectation was that he would refuse altogether, thereby secluding himself from Parliament.

The remaining six of those nominated to the Other House were men who were old political allies of the Lord Protector from the 1640s but had since receded into a state of retirement or lurked in the backrooms at Whitehall. As already mentioned, this group included the old nobles, Viscount Saye and Sele and Lord Wharton, both of whom played no significant public role during the Protectorate. Any support they did give was indirect at best. For instance, the author of the *Second Narrative* believed

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<sup>165</sup> *Second Narrative*, p. 21 (second pagination); *Ludlow*, ii, 30-1.

that Saye's sons Nathaniel and John Fiennes, who were certainly active in supporting Cromwellian kingship, were being steered by their father 'old Subtlety' who 'lies in his Den'.<sup>166</sup> Equally shady was the political leanings of a clutch of former 'middle group' MPs, including Lord Chief Justice Oliver St John, William Pierrepont, Sir Gilbert Gerard and John Crew. Although St. John and Pierrepont were not MPs in 1657, it has already been observed how a number of contemporaries noted their presence at Whitehall in early 1657. St John, who earned the nickname of 'Dark Lantern' for his enigmatic influence over political affairs, was even believed to be controlling his former client John Thurloe from behind the scenes.<sup>167</sup> Unfortunately, the public actions of these men did not match their alleged private influence, however. Overall, the best that can be said is that they were 'conservative' in outlook and, if they were to appear, then they were more likely to lean towards the civilian Cromwellians than the military men.

Taken as a whole, it is clear that the Other House as originally nominated by the Lord Protector was never intended to be a bulwark for the military interest. While there was a sizeable minority of military Cromwellians, it was a combination of civilian Cromwellians and conservative-minded men who were given the numerical majority. But, assuming Cromwell made these calculations when nominating the Other House, his slight favouritism towards the civilians is intriguing but not totally conclusive.

It was hardly a sign that Cromwell had fallen wholeheartedly behind the civilian outlook for settlement; the Other House was not the hybrid chamber of old peers and

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<sup>166</sup> *Second Narrative*, p. 19 (second pagination).

<sup>167</sup> *Ibid.*, p. 19 (second pagination); Bodl., Clarendon MS 60, fol. 98r: Mordaunt to Charles Stuart, 10 Feb. 1659; *Twelve Queries Humbly Proposed to the Consideration of the Parliament & Army* (1659), p. 4.

civilian Cromwellians that they would have wanted – the civilians may have been well represented but they also had to share the benches with many of their political adversaries. The numbers were such that neither side could afford to be negligent in their attendance on the house; indeed, as the next chapter demonstrates, with proxies banned under the *Humble Petition*, attendance would be crucial in determining who gained the actual overall majority in the Other House. For Cromwell, however, the composition of the Other House reflected his overall vision of the future settlement of the nations – a balanced constitution that reconciled the conservative nation at large with his more fervent military allies. As he told Parliament on 4 February 1658, he had nominated an Other House that was not only a check upon the Commons but a balance ‘to themselves’.<sup>168</sup>

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### **A ‘Christian’ Interest?**

Politics aside, however, the primary importance of the Other House for Cromwell was its ability to act as a check on what he saw as the persecuting spirit of the House of Commons. As seen in the previous chapter, the judicial bounds placed on the Other House helped to provide a partial remedy to the constitutional difficulties raised by the case of James Nayler. Yet, if the Other House was to act as an effective balance against the religious intolerance of the Commons for the future, it was also important that men of the right religious outlook were chosen to sit there. As such, it is unsurprising that, on 4 February 1658, Cromwell professed that one of his salient

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<sup>168</sup> *Clarke Papers*, iii, 137.

criteria for choosing the members of the Other House was that they valued a ‘Christian...interest’.

Of course, it is first worth considering what Cromwell understood that interest to be. At its core was the preservation of that ‘fundamental’ or ‘natural right’ of ‘liberty of conscience’.<sup>169</sup> As Cromwell explained in his opening speech to the second Protectorate Parliament:

If men will profess, - be they those under Baptism, be they those of the Independent judgment simply, and of the Presbyterian judgment, - in the name of God, encourage them, countenance them; so long as they do plainly continue to be thankful to God, and make use of the liberty given them to enjoy their own consciences!

Put simply, Cromwell believed all those should be tolerated who ‘believe in Jesus Christ – that’s the Form that gives the being to true religion, Faith in Christ and walking in a profession answerable to that Faith’.<sup>170</sup> In addition to this central premise of toleration, Cromwell also favoured a loose form of state church – which included an educated preaching ministry that was regulated both centrally and locally. The system of ‘Triers’ and ‘Ejectors’, established under the Protectoral ordinances of 1654, mirrored Cromwell’s desire for harmony among the different strands of Protestantism.<sup>171</sup>

For Cromwell, a ‘Christian...interest’ was a balanced one, predicated on the toleration of a range of Protestants, who professed faith in God by Jesus Christ. Even if the professors of such faith differed from the forms of doctrine and worship of the state church, they would be given liberty so long as they lived peaceably and did not

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<sup>169</sup> *Carlyle*, ii, 382-3.

<sup>170</sup> *Ibid.*, ii, 535-6. For a more detailed discussion of the limits of Cromwellian toleration see B. Worden, ‘Toleration and the Cromwellian Protectorate’, in W.J. Sheils (ed.), *Persecution and Toleration* (Oxford, 1984), pp. 199-233.

<sup>171</sup> *Carlyle*, ii, 353-4. See also speech of 17 Sept. 1656, *Ibid.*, ii, 539.

disturb or harass others; any who transgressed, however, would receive ‘punishment from the civil magistrate... their sins being open’.<sup>172</sup> Moreover, he demonstrated a preference for a state-approved ministry who adhered to a publicly held profession of faith and, for want of a viable alternative, would continue to be maintained by tithes.<sup>173</sup> Yet, these beliefs were by no means unique to the Lord Protector. As a closer examination of the membership of the Other House demonstrates, there were many men around Cromwell who shared his belief in both ‘liberty of conscience’ and the limits of toleration.

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Arguably, by its very nature the Other House – a nominated body of up to seventy men – had direct echoes of the godly experiment of the Nominated Assembly of 1653. Indeed, it is possible that the upper limit imposed on the Other House was consciously chosen to mimic the Sanhedrin – just as had originally been intended with the Nominated Assembly.<sup>174</sup> Equally suggestive is that twenty – that is, almost a third – of the members chosen by Cromwell to sit in the Other House had been members of the Nominated Assembly; all of whom were identified with the ‘moderate’ party in that assembly.<sup>175</sup> The fact that not one of the religious zealots from Barebone’s Parliament found their way into the Other House is intriguing. It was a sign that Cromwell had mellowed with age and experience – he was no longer seduced by the notion of the imminent coming of Christ. There is also much to suggest that those ‘moderates’ in the Nominated Assembly reflected more closely the

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<sup>172</sup> *Ibid.*, ii, 417-8.

<sup>173</sup> *Ibid.*, ii, 538.

<sup>174</sup> *Clarke Papers*, iii, 4.

<sup>175</sup> See appendix; Woolrych, *Commonwealth to Protectorate*, pp. 194-209, 410-33.

Protector's religious outlook from the outset. By no means were these 'moderate' men religious conservatives; what marked them out from the zealots, however, was their support for a form of state church, predicated on a paid and educated preaching ministry, whose quality was controlled by state intervention and maintained by tithes.

Indeed, the majority of those nominated to the Other House by Cromwell fit into the same mould as the 'moderates' of 1653. Like Cromwell, they were men who were keen to defend 'liberty of conscience' but were wary of the implications of unbridled toleration or unchecked religious freedom. They were unwilling to dictate what people should believe but would not countenance those who disturbed the peace or corrupted others. In short, these men were advocates of freedom in belief and worship but stressed that there were also clearly defined limits to that toleration; they were upholders of Cromwell's 'godly' vision.

This is evident in the way many of those later nominated to the Other House reacted to the case of James Nayler. As already suggested in the previous chapter, Nayler's case was a complex affair that largely cut across the political groupings that subsequently evolved during the kingship debates. It simply was not the case that future 'military' Cromwellians took a lenient stance towards Nayler while the civilians were braying for the Quaker's blood. Thus, future military Cromwellian Philip Skippon could be found attacking the religious provisions in the *Instrument of Government* because 'Quakers, Ranters, Levellers, Socinians, and all sorts, bolster themselves' under it.<sup>176</sup> On the other hand, President of the Council and leading civilian Cromwellian Henry Lawrence attempted to defend the Quakers, if not Nayler

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<sup>176</sup> *Burton*, i, 24-5, 34, 48-50, 63.

specifically, by asking ‘is not God in every horse, in every stone, in every creature’ and if they were to ‘hang every man that says, *Christ is in you the hope of glory*, you will hang a good many’.<sup>177</sup>

There were a number of conservative country gentlemen leading the calls for Nayler’s death who would later find seats in the Other House. These included Sir Richard Onslow who was ‘fully satisfied’ that Nayler’s ‘offence is blasphemy, and deserves to be punished as blasphemy’.<sup>178</sup> According to the diarist Thomas Burton, Richard Cromwell at a dinner with a number of Presbyterian MPs was ‘very clear in passing his judgment that Nayler deserves to be hanged’.<sup>179</sup> Of course, attitudes towards Nayler changed during the course of the debates as political considerations over condemning Nayler to death calmed religious zeal. For example, Sir William Strickland had begun the Nayler debates by warning that hell was ‘groaning under expectation of this issue’ which should not meet with ‘the least damp or coldness’; by 13 December 1656, he claimed that he could not ‘without doubting, agree to those that would have him punished with death’.<sup>180</sup>

In reality, however, it was not necessarily mutually exclusive for a member to argue for Nayler’s savage punishment but still hold a general belief in liberty of conscience. Indeed, this is arguably the position that Oliver Cromwell took over the whole affair – he abhorred Nayler’s crimes and accepted the punishment meted out on him, but worried over the implications of the Commons’ actions for both religious freedom and constitutional propriety. The same is true for many of those Cromwell chose to sit

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<sup>177</sup> *Ibid.*, i, 62-3, 90.

<sup>178</sup> *Ibid.*, i, 31, 69, 90.

<sup>179</sup> *Ibid.*, i, 126.

<sup>180</sup> *Ibid.*, i, 33, 51, 131-33.

in the Other House. Most believed that Nayler's crimes were serious and merited punishment but warned of the wider implications of the Commons' actions in terms of religious freedom.

Edward Whalley, for instance, believed Nayler to be guilty of 'horrid blasphemy' and demanded speedy punishment 'lest we draw this sin upon us'. Yet, on 18 December 1656, when the Commons turned its attention to creating general laws against Quakerism, Whalley balked. It was 'a hard thing' he claimed 'to make a law against them. Some do acknowledge scripture, magistracy, and ministry; others not'.<sup>181</sup> William Sydenham feared the implications of punishing Nayler because if he 'be a blasphemer, all the generation of them are so, and all the rest must undergo the same punishment'. Henry Lawrence would not 'bring in a law against the Quakers by a general word' for it is a 'word that signifies nothing... It is like the word Lollards or Puritans, under the notion whereof, many godly persons are now under the altar'.<sup>182</sup>

Like Cromwell, the majority of those summoned to the Other House were opposed to liberty of conscience being used as an excuse for infecting others. For instance, Skippon claimed that he was 'for tender consciences as much as any man; but it is one thing to hold an opinion, another thing to hold forth an opinion. If a man be a Turk or a Jew, I care not so he do not openly hold it forth'.<sup>183</sup> Lord Chief Justice Glynne also claimed to be 'for tender consciences', but if there were any 'that openly profess

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<sup>181</sup> *Ibid.*, i, 54, 101-4, 170.

<sup>182</sup> *Ibid.*, i, 68-9, 86, 172. Similar opinions by Jones (*Ibid.*, i, 75), Howard (*Ibid.*, i, 77-8), Walter Strickland (*Ibid.*, i, 87-88, 173), Wolseley (*Ibid.*, i, 89-90), Cooper (*Ibid.*, i, 96-98), Hewson (*Ibid.*, i, 108), Whitelocke (*Ibid.*, i, 170).

<sup>183</sup> *Ibid.*, i, 170.

against the ministers and ordinances and magistracy too, it is fit they should be taken a course withal'.<sup>184</sup>

An examination of the debates over the *Humble Petition and Advice* also reveals that, while the membership of the Other House was divided over the kingship issue, they did not stick to those neat political divisions when it came to matters of religion. This anomaly was mostly the result of the composite nature of the 'kingship' party. Allied to the junto of leading civilian courtiers, such as Broghill, Thurloe, Wolseley and Philip Jones was a larger group of 'Presbyterian' MPs who were generally conservative in both their political and religious outlook. While there were some exceptions to the rule, on the whole these men favoured a clearly defined state church based upon a Presbyterian confession of faith which left very little room, if any, for the gathered churches that operated outside of it. As such, the civilian leadership often found themselves at a variance over religious issues with a large portion of their political allies and voted instead with the military men. Indeed, a number of leading civilian Cromwellians were members of the gathered churches. For instance, Charles Howard and Bulstrode Whitelocke, along with the military Cromwellian Sir Robert Tichborne, had all been members of George Cokayne's Independent congregation that met at St Pancras, Soper Lane.<sup>185</sup> Henry Lawrence had fled to Arnhem in the late 1630s to become a member of the exiled Independent congregation of Thomas Goodwin and continued to be associated with Goodwin's church in London during the 1650s, where military Cromwellian Thomas Cooper was also a member.<sup>186</sup>

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<sup>184</sup> *Ibid.*, i, 169.

<sup>185</sup> Woolrych, *Commonwealth to Protectorate*, p. 201.

<sup>186</sup> T. Venning, 'Lawrence, Henry (1600–1664)', *ODNB*, online edn., (2008) [<http://www.oxforddnb.com/view/article/16178>, accessed 3 Sept. 2010]; *Second Narrative*, p. 14 (second pagination).

A flavour of these divisions is apparent in the debates on 28 April 1657, when the Commons considered whether the Protectoral ordinances establishing the Triers and Ejectors should be given parliamentary ratification. Sir Richard Onslow showed himself to be an ally of the Presbyterians when he claimed that he could not ‘agree to make it perpetual’ and demanded that all future appointments of the commissioners to sit as ‘Triers’ were to be approved by the Commons.<sup>187</sup> On the other hand, a blend of both civilian courtiers and military Cromwellians were keen to defend the Cromwellian church settlement. Lord Broghill, striving to hold his fracturing group of civilian Cromwellians together, offered the proviso that ‘such as are appointed in the intervals of Parliament, may be afterwards approved by Parliament’ – thereby circumventing Presbyterian fears that the Lord Protector and Council would simply pack the commission of dubious men once Parliament was out of the way. But, for his part, Broghill was confident that ‘good men will be put in, I dare say it; for the design itself is good’.<sup>188</sup>

Although, following approval of Broghill’s proviso, the ordinance for the Triers was subsequently ratified, the ordinance for the Ejectors met even greater opposition. Once again, Presbyterian MPs found themselves at a variance with their erstwhile civilian allies. All four tellers in the division over ratifying the ordinance had voted for kingship in the previous month; those counting the *Yeas* were the leading courtiers Edward Montagu and Philip Jones, while the tellers for the *Noes* were the Presbyterian MPs Sir John Trevor and Sir William Cochrane.<sup>189</sup> The key disagreement was over timing. For Goffe, the system of ejectors should be continued ‘till further order’. The Presbyterian MP, Thomas Bampfield, on the other hand,

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<sup>187</sup> *Burton*, ii, 52-3.

<sup>188</sup> *Ibid.*, ii, 54. See also speeches by P. Jones and Desborough, *Ibid.*, ii, 54-55.

<sup>189</sup> *CJ*, vii, 524 (28 Apr. 1657); *Narrative of the late Parliament*, pp. 22-23.

moved that ‘it might but be probationary for six months’. Interestingly, two future members of the Other House – Sir John Hobart and William Lenthall – both agreed with the Presbyterian MPs; the former lamenting that he was ‘as much to have the streams cleansed as any man, but doubt that purging by this means is rather to corrupt them’. It was left to a combination of leading courtiers and military Cromwellians – including the unlikely double-act of John Desborough and Philip Jones – to lead the defence of the ejectors, with the Commons eventually resolving to uphold the ordinance for a longer period of three years.<sup>190</sup>

Even more indicative of the split among the civilian Cromwellians was the debate surrounding a proposed bill for catechising, which was read for the third time on 20 May 1657. A number of civilian Courtiers, including Philip Jones, Lawrence and Packe acted as tellers in votes against the Presbyterians designed to tone down the provisions of the bill and make them less coercive for the sects.<sup>191</sup> Yet, they were unable to bridle the Presbyterian majority. When it was debated on 9 June whether the bill should be sent for the Protector’s assent later that day, it was a blend of military Cromwellians and civilian Courtiers who strove to dissuade the Presbyterians. Desborough pleaded that the bill for catechising be ‘left behind, to be better considered on’ as there was ‘something in it which will discontent many godly persons, and make them mourn’. Goffe, who was immediately seconded by Philip Jones, warned that the bill did ‘grieve the souls of a great many godly ministers’ and that he was ‘willing to beg it on my knees as any man, you would not now carry it

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<sup>190</sup> *Burton*, ii, 59-60 (28 Apr.); *CJ*, vii, 524 (28 Apr.).

<sup>191</sup> *CJ*, vii, 535-7 (20, 21 May).

up'.<sup>192</sup> Yet, their calls fell on deaf ears as it was resolved that the 'Bill for Catechising be now carried up', for the Protector's assent that afternoon.<sup>193</sup>

Cromwell's assent was unforthcoming, however.<sup>194</sup> Like those MPs who had attempted to block the bill in the Commons, Cromwell vetoed this legislation because it significantly compromised the fundamental of liberty of conscience. Like Nayler's case, the whole episode reminded Cromwell of the need for an effective legislative check upon the prevalent intolerance of the Commons.

Therefore, it is unsurprising that, when nominating the Other House, Cromwell ensured that it was composed primarily of men who shared his own religious outlook. True, there were a number of members summoned who shaded to Presbyterianism in religious matters – such as Onslow, Hobart and William Strickland – but they were in the minority.<sup>195</sup> Even though Cromwell summoned a majority of civilian Cromwellians, this did not mean that the religious complexion of the Other House was overwhelmingly Presbyterian. A significant proportion of those 'civilian' Cromwellians summoned to the Other House were actually opposed to their Presbyterian allies on these issues out of a blend of religious conviction and willingness to placate the Protector. Moreover, when these men were combined with the military Cromwellian contingent – who, with a few exceptions, were wholeheartedly committed to Cromwell's 'godly interest' – it is evident that there was a majority in the Other House ready to defend the Cromwellian definition of liberty of conscience against the Presbyterian majority that remained in the Commons. The net

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<sup>192</sup> *Burton*, ii, 203 (9 June).

<sup>193</sup> *CJ*, vii, 551 (9 June). The question passed 82 to 71, Edmond Thomas was among the tellers for the *Yeas*.

<sup>194</sup> *Burton*, ii, 205 (9 June).

<sup>195</sup> There was also the Scottish Presbyterians Wariston, Cassillis and Lockhart.

result was that the Other House was composed of a paradoxical blend which, in many ways, reflected the personality of Oliver Cromwell himself: largely conservative in politics and mostly radical in religion.

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### **A 'British' Interest?**

Cromwell also claimed in his 4 February 1658 speech to Parliament that those nominated to the Other House represented an 'English interest'; they were men who loved both 'England and Religion'.<sup>196</sup> Although for Cromwell, 'Englishness' was a complicated concept synonymous with godliness, rather than a purely descriptive term denoting the nation's inhabitants, it is worth considering whether the membership of the Other House was geographically representative of 'England'.

Indeed, the geographical background of the membership was quite diverse. Unsurprisingly there were a number of members with ties to the Capital. These included the native Londoner and Lieutenant of the Tower Sir John Barkstead and a number who had settled in London before the Civil War to pursue their trade such as the shopkeeper Thomas Cooper and the cobbler John Hewson. There was also Sir Christopher Packe and Sir Robert Tichborne, both of whom were aldermen of the City and both had served as Lord Mayor of London during the Protectorate earning them each a knighthood from the Lord Protector.<sup>197</sup> But there were also a sizeable number of men nominated to the Other House who came from the typically Royalist

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<sup>196</sup> *Clarke Papers*, iii, 137.

<sup>197</sup> *Merc. Pol.*, 340 (11-18 Dec. 1656), p. 7454; *Burton*, i, 136 (15 Dec. 1656); *Second Narrative*, pp. 15-16 (second pagination).

‘dark corners’ of the land. These included four Welsh members who had interests across that country – John Jones and John Glynne in North Wales and Philip Jones and his associate Edmond Thomas in the South. Similarly, the North of England was well represented, including seven Yorkshiremen – the earl of Mulgrave; Lords Fauconberg, Eure and Wharton; the brothers Sir William and Walter Strickland; and Sir Matthew Tomlinson.

Moreover, it could be argued that the Other House represented a ‘British’ interest too; unlike the House of Lords, it incorporated Scottish and Irish members alongside English representatives. In August 1657, Mabbott, speculating on the upcoming nominations to the Other House, claimed that there were to be ‘6 to serve for Ireland, and 6 for Scotland’.<sup>198</sup> Such a quota would have been in direct echo of the Protectoral innovation in the Commons where, under the *Instrument of Government*, thirty members for each of Scotland and Ireland were to sit alongside the four hundred English MPs, thereby creating a ‘British’ parliament.

In the event, however, only one native Irishman (Lord Broghill) and three Scots (earl of Cassillis, Archibald Johnston of Wariston and Sir William Lockhart) were given seats in the Other House. This meant that, as was the case in the Commons, the majority of those who ‘represented’ Scotland and Ireland were Englishmen who held civil or military office there. With these members factored in, there were five representatives for Ireland and seven for Scotland – albeit two members represented both.<sup>199</sup> That these men were widely identified as members for Scotland and Ireland, rather than England, is demonstrated by the fact that in the printed lists of members

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<sup>198</sup> *Clarke Papers*, iii, 115: Newsletter by G.M., 11 Aug. 1657; See *Wariston Diary*, iii, 87-88 for rumours in June 1657 that Cromwell would nominate 5 Scots to the Other House.

<sup>199</sup> See appendix, column: ‘Ireland/Scotland’.

their names appeared in a separate block, rather than in order of precedence among the ‘English’ lords of the Other House.<sup>200</sup> Inevitably, the novelty of summoning Scottish and Irish members to the upper chamber would come in for some criticism in the 1658 parliamentary session; Colonel Morley, for instance, lamented how ‘all precedents are out of doors in this case’, asking to know ‘whenever there was a precedent for calling a House of Lords of England, Scotland and Ireland’.<sup>201</sup> For Cromwell, however, nominating members for Scotland and Ireland alongside those for England, merely reflected the altered and novel nature of the ‘nation’ or Commonwealth under the Interregnum; it was a means of solidifying the hard-won union of the British Isles.

A brief study of those summoned for both Ireland and Scotland also reveals that Cromwell was keen to ensure a degree of political balance in ‘British’ affairs too. As Lord Deputy of Ireland and second surviving son of the Lord Protector, Henry Cromwell was an obvious choice for one of the members of the Other House. He was both a moderate in religion and politics; promoting policies of reconciliation in Ireland that went against the narrow sectarian favouritism of his predecessor and brother-in-law Charles Fleetwood. Moreover, although he balked at the offer of the Crown, he apparently favoured the constitutional changes implemented under the *Humble Petition and Advice* and the opportunity to ground the government on a civilian footing.<sup>202</sup> Also summoned for Ireland was Henry Cromwell’s political ally and leading civilian Cromwellian Roger Boyle Lord Broghill. Not only did Broghill’s nomination to the Other House bring the prestige of an Irish peer from one of the

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<sup>200</sup> See *Merc. Pol.*, 394 (10-17 Dec. 1657), p. 165; *A Catalogue of the... Members of this present House of Lords*; Worc. Col. Oxf., Clarke MS 29, fol. 136r; *Thurloe*, vi, 668.

<sup>201</sup> *Burton*, ii, 457.

<sup>202</sup> See *Thurloe*, vi, 93-4, 182-3, 222-23; Gaunt, *Lansdowne*, pp. 194-5, 244-45.

wealthiest families in Munster, he was also representative of a Scottish interest too, having served as President of the Council there since 1655.

Yet, these two ‘civilian’ minded Irish members of the Other House were balanced by the nomination of two other members of the Irish Council – Lord Chancellor William Steele and Sir Matthew Tomlinson. Both these men had been supporters of the former Lord Deputy Charles Fleetwood, and were advocates of the ‘military’ interest. As Henry Cromwell himself would complain, they were a constant frustration to him on the Irish Council. When, following the lapse of his brother-in-law’s commission, Henry finally received the title of Lord Deputy in November 1657, one of his first acts was to attempt to repair the rifts on the council by conferring a knighthood upon Tomlinson, whom he admitted was ‘one no ways famous for his formall affection to me’.<sup>203</sup> Steele, Henry later complained, treat him as ‘a tutor or guardian to a minor’ and ‘failed in nothing, but making me his jack-pudding’.<sup>204</sup> Just as the divisions in English politics were absorbed into the Other House, so the opposing groups in Irish politics found expression in the upper chamber.

There were also others summoned to the Other House besides the Irish councillors and native Irish who had some claim to be cognisant of Irish affairs. For instance, there was Thomas Cooper who, besides being a member of the Scottish council and commander of an army regiment in Scotland, was also governor of Carrickfergus in County Antrim, colonel of an Irish foot regiment and was elected MP for Down, Antrim and Armagh in 1656. A number of other members had experienced service in Ireland during the 1640s or 1650s but had since retired to England; such as John

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<sup>203</sup> *Thurloe*, vi, 632, 634-5.

<sup>204</sup> *Ibid.*, vii, 198-99: H. Cromwell to Thurloe, 23 June 1658.

Hewson, John Jones and Viscount Lisle. Finally, there was Charles Fleetwood who despite leaving Ireland in September 1655, still made his presence felt – he was both an active member of the English Council’s committee for Irish affairs and also had a number of allies, including Steele and Tomlinson, on the Irish Council.

The Scottish members of the Other House also overlapped significantly with that nation’s civil governors. Besides Broghill and Cooper, there were also nominated three other members of the Scottish Council – Charles Howard, Sir William Lockhart and George Monck. Yet, the extent to which these men fully understood Scottish affairs was, in some cases, very limited. Broghill was appointed Lord President of the Scottish Council in March 1655 but did not arrive there until September 1655. Moreover, he abandoned Scotland for Westminster upon his election as MP for Edinburgh to the 1656 Parliament and remained an absentee councillor for the remainder of the Protectorate. Howard and Cooper too were distracted by, among other things, their attendance at Westminster while the native Scot Sir William Lockhart was absent by virtue of his service on the continent. As such, the only member of the council to play a prolonged part in Scottish affairs throughout the later Protectorate was the commander in chief of the army in Scotland, George Monck.<sup>205</sup>

Besides Cromwell’s nephew Sir William Lockhart, the other two native Scots to be summoned were the leading members of the covenanting movement, Sir Archibald Johnston of Wariston and John Kennedy, earl of Cassillis. Both men had sound political credentials; Wariston had been a fierce opponent of the Engagement and Scotland’s involvement in the Second Civil War and in the wake of English victory

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<sup>205</sup> For more on the Scottish and Irish councils and their relationship to the English Privy Council see P. Little, ‘The Irish and Scottish Councils and the Dislocation of the Protectoral Union’, in Little (ed.), *Cromwellian Protectorate*, pp. 127-43.

supported the Act of Classes which excluded all Engagers from public office. Although he was ambivalent on lending Scottish support to Charles II, Wariston abandoned altogether the exiled king's cause after the defeat at Dunbar and the Commission of the Kirk's resolution of December 1650 to admit ex-Engagers into the Scottish army – thereby becoming a leading 'Protector'. Cassillis was likewise an opponent of the Engagement and was one of the leaders of the 'Whiggamore raid' after the Battle of Preston of 1648, which gave control of the Committee of Estates to Hamilton's opponents. Although he did attend the coronation of Charles II at Scone in January 1651, in a symbolic act of ambivalence he chose not to wear his robes. Following the defeat of the Royalists at Worcester later that year, Cassillis went into retirement and appears to have been relatively unknown in England – as evidenced by the fact his name was consistently printed incorrectly in lists of the Other House as 'David, earl of Cassillis'.<sup>206</sup>

Tellingly, in nominating Wariston and Cassillis, Cromwell provided a check against the policies being pursued by Broghill and his fellow civilian councillors in Scotland; where every effort was being made to try and reconcile the moderate wings of both the Protector and Resolutioner movements. For Broghill, Wariston and his fellow hardliner Protectors were dangerous extremists – 'Fifth-Monarchy-Presbyterians' as he termed them.<sup>207</sup> As with the Irish membership, however, Cromwell seems to have been keen to ensure a degree of balance in the Other House between the competing political interests in Scotland. Indeed, it is even possible that Cromwell saw the

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<sup>206</sup> Stuart Handley, 'Kennedy, John, sixth earl of Cassillis (1601x7–1668)', *ODNB*, online edn. (2009), [<http://www.oxforddnb.com/view/article/15379>, accessed 13 Aug. 2010].

<sup>207</sup> *Thurloe*, iv, 557: Broghill to O. Cromwell, 26 Feb. 1656.

Protestors as his more natural allies; men who, through the providential lessons of 1648 and 1650, had been decontaminated from the disease of Stuart Royalism.<sup>208</sup>

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## **Conclusions**

Overall, Cromwell's defence of the membership of the Other House on 4 February 1658 provides an accurate representation of those men he originally nominated to the chamber in December 1657. The majority were experienced parliament men – mostly of the same quality as the MPs with whom they had sat prior to their elevation to the upper chamber. Although there was a smattering of old nobles chosen to sit there, Cromwell never intended a wholesale restoration of the peerage. Instead he chose men on the basis of merit rather than their social standing. The majority were men well known to Cromwell through a combination of kinship and shared military and political experience – they were those upon whom Cromwell knew he could depend, not least because they themselves depended upon the Protector and the regime's survival for their continued prosperity. They were also geographically diverse – coming from all corners of the Commonwealth – which made the Other House arguably more 'representative' of the British Isles than the defunct House of Lords had ever been.

Given the importance of the Other House as a legislative check upon the Commons, however, it was the opinions of the members that counted most for the Protector. In nominating the Other House, Cromwell had tried his best to ensure that they were as

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<sup>208</sup> Unsurprisingly, Wariston believed this to be the case, see *Wariston Diary*, iii, 77-78.

much of a 'balance to themselves' as they were to the Commons. Although there was a politically conservative majority among the membership there was also a sizeable military Cromwellian contingent to keep the upper chamber in check. The opposite trend was apparent in the religious complexion of the Other House as a small knot of Presbyterians were given seats alongside a much larger group of men who shared the Protector's interpretation of liberty of conscience. The nominations to the Other House vividly reflected Cromwell's priorities for settlement as a whole; that is, his ongoing desire to reconcile the needs of the 'godly nation' with the broader consideration of 'healing and settling' the nation at large. Thus, in nominating the Other House he chose members that were both conservative in politics and radical in religion. As Ludlow put it, he 'endeavoured to make up a collection of men of all interests'.<sup>209</sup> But in seeking to satisfy everybody, Cromwell ultimately pleased nobody but himself. As Wariston had feared in March 1657, the Other House became 'a medlee, a hotch-potch, a pleasing of both sydes'.<sup>210</sup>

Rather than providing greater definition to the *Humble Petition and Advice*, Cromwell's nominations to the Other House had muddied the waters further. It served to entrench, rather than dispel, the ambiguity that continued to hang over the constitutional arrangement. It is for this reason that men such as Thurloe were still writing in a gloomy mood as the list of names began to emerge in December 1657. More importantly, however, the sense of disappointment was exacerbated further when the Other House finally assembled for the first time on 20 January 1658. As the next chapter will demonstrate, a number of absentees among the membership drastically altered the complexion of the Other House as a whole. With many of those

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<sup>209</sup> Ludlow, ii, 30-1.

<sup>210</sup> Wariston Diary, iii, 73 (14 Mar. 1657).

nominated either unable or unwilling to attend, Cromwell's carefully constructed balances were completely undermined.

### **Chapter 3: The Other House and the Second Session of the Second Protectorate Parliament**

On the morning of Wednesday 20 January 1658, Cromwell arrived at the Other House, ‘formerly call’d the Lord’s House’, to open the second session of the second Protectorate Parliament.<sup>1</sup> The ceremony was magnificently choreographed – heralds and sergeants at arms, rich clothing, the maces and sword that symbolised power. The ceremony was clearly modelled on a royal opening of Parliament, and was recognised as such by ambassadors and newswriters.<sup>2</sup> The Commons, as in the past, were summoned by Black Rod as an audience to the proceedings.<sup>3</sup> Cromwell, who was unwell, made a short speech, and then turned to Lord Commissioner Fiennes – another echo of traditional practice – to detail the government’s agenda.<sup>4</sup>

Both speakers stressed the importance of accepting the incumbent constitutional settlement. Fiennes did not doubt that Parliament would uphold the new constitution as ‘either you your selves have *advised* the *settling* that Foundation we now stand upon’ or ‘at least are or should be’ by their oaths upon entering Parliament ‘all *sworn* to it’. He belittled those Republicans and Royalists who sought ‘either *Utopias* of I know not what kind of imaginary *Commonwealths*, or *daydreams* of the return of I know not what Golden age with the old Line’.<sup>5</sup> Instead, he reiterated Cromwell’s calls for piecemeal gradualism and compromise. Given the ‘great variety of *humours* and *judgments*’ among the people of the nation, Fiennes believed:

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<sup>1</sup> *Clarke Papers*, iii, 132: Newsletter from R. Hatter, 23 Jan. 1658.

<sup>2</sup> *HMC Lords*, pp. 505-7; BL, Stowe MS 185, fol. 123: Letter from Thomas Fox, 23 Jan. 1658; *CSPV*, 1657-1659, pp. 157-8: Giavarina to Doge and Senate, 22 Jan. / 1 Feb. 1658; *Merc. Pol.*, 399 (14-21 Jan. 1658), p. 256.

<sup>3</sup> *HMC Lords*, pp. 506-7; *CJ*, vii, 579 (20 Jan. 1658).

<sup>4</sup> *Carlyle*, iii, 157-8; *CJ*, vii, 579-80; *Clarke Papers*, iii, 132; *Merc. Pol.*, 399 (14-21 Jan. 1658), p. 256; *Whitelocke Diary*, p. 483 (20 Jan. 1658).

<sup>5</sup> N. Fiennes, *The Speech of the Right Honourable the Lord Fiennes, Commissioner of the Great Seal...Wednesday the 20<sup>th</sup> of January 1657* (1658), pp. 10-11.

It is no wonder if every one cannot have what he thinks best in his judgement to be done, but ought rather to content himself with what he may think next best, to that which is first in his judgment, which probably may be best of all in its self.<sup>6</sup>

It was a key phrase, which summed up Cromwell's desires for both the Other House and settlement as a whole. It was a means of balancing interests in the hope that their combination might create something better than if any one faction were allowed to dominate. At the same time, however, it also meant that for most this settlement would only ever be 'second best'.

It was a point that Fiennes developed further in his lengthy defence of the Other House. Referring to the necessity of re-establishing an upper chamber, Fiennes noted how some 'will admit of no other way, but to set the very same *old Plants* in the very self same *old Bank*', while others 'run so far to the *extream* on the other side, that they will have none of the *old Sets*, none of the *old Bank*, no *Bank* at all, but will have their *Fence* set upon a *Level*, and upon the *plain ground*.<sup>7</sup> In this agricultural metaphor, Fiennes was clearly playing on the Royalist defence of the ancient constitution, embodied in the King's Answer to the Nineteen Propositions, in which the House of Lords was lauded as 'an excellent screen and bank between the prince and the people, to assist each against any encroachments of the other'.<sup>8</sup> In Fiennes's opinion, however, it was better to seek a '*middle way*' so 'not to meddle with the *old, dry and dead Bank*', nor 'to set them upon the *plain ground*'. Instead, they should:

Place the Sets in *two tables*, upon a Bank raised up as before, but of a *fresh and live* mould, and to make use of all *plants* both *old* and *new* that will take to the *fresh ground* and *thrive* in it.<sup>9</sup>

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<sup>6</sup> *Ibid.*, pp. 20-1.

<sup>7</sup> *Ibid.*, pp. 16-17.

<sup>8</sup> J.P. Kenyon, *The Stuart Constitution 1603-1688* (Cambridge, 1966) p. 22.

<sup>9</sup> Fiennes, *Speech of the Right Honourable*, pp. 16-18.

Here was a clear statement of the Cromwellian attitude towards the Other House. It was a hybrid, combining the best of ‘old’ and ‘new’, ‘moderate’ and ‘radical’, ‘civilian’ and ‘military’, in the hope that the synergistic benefits would forge something greater and more secure.

Fiennes urged Parliament to accept this settlement quickly. They had to ‘take heed of the subtle devices of such, who designing to destroy it’ contrive ‘to *disturb* and *distract* our settlement in the *Infancy* thereof’ before the ‘two Rowes of *sets* [i.e. the two Houses] have taken deep root in the *Bank*, and before they have grown up together, and are interweaved and plashed one into the other’.<sup>10</sup> To prevent this the ‘Chief Magistrate and the two Houses of Parliament’ should ‘esteem each other as bone of their bone, and flesh of their flesh’.<sup>11</sup>

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Only in conclusion did Fiennes press parliament about ‘the necessity for their assistance in suply of moneys for carrying on the Christian warr already begun’.<sup>12</sup> The bulk of the speech had been dedicated to smoothing over a number of potential hurdles facing the upcoming session. But the combined force of both speeches had been to highlight the regime’s problems rather than conceal them. The more Cromwell and Fiennes talked of the virtues of compromise and stressed the need to move on, the more one can detect the worries that lurked behind those pleas.

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<sup>10</sup> *Ibid.*, pp. 16-18.

<sup>11</sup> *Ibid.*, pp. 18-19.

<sup>12</sup> *Clarke Papers*, iii, 133; Fiennes, *Speech of the Right Honourable*, p. 25; For the shortcomings of Fiennes’ speech see BL, Stowe MS 185, fol. 123; Bodl., Carte MS 103, fols. 205-6; TNA, SP18/179, fol. 73; Robinson to Williamson, 28 Jan. 1658; *CSPV 1657-1659*, p. 158.

The reality was that few in the Parliament were willing to accept the incumbent constitutional arrangement as it stood. At face value, this might seem perplexing; after all, this was simply a continuation of the same Parliament that had ratified the *Humble Petition* barely six months earlier. It will be the contention of this chapter, however, that a primary reason for this change in attitudes was Cromwell's nominations to the Other House. As discussed in the previous chapters, with the kingship clause removed from the *Humble Petition*, both 'military' and 'civilian' Cromwellians alike had hoped that Cromwell's choices to the Other House would bring greater definition to the constitutional arrangement as a whole. With the membership failing to live up to the expectations of either side, there were few who were prepared to defend either the Other House or the *Humble Petition* in its current guise. Throughout the second session, the upper chamber strove to secure formal recognition from the Commons, but very few MPs were ready to accept them as 'flesh of their flesh'. Ultimately, the pleas for unity inherent in Fiennes' speech failed to strike a note with the members of the Commons. Indeed, by 1 February 1658, Fiennes's speech was already being derided by one critic as 'the Prologue of the new Tragi-Comedy' that was the second session of the second Protectorate Parliament.<sup>13</sup>

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### **Absenteeism in the Other House and the Return of the Excluded MPs**

Before moving on to a discussion of the parliamentary debates over the Other House, however, it is first worth considering what precisely had altered the complexion of

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<sup>13</sup> C.H. Firth, 'Letters concerning the Dissolution of Cromwell's Last Parliament', *EHR*, 7 (1892), p. 105; Draft Letter by Hobart, 1 Feb. 1658.

Parliament when it reassembled in January 1658. Although Cromwell nominated a total of sixty-two members to the Other House in December 1657, not all of them took their seats during the second session of the second Protectorate Parliament. An examination of the attendance lists in the draft journal of the Other House reveals that only forty-two members would appear in the chamber at some point during the short-lived session. Given that the members of the Other House, unlike the House of Lords, could not nominate proxies to vote on their behalf, it was vital that each individual member attend personally if they wanted their voice to be heard. Even though the membership that did attend was exactly twice the number required to make a quorum, they were clearly concerned about the absence of a third of their total contingent. On 26 January 1658 a motion was made to ‘call’ the House on 2 February in order to discover the reasons for the gaps on the benches.<sup>14</sup> The names of those absent that day and the excuses they tendered reveal the extent to which Cromwell’s vision for the Other House was frowned upon by those he had hoped would embrace it.

By far the most notable group of absentees was the old English peers. It was reported that at the start of the parliamentary session some 200 of the Commons appeared, and about 40 of the other House, ‘wherein were noe peeres, save the Lord Falconbridge and Lord Ewer’.<sup>15</sup> That both these men appeared is unsurprising; as Cromwell’s son-in-law Fauconberg was virtually obliged to sit while Ewer was noted more for his radical spirit than his standing among the nobility. Moreover, given that both these men had not inherited their lordly titles until after 1649, they were not truly ‘old peers’ in the sense that they had no experience of sitting in the old House of Lords. The other five old English peers nominated by Cromwell to the Other House, who did

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<sup>14</sup> *HMC Lords*, p. 516.

<sup>15</sup> *Clarke Papers*, iii, 133.

have experience of sitting in the upper chamber, chose to stay away. These high-profile absentees, if not entirely unexpected, were widely commented upon. Two weeks before the session began, Marchamont Needham revealed that ‘some say the lord Warwick, Manchester, Wharton and others, are not inclined to sitt’.<sup>16</sup> Three days into the session and another correspondent noted how ‘most’ of those nominated by Cromwell to the Other House had taken their seats ‘save the Lords Say, Wharton, Warwicke, Mulgrave, and some others’.<sup>17</sup>

The Protectorate’s critics were keen to portray the absence of these men as a matter of social snobbery. The vitriolic *Second Narrative of the Late Parliament*, for example, highlighted the old peers’ reluctance ‘to sit with these new Up-start Lords’.<sup>18</sup> According to Ludlow, Warwick, ‘tho he ventured to marry his grandson to one of Cromwel’s daughters’, could not ‘be perswaded’ to sit alongside lowborn soldiers of fortune like Colonels Hewson and Pride, ‘whereof the one had been a shoemaker, and the other a drayman’.<sup>19</sup>

Yet, while such arguments would be used to devastating effect by the Republicans during the upcoming parliamentary session, they only provide a partial explanation for the old peers’ absence. Just as worrying for the old lords was the fear that by taking their seats in the Other House, they would not only betray their class but their privileges as well. The most obvious grievance centred upon the fact that the Other House was nominated without respect for hereditary rank; under the *Humble Petition* there could be no hereditary peerage – each successive peer would be chosen by the

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<sup>16</sup> *Thurloe*, vi, 734: Needham to Swyft, 7/17 Jan. 1658.

<sup>17</sup> *Clarke Papers*, iii, 132.

<sup>18</sup> *Second Narrative*, p. 22 (second pagination).

<sup>19</sup> *Ludlow*, ii, 32.

Protector and approved by the Other House. Writing to Henry Cromwell on the eve of the new parliamentary session, Fleetwood was sure that ‘some of the other howse... have not a minde to sitt with us’; the reason was ‘upon the account of the hereditary peerage, which is direct contrary to the petition and advise’.<sup>20</sup> Hereditary succession might have been both unacceptable and unimportant to the Lord Protector but for the old peerage it was the very essence of their status as lords.

The concerns of these men are vividly set out in a letter between Viscount Saye and Sele and Lord Wharton dated 29 December 1657. Upon receiving his writ of summons to the Other House, Wharton had written to his old ally Saye to seek advice. Saye’s reply offered a thorough condemnation of the new assembly and a vigorous defence of the old House of Lords. For Saye, only the old peers could be a sufficient balance within the constitution: ‘the Peeres of England... in the House of Lords, they have bin as the beame keepinge both scales, Kinge and people, in an even posture, without incroachments one uppon another’. The Other House, however, was little more than ‘a stalking horse and vizard to carry on the designe of overthrowinge the House of Peeres’. It was a scheme for:

layinge asyde the Peeres of England whoe by birth are to sitt, and pickinge out a company to make another House of in their places at the pleasure of him that will rule and with all call a few [old] Lords thearby causinge them to disowne their owne rights and the rights of all the Nobility of England.

For this reason, Saye would not act on his writ of summons, choosing instead to ‘lay it by me and sitt still.’ The argument was a powerful one for the old lords. To take a seat in the Other House would mean surrendering their hereditary birthright as peers; it was something that Viscount Saye, for his part, was not prepared to countenance.<sup>21</sup>

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<sup>20</sup> *Thurloe*, vi, 752: Fleetwood to H. Cromwell, 19 Jan. 1658.

<sup>21</sup> C. H. Firth, ‘A Letter from Lord Saye and Sele to Lord Wharton, 29 Dec. 1657’, *EHR*, 10 (1895), pp. 106-7.

Yet, not all absences can be attributed to strong ideological opposition. Given that none of the five absentee peers provided any reason for their non-attendance when the Other House was called, it could be argued that all five men were reluctant to acknowledge the new chamber and therefore chose to tender no excuse.<sup>22</sup> For some this was certainly true; no doubt Wharton was persuaded to abstain by Saye, while Manchester may have harboured similar doubts that were reinforced by his personal animosity towards Cromwell. The earls of Warwick and Mulgrave are a different matter, however. Although, the *Second Narrative* would claim that some old peers abstained ‘onely out of their old State-policy’, this seems an unlikely explanation in their cases.<sup>23</sup> It is far more likely that Warwick’s attendance on the deathbed of his grandson – who died on 16 February – and his declining health, leading to his own death on 19 April, explain his absence from the Other House. Likewise, the earl of Mulgrave had no obvious reason to refuse his seat. Admittedly, the order books show that Mulgrave attended the Privy Council on 19 January, the day before the Other House assembled, and then reappeared when the Council next met on 9 February 1658, just five days after parliament was dissolved.<sup>24</sup> Although this seems a little too convenient, and could suggest political retirement, Mulgrave was frequently ill throughout this period and would himself die just six months later.

Whatever the reasons, the absence of the old Lords had a significant impact on the way in which contemporaries perceived the Other House. Although the ancient peerage had not been central to Cromwell’s designs for the upper chamber, they were a fundamental part of civilian Cromwellian aspirations for providing the *Humble*

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<sup>22</sup> *HMC Lords*, p.522.

<sup>23</sup> *Second Narrative*, p. 22 (second pagination).

<sup>24</sup> TNA, SP25/78, fols. 409, 421.

*Petition* with a semblance of constitutional respectability. If Cromwell's unwillingness to summon all the faithful old peers as members was bad enough, the fact that those who had been nominated also refused to sit was a fatal blow. The absence of these peers helps to explain the general disinterestedness in the Other House among those who had once been its most enthusiastic supporters. As one newsletter sent to Lord Wharton would explain, the majority in the House of Commons were reluctant to 'owne' the Other House, 'especially seing the Earles of Warwicke, Mulgrave & Manchester, the Lo[rd] Wharton & Lo[rd] Say did not appeare there'.<sup>25</sup> There was little interest in the relatively obscure or new Cromwellian peers, which in the minds of many included Eure and Fauconberg. It was for this reason that three days into the parliamentary session one commentator would tendentiously, but tellingly, claim that 'not any of the old Lords come in yet'.<sup>26</sup>

By extension, the reluctance of the old English peers to sit could also partially explain other absences in the Other House. These included those men whom the Republicans mocked for contracting the 'political or State-illness', such as old 'middle group' allies of Cromwell like Oliver St. John, John Crew, Sir Gilbert Gerrard and William Pierrepont.<sup>27</sup> St. John, in particular, continued to be an enigmatic figure during this period. When the house was called on 2 February, he was not there, giving the excuse that he was absent 'by reason of the busines of the Terme'.<sup>28</sup> This was unconvincing given that his fellow Lord Chief Justice, John Glynne, was an avid attendee throughout the parliamentary session. Indeed, St John's reluctance to sit in the upper chamber was openly demonstrated on 4 February 1658 when he was 'caught

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<sup>25</sup> Bodl., Carte MS 103, fols. 205-6.

<sup>26</sup> BL, Stowe MS 185, fol. 123.

<sup>27</sup> *Second Narrative*, p. 22 (second pagination).

<sup>28</sup> *HMC Lords*, p. 522.

napping' and given a direct order by Cromwell to come to the house to attend the dissolution ceremony. Although St. John 'went upp' to the Other House he 'would not take his place' on the benches with the lords, but sat 'amongst the Judges on the woolpackes' instead.<sup>29</sup> It would appear that St. John, like other moderate men, wanted nothing to do with the Other House in its current guise.

Of course not all absentees were hostile to the notion of sitting in the Other House. A number could not take their seats because they were already employed in vital posts elsewhere. Henry Cromwell, much to his vexation, was absent 'by reason of his Charge in Ireland'.<sup>30</sup> Those at Whitehall were keenly aware that his absence, along with that of his fellow Irish councillors Steele and Tomlinson, would have crippled the Irish government<sup>31</sup> and even as Henry Cromwell wrote to Thurloe requesting leave to return to England to attend the Other House, a letter was making its way to Ireland instructing him to ignore his 'writt of Sommons'.<sup>32</sup> Similarly, George Monck was absent from the Other House 'by reason of his charge in Scotland'.<sup>33</sup> The plan to incorporate Scottish and Irish administrators, such as Monck and Henry Cromwell, as representatives of their respective countries was clearly flawed from the start; they were simply too busy in that service to attend the Other House.

Any plans Cromwell had for the Other House as a representative of a 'British' interest were undermined completely. Of the ten members summoned who could be described

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<sup>29</sup> Bodl., Tanner MS 52, fol. 229: Berners to Hobart, 11 Feb. 1658. The original is cited because of errors with the transcription in Firth, 'Letters concerning the Dissolution', pp. 106-7.

<sup>30</sup> *HMC Lords*, p.522.

<sup>31</sup> For a detailed discussion of the problems of the Irish council see Little, 'The Irish and Scottish Councils', pp. 127-43; *Thurloe*, vi, 732-3, 752-3, 773-4.

<sup>32</sup> Gaunt, *Lansdowne*, p. 359: Fiennes to H. Cromwell, 28 Dec. 1657. Steele also remained in Ireland; Tomlinson intended to leave for Westminster in late Jan. but was 'detained by sickness', see *Thurloe*, vi, 762; *HMC Lords*, p. 522.

<sup>33</sup> *HMC Lords*, p. 522; *Thurloe*, vi, 741: Monck to Thurloe, 9 Jan. 1658.

as Scottish or Irish members only three – Broghill, Cooper and Howard – made an appearance in the Other House during the parliamentary session. Moreover, of the four nominated members who were not native English, only Broghill attended. Lockhart did not appear because he was serving as ‘Ambassador in France’. Cassillis, like the old English lords, gave no excuse for his absence but his hitherto apathetic stance towards the Cromwellian regime probably explains his failure to show. Wariston, on the other hand, claimed he could not attend ‘being sick’.<sup>34</sup> Given that Wariston would sit in Richard Cromwell’s Other House the following year, however, his excuse was unlikely to have been the ‘state illness’.<sup>35</sup>

Crucially, the combined force of all these absences served to inflate the ‘military’ flavour of the Other House. With the old Lords missing and many of the moderate gentry also staying away, the spotlight was fixed upon the lowborn collection of soldiers and salary men who were a conspicuous presence among those who attended. The high rate of absenteeism, both voluntary and involuntary, among the membership ruined Cromwell’s plans for a balanced Other House and left the chamber exposed to criticism. Although Cromwell had never intended the Other House to be a bulwark for the military interest, the absence of so many moderate men meant it was all too easy for contemporaries, with a little prompting from Republican polemicists, to believe otherwise.

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<sup>34</sup> *HMC Lords*, p. 522.

<sup>35</sup> *Second Narrative*, p. 22 (second pagination).

These problems were no doubt compounded by the Court's inability to manage the House of Commons during the upcoming parliamentary session. The new constitutional arrangement insisted that any exclusions from parliament were to be by 'judgment and consent of that House whereof they are members'.<sup>36</sup> Those who had been barred from sitting in the first session of the Parliament by conciliar fiat were now free to enter the chamber unmolested.

Although a minority of excluded MPs such as John Hobart resolved to stay away and 'leave that Tyrant & his packt convention to stand upon his sandy foundation of open force', the majority took their seats with predictable results.<sup>37</sup> Not scrupling to take the oath of fidelity required of all members upon entering the House, the majority of these returning excluded MPs would become the regime's most vigorous critics in the upcoming session. It was a remarkable own goal for the government's supporters, as the *Second Narrative* mocked it was against 'the rules of common reason and understanding of men' that those MPs who had 'formerly been so wronged, abused, and exasperated... in being kept out of the House, would be so easie and tame, as presently, without any more ado, addresse themselves to lick their new *Golden Calf*, and nurse up that *Babylonish, Antichristian* Brat, that they had no hand in, but were against the begetting of'. It was a 'marvellous shallownesse in the *Protector*, his *Council*, and whole number concern'd in that Design' that they made 'no better provision before-hand'.<sup>38</sup>

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<sup>36</sup> Gardiner, *Constitutional Documents*, p. 449.

<sup>37</sup> Bodl., Tanner MS 51, fols. 27-8. See also Firth, 'Letters concerning the Dissolution', p. 104: Berners to Hobart, 30 Nov. 1657; Bodl., Carte MS 103, fols. 205-6; *Second Narrative*, p. 7 (first pagination); *Ludlow*, ii, 32.

<sup>38</sup> *Second Narrative*, p. 9 (first pagination).

Yet, it is not simply the case that the Court were unaware of the difficulties likely to arise in the upcoming session. In early December 1657, Thurloe wrote to Henry Cromwell urging him not to ‘suffer our friends of Ireland, who are of the house of commons, to absent themselves’; given that ‘wee shall have a full house, all the excluded members which were kept out resolvinge to come in’ it was ‘of absolute necessitye, that they be all there the first day of sittinge’.<sup>39</sup> Thurloe himself, however, would have little influence over parliamentary affairs thanks to a severe bout of illness which incapacitated him from late December through to the following February.<sup>40</sup> With the secretary of state unable to conduct business effectively, it was inevitable that parliamentary management would suffer to a degree.

Ironically, this problem was exacerbated further by the fact that many of the government’s most prominent supporters had been elevated to the Other House. In all, there were forty-two MPs – just under ten per cent of the total membership of the House of Commons – nominated by Cromwell to the Other House, the majority of whom were leading supporters of the Protectorate in one guise or another. Thurloe certainly worried over the ‘great number of our friends, which will be taken out of the commons-house’ but could suggest little to counteract this problem other than the assiduous attendance of all other MPs who were friendly to the government.<sup>41</sup> Rather than offering a means for the Protector to exercise control over the Parliament, the creation of the Other House, somewhat paradoxically, ensured that the upcoming parliamentary session would be much less compliant than its predecessor.

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<sup>39</sup> *Thurloe*, vi, 647-8. See also *Ibid.*, vi, 670, 680, 683, 730.

<sup>40</sup> Vaughan, ii, 94-5, 98-99, 307-8, 434-5; *Thurloe*, vi, 734, 743, 752-3, 769; *CSPV 1657-1659*, pp. 168, 169.

<sup>41</sup> *Thurloe*, vi, 647-8.

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Unsurprisingly, given both the issue of high-profile absences in the Other House and the uncertainties over the membership of the House of Commons, expectations in government circles were both downbeat and anxious. On 20 January Henry Cromwell wrote to Fauconberg admitting that his thoughts were with events at Westminster. ‘This being the other house’s birth-day’, Henry was ‘praying, that its first vitall struglings may not make it lye cross to the womb that conceived it.’<sup>42</sup> Yet, the birth of the Other House proved a difficult one. The culmination of the altered membership of the Commons and the widespread revulsion towards those who took their seats in the Other House meant that the relationship between the two Houses was always likely to be abortive.

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### **The Message from the Other House**

Faced with these problems, it is unsurprising that those who sat in the Other House wanted their chamber recognised by the Commons as swiftly as possible. In order to achieve this there was a conscious effort to portray the Other House as the natural heir to its defunct predecessor; in ceremony, image and name, the Other House became a self-proclaimed ‘House of Lords’. From the outset, however, the Commons were highly sensitive to this legerdemain. When Black Rod informed the Commons on 20 January that ‘his Highness is in the *Lords*’ House and desires to speak with you’, Speaker Widdrington, trying to proceed with tact, ‘reported it “the other House”, but

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<sup>42</sup> *Thurloe*, vi, 752-3: H. Cromwell to Fauconberg, 20 Jan. 1658.

was called to correct his mistake'.<sup>43</sup> Similarly, in the official newsbook report of the opening ceremonials of the Parliament, the term 'Other House' was conspicuously omitted; instead, it noted how the Commons 'went to his Highness in the House of Lords', not the Other House, to hear his speech.<sup>44</sup> This was not a matter of semantics: there was a concerted effort emanating from Whitehall to propound the notion that the Other House had assumed the position of a House of Lords.

The reasons for this charade were manifold. For one, there must have been a realisation that the only way to circumvent the difficult questioning likely to ensue from the re-admittance of the excluded MPs of 1656 was to provide a united front on the matter of the Other House. It was essential that the Other House was recognised swiftly by the Commons in order to ensure that the parliament would operate effectively as a whole. If the two Houses did not communicate with one another then it would be impossible for parliamentary business to proceed. Recognising the Other House as a House of Lords would provide it with firmer foundations that were grounded in antiquity. Rather than claiming its origins from the Commons' constitution of the previous year, the Other House could assert a stronger pedigree detached from, and arguably superior to, the House of Commons; this was crucial if the Other House were ever to operate as an independent check over the lower chamber. Finally, styling the Other House as a 'House of Lords' was likely to garner the assent of the crucial Presbyterian majority in the Commons. After all, it had been the aim of those who offered Cromwell the Crown in 1657 that the constitution would revert back to its traditional tripartite system of King, Lords and Commons.

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<sup>43</sup> *Burton*, ii, 321-22; *CJ*, vii, 579 (20 Jan.).

<sup>44</sup> *Merc. Pol.*, 399 (14-21 Jan. 1658), p. 256.

Yet, if the government's supporters truly believed that they could convince the conservative majority in the Commons to accept the new upper chamber by simply utilising the 'House of Lords' label, they had grossly miscalculated. Although rumours had abounded before the parliamentary session that the offer of the Crown would be renewed, in reality the enthusiasm for a Cromwellian coronation had dampened markedly in the interval between the two parliamentary sessions.<sup>45</sup> With the kingship clause removed from the *Humble Petition and Advice*, the Other House stood alone as the litmus test for the future of the Protectoral settlement. But, rather than reassuring the conservative Presbyterian majority in the Commons, Cromwell's nominations left many feeling cold, especially in light of the absence of the old peers. With the Other House failing to live up to expectations, many began to question their support for the new constitutional arrangement as a whole. When combined with the lack of Court leadership, this general apathy in the Commons among the conservative majority proved fatal.

It was only when the Other House pushed the issue of recognising its position as a parliamentary chamber, however, that this unfavourable mood became obvious. The impetus for debate was the Other House's resolution on Friday 22 January 1658 that 'this house doth Desire the House of Com[m]ons to joyne with them in an humble addresse to his Highnes the Lord Protector that his Highnes will be pleased to appoint a Day of Solemne Fasting and humiliation throughout the three Nations'. Although the Other House was not proposing anything as formal as a piece of legislation, this communication was a vital first step in the relationship between the two houses and the messengers they appointed reflected that fact. Rather than appointing the Masters

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<sup>45</sup> For rumours about the kingship see *CSPV 1657-1659*, pp. 140, 149, 155-56; *CSPD 1657-1658*, pp. 255, 258-9; *Thurloe*, vi, 687-88, 734.

of Chancery, traditionally entrusted with delivering the more mundane communications between the upper and lower chamber, the House nominated two of their Judge assistants – Hugh Wyndham and Roger Hill – to act as their messengers.<sup>46</sup>

Hoping to dispatch the business with great alacrity, the Other House sent Wyndham and Hill to the Commons immediately; in the meantime the ‘house was adjourned for halfe an hower’ to await the result. It proved to be a long wait.<sup>47</sup> Being informed that there were ‘messengers at the door that desired to speak with you’, Speaker Widdrington called upon serjeant-at-arms Edward Dendy to report. According to Burton, Dendy then informed the Commons that ‘there were two judges at the door, with a message from the *Lords*’. Immediately, four Republican MPs, all of whom had been excluded from the Parliament in September 1656, jumped to their feet and moved ‘not to receive any such message from them, as Lords’.<sup>48</sup> Yet, these were not just the sentiments of the radical opponents of the Protectorate. A number of conservatives too professed their inability to swallow this title. William Gibbes, another MP who, despite his Presbyterian leanings, was one of those excluded in September 1656, professed that although he was very much ‘in love with the old foundations of Parliaments’, including a House of Lords, he could not agree ‘to bring it in this way’.<sup>49</sup> Trying to calm the situation, Major-General Hezekiah Haynes moved that they should first ‘have the messengers called in’, to know whether the message really was ‘from the Lords’; as Haynes explained ‘it may be the messages be from the other House’.<sup>50</sup>

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<sup>46</sup> *HMC Lords*, p. 511.

<sup>47</sup> *Ibid.*, pp. 511-12.

<sup>48</sup> *Burton*, ii, 339 (22 Jan.), the four MPs were Darley, St Nicholas, Mildmay and Scot.

<sup>49</sup> *Ibid.*, ii, 339-40.

<sup>50</sup> *Ibid.*, ii, 340.

Yet, although the judges, who had by now been waiting for around an hour outside the Commons' chamber, were duly called in, their message did nothing to allay concerns.<sup>51</sup> The ceremony passed with all the traditional pomp of a message between the two houses of Parliament – Wyndham and Hill both made 'three congees, and came close to the table' while Widdrington 'put off his hat'.<sup>52</sup> The message, delivered by Wyndham, left the Commons in no doubt about the way in which the Other House sought to style itself. 'I am commanded by the Lords', Wyndham announced, 'to desire of this House, That you will join with their Lordships in an humble Address to his Highness the Lord Protector' for a day of public humiliation and fasting.<sup>53</sup>

The response in the Commons was extremely hostile. The *Second Narrative* later explained how the 'Other House, who would fain have the Honour to be called *Lords*, or rather a *House of Lords*' did, 'after the manner of the House of Peers formerly', send a message to the Commons from '*the House of Lords, or the Lords of the other House*'. This message, the pamphleteer continues, 'begat very high Debates, and sharp Speeches from many that were not at the making of this lame and imperfect Modell'.<sup>54</sup> Indeed, it was the previously excluded MPs who were at the forefront of the opposition. Edmund Harvey, for example, was adamant that they could not 'allow a message from such an authority as a House of Lords'. Harvey found 'three rubs' why he could not consent to that title: the 'Engagement' oath of the Commonwealth, the 'oath lately taken' upon admittance to the present parliament and, most crucially, the 1649 'Act of Parliament to abolish them'. While Harvey claimed that he 'should

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<sup>51</sup> *HMC Lords*, pp. 512-13 (23 Jan.).

<sup>52</sup> *Burton*, ii, 340.

<sup>53</sup> *CJ*, vii, 581; *Burton*, ii, 340.

<sup>54</sup> *Second Narrative*, pp. 6-7 (first pagination).

freely concur, if it were a message from the other House', he could not countenance a message from the House of Lords.<sup>55</sup>

Besides the trio of major-generals Haynes, Kelsey and Boteler, there were conspicuously few voices willing to defend the Other House's message.<sup>56</sup> Thomas Reynell was particularly scathing at the game being played by those close to the Court. Not liking the way the matter was being 'brought upon us by steps', Reynell saw this message as a clear 'trial whether they were a House of Lords'. Highlighting the low born nature of those who sat in the upper chamber, Reynell asked why they should not have the message 'as well from peers, from barons, from gentlemen' before adding sardonically, 'haply not from gentlemen, pardon me if I call them so'.<sup>57</sup>

A number of the excluded MPs advocated simply ignoring the Other House's message altogether. Colonel Joachim Matthews professed that he could not 'allow any return at all to this message', adding that he had heard from 'old Parliament men that the judges have waited a fortnight for a return in less matters than this'.<sup>58</sup>

Although the majority in the Commons did not take quite so harsh a stance, they were unwilling to be hurried into a reply. Instead, it was resolved by seventy-five votes to fifty-one, 'that this House will send an Answer by Messengers of their own'.<sup>59</sup>

According to Burton, once the judges had been summoned back into the chamber and informed of the Commons' resolution, it 'was expected to be moved, for another day, to resume this debate'. Conspicuously, however, 'it was waved' and at the 'hint of

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<sup>55</sup> *Burton*, ii, 341-2. See also speeches by Lister, Matthews and Styles.

<sup>56</sup> *Ibid.*, ii, 341-2.

<sup>57</sup> *Ibid.*, ii, 342-3.

<sup>58</sup> *Ibid.*, ii, 343.

<sup>59</sup> *CJ*, vii, 581; *Burton*, ii, 344; BL, Stowe MS 185, fol. 123; *Second Narrative*, pp. 6-7 (first pagination).

Mr. Speaker' it was moved that the long standing private matter of 'Lord Craven's business be taken up to-morrow' instead.<sup>60</sup>

The result was an uneasy detente over the status of the Other House. Although the majority in the Commons had been unwilling to accept the reformulation of the Other House by returning a positive answer to their message, many were equally reluctant to open up discussion any further. Not only had the government's support been light during the course of debate but also those supporters faced a significant amount of opposition from Republican and Presbyterian MPs alike, many of whom had been excluded from the first session of the Parliament. Viscount Fauconberg, observing things from the upper chamber, was not far wrong when he informed Lockhart on 25 January that 'the house of commons appeare yet a little pettish' in light of 'a message sent them from', what Fauconberg tellingly described as, 'the house of lords'.<sup>61</sup> With proceedings seemingly heading for stalemate, the Lord Protector decided to make a characteristic intervention.

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### **Cromwell's Speech of 25 January 1658 and his Defence of the Other House**

Matters were made much worse for the Court on 25 January 1658 with the arrival of Haselrig at Westminster. According to Ludlow, 'great expectations were raised to see what course Sir Arthur Haselrig would take, who being chosen by the people to sit in one Assembly, and by Cromwel to sit in another, had not yet declared his intentions

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<sup>60</sup> *Burton*, ii, 344.

<sup>61</sup> *Thurloe*, vi, 756-7: Fauconberg to Lockhart, 25 Jan. / 4 Feb. 1658.

in the matter'.<sup>62</sup> The course Haselrig followed, choosing to enter the Commons, was pure theatre. As the *Second Narrative* mocked, Haselrig 'missed his way, and instead of going into the Other House among the simple Negative men... went into the Parliament-House... at which the Court were vexed'.<sup>63</sup> According to Burton, Haselrig paced around the chamber, boldly taking Master of the Requests Francis Bacon 'by the hand' and pleading with him to 'Give me my oath'; Bacon – clearly rattled by Haselrig's appearance – replied tersely that 'I dare not'. Like his fellow excluded members Haselrig claimed that he would not 'presume to sit till he had taken his oath'; adding sardonically as he left the chamber that 'I shall heartily take the oath. I will be faithful to my Lord Protector's person. I will murder no man'. After a short 'stay in the lobby', Haselrig finally found a quorum of MPs to administer his oath and re-entered the chamber.<sup>64</sup>

The whole episode was an embarrassment for Cromwell and a foil to his aspirations for the Other House. He had believed the upper chamber could reconcile men of all opinions; Haselrig's intransigence, like the absence of the old peers, proved otherwise. Moreover if, as the Republicans suspected, Cromwell's nomination of Haselrig to the Other House had been a ploy to kick him upstairs then the plan failed miserably.<sup>65</sup> Although the Other House had been conceived as a legislative check upon the Commons, with the recalcitrant group of excluded MPs dominating in the lower chamber the upper chamber was left impotent. By 27 January, Burton informed Lord Wharton how the 'great debate about the Title of the other house hangs still' and that he did 'dread the issue'; there being 'very strange spiritts come in amongst us, &

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<sup>62</sup> *Ludlow*, ii, 32-33.

<sup>63</sup> *Second Narrative*, p. 21 (second pagination).

<sup>64</sup> *Burton*, ii, 346; *Ludlow*, ii, 32-33; See also Phillips continuation of Baker, *Chronicle of the Kings* (1665), p. 687.

<sup>65</sup> *Second Narrative*, p. 21 (second pagination).

there are dayly more flocking in'. For Burton, the ringleader was undoubtedly 'the great Sir Arthur' who 'notwithstanding his higher call, vouchsafed... to take his seat amongst the commons'.<sup>66</sup> With Haselrig and other malcontents guiding debate in the Commons, Parliamentary business was set to continue in limbo.<sup>67</sup>

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From the Court's perspective, something had to be done quickly to break the deadlock. On the very morning of Haselrig's arrival, Cromwell sent a letter to Speaker Widdrington 'that both Houses of Parliament would meet him in the Banqueting-house, where he had something of concernment, relating to the peace of the nations, to communicate'.<sup>68</sup> Cromwell's intentions in summoning both Houses to Whitehall were clear. His main theme was once again a call for unity, 'calculated to establish and consolidate the present rule'.<sup>69</sup> At face value, Cromwell's decision to summon both houses to the Banqueting House could in itself be interpreted as a diplomatic gesture to the Commons. It provided a 'neutral' location for the Houses to meet; unlike the opening speech that had taken place in the Other House this was a location less likely to offend those MPs sensitive to any action that might be construed as a tacit recognition of the upper chamber's authority.

Yet, there were also clear indicators that Cromwell was unwilling to compromise on the issue of the Other House. Giavarina explained how the *Humble Petition* had 'specified that another chamber should be nominated, without calling it "Upper" or

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<sup>66</sup> Bodl., Carte MS 239, fol. 461: Burton to Wharton, 27 Jan. 1658; See also Bodl., Carte MS 103, fols. 205-6; Firth, 'Letters concerning the Dissolution', p. 105-6; TNA, SP18/179, fol. 73v.

<sup>67</sup> *Second Narrative*, p. 7 (first pagination).

<sup>68</sup> *Burton*, ii, 350; *CJ*, vii, 587.

<sup>69</sup> *CSPV 1657-1659*, p. 162: Giavarina to Doge and Senate, 29 Jan. / 8 Feb. 1658.

“Lords”’, but that Cromwell interpreted its meaning to ‘set up the chamber as it was in the time of kings, with all the power, authority and prerogatives enjoyed by its predecessors’.<sup>70</sup> The Venetian resident was clearly correct in this. In order to summon the Other House to Whitehall on 25 January Cromwell sent a similar letter to the one directed to the Commons, but the manner in which he chose to style the upper chamber was highly revealing. Making no reference to the ‘Other House’, Cromwell’s letter was directed to ‘Lord Fyennes... Speaker in Our House of Lords’; he desired that ‘the Howse of Lords... give Us a meeting at the Banqueting Howse’.<sup>71</sup>

Throughout his speech, Cromwell was clearly determined to uphold the position of the Other House and the traditional reconfiguration of its title. Pointedly, he addressed himself to:

My Lords and Gentlemen of the two Houses of Parliament, for so I must own you, in whom, together with myself, is vested the legislative power of these nations.<sup>72</sup>

Cromwell’s speech failed to inspire his audience. For Burton it was a ‘very long, plain, and serious speech, relating to the state of our affairs at home and abroad’.<sup>73</sup> During his speech Cromwell was at pains to stress how ‘the Well-being, yea, the Being, of these nations is now at stake’.<sup>74</sup> After providing a detailed account of the desperate state of the Protestant interest in Europe, he warned against taking an insular look at affairs.<sup>75</sup> Hinting at the laborious debates over the Other House that

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<sup>70</sup> *Ibid.*, p. 164: Giavarina to Doge and Senate, 5/15 Feb. 1658.

<sup>71</sup> Mus. of Lon., Tangye MS 11a, fols. 8r-v. The transcription in *HMC Lords*, p. 514 is slightly erroneous and reads ‘Speaker of in Our House of Lords’ – ‘of’ has been omitted in the original.

<sup>72</sup> *Burton*, ii, 351-2; *Carlyle*, iii, 162.

<sup>73</sup> *Burton*, ii, 351 (25 Jan.). For other accounts of Cromwell’s speech see Vaughan, ii, 437-8; Bodl., Carte MS 103, fols. 205-6; Bodl., Carte MS 239, fol. 461; *Thurloe*, vi, 756-7; *Whitelocke Diary*, p. 484.

<sup>74</sup> *Carlyle*, iii, 162.

<sup>75</sup> *Ibid.*, iii, 164-72.

consumed the Commons' time, Cromwell rebuked those who believed that 'We may discourse of all things at pleasure'.<sup>76</sup>

Turning to affairs at home, Cromwell lamented how they were 'as full of calamities and divisions among us in respect of the spirits of men, as we could well be'.<sup>77</sup> He complained of the 'general spirit of this Nation' that 'each sect of people... whether sects upon a Religious account or a Civil account... may be uppermost! That every sort of men may get the power into their hands, and they would use it well'. In a much more forceful plea than his 20 January speech for upholding the uneasy compromise on which the Protectoral constitution stood, Cromwell claimed that it 'were a happy thing if the Nation would be content with rule... because misrule is better than no rule; and an ill Government, a bad one, is better than none!'<sup>78</sup>

In summation, Cromwell claimed there were just two things that prevented the 'irruption of all this upon you irresistibly, to your utter destruction'. First and foremost, there was the army; 'take them away tomorrow', Cromwell remarked, and 'would not all these Interests run into one another?' But, coming a close second, there was also the constitutional arrangement embodied in the *Humble Petition and Advice*. Cromwell knew his audience were 'rational and prudent men', as such he asked them:

Have you any Frame or Model of things that would satisfy the minds of men, if *this* be not the Frame, this that you are now called together upon, and engaged in, - I mean, the Two Houses of Parliament and myself? What hinders this Nation from being made an Aceldama, a field of blood, if this doth not?

For Cromwell, the *Humble Petition* was the most satisfactory means to protect against the problems facing the Protectorate; all that was required was a united front behind

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<sup>76</sup> *Ibid.*, iii, 169.

<sup>77</sup> *Ibid.*, iii, 173.

<sup>78</sup> *Ibid.*, iii, 174-5.

that frame. Cromwell was sure that ‘it will be your wisdom... and your justice, to keep this Interest close to you; to uphold this Settlement now fallen-upon, which I have no cause to think but you are agreed to; and that you like it’.<sup>79</sup> Hinting at the tedious debates over the message from the Other House, Cromwell warned how, in the face of both external and internal threats, it was not fit that ‘we shall be led off from the consideration of these things; and talk of circumstantial things, and quarrel about circumstances’.<sup>80</sup> Mocking the Republicans, Cromwell warned the gathered MPs that they should not be seduced by those men ‘that have wonderfully lost their consciences and their wits... men going about that cannot tell *what* they would have, yet are willing to kindle coals to disturb others’.<sup>81</sup>

If Cromwell really believed that his speech could heal the divisions that were becoming manifest in the House of Commons, he was hugely mistaken. His core argument, that the Parliament was bound to the *Humble Petition* and should therefore own it without question, was extremely naive. The presence of the excluded MPs made Cromwell’s claims that this was ‘their’ settlement highly tenuous. True, by their oath they were ‘engaged’ towards the new settlement but, as Haslerig had proven that same morning, many were simply willing to go through the motions in order to gain access to the chamber. For all the talk of compromise, reconciliation and unity, Cromwell was ultimately talking to a brick wall. His attempt to deflect debate away from ‘circumstantial things’ and onto what he believed were more pressing issues merely helped to raise suspicions and provide ammunition for the Protectorate’s opponents.

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<sup>79</sup> *Ibid.*, iii, 176-8.

<sup>80</sup> *Ibid.*, iii, 180.

<sup>81</sup> *Ibid.*, iii, 181.

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Ironically, even the innocuous issue of printing the Protector's speech exacerbated tensions between Cromwell and the Parliament. Speaker Widdrington had asked Thomas Burton to 'take notes' of Cromwell's speech on 25 January; but given that the Protector's oration lasted much longer than the fading winter sunshine, Burton 'could not see to write' the latter part of the speech. With only a partial transcript, Burton went with clerk of the Commons John Smythe to see the assiduous secretary 'Mr. Rushworth, that we might confer notes'.<sup>82</sup> But with no definitive record completed the following morning, the report of the speech was postponed in both Houses until Thursday 28 January.<sup>83</sup>

When the report was finally made in the Commons, it was duly resolved that 'his Highness be moved, That he would be pleased to give Directions for the Printing' of his speech and a committee was named accordingly to go and inform the Protector. The names of those chosen for this mission to Whitehall made for interesting reading; twelve of the forty-three MPs named had been excluded before the first session of the parliament, including, most notably, Haselrig.<sup>84</sup> Given these were those men whom Cromwell had castigated in his speech for fomenting dissension, the Commons' subsequent instruction to the committee, that they should tell Cromwell 'that this House will take the Matters imparted to them by his Highness... into serious and speedy Consideration', hardly rang true.<sup>85</sup>

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<sup>82</sup> *Burton*, ii, 351. For more on the different surviving versions of this speech see *Carlyle*, iii, 162, f.n. 1.

<sup>83</sup> *CJ*, vii, 588-89; *HMC Lords*, pp. 516, 518-9.

<sup>84</sup> *CJ*, vii, 588-89. The 'excluded' MPs chosen were: Ashley-Cooper, Biddulph, Birch, Chute, Darley, Haselrig, Mildmay, Saunders, Scot, St. Nicholas, Styles and Weaver.

<sup>85</sup> *CJ*, vii, 588-89; *Burton*, ii, 374-5.

When the committee met with Cromwell that afternoon the reception was frosty. Noticing Haselrig's presence among the contingent, Cromwell quipped that 'had he not seen the Paper' that bore their credentials, then by simply observing the 'Persons of the Committee', Cromwell 'could not have looked upon the Committee as a Committee of the House of Commons'. Still frustrated by the Commons' unwillingness to resolve the issue of recognising the Other House, Cromwell made it clear where he stood on the matter. The speech he delivered on 25 January, he noted with some emphasis, was 'delivered to both the Houses, the House of Lords and the House of Commons'; he was not satisfied 'that it was not against the Privilege of either House, for him to give an Answer to either House apart'. Cromwell was stating boldly that unless the Commons recognise, and work with, the upper chamber, then he was unwilling to communicate with the Parliament at all.<sup>86</sup> Brushing aside the committee's request to print the Protector's speech, Cromwell claimed that he spoke extempore and therefore could not give them a satisfactory account for publication; 'he said he delivered his mind plainly, but could not remember four lines of it'.<sup>87</sup>

According to Burton, the report of the Protector's answer on the morning of 29 January was met with '*altum silentium* for a while'.<sup>88</sup> Finally, Alexander Thistlethwaite asked the Commons to take notice 'of his Highness's reiteration, "I say the *House of Lords*"; for Thistlethwaite it was clear that Cromwell 'looks upon the other House as joined in the legislature' and therefore 'our sitting here is fruitless, unless we come to an understanding between the two Houses'.<sup>89</sup> Unfortunately, the

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<sup>86</sup> See *CJ*, vii, 589-90 (29 Jan.) for Nathaniel Bacon's report of the meeting to the Commons. Also reproduced in *Carlyle*, iii, 503.

<sup>87</sup> *Burton*, ii, 379; *CJ*, vii, 589-90.

<sup>88</sup> *Burton*, ii, 379.

<sup>89</sup> *Ibid.*, ii, 380-1. Emphasis added.

majority of MPs did not take Thistlethwaite's hint and the debate over the title of the Other House raged on without any sign of resolution.

As such, Cromwell's speech of 25 January was never officially published; it became another casualty of the political infighting between the Commons and the new upper chamber.<sup>90</sup> The official newsbooks were muted on the content of Cromwell's speech. Although *Mercurius Politicus* reported that the 'House accordingly went to *Whitehal*, and met his Highness' on 25 January, no subsequent information of what happened at that meeting was divulged in the press; nor was the Protector's response to the Commons' committee on 28 January made public.<sup>91</sup> The speech was reported in the Commons but was never formally entered into the journal of that house; therefore, the only 'official' recording of Cromwell's speech of 25 January was that entered into the 'finished' journal of the Other House.<sup>92</sup>

The reasons why Cromwell refused to publish his speech officially, however, are likely to have been subtler than just his outright opposition to subverting the privileges of the Other House. Just three days after its delivery, Cromwell already realised that the speech was outdated. His theme had been unity; he urged a pragmatic response to the constitutional arrangement and demanded strength in the face of internal and external enemies. Yet, his words had not been heeded; his tone of urgency had been ignored. Like Fiennes's speech at the opening of the Parliament,

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<sup>90</sup> Manuscript copies of the speech were scarce, see Vaughan, ii, 314, 437-8, 438-40, 441-3, 444-5; Bodl., Carte MS 80, fol. 753.

<sup>91</sup> *Merc. Pol.*, 400 (21-28 Jan. 1658), pp. 269-70; 401 (28 Jan. – 4 Feb. 1658), p. 276.

<sup>92</sup> *CJ*, vii, 588-9; Sidney Sussex College, Cambridge, MS 109.

Cromwell's oration of 25 January was already looking like a poignant footnote upon the Protector's naivety and failed aspirations.<sup>93</sup>

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### **The Debates over the Other House and the Tactics of the Commonwealthmen**

Despite the Protector's pleas, the Other House continued to dominate debate in the Commons. Voting to defer all private business for a month on 28 January, the House was firmly focused upon this thorny constitutional issue.<sup>94</sup> A clutch of MPs close to the Court made the case for speedily accepting the Other House in its reformulated guise and also hinted at the revival of the kingship question.<sup>95</sup> Yet, their arguments found a less than enthusiastic response among the majority in the Commons. The problem was that both civilian and military Cromwellians alike were unconvinced by the upper chamber as it stood because, for both groups, it represented at best a halfway house for the sort of constitutional settlement that they truly wanted. From the civilian perspective, few were willing to buy into the argument that this Other House could neatly assume the position of a revived House of Lords. With the old peerage absent and the conspicuous presence of military men on the benches of the upper chamber, those MPs who had once voted for Cromwellian kingship failed to see how simply styling the Other House as a House of Lords was a guaranteed route to a monarchical settlement.

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<sup>93</sup> *CSPV 1657-1659*, pp. 164-5.

<sup>94</sup> *Burton*, ii, 376-77; *CJ*, vii, 589; *Merc. Pol.*, 401 (28 Jan. – 4 Feb. 1658), p. 276.

<sup>95</sup> See *Burton*, ii, 381-2 (Pedley, 29 Jan.), 411-13 (Trevor, 2. Feb.), 414-17 (Beake, 2 Feb.), 424 (Gewen, 3 Feb.).

The military Cromwellians also had their reservations about the Other House. Major General William Boteler was one of the few military men to speak in favour of the chamber in the Commons. Yet, Boteler's reason for supporting the Other House was precisely that the old Lords did not sit there; the qualifications of those who sat were 'religion, piety, and faithfulness to this Commonwealth. They are the best balance'; it was no longer 'estates will be the balance'. Boteler was against arguments of restitution, claiming that they were 'mistaken that say these are the same with a House of Lords. It is quite another thing', he claimed. He could see where such arguments led, professing that 'I am not for a King, and shall not be'. They were 'under a settlement which which does clearly distinguish this from that constitution of a House of Lords'. Intriguingly, however, and unlike a number of his fellow military Cromwellians, Boteler also went on to assert that 'a House of Lords they are, and they will be so'. His reasoning was simple – it was born out of precisely the same logic that had led so many civilian Cromwellians to disapprove of owning them as a House of Lords. To style them by that title would be the best way to bar the old Lords forever; to establish this new House of Lords in the place of the old would preclude any chance of a restitution of the ancient constitution.<sup>96</sup>

This whole debate perfectly demonstrates the fact that Cromwell's nominations to the Other House had done nothing to satisfy his supporters. Military and civilian Cromwellians alike were adamant that, in its current guise, the Other House was inadequate. This general feeling of apathy in the Commons was exploited by the dextrous handling of debate by the Republican MPs; most notably the formidable double act of Haselrig and Scot. Clearly aware of the mutual fears of the civilian and

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<sup>96</sup> *Ibid.*, ii, 407-9 (2 Feb.).

military Cromwellians these men sought to deepen the misgivings both sides felt over the Other House and the settlement as a whole. At times their arguments seemed to contradict their beliefs, but their overall tactics were extremely clever; they drew out the uncertainties and inconsistencies of the constitutional arrangement and highlighted the gulf that separated civilian from military Cromwellian over the future of the Protectoral settlement.

On the one hand, they vigorously opposed recognising the Other House as a House of Lords. This view most closely reflected their own opinions on the upper chamber but it also consciously played to the fears of the military. For Haselrig, speaking on 30 January, there was ‘nothing so clear’ then that ‘they have the title of the other House of parliament’. Haselrig went on to warn the Commons that if they ‘grant once Lords, then you will find tenderness, of course, to maintain the privileges of that House of Lords’. With characteristic humour, Haselrig claimed that the ‘Commons of England will quake to hear that they are returning to Egypt, to the garlick and onions of (he called by a slip) a kingdom’.<sup>97</sup> The slip of the tongue was a deliberate warning to those military men concerned with the slightest hint of constitutional backsliding.<sup>98</sup>

When challenged over his unwillingness to sit in the Other House on 2 February, Haselrig launched into another harangue against the chamber and its potential for regressive constitutional tendencies. He would not take the ‘Bishops’ seat’ as he dubbed it, ‘because I know not how long after I shall keep the Bishops’ lands. For no King no Bishop, no Bishop no King; we know the rule’.<sup>99</sup> For those men, like Haselrig, who had accumulated a great deal of wealth during the Interregnum it was a

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<sup>97</sup> *Ibid.*, ii, 402-3 (30 Jan.).

<sup>98</sup> *Ibid.*, ii, 406-7 (2 Feb.).

<sup>99</sup> *Ibid.*, ii, 423-4 (2 Feb.).

powerful argument. To resurrect the Lords was but a step towards monarchy; whether it would be Cromwellian or Stuart monarchy was by no means certain. By restoring the House of Lords, the momentous constitutional events of 1649 – including not just the abolition of the Lords, but the Regicide and the abolition of monarchy too - would be nullified. As Thomas Scot mocked on 29 January, to name the Other House as the House of Lords would mean that they must also ‘put on the King’s head again, which was surely taken away without his consent’.<sup>100</sup>

It suited the Republicans to argue in favour of the title of the ‘Other House’ because it offered the greatest potential to perpetuate the dispute between the government’s supporters. Scot could not accept any argument that the Other House was intended to be a House of Lords because, in the *Humble Petition*, ‘you have not called them so... you have not said a word of it’; it appeared to Scot that ‘you never intended it, because you never said it’. Even though the original version of the constitutional document ‘said King... yet you never said Lords’.<sup>101</sup> Scot feigned disbelief at the fact that nobody in the Commons seemed capable of agreement on how to define the constitutional arrangement. ‘You are now moved to a dissolution of your settlement, both as to the names of your supreme magistrate and the other House’ Scot claimed; and this was ‘even by those that were for it’ in the first place ‘and not by any of us’ who were excluded.<sup>102</sup>

Besides rejecting attempts to rename the Other House, however, the Republican MPs also made arguments that played upon the fears of moderate men in the Commons. Specifically, they drew attention to the dubious social status of those chosen to sit in

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<sup>100</sup> *Ibid.*, ii, 390-1 (29 Jan.).

<sup>101</sup> *Ibid.*, ii, 388-89 (29 Jan.).

<sup>102</sup> *Ibid.*, ii, 378 (28 Jan.); See also Gibbes *Ibid.*, ii, 425-7 (3 Feb.).

the Other House and how they failed to live up to the ancient peerage. Scot, in particular, made a remarkable admission on 29 January when he claimed that ‘if there be a House of Lords, it is more reason to call the old peerage’; adding somewhat tendentiously that ‘there is not one of them there, as I am informed... The old nobility, will not, do not, sit there’. Although not entirely true, this claim was near enough to the mark to confirm the suspicions already harboured by the civilian supporters of the Protectorate. Scot did not believe that they had ‘a *quorum*, not half a *quorum* of persons qualified’ to sit in the upper chamber. Those that sat did ‘fail in the very *formalis causa*, estates and interest’. In an argument which echoed Harrington’s *Oceana*, Scot claimed that ‘anciently the Bishops, Abbots, and Lords, their tenants, and relations, could engage half of England’. The Other House, however, were ‘but Commoners, and were yesterday here... they sit as a part of the Commons, in another place’. The members who sat there had ‘not the reason of the quality of Lords. They have not interest, not the forty thousandth part of England’.<sup>103</sup>

It was a line of argument with which many conservative Presbyterian MPs sympathised. On 2 February, the excluded lawyer-MP Chaloner Chute, for instance, was adamant that ‘it concerns your justice to take away the titles and inheritances of the old Lords’.<sup>104</sup> The following day, Alexander Thistlethwaite admitted that one of the ‘rocks...which you may run upon’ in this debate was ‘the excluding of the old peerage, which have right and are a considerable party; property we ought to be tender in’.<sup>105</sup> By drawing attention to this fact the Republicans were reminding the civilians of the disparity between the Other House as nominated by Cromwell and their ideal of an upper chamber that resembled more closely the traditional House of

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<sup>103</sup> *Ibid.*, ii, 389-90 (29 Jan.).

<sup>104</sup> *Ibid.*, ii, 421-22 (2 Feb.).

<sup>105</sup> *Ibid.*, ii, 428 (3 Feb.).

Lords. The Republicans realised that the old peers were central to the debate over the classification of the Other House and the future of settlement as whole. As Haselrig remarked on 3 February, the Commons should ‘declare upon our question whether we mean the old Lords or new Lords’.<sup>106</sup>

Cumulatively, the arguments put forward by the Republicans during these debates represented an extremely clever two-pronged attack. On the one hand they played to the fears of the military Cromwellians by stressing that the Other House was a Trojan Horse for monarchy. At the same time, however, they mobilised civilian misgivings about the upper chamber by attacking the lowborn and military contingent in the Other House and demonstrating how far it fell short compared to the traditional House of Lords. John Hobart, who continued to stay away from Westminster and monitored the debates from Norwich, recognised the Commonwealthsmen at work. He could not believe that the Commons had turned against the Other House, ‘their brat’, so soon and did ‘rather think it a quarrel packt ag[ains]t them’.<sup>107</sup> Yet, in reality, the Republicans did not create the mutual suspicions over the Other House, they merely acted as a catalyst to bring them into focus; they spurred on the opponents of the Other House and left speechless those who had once backed the *Humble Petition* as the likeliest means to secure a lasting settlement.

As the Republicans continued to stir the issue, the Court’s allies tried desperately to calm the situation. With debate going nowhere fast, commissioner of the customs Griffith Bodurda made a plea to the Commons on 3 February to expedite the business immediately. ‘The Petition and Advice is a principle and not to be disputed’, he

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<sup>106</sup> *Ibid.*, ii, 424 (3 Feb.).

<sup>107</sup> Bodl., Tanner MS 52, fol. 218. Firth, ‘Letters concerning the Dissolution’, p. 105 wrongly transcribes ‘packt’ as ‘picked’.

warned, before beseeching ‘those worthy gentlemen to consider what will be the consequence, if we come not to this settlement’. In an increasingly desperate tone, Bodurda pleaded that the moniker of ‘the Other House’ was simply inadequate, it was ‘an *individium vagum*’; instead they ‘must give them some name... You must call them a House, of men, of women, or something that have two legs’.<sup>108</sup> These flippant remarks did little to quell the mood in the Commons, however. As the kingship debate of 1657 had revealed there was more to names than just a label; it was not enough to accept the title ‘House of Lords’ and move on.

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### **The Other House and its Business**

As the Commons continued to ‘putt off their answer to the message’ of 22 January, Whitelocke – who was a regular attendee in the upper chamber - notes how these delays ‘caused distaste in the other House’.<sup>109</sup> They had every right to be frustrated; until both Houses co-operated, no purposeful parliamentary business could be conducted. Left in this state of limbo, critics sneered at how the Other House, ‘totally disowned’ by the Commons and ‘the generality of the People’, ‘spent their time in little Matters, such as choosing of Committees, and among other things, to consider the Privileges and Jurisdiction of their House... before they knew what their House was, or should be called’.<sup>110</sup>

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<sup>108</sup> *Burton*, ii, 430-33 (3 Feb.).

<sup>109</sup> *Whitelocke Diary*, p. 484.

<sup>110</sup> *Second Narrative*, p. 7 (first pagination); *A Probable Expedient For the present and future Publique Settlement...* (1658), pp. 2-3.

Yet, the Other House was not quite as quiescent as hostile commentators would claim. In reality, the evidence suggests that the upper chamber still occupied itself while it waited for the Commons to come to its resolution. There is little to suggest that those members who attended the Other House lost interest because of the Commons' continued intransigence. Indeed, although attendance levels fluctuated throughout the session, reaching a high of forty-two on 21 January and a low of twenty-four on 1 February, the average number of members in attendance was thirty-five, well over the required quorum of twenty-one.<sup>111</sup>

From the hints of business in the Other House offered by the draft journal it seems that every effort was made to conform with 'traditional' procedure. In conspicuous imitation of House of Lords' precedent, the Other House appointed standing committees on 21 January for both privileges and petitions, as well as a sub-committee 'to p[er]use the entryes in the Journalls of this house and see the same be rightly ent[e]red'. Tellingly, the committee for petitions was given the 'same powers that formerly Committees for Petitions had', hinting that it was restitution and revival more than innovation at the forefront of most members' minds.<sup>112</sup> This continuity between the Other House and its predecessor was made even more explicit on 23 January when it was ordered that the 'Com[m]ittee for priviledges Doe at their next meeting peruse the Rolle of Orders of this House w[hi]ch was usually ready at the beginning of every Parliam[en]t and prepare these Orders to be brought in and

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<sup>111</sup> See attendance lists for 20 Jan. – 3 Feb. 1658 in *HMC Lords*, pp. 506-23. Because of the sudden dissolution, no attendance record was taken on 4 Feb. The lists in *HMC Lords* are mostly accurate apart from 30 Jan. where Charles Fleetwood is recorded as absent in the original MS, see Mus. of Lon., Tangye MS 11a, fol. 12r.

<sup>112</sup> *HMC Lords*, pp. 509-10.

read'.<sup>113</sup> In effect, the Other House were claiming the standing orders of the House of Lords as their own; 'this House' and the House of Lords were one and the same.

Another business that preoccupied the Other House was its spiritual well-being. The names of those ministers who were appointed 'to pray in the house every day of sitting' confirms the religious predilection of the majority of the membership described in the previous chapter. Of the six ministers chosen, five were religious independents: William Hooke, Nicholas Lockyer, Hugh Peters, Peter Sterry and John Rowe.<sup>114</sup> The only exception was John Howe who was Presbyterian in outlook, albeit his efforts to reconcile the Presbyterians with the Independents meant he was far removed from the sort of religious intolerance to which many in the Other House were opposed.<sup>115</sup>

Contrary to the accusations of contemporaries, however, the Other House was involved in more than just establishing standing committees and appointing ministers. There are several hints in the journal and elsewhere that point to the fact that the upper chamber was involved in a range of public and private business during the parliamentary session. In particular, the presentation of private petitions to the Other House demonstrates that the chamber was not 'totally disowned' by the public at large. Although there are no records extant that are analogous to the books recording petitions received, and the action taken upon them, by the House of Lords, there are indicators that the Other House was in receipt of petitions from private individuals.

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<sup>113</sup> *Ibid.*, p. 513.

<sup>114</sup> *Ibid.*, p. 508.

<sup>115</sup> D.P. Field, 'Howe, John (1630–1705)', *ODNB*, online edn., (2005), [<http://www.oxforddnb.com/view/article/13956>, accessed 22 June 2010].

According to the journal, on 21 January ‘the humble Petition of Nicholas Corsellis of London Merchant’ for a bill of naturalisation of his Dutch wife Susanna Baldé was read in the House. Naturalisation bills had been the preserve of the defunct House of Lords and Corsellis’s petition demonstrated an awareness of past procedure that throws further light on the way in which the Other House was perceived by the public. Corsellis addressed his petition to the ‘Right Hono[ra]ble the Lords in Parliament assembled’, adding that ‘Your Lo[rdshi]pps Petitioner doth humbly pray your Lo[rdshi]pps favour’ and ‘shall...ever pray for you Lo[rdshi]pps’. The whole formula was in conspicuous imitation of former addresses to the House of Lords with no mention of the ambiguous ‘Other House’.<sup>116</sup> In response to the petition the House ordered that Corsellis ‘have leave to present a Bill to this house for the Naturalization of his wife’. This was presented on 25 January and read for the second time three days later when it was committed to fifteen lords who were ordered to meet on the afternoon of 2 February.<sup>117</sup>

A number of public acts also occupied the Other House during the brief parliamentary session. On 22 January, for instance, it was ordered that the assistant judges Matthew Hale, Hugh Wyndham and Richard Newdigate ‘prepare a bill for making intailed lands liable to the paym[en]t of Debts’. How far the judges progressed with this task, however, is uncertain; no bill ever emerged during the session and many of the judges were distracted by the business of the law term for which their assistance was temporarily dispensed with on 25 January ‘unles they shalbe sent for by this house’.<sup>118</sup> More progress was made in an ‘Act for the better levying the Penalties for

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<sup>116</sup> *HMC Lords* p. 510.

<sup>117</sup> *Ibid.*, pp. 510, 514, 519 (20, 25, 28 Jan.).

<sup>118</sup> *Ibid.*, pp. 511, 514 (22, 25 Jan.).

profanation of the Lords day' which was read for the first time on 22 January.<sup>119</sup> After its second reading four days later the act was then committed to a group of twenty-one MPs.<sup>120</sup> On 29 January a further seven lords were added to that committee, which was ordered to meet that afternoon, but thereafter the business fell silent and the committee never made its report to the House before the dissolution on 4 February.<sup>121</sup>

That the Other House achieved little more than a handful of items of draft legislation is understandable. With recognition from the Commons seemingly unforthcoming there was little point in rushing forward with any legislative programme. It is tempting therefore to see the apparent lacuna in the draft journals towards the end of the parliamentary session as evidence of the Other House's waning interest in parliamentary proceedings. The entries for both 30 January and 1 February record nothing more than attendance and a note that Speaker Fiennes 'by direction of the house declared this pr[e]sent Parliam[en]t to be Continued' until the next appointed sitting.<sup>122</sup> But it should be remembered that the journals only record the decisions of the House rather than those ongoing debates in which no resolution was made. Indeed, according to Whitelocke, on 30 January the '*House of Lords*' took 'into consideration the state of Affairs relating to foreign Princes and states, and particularly to *Sweden*'. Yet, even while the Other House debated foreign policy, the issue at the forefront of their minds remained the intransigence of the Commons; as

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<sup>119</sup> *Ibid.*, p. 511 (22 Jan.); *Merc. Pol.*, 400 (21-28 Jan. 1658), p. 258.

<sup>120</sup> *HMC Lords*, p. 516 (26 Jan.).

<sup>121</sup> *Ibid.*, p. 520 (29 Jan.).

<sup>122</sup> *Ibid.*, pp. 520-1 (30 Jan., 1 Feb.).

Whitelocke noted at the end of that day's entry, the 'House of Commons again put off their *Answer* to the Lords'.<sup>123</sup>

The Other House was acutely aware that if the two Houses failed to communicate then any business conducted in either chamber would come to naught. As such, on 3 February they once again tried to force the issue by initiating contact with the Commons. The topic selected for this second message between the two houses was selected carefully: it concerned the 'great Concourse of Papists and other p[er]sons who have been in Armes against the Com[m]onwealth unto this Towne'. Whether the threat from Royalists in the Capital existed or not, it served as a potent reminder of the dangers of disagreement between the Houses of Parliament and the need to cooperate in order to keep out the 'common enemy'. To that end, the proposed solution was that an 'addresse may be made to his Highness to issue a proclamation for removing them hence' and that 'upon debate... it was resolved That a Message be sent to the house of Commons to joyne w[i]th this House therein'.<sup>124</sup>

As with the message of 22 January, the Other House moved swiftly, ordering a committee of just four lords - John Lisle, Henry Lawrence, John Desborough and Richard Onslow - to withdraw from the chamber 'to pen the substance of a Message'. In the meantime the 'house was adjourned During pleasure' while they awaited the committee's report. Resuming their sitting later that day, Desborough made report of the draught vote which was 'read and agreed' to this effect:

That a Message be sent to the house of Commons that they would joyne w[i]th this house in an addresse to his Highnes the Lord Protector that his Highnes

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<sup>123</sup> Whitelocke, *Memorials*, p. 673; An identical entry appears in *Whitelocke Diary*, p. 484. The attendance lists for 30 Jan. do not list Whitelocke as an attendee in the Other House that day, however; see *HMC Lords*, p. 520.

<sup>124</sup> *HMC Lords*, p. 523 (3 Feb.).

wilbe pleased to yssue a Proclamation by advise of both howses of Parliam[en]t Com[m]aunding all Papists and all other persons who have been in Armes against the Commonwealth by a Certaine Day to Depart out of the Cityes of London and Westm[inste]r.

These Royalist and Catholics were to withdraw at least twenty miles from the capital and ‘not to retorne’ for ‘the space of three Moneths’. Immediately, it was ordered that the message be sent to the Commons – Hugh Wyndham once again being selected for the mission to the lower house, this time alongside fellow judge Richard Newdigate.<sup>125</sup>

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As the judges arrived at the door of the Commons, the debate over the appellation of the Other House continued to rage within the chamber. Speaker Widdrington’s sudden announcement that ‘there were Two of the Judges without, at the Door, with a Message from the Lords’ only served to fan the flames.<sup>126</sup> Sir Arthur Haselrig, in particular, was very much ‘against calling them in’ for it ‘looks like a House of Lords’; sardonically, he claimed that if he ‘had been of the other House, I should not have advised to have sent another message, till you had resolved’ upon the first one.<sup>127</sup> Despite these protests, however, the messengers were ‘called in accordingly’ and delivered their message both verbally and in writing.<sup>128</sup>

The response from the Republican MPs was predictably hostile; Haselrig professed that he ‘trembled to hear this message’ because the ‘first thing they offer, is to invade the liberties of the free-born people of England... Their message is to banish men,

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<sup>125</sup> *Ibid.*, pp. 523-4 (3 Feb.).

<sup>126</sup> *CJ*, vii, 591-2 (3 Feb.); *Burton*, ii, 437.

<sup>127</sup> *Burton*, ii, 437. See also speeches by Weaver and Scot.

<sup>128</sup> *CJ*, vii, 591-2.

which may light upon any of us'.<sup>129</sup> Others, however, looking more closely at the written message noted an anomaly that set this latest address apart from that of 22 January. Although Wyndham and Newdigate, in making verbal report, professed they 'were commanded by the Lords' to deliver their message, the written message itself made no reference to the Other House as a 'House of Lords'. It stated merely that 'a Message be sent to the House of Commons, that they would join with *this* House in an Address to his Highness the Lord Protector'.<sup>130</sup> Edward Turner pointed out the significance of this to the Commons; 'This message varied form the other', he explained, as the Other House 'did not call themselves Lords'.<sup>131</sup>

The impact of this omission was immense. Although it was initially moved that the Commons' should reply with the same message as before, 'that this House will send an Answer by Messengers of their own', a number of formerly excluded MPs moved for an additional clause – that the Commons' reply should include a specific address 'to the Other House'. Thomas Scot wanted the Commons to 'return an answer to them as to "the other House", adding that 'they are, at best, but originally from you'. Sir Arthur Haselrig likewise believed that 'what is moved you for addition to the message, "other House," you may add it'.<sup>132</sup> Those close to the Court had been striving to get the Other House recognised as a House of Lords because of the constitutional certainty such a title would bring. By urging the Commons to uphold the ambiguous title 'Other House', however, the Protectorate's detractors effectively consigned the new chamber to its anomalous position.

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<sup>129</sup> *Burton*, ii, 438-9 (3 Feb. 1658). See also speeches by Robinson, *Ibid.*, ii, 437-8, 439-40 (3 Feb.).

<sup>130</sup> *CJ*, vii, 591-2. Emphasis added.

<sup>131</sup> *Burton*, ii, 439.

<sup>132</sup> *Ibid.*, ii, 440-1.

Initially, a number of leading civilian Cromwellians in the Commons tried to fight this motion – both John Trevor and Griffith Bodurda ‘moved against the addition’. Yet, others – like the Court lawyer Attorney-General Edmund Prideaux – professed to be in favour of the addition. That they did so was most likely a matter of pragmatism. Although it effectively meant that the Court would have to surrender any aspirations of styling the Other House as a House of Lords, the fact that the Commons would at least recognise the Other House’s title was a significant step in the relationship between the two houses. As such, when the question was put for adding the words “to the other House”, John Trevor who was to declare for the ‘noes’ decided to waive the question and the house was not divided. Accordingly, the judges were ‘called in again, and had this answer: That this House would send an answer to the other House by messengers of their own’.<sup>133</sup>

Arguably, this should have marked the conclusion of the debates over the Other House. The French ambassador Bordeaux certainly believed this to be the case. As he informed Cardinal Mazarin, ‘the upper-house, to try the pulse of the house of commons’ had sent them this latest message. In response, Bordeaux noted, ‘they passed only this vote, that the house of commons would send an answer by a messenger of their own to the other house (not giving them the title of lords); the which answer of theirs did in a manner decide the question, which had been before started about their qualification’.<sup>134</sup> In reality, the answer to the Other House on 3 February solved little. Even as the judges left to deliver their reply to the upper chamber, the Commons were still determined to debate the issue of the title further,

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<sup>133</sup> *Ibid.*, ii, 440-1; *CJ*, vii, 591-2.

<sup>134</sup> *Thurloe*, vi, 778: Bordeaux to Mazarin, 4/14. Feb. 1658.

resolving that ‘the Debate, touching the Appellation of the Other House, be adjourned till To-morrow Morning’.<sup>135</sup>

Indeed, on the morning of 4 February 1658 the Commons resumed their debates over the title of the Other House with little regard to the answer they had made the previous day. Indeed, a number of minor civilian figures refused to back down and continued to make the case for styling the Other House as a House of Lords. Edmund Fowell was adamant that ‘you have built the old House of Lords’ for ‘we have a maxim in law, the composers shall have the explication’. For Fowell, those men who sat there were ‘Lords’ but, he added by way of a pun, ‘their extravagancies are lopped off’. As such, Fowell’s motion was that they concur with the Other House in their original message from 22 January and style them by the title of Lords.<sup>136</sup> Remarkably, formerly excluded member, now turned Protector’s serjeant-at-law, John Maynard agreed with Fowell. He could not ‘tell how to name another house than the House of Commons, but the Lords’ House’. By the *Humble Petition*, they had ‘not given them one syllable of what they should do, but only what they should not do’. In ‘other things’, Maynard explained, they were to act ‘according to the laws’; as such, ‘what other laws’ could there be than those ‘of the Lords’ House?’ Maynard’s biggest fear was if ‘this break off, we shall go into the wilderness again’. He asked the Commons to think ‘what may follow, if we should break’, he did ‘know not what may be the consequence’.<sup>137</sup>

By now, however, the debates in Westminster were being overtaken by events outside. Ironically, at the very moment that Maynard concluded his speech warning of

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<sup>135</sup> *CJ*, vii, 591-2; *Merc. Pol.*, 401 (28 Jan. – 4 Feb. 1658), p. 286.

<sup>136</sup> *Burton*, ii, 448-50.

<sup>137</sup> *Ibid.*, ii, 458-62.

Parliament's imminent dissolution, Speaker Widdrington informed the House that Black Rod was waiting at the door.<sup>138</sup>

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### **The City Petition, the Army, and the Dissolution of the Second Protectorate Parliament**

Although the fruitless debates in the House of Commons were undoubtedly a matter of some concern for Cromwell, it was the emergence of a petition among City radicals which acted as the trigger for the dissolution of the second Protectorate Parliament. Not only did this petition castigate Cromwell and his followers for failing to uphold the 'good old cause' for which parliament had gone to war, but it also demanded a major reworking of the constitution that had all the hallmarks of Republican influence. The petition itself was directed to 'the Parliament of the Common-Wealth of England'.<sup>139</sup> This address was a loaded one; besides ignoring the fact that the current Parliament comprised of all three nations, not just England alone, it rejected the bicameral arrangement of the *Humble Petition*. There was no mention of the 'two Houses' of Parliament, instead the petitioners vowed to uphold the 'Supream Power and Trust' of Parliaments 'which the people (the Original of all just power) commit unto them'.<sup>140</sup> This petition 'to the Parliament' was designed 'to minde the supream authority of the substance of the good old Cause... encouraging the hearts of the honest and public spirited, and putting a check upon the self seeking, and

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<sup>138</sup> *Ibid.*, ii, 462.

<sup>139</sup> *A True Copy of A Petition Signed by very many Peaceable and Well-affected People, Inhabiting about the City of London...* (1657), p. 3.

<sup>140</sup> *Ibid.*, p. 4.

Court-Party in *that House*'.<sup>141</sup> In the minds of the petitioners, 'the Parliament' and 'that House' were one and the same; there was no legal authority but the sovereign power of the people's representatives in the House of Commons.<sup>142</sup>

Yet, despite the Republican influence evident in the defence of unicameral parliaments and the praise heaped upon the 'late Memorable Long Parliament', it was the radical sects of the City, particularly the Fifth Monarchists, who were the chief promoters and subscribers of the petition.<sup>143</sup> According to Bordeaux, these sectaries were 'excited by their ministers, who spake high and openly against the government of his highness'.<sup>144</sup> In this climate the petition spread like wildfire. Around fifty printed copies were 'dispersed in order to Subscription, and in a few dayes... it was signed by many thousands'.<sup>145</sup>

More alarmingly for Cromwell, however, was the news that the junior officers of the army were also involved in this agitation.<sup>146</sup> Besides general protests against non-Parliamentary taxation and illegal imprisonment, the petition touched upon grievances more directly related to the military, 'so', as Bordeaux claimed, 'they might insinuate themselves unto the army'.<sup>147</sup> In particular, it asserted that no officer or soldier should be 'turned out of their respective employments without a legall Triall at a Court Martiall' and intimated that Cromwell's purges of the officer corps were designed to tame the army.<sup>148</sup>

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<sup>141</sup> *Ibid.*, p. 7. My emphasis.

<sup>142</sup> *Thurloe*, vi, 779: Bordeaux to Brienne, 4/14 Feb. 1658.

<sup>143</sup> *A True Copy*, p. 4.

<sup>144</sup> *Thurloe*, vi, 778.

<sup>145</sup> *A True Copy*, p. 8; *Thurloe*, vi, 781-2: Payne to Nieuport, 5/15 Feb. 1658; *Second Narrative*, pp. 7-8 (first pagination); Firth, 'Letters concerning the Dissolution', p. 107.

<sup>146</sup> *Ludlow*, ii, 33; Firth, 'Letters concerning the Dissolution', p. 109.

<sup>147</sup> *Thurloe*, vi, 778.

<sup>148</sup> *A True Copy*, pp. 4, 6-7; *Thurloe*, vi, 781-2.

With military discipline threatened Cromwell acted swiftly. There are hints that the Protector and army grandees were working behind the scenes to prevent the army from being seduced by this agitation. On 1 February, attendance in the Other House reached an all-time low of just twenty-four members. Although this could be put down to a general apathetic attitude among the membership due to the state of limbo they had been forced into by the Commons, the names of those ‘missing’ suggests another possibility. Conspicuously, the majority of those absent were leading army officers, mostly military Cromwellians, including Fleetwood, Desborough, Ingoldsby, Barkstead, Hewson, Goffe and Cooper.<sup>149</sup> Although no record survives of a meeting of army officers that day, it is not beyond the realms of possibility that these men were in consultation about the best way to proceed in order to reinforce military discipline over their subalterns. Equally suggestive was Fleetwood’s continued absence from the Other House on 2 February because he had been ‘Commaunded to attend his Highness’ at Whitehall.<sup>150</sup>

That Cromwell was extremely disturbed by the army’s activities is evident in the manic way in which he purportedly went about the dissolution of the Parliament. According to one informant of John Hobart, the impetus for the dissolution was sudden news that the petition was to be presented to the Commons on 4 February. Indeed, few people anticipated Cromwell’s sudden arrival at Westminster that morning. Going to see Thurloe who was still ‘in bed and sick’, Cromwell ‘told him he would go to the House’, at which the secretary, ‘wondered why his Highness resolved so suddenly’. Apparently, Cromwell gave no reason to his bemused Secretary: ‘He

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<sup>149</sup> *HMC Lords*, p. 521 (1 Feb.).

<sup>150</sup> *Ibid.*, p. 522 (2 Feb.).

did not tell him why, but he was resolved to go'.<sup>151</sup> By this point, according to the *Second Narrative* the Protector was in 'a Rage and Passion, near unto madnesse'.<sup>152</sup> Jumping in 'the nearest coach', Cromwell 'went with not about four footmen and about five or six of the guards' to the 'Lords' House (as yet called)'.<sup>153</sup> The Other House was clearly not anticipating Cromwell's arrival; the clerk taking the draft journal had not even finished writing the list of attendees when he noted how 'His Highnes' had 'come to the House unexpected'.<sup>154</sup>

Upon arrival at the Other House, Cromwell was met in one of the 'withdrawing rooms' by the Speaker Nathaniel Fiennes and Charles Fleetwood who both 'would have dissuaded him' from dissolving the Parliament.<sup>155</sup> Fleetwood beseeched Cromwell to 'consider first well of it; it is of great consequence'; to which Cromwell reportedly responded by labelling his son-in-law a 'milk-sop' and vowed 'by the living God' that he would 'dissolve the House'.<sup>156</sup> While there is no hint of this dissent in the record of the Other House's journal, it does reveal that Cromwell knew exactly where to apportion blame for the failure of the parliamentary session. Being 'set in his Chaire of State and the Lords in their places', Cromwell spoke 'to this House taking notice therein of their faithfulness to the publique interest and readines to Carry on the Governm[en]t as it is settled in the Humble Petition and Advise, so as he could charge nothing on them as having been wanting in what might tend to the good of the Com[m]onwealth'. Cromwell was stating clearly that, in his opinion, the Other House were blameless bystanders in the whole affair; it was the Commons who were the

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<sup>151</sup> Firth, 'Letters concerning the Dissolution', pp. 108-9.

<sup>152</sup> *Second Narrative*, pp. 8, 12 (first pagination).

<sup>153</sup> Firth, 'Letters concerning the Dissolution', pp. 106-7, 108-9. See also *CSPV 1657-1659*, p. 165; *Thurloe*, vi, 778, 779, 781-2.

<sup>154</sup> *HMC Lords*, p. 524 (4 Feb.); *Thurloe*, vi, 811: H. Cromwell to Broghill, 17 Feb. 1658.

<sup>155</sup> Firth, 'Letters concerning the Dissolution', pp. 106-7.

<sup>156</sup> *Ibid.*, pp. 108-9. See also *Second Narrative*, pp. 8, 12 (first pagination); *Ludlow*, ii, 33-34.

transgressors. As such ‘His Highnes Com[m]aunded the Black rodd to goe for the house of Com[m]ons’ so that the dissolution proceedings could begin.<sup>157</sup>

As Black Rod waited patiently outside the Commons’ chamber, the Republicans strove to hold-off this harbinger of the Parliament’s dissolution, Haselrig for one exclaiming ‘what care I for the Black Rod?’<sup>158</sup> Try as they might, however, they could not prevent the inevitable and Black Rod was eventually called in. His message revealed that, for all the debate of the previous days, the Protector was unwilling to back down on the appellation of the upper chamber. With no attempt at tact or ambiguous labels, Willoughby informed ‘Mr. Speaker’ plainly that ‘his Highness is in the *Lords*’ House and desires to speak with you’.<sup>159</sup>

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With the Commons huddled at the bar of the Other House and the Protector standing under the ‘cloth of estate’ the stage was once again set.<sup>160</sup> Cromwell’s dissolution speech was both short – lasting ‘about half an hour’ – and gloomy in tone.

Throughout the oration Cromwell fruitlessly attempted to explain his vision for the settlement embodied in the *Humble Petition and Advice* and castigated those who were unwilling to compromise on such terms. According to Hobart’s informant, Cromwell’s opening words to both Houses summed up his frustration with the Commons and their continued debates: ‘Gentlemen, and you Lords or Gentlemen

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<sup>157</sup> *HMC Lords*, p. 524 (4 Feb.); *Merc. Pol.*, 402 (4-11 Feb. 1658), pp. 293-4.

<sup>158</sup> *Burton*, ii, 462-4 (4 Feb.).

<sup>159</sup> *Ibid.*, ii, 462-4; *CJ*, vii, 592 (4 Feb.). Emphasis added.

<sup>160</sup> *Merc. Pol.*, 402 (4-11 Feb. 1658), pp. 293-4.

(turning his head to them [i.e. the Other House],) whatsoever you are called – I think you are not ambitious of titles'.<sup>161</sup>

Indeed, the whole tenor of Cromwell's speech was one of hostility towards the Commons and their seeming inability to settle upon the terms of 'their' *Humble Petition and Advice*. That which 'brought me into the capacity I now stand', Cromwell professed, 'was the Petition and Advice given me by *you*', the House of Commons, 'who, in reference to the ancient Constitution did draw me to accept the place of Protector'. So, he continued, 'if there had been in you any intention of Settlement you would have settled upon this basis, and have offered your judgment and opinion as to minor improvements'. Cromwell made clear that he did 'not speak to those gentlemen or lords or whatever you will call them; I say not this to them, but I say it to you. You advised me to where I am in this place, you, you did'. Yet, 'instead of owning a thing, taken for granted... you have not only disjointed yourselves but the whole Nation, which is in likelihood of running into more confusion in these fifteen or sixteen days that you have sat, than it hath been from the rising of the last Session to this day'.<sup>162</sup>

During the course of this speech Cromwell would make his passionate defence of the Other House; claiming he had nominated a chamber of men for whom 'it was not titles, nor Lords, nor party they value, but a Christian and an English interest; men of your own ranke and quality, who would not only be a ballance unto you, but to themselves'.<sup>163</sup> As Cromwell had stressed in his opening speech on 20 January, the settlement – including his choices to the Other House - was a compromise intended to

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<sup>161</sup> Firth, 'Letters concerning the Dissolution', pp. 108-9; *Ludlow*, ii, 33-34.

<sup>162</sup> *Carlyle*, iii, 187-91, 503-7; *Clarke Papers*, iii, 136-9.

<sup>163</sup> *Clarke Papers*, iii, 137; *Carlyle*, iii, 189, 505.

please everybody. Having ‘proceeded upon these termes and finding such a spirit as too much predominate, every thing being too high or too low, when vertue and honesty, piety, and justice, are omitted’, Cromwell believed he ‘had been doing that which was my duty, and thought it would have satisfied you’. Now, he could see the error of his way, for ‘if every thing must be too high or too low, you are not to be satisfied’.<sup>164</sup>

To make matters worse, the Commons’ recalcitrance had been compounded by ‘a new business’ that ‘hath been seeking in the Army against this actuall settlement’. No doubt gazing across to Haselrig and Scot, Cromwell assured the chamber that the whole plot was designed ‘with the intention of devising a Commonwealth againe, that some of the people might be the men that might rule all, and they are indeavouring to ingage the army and carry on that thing’.<sup>165</sup> For Cromwell, however, these malcontents were misguided if they thought their plan could work, for ‘these things tend to nothing else but the playing the King of Scotts his game’. Dramatically, Cromwell revealed that he had intelligence suggesting that ‘there were preparacions of force to invade us’ and that ‘the King of Scotts hath an army at the waterside ready to be shipped for England’. But, lamented Cromwell, ‘whilst that is doing there are endeavours from some who are not farr from this place to stirr up the people of this town into a tumulting’.<sup>166</sup> Therefore, ‘if this be the end of your sitting’, Cromwell punned that it was ‘high time that an end be but to your sitting’. With one final fiery

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<sup>164</sup> *Carlyle*, iii, 189, 505-6; *Clarke Papers*, iii, 137.

<sup>165</sup> *Clarke Papers*, iii, 138-9; *Carlyle*, iii, 190-1, 507-8; Firth, ‘Letters concerning the Dissolution’, pp. 108-9; See also *Thurloe*, vi, 778, 779, 781-2

<sup>166</sup> *Clarke Papers*, iii, 139; *Carlyle*, iii, 191-2, 507-8.

providential flourish Cromwell did ‘dissolve this Parliament, and let God judge between mee and you’.<sup>167</sup>

Despite the sarcastic cheers of ‘Amen’ by many of the Commons, the dissolution of Parliament had undoubtedly created more problems than solutions.<sup>168</sup> According to Hobart’s correspondent, ‘many sad faces appeared’ upon the dissolution ‘and what can be the consequence, but sadness and much distemper of spirit, beside great taxes’ he did not know.<sup>169</sup> Many feared what the dissolution meant for the future of the Protectorate. Henry Cromwell was ‘amazed at proceedings’ and had ‘a kind of dread in considering them’.<sup>170</sup> On 20 January, he had sent a letter to his brother-in-law Fauconberg hoping that the Other House’s ‘first vitall struglings may not make it lye cross to the womb that conceived it’. Writing to Fauconberg on 10 February, however, Henry could now see that it was not the ‘new-begotten house’ that was the cause of the problem, but that the ‘unnatural mother uses means to procure the abortion of her own issue’.<sup>171</sup> Typically, the hostile *Second Narrative* shifted the charge of infanticide to Cromwell’s door. The ‘*Two Houses* fell, and perished together; their Father, their good Father, knocking his Children on the Head, and killing of them because they...did wrangle one with another’.<sup>172</sup> Yet, all sides realised that the government had reached a seemingly insurmountable impasse that was likely to preclude the possibility of any working relationship between the two Houses of Parliament in the future. As one hostile pamphleteer noted, ‘if these *Creators* would

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<sup>167</sup> *Clarke Papers*, iii, 139; *Carlyle*, iii, 192, 508. See also *Burton*, ii, 462-4 (4 Feb.); *Clarke Papers*, iii, 135-6; *CSPV 1657-1659*, p. 165. The report in the official press was typically sanitized, see *Merc. Pol.*, 402 (4-11 Feb. 1658), pp. 293-4.

<sup>168</sup> *Clarke Papers*, iii, 139.

<sup>169</sup> Firth, ‘Letters concerning the Dissolution’, p. 106.

<sup>170</sup> *Thurloe*, vi, 775: H. Cromwell to Broghill, 3 Feb. 1658.

<sup>171</sup> *Ibid.*, vi, 752-3, 789-90.

<sup>172</sup> *Second Narrative*, p. 8 (first pagination).

not own their *mungrell ill-compacted new creature*, there is no probability, that any future Knights, Citizens or Burgesses will approve or submit unto it'.<sup>173</sup> Some commentators even questioned whether a parliament would ever be called again.<sup>174</sup>

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That the House of Commons had failed to own the Other House, however, was as much the fault of Cromwell as those who sat in the lower chamber. His vigorous defence of both the Other House and the incumbent settlement in his dissolution speech was painfully naive. He simply ignored the fact that many of those he now addressed in the Commons had never given their assent to the *Humble Petition and Advice* as it stood; to claim this was 'their' settlement was grossly erroneous.

Cromwell had meandered into the second session of the second Protectorate Parliament without paying due attention to the impact that the readmission of the excluded MPs, coupled with the removal of his most prominent supporters to the Other House, would have on the membership of the Commons as a whole. No matter how much he tried to castigate the Commons for not holding their end of the bargain in upholding the *Humble Petition and Advice*, the simple fact was that this was not the same House of Commons that adjourned itself on 26 June 1657.

More importantly, however, the reason why the Republicans and other excluded MPs were allowed to make so much political capital out of the Other House during this parliamentary session was because of the serious flaws in Cromwell's own vision for settlement. Only a minority in the Commons were prepared to defend the sort of

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<sup>173</sup> *Probable Expedient*, pp. 2-3.

<sup>174</sup> *CSPV 1657-1659*, p. 166; *Thurloe*, vi, 778; Vaughan, ii, 452-3. For speculation over when the next parliament would meet see also *CSPV 1657-1659*, p. 172; Vaughan, ii, 329-30, 440-1, 441-3, 453-55, 455-56, 458-60; *Thurloe*, vi, 786; *Clarke Papers*, iii, 141, 142, 145, 151.

compromise settlement that Cromwell was advocating. In June 1657, both civilian and military Cromwellians alike had looked forward to the nomination of the Other House as an indicator of the direction in which the Protector would take the regime – both sides hoping it would be in a direction amenable to their preferences. Ultimately, however, his nominations disappointed both groups – driving some into apathetic silence and others into outright opposition. Indeed, few were willing to entrench the Other House as it then stood by granting it the ‘appellation’ of House of Lords. For many in the army this smacked too much of what had been before, while for the civilian Cromwellians it was a usurpation of the rights of the old lords. The cumulative effect bred a general unwillingness to defend the constitutional arrangement as it stood under the *Humble Petition and Advice* and provided ample ammunition for the government’s opponents.

Cromwell would dissolve the parliament on 4 February still claiming that his nominations to the Other House represented the best of all worlds – the men pitched upon did not value ‘party’ but would be a ‘balance...to themselves’. He failed to appreciate that such plans had been undermined by a number of high-profile absentees and, more importantly, even if perfectly balanced those nominations would have done little to resolve the civilian/military split in the government that was tearing the Protectorate apart. Few were willing to compromise on the terms of settlement, meaning Cromwell’s outlook for the Other House only ever appealed to a small coterie of Courtiers. Like Cromwell’s aspirations for settlement as a whole, the membership of the Other House was supposed to please everybody, but ended up pleasing virtually nobody. As one popular ballad put it:

Surely his highness was inspired,  
When he made that house, w[hi]ch noe man desired.<sup>175</sup>

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At the same time, however, Cromwell's stormy dissolution of the second Protectorate Parliament demonstrated that, for all his talk of a compromise settlement, he still gave primacy to the needs of the military. Seeing that the delays and divisions in the Commons over the Other House were acting as an incubator for agitation in the City and the army, Cromwell decided to bring a sudden halt to proceedings. Many of his close advisors – including Thurloe, Fleetwood and Fiennes – were perplexed by this sudden action, taken without their prior consultation. For Cromwell, however, army unity was the keystone that held the whole regime together; if the army were allowed to divide then the result would be fresh conflicts and the collapse of settlement as a whole.

Faced with the prospect of dangerous agitation among the junior officers Cromwell realised the importance of removing this contagion from the army and acted swiftly. Most notably he would remove Major William Packer and five captains of his own horse regiment on 11 February because they 'declared their dislike of the present Government, and made severall objections to it, and semed to speake of the goodness of a Commonwealth'.<sup>176</sup> Cromwell was acutely aware of the subversive potential of the City petition's ambiguous slogan of the 'good old cause' as a rallying cry for the regime's enemies. Thurloe reports how at their meeting on 11 February, Packer told Cromwell that he and his fellow officers 'were ready to follow his highnesse upon the

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<sup>175</sup> BL, Microfilm 331/6, fol. 1: Fitzjames to Baynham, 26 Jan. 1658.

<sup>176</sup> *Clarke Papers*, iii, 140-1: 12 Feb. 1658; *Thurloe*, vi, 806-7: Thurloe to H. Cromwell, 16 Feb. 1658. See also Bodl., Tanner MS 51, fol. 2; *Thurloe*, vi, 793; Vaughan, ii, 314; *Ludlow*, ii, 34-5.

grounds of the good old cause'. Perplexed, Cromwell 'asked them, what they meant by the good old cause? and bid them instance but in one perticuler, wherein he had departed from it'. In reply, Packer and the captains said little, but 'kept themselves in generall termes.'<sup>177</sup> Indeed, the danger of the language of the 'Good Old Cause' lay precisely in the fact that it was so slippery and lacked definition; it could appeal to a diverse range of malcontents. Yet, at the core of this language lay the charge of backsliding by Cromwell and the Protectorate regime as a whole – not least through the seeming constitutional reversion of recent years, including the resurrection of an upper chamber.<sup>178</sup> By sending 'Packer and his pack of troublesome ones... packing', Cromwell had recognised that the language of the Good Old Cause was simply too dangerous to allow to fester in the ranks of the army; it was a lesson which would be learnt to devastating effect in 1659.<sup>179</sup>

It was arguably both Cromwell's strongest quality and his greatest flaw that he prioritised the needs of the military in the post-Regicide political settlement. He could never abandon his military past by pitching upon a completely 'civilian' regime. As much as Cromwell talked of compromise and balance within the constitutional arrangement, his presence at the apex ensured there was always an ingrained bias towards upholding the needs of the army – with whom Cromwell was unable and unwilling to break completely. As the following two chapters demonstrate, however, when the lord protectorate passed to one less attuned to the needs of the military and much more civilian in outlook, not only did attitudes towards the Other House shift

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<sup>177</sup> *Thurloe*, vi, 806-7; *Clarke Papers*, iii, 140-1.

<sup>178</sup> Packer would later claim he was removed because he 'could not say that was a House of Lords', see *Burton*, iii, 165-66. (9 Feb. 1659).

<sup>179</sup> *Thurloe*, vi, 810; H. Cromwell to Fauconberg, 17 Feb. 1658.

but the regime became simultaneously stronger in some ways and inherently weaker in others.

## **Chapter 4: The Third Protectorate Parliament and the Other House Debates**

On 27 January 1659, Richard Cromwell arrived at Westminster for the opening of his first Parliament as Lord Protector. Like his father, just over a year earlier, Richard ‘passed up to the House of Lords, and through it into one of the withdrawing rooms thereto belonging’.<sup>1</sup> Meanwhile, in the ‘lobby between the house of Lords and the Painted Chamber’ a number of the ‘Lords’ gathered in compliance with Richard’s ‘Commission under the Great Seale’ to administer an oath to ‘all and singular other the Members of the *House of Lords*’.<sup>2</sup> With this business completed, the Protector, Lords and Commons went to Westminster Abbey to hear Thomas Goodwin deliver a sermon upon the Cromwellian favourite of ‘Psalm lxxxv’, complete with its call for ‘healing, inciting to unity, and to mix mercy and truth, righteousness and peace together’.<sup>3</sup> The Protector then ‘returned to the House of Lords’ to complete the day’s proceedings. After a ‘little Retirement’, Richard entered the chamber and ‘standing on the Ascent, rais’d on purpose in Royall manner, under the Cloth of Estate, sent the Usher of the Black Rod’ to summon the Commons.<sup>4</sup>

Richard’s opening speech was noticeably Oliverian in character – ringing with the language of Providence. Yet, unlike his father, he was brief and to the point.<sup>5</sup>

Dwelling on the sermon they had heard earlier that day, Richard’s speech was a plea

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<sup>1</sup> *Merc. Pol.*, 522 (27 Jan. – 3 Feb. 1659), pp. 197-99.

<sup>2</sup> *HMC Lords*, pp. 524-6. The original commission is preserved at The Society of Antiquaries, London, MS 590.

<sup>3</sup> *Burton*, iii, 1-2 (27 Jan. 1659); *Clarke Papers*, iii, 176: Newsletter from ‘J.R.’, 27 Jan. 1659.

<sup>4</sup> *Merc. Pol.*, 522, pp. 197-99; *HMC Lords*, pp. 524-6.

<sup>5</sup> Part of the reason for Richard’s concision was procedural; many of his points were enumerated further in a supplementary speech by the Speaker of the Other House. See N. Fiennes, *The Speech of the Right Honourable Nathaniel Lord Fiennes, One of the Lord Keepers of the Great Seale of England... 27th of January, 1658... (1659)*.

for unity.<sup>6</sup> He believed that ‘a Parliament was never Summoned upon a more important occasion’. Even though they now enjoyed peace, it was not the case that ‘we have no enemies’. As such, the ‘Armies of *England, Scotland and Ireland*’ were of paramount importance. Had they not been ‘the best Army in the world’, Richard believed that ‘you would have heard of inconveniences, by reason of the great Arrear of Pay which is now due unto them, whereby some of them are reduced to great necessities’. Besides taking care of the ‘Protestant cause abroad’ Richard implored the Parliament to look after ‘the People of God in these Nations’ and the ‘good and necessary work of Reformation, both in Manners and in the Administration of Justice’.<sup>7</sup> But finally, and most importantly, Richard’s foremost wish for ‘My Lords, and you Gentlemen of the House of Commons’ was that ‘you will in all your Debates maintain and conserve Love and Unity among yourselves’; it was Richard’s prayer that they would use their ‘utmost endeavours for the making this an happy Parliament’.<sup>8</sup>

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But, although the opening of the third Protectorate Parliament appeared to be an action replay of events just twelve months earlier, in reality much had changed in the interim. The watchwords during the opening ceremony were ‘unity’, ‘continuity’ and ‘tradition’, yet this was nothing more than a facade to conceal the tensions and problems that were an inherent part of the Protectoral regime. Richard’s opening months as Protector had been punctuated by a number of stormy exchanges with the

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<sup>6</sup> *The Speech of His Highness the Lord Protector, Made To both Houses of Parliament at their first meeting, on Thursday the 27th of January 1658...* (1659), pp. 1-4.

<sup>7</sup> *Ibid.*, pp. 5-8.

<sup>8</sup> *Ibid.*; Burton, iii, 2-3; *CSPV 1657-1659*, pp. 287-88; *Merc. Pol.*, 522, pp. 197-99; Bodl., MS Clarendon 60, fols. 40b, 41.

army officers who were anxious about his predilection to lean heavily upon his conservative civilian councillors.<sup>9</sup> Those mutual suspicions between the ‘military and ‘civilian’ Cromwellians that had plagued the regime since the parliamentary offer of the Crown in 1657 festered and intensified over the course of Richard’s Protectorate. Although Richard had lavished praise on the ‘best Army in the world’, the army was a hugely problematic issue for the regime. Oliver Cromwell’s premature dissolution of the second Protectorate Parliament had done little to relieve the Protectorate’s financial burden. The continued presence of a standing army at home coupled with the provision for a large navy to maintain the ‘Protestant interest abroad’ sent government debts spiralling to unprecedented levels.<sup>10</sup>

Also left unresolved by Oliver’s dissolution of Parliament, however, was the recognition of the Other House. As Richard’s speech made clear, if this were to ever prove to be a ‘happy Parliament’ it was vital that both Houses co-operate; until they did no parliamentary business, including the settling of the regime’s pressing financial woes, could be concluded. As in 1658, the government’s strategy was to invoke tradition, to style it a ‘House of Lords’ and simply ignore the deeper questions of constitutional innovation and ambiguity. But not everybody was convinced. Indeed, Burton notes how ‘there were about 150 Members’ who continued ‘sitting in the House [of Commons], while his Highness was speaking in the other House’.<sup>11</sup> Unwilling to give tacit recognition to the Other House by going to hear the Protector’s speech at the bar of that chamber, these MPs chose to stay away.

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<sup>9</sup> See Woolrych, ‘Introduction’, pp. 4-15; Davies, *Restoration*, pp. 3-44.

<sup>10</sup> *CJ*, vii, 627-31; *Burton*, iv, 362-7 (7 Apr. 1659).

<sup>11</sup> *Burton*, iii, 2 (27 Jan.).

Such resistance could not have been wholly unexpected. With the inconclusive and stuttering debates of the 1658 parliamentary session still fresh in the memory, the Courtiers clearly anticipated a fresh dispute over the status of the Other House when Parliament met in January 1659. Prior to the meeting of the parliament it had been widely touted that the issue would be top of the Republican hit list.<sup>12</sup> But it was not just this threat of a Republican onslaught that made the Other House such a dangerous issue for the government. Writing to Henry Cromwell on 4 January, Thurloe was convinced that ‘the other house will be the great question’; not just because the Republicans opposed it, but it was an issue that ‘most certainly stickes in the throats of many of our friends’ as well. As in 1658, the government’s potential adherents in the Commons, were, at best, ambivalent towards the new upper chamber. Thurloe’s greatest fear was ‘disunion among friends’.<sup>13</sup> The Secretary’s guarded analysis raises the whole question of the balance of forces in the Commons.

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### **The Membership of the House of Commons**

Before turning to an examination of the debates on the Other House, however, it is first worth considering briefly the composition of the House of Commons in 1659. The decision to call Parliament in November 1658 was the end of a drawn out process that had begun almost immediately after Oliver Cromwell’s dissolution of the second

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<sup>12</sup> *Thurloe*, vii, 550: Thurloe to H. Cromwell, Dec. 1658; Bodl., MS Clarendon 60, fol. 41: Moore to Hyde, 28 Jan. 1659; *XXV Queries Modestly and Humbly...propounded to the People of England* (1659), pp. 9-10.

<sup>13</sup> *Thurloe*, vii, 588-89: Thurloe to H. Cromwell, 4 Jan. 1659.

Protectorate Parliament.<sup>14</sup> The House was potentially the largest that had ever sat. With seats allocated in England and Wales according to pre-1653 constituencies - but retaining the Protectoral innovation of thirty members each for Scotland and Ireland - there were close to five hundred and sixty places available.<sup>15</sup> The sheer size of the Commons, coupled with the fact that there was no longer recourse to the safety net of exclusions by the Council, left the government with little ability to influence or police the elections. Thurloe, writing a week before the opening of Parliament, confessed that 'there is soe great a mixture in the house of commons, that noe man knowes which way the major part will encline'.<sup>16</sup>

Indeed, attempts to identify and classify clearly defined 'groups' or 'factions' within Richard Cromwell's House of Commons baffled contemporaries. Time and again, the house was described as being divided into three crudely defined parties. As the Royalist agent Sir Henry Moore put it, 'there are three severall factions in ye house, his High[nes]s party, ye Commonwealths men, and a moderate party which balances all'.<sup>17</sup> Taking these reports as their lead, historians have also tended to apply a rigid tripartite framework on Richard Cromwell's House of Commons.<sup>18</sup> This is not to say that the revisionist approach of denying factionalism by atomising parliaments and

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<sup>14</sup> See C. Holmes, 'John Lisle, Lord Commissioner of the Great Seal, and the Last Months of the Cromwellian Protectorate', *EHR*, 122 (2007), pp. 921-29 for more on the decision to summon the third Protectorate Parliament.

<sup>15</sup> G. Davies, 'The Election of Richard Cromwell's Parliament, 1658-9', *EHR*, 63 (1948), pp. 488-501; G.B. Nourse, 'Richard Cromwell's House of Commons', *Bulletin of the John Rylands University Library*, 60 (1977), p. 98; Peacey, 'Protector Humbled', p. 37; Little & Smith, *Parliaments and Politics*, pp. 77-8.

<sup>16</sup> *Thurloe*, vii, 594: Thurloe to H. Cromwell, 18 Jan. 1659.

<sup>17</sup> Bodl., MS Clarendon 60, fols. 228-9: Sir H. Moore to Hyde, 18 Mar. 1659; *Thurloe*, vii, 615-6: Barwick to Hyde, 16 Feb. 1659; Gaunt, *Lansdowne*, pp. 453-55: Aungier to H. Cromwell, 15 Feb. 1659; Guizot, *Richard Cromwell*, i, 312-17: Bordeaux to Mazarin, 24 Feb. / 6 Mar. 1659.

<sup>18</sup> Nourse, 'Richard Cromwell's House of Commons', pp. 95-113; Little & Smith, *Parliaments and Politics*, pp. 104-5, 124-5.

stressing 'consensus' is more appropriate.<sup>19</sup> Instead, it will be suggested that the labels 'Court', 'Commonwealthsmen' and 'moderate majority' need to be handled with considerable care; behind each hides a more nuanced reality.

By far the largest, and most amorphous, of the parliamentary groups was the 'moderate majority'. This highly imprecise shorthand betrays just how little is known about its composition. At best, it can be described as comprising chiefly of civilian, conservative gentleman, who were mostly inexperienced politicians; approximately half of those elected had never sat at Westminster before.<sup>20</sup> Given that the House of Commons was almost twenty per cent larger than at any other time during the Protectorate, it was perhaps unsurprising that there should be an influx of relatively unknown men.<sup>21</sup>

It became the object of the more committed groups in the Commons to win over this faceless majority. But they were unpredictable and never wholly consistent voters for one side or the other. As one Royalist agent put it, 'the best and wisest of each faction entertayne fortune by the day, and know not what tomorrow will produce, so evenly are they balanced by neutrall country gentlemen'.<sup>22</sup> In sheer numbers, it was this group that held the sway; yet it was the arguments and debates of the other groups around them that tended to influence which way they would vote.

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<sup>19</sup> See, for example, Gaunt, 'Oliver Cromwell and his Protectorate Parliaments', pp. 88-90; Hirst, 'Concord and Discord', pp. 343-49; Peacey, 'Protector Humbled', pp. 39-42.

<sup>20</sup> Davies, 'Election of Richard Cromwell's Parliament', pp. 498-99; Nourse, 'Richard Cromwell's House of Commons', p. 98.

<sup>21</sup> *Burton*, iii, 39, 49-50, 76, 271-2; *Ludlow*, ii, 56.

<sup>22</sup> Bodl., MS Clarendon 60, fols. 224-25: Broderick to Hyde, 18 Mar. 1659.

Next in size was the group known as the ‘Court party’ or ‘Protector’s party’. As in 1658, these were strongly in favour of the Protectorate as established by the *Humble Petition and Advice*. Although Thurloe guided debate occasionally, the government’s position was increasingly put forward by a number of leading ‘court’ lawyers. These included Attorney General Sir Edmund Prideaux, Solicitor General Sir William Ellis, Attorney of the Duchy Nicholas Lechmere and Protector’s Serjeant-at-law, John Maynard. Indeed, the government’s opponents complained bitterly about the Court’s reliance on the lawyers.<sup>23</sup>

Bolstering the ‘Court’ party in defence of the Protectoral settlement, however, were men best described as ‘new’ or ‘Protectorist’ Presbyterians. These MPs were satisfied with the pseudo-monarchical compromise embodied by the *Humble Petition and Advice*- albeit with a stricter clarification of the Protector’s powers. Unsurprisingly, they included established ‘courtier’ MPs who had voted for kingship in 1657 – such as John Trevor, Griffith Bodurda, Robert Beake and Francis Drake. Yet there were also others who had been excluded from Parliament in September 1656, like John Birch, Samuel Gott, Lambert Godfrey and John Bulkeley, but had now turned supporters of the Protectorate regime.

Why these men were willing to back the Protectorate deserves further consideration. Perhaps their change of heart reflected wider support for the conservative twist – both political and religious – taken by the regime under Richard. This could explain why men who had previously never sat in Parliament during the Protectorate, such as John Swinfen, John Hewley, Richard Knightley and George Starkey, now felt able to both

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<sup>23</sup> See Bodl., MS Clarendon 60, fols. 87, 112-13; *Thurloe*, vii, 615-6; S. Bethel, *A true and impartial Narrative of the most material Debates and passages in the late Parliament* (1659), p. 7.

seek election and join with the Protectorists. Their choice might have simply been the lesser of two evils. According to the Scottish minister James Sharp, ‘most’ of the ‘Presbyterians, amongst whom Swinfen, Birch, Knickley, Godfrey, Bamfield, Growe are chief’ did ‘sway to the Protector’s party’ in order to ‘avoid the hazard of casting matters into the hands of the Republican party, or being brought under the Cavalier power’.<sup>24</sup> These men had grown weary of political upheaval and, desperate to maintain stability, rallied behind the Protectorate. But there were also many who had accumulated a sufficient ‘interest’, in the political status quo (both through purchases of confiscated land and elevation to local office) to make them think twice about hazarding it all on yet another *coup d’etat*. They had become ‘comfortable’ under the Protectorate and were unwilling to jeopardize their situation by backing a risky plot to restore Stuart monarchy.

Therefore the ‘Court party’ of contemporary parlance was a much larger ‘faction’ in 1659 than in previous Protectorate Parliaments. At its core remained the familiar mix of government officials, court lawyers and a sizeable bloc of Scottish and Irish MPs.<sup>25</sup> Yet, the term now also encompassed a large number of ‘Protectorist-Presbyterians’, who, for a number of reasons, upheld Richard Cromwell’s Protectorate as the preferred basis for the nation’s settlement. This fresh intake re-energized the Court party as a whole. Whereas the Protector’s interest in the 1658 session of Parliament had been rudderless, in 1659 the Protectorist-Presbyterians took control and effectively hi-jacked the Court party for themselves.<sup>26</sup> Increasingly, it was this group rather than Thurloe and the old courtiers who could be found guiding debate for ‘the Court’ in the House.

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<sup>24</sup> Stephen, ii, 153-6: Sharp to Douglas, 1 Mar. 1659.

<sup>25</sup> *CSPV, 1657-59*, p. 290; Bethel, *A true and impartial Narrative*, p. 9.

<sup>26</sup> Little & Smith, *Parliaments and Politics*, pp. 119-20.

At the other end of the political spectrum were the ‘Republicans’ or ‘Commonwealthsmen’. As was the case in 1658, this group, although inferior in number to the Court party, was the most vociferous.<sup>27</sup> According to one Royalist agent, ‘the commonwealths-men are industrious, popular, plausible, eloquent in the language of the tymes, cunning in the rules of the house, and thereby ready to intrapp or discountenance all oposers less dextrous then themselves’.<sup>28</sup> But the conventional terminology suggests an ideological cohesion that, in reality, they simply did not have. They were universally hostile to the Protectorate; yet, when it came to *what* they would replace the Protectorate with, they differed markedly. For Rumpers such as Sir Arthur Haselrig, Thomas Scot and Edmund Ludlow, a return to unicameral parliaments was the best solution; for ‘Harringtonians’ like Henry Neville, Thomas Chaloner and Adam Baynes, the Commonwealth of *Oceana* was more suitable; while for others, such as Sir Henry Vane, neither of these models was appropriate. All these ‘Republicans’ agreed that government should be founded on popular sovereignty, but had different ideas when it came to building on that foundation.

The contemporary usage of the term ‘Commonwealthsmen’ was particularly misleading because it often became a synonym for ‘opposition’. Within the contemporary ‘three party’ framework, groups were divided indiscriminately between neuters, supporters and detractors. As the Royalist agent Slingby put it, besides the great majority of ‘uniteresst[ed]’ men ‘the other twoe partyes are violent the one for,

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<sup>27</sup> *Clarke Papers*, iii, 173: Newsletter, 8 Jan. 1659; Guizot, *Richard Cromwell*, i, 286-7: Bordeaux to Mazarin, 20/30 Jan. 1659; BL, Additional MS 22919 (George Downing correspondence), fols. 78-9: Marvell to Downing, 11 Feb. 1659; Stephen, ii, 153-6: Sharp to Douglas, 1 Mar. 1659.

<sup>28</sup> Bodl., MS Clarendon 60, fols. 224-5: Broderick to Hyde, 18 Mar. 1659.

the other as much against Cromwell'.<sup>29</sup> Those who were 'for' Cromwell were simply labelled the 'Court party', while those who were against the Protectorate were 'Commonwealthsmen' or 'the opposite party'.<sup>30</sup> As Woolrych notes, the 'Republican party' was 'more anti-Cromwellian than a unified party'; it was opposition to the Protectorate regime that held them together.<sup>31</sup>

Moreover, just as the 'Court party' included many outside of the core circle of old courtiers, so the term 'Commonwealthsmen' encompassed more than just the Republican opponents of the regime. Indeed, the label was ambiguous enough that even crypto-Royalists could fall under it. During the course of the parliament, Royalist agents informed Hyde how crypto-Royalist MPs had adopted the position of 'counterfeit commonwealthsmen' or 'hypocrit patriots'.<sup>32</sup> Being in a minority, the crypto-Royalists joined with the Republicans as a matter of expediency.<sup>33</sup> The Royalists were acutely aware that the Republicans wanted nothing more from them than their aid in undermining the Protectorate. As one agent wrote to Secretary Edward Nicholas, though the Republicans 'hate the Cavaliers ten tymes more then his highness... doth, yet you will perceive they can dissemble a compliance as farre with them as a munkey with the puppeys paw to rake the chestnuts out of the hott embers'.<sup>34</sup> This cynical and uneasy alliance clearly worked both ways. Time and again, the crypto-Royalists voted with the Republicans, shared their arguments and even borrowed aspects of their rhetoric; but they were 'Commonwealthsmen' only in the sense that they opposed the Protectorate.

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<sup>29</sup> Bodl., MS Clarendon 60, fol. 97: Slingsby to Hyde, 10 Feb. 1659; *Thurloe*, vii, 615-6.

<sup>30</sup> Bodl., MS Clarendon 60, fols. 112-13: Grenville to Hyde, 12 Feb. 1659.

<sup>31</sup> Woolrych, 'Introduction', p. 16.

<sup>32</sup> Bodl., MS Clarendon 60, fols. 209-10, 224-5.

<sup>33</sup> Bodl., MS Clarendon 60, fols. 59, 119-20.

<sup>34</sup> *Nicholas Papers*, iv, 83-6: 'R. Greene' to Nicholas, 31 Mar. 1659.

By definition, the crypto-Royalists were hard to find, meaning that calculating the size of their contingent in the Commons is particularly tricky. A list of some of their number can be gleaned from an uncharacteristically indiscreet letter from the Royalist agent Broderick to Hyde. Writing on 25 March, he had no doubt that ‘Faulkland is by many degrees the most eminent in zeal and forwardness; th[e]n Jo[h]n Howe, S[i]r Hora[tio] Townesend. Edw[ard] Hungerford and others of great estates’.<sup>35</sup> There were others there with Royalist credentials – including Robert Villiers and Thomas Streete who came to the attention of the House for allegedly taking up arms for the king, and those who had been suspected of being plotters, such as Edward Blaker, Henry Chowne, John Hele, Sir Peter Killigrew, Herbert Perrott and John Tregunwell.<sup>36</sup> Irish MP Arthur Annesley and soon-to-be Royalist insurgent Sir George Booth should probably also be added to this list; but even then it was an extremely small group of MPs.<sup>37</sup>

The crypto-Royalists could draw strength, however, from a final group, best described as the ‘old’ Presbyterians or ‘Royalist-Presbyterians’.<sup>38</sup> These men were on the peripheries of the moderate majority in the Commons but at the other end of the spectrum to the Protectorist-Presbyterians. Like all political Presbyterians from the late 1640s, they had supported the Parliamentary cause only to grow disillusioned and alienated by Pride’s Purge and the Regicide. More importantly, however, and unlike the Protectorist-Presbyterians, they were not reconciled to the pseudo-

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<sup>35</sup> Bodl., MS Clarendon 60, fol. 248: Broderick to Hyde, 25 Mar. 1659; See also Bodl., MS Clarendon 60, fol. 336: Broderick to Hyde, 8 Apr. 1659.

<sup>36</sup> See Peacey, ‘Protector Humbled’, p. 38, f.n. 41; *Burton*, iii, 233-4, 241-52, 253-6, 425-35; *CJ*, vii, 602-3.

<sup>37</sup> Gaunt, *Lansdowne*, pp. 469-72, 472-4.

<sup>38</sup> Egloff ‘Settlement and Kingship’, pp. 95-6, 127-31; Peacey ‘Protector Humbled’, p. 38.

monarchical *Humble Petition and Advice*. Instead, they held true to the constitutional settlement enshrined in the 1648 Newport Negotiations. They were unsatisfied with the legal underpinnings of the Protectorate and wanted a return to monarchy, most likely Stuart monarchy, with certain constitutional restraints; they believed ‘a well regulated monarchy is best’.<sup>39</sup> They were only a shade away from the crypto-Royalists and might even be counted among that group could evidence be found of communication with the exiled Court. Many of them would become ardent Royalists during the Restoration.<sup>40</sup>

Some of them had previously been removed from Parliament for their political beliefs; either at Pride’s Purge such as the veteran Sir Walter Earle, Hugh Boscawen and John Stephens<sup>41</sup>; or the purge by the Protectoral Council in 1656, such as Edward Turner, Richard Browne and William Morice; or on both occasions like Sir John Northcote, Thomas Gewen and Henry Hungerford. Carol Egloff has demonstrated that those excluded in 1656 were not always politically distinct from those who slipped the net. Yet, it is instructive to note that of the hundred or so MPs excluded in 1656, forty-seven of them were elected in 1659 and the majority of these were either Republicans or old Presbyterians; while those who went on to be Protectorists were in a minority.<sup>42</sup> For others, such as the lawyer Thomas Terrill, this was the first time they had sat in Parliament. Thus while these ‘old’ Presbyterians were not all strictly

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<sup>39</sup> *Burton*, iii, 181 (Gewen, 9 Feb.).

<sup>40</sup> Nourse, ‘Richard Cromwell’s House of Commons’, pp. 104-6.

<sup>41</sup> Stephens was readmitted into the Rump Parliament in the autumn of 1651, but was inactive. See Worden, *Rump Parliament*, p. 72.

<sup>42</sup> C. Egloff, ‘The Search for a Cromwellian Settlement’, p. 302. For a detailed list of the excluded members see ‘Appendix 1’ in Little & Smith, *Parliaments and Politics*, pp. 302-5. Of the 47 names, only five can be positively identified as Protectorists in 1659 (Birch, Bulkely, Godfrey, Gott and Maynard).

old Parliamentarians, they did share a common belief that the ancient constitution, abandoned so forcefully in 1649, was the true foundation of government.

Once again, judging the size of this group is difficult. The old Presbyterians were in a grey area between the crypto-Royalists on the one side and the moderate majority on the other. Certainly, the old Presbyterians were a much larger group than the crypto-Royalists, leading many Royalist commentators to believe that an alliance with these men would be beneficial.<sup>43</sup> One agent was of the opinion that the crypto-Royalists along with ‘such neuters as usually concur’ could muster ‘from 100 to 140’ votes.<sup>44</sup> When the right issue arose, the crypto-Royalists, old Presbyterians and the moderate majority pulled together, creating a substantial force in the House. Moreover, just as the Protectorist-Presbyterians took the reins of the ‘Court Party’ during the Other House debates, it was the old Presbyterians, not the Republicans, who were the most active of the opponent groups.

Intriguingly, however, despite their size and considerable influence during the 1659 parliament, historians have largely ignored the old Presbyterians. For Little and Smith, it was ‘*the Presbyterians*’ who ‘led the defence of the Protectorate against the republican commonwealthsmen’.<sup>45</sup> The fact that a sizeable proportion of political ‘Presbyterians’ actually went the other way and led the assault on the constitutional settlement has been overlooked.<sup>46</sup> As a result, the historiography tends to uphold the

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<sup>43</sup> Bodl., MS Clarendon 60, fols. 85-6, 97, 152-3, 242-3. See Roots, ‘Tactics of the Commonwealthsmen’, p. 286.

<sup>44</sup> Bodl., MS Clarendon 60, fols. 224-5: Broderick to Hyde, 18 Mar. 1659.

<sup>45</sup> Little & Smith, *Parliaments and Politics*, pp. 118-20. Emphasis added.

<sup>46</sup> A notable exception is Peacey ‘Protector Humbled’, pp. 38, 44, 46-7. Mahlberg goes to the opposite extreme by identifying ‘*the Presbyterians*’ solely as opponents of the regime. See G. Mahlberg, *Henry Neville and English republican culture in the seventeenth century: Dreaming of another game* (Manchester, 2009), pp. 54-5, 150-8.

contemporary notion of ‘three parties’ – with the ‘Commonwealthsmen’, often meaning the Republicans alone, being the government’s chief opponents.

This is inadequate because it masks the real nature of debate during Richard Cromwell’s Parliament by giving undue attention to those at the extremities of the political scale – most notably the Republicans. Instead it would be better to abandon altogether the notion of ‘Court’ versus ‘Commonwealthsmen’. The real site of debate was actually between the Presbyterian adherents of each group – that is the Protectorist-Presbyterians and the ‘old’ or Royalist-Presbyterians. Time and again, speakers from these two groups can be found managing debate in the Commons; the old courtiers and Republicans were pushed to the peripheries while Presbyterians on both sides argued among themselves.

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### **The Origins of the Other House Debates**

Facing a largely unknown House of Commons, and fearing that the ‘Other House’ issue would be the focus of the attacks of the opponents of the Protectorate, Thurloe believed direct confrontation on the ‘great question’ was best avoided. Instead, he attempted to secure general approbation for the 1657 constitutional settlement as a whole, thereby bringing in the Other House by the side-door. ‘If the foundation be once admitted’, he argued, ‘it’s to be hoped there will be an agreement about the

superstructure'.<sup>47</sup> With trouble expected from both ends of the political spectrum, the government sought an expedient to circumvent debate on the Other House altogether.

The solution was a bill, presented to the Commons by Thurloe on 1 February, for recognizing Richard Cromwell as Lord Protector.<sup>48</sup> Addressing the House, Thurloe made abundantly clear the motives lurking behind the draft act. 'It pleased God', Thurloe assured the House 'to put an end to his Highness's days'. Yet, mercifully, he had also 'given that blessing of a son, in his stead'. Remaining conspicuously silent on the *Humble Petition*, or the mechanism by which Richard was nominated, Thurloe stressed that the succession was 'no other thing than the hand of God, so putting down the late King's family, He raises the power out of the dust', adding crucially that 'it is his prerogative royal'.<sup>49</sup> Mixing arguments of necessity with threats of force, Thurloe emphasised the need to bind the nation as a whole to this bill through Parliamentary approval. They should pass the bill and thereby 'let the nation know we are all of a mind in the Government; all agreed in the foundation' so that those who attempt to 'pull out any pin of this building, may see [to] their discouragement, that they have their question with the Chief Magistrate and this Parliament'.<sup>50</sup> As planned, Thurloe was attempting to bind Parliament to 'the foundation' and thereby secure the 'superstructure' or 'building' that stood upon it.

The bill was much more than a recognition of Richard's title; it was also a means to safeguard the whole political edifice enshrined in the *Humble Petition and Advice* – particularly government by a single person and bicameral parliaments. It stated how

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<sup>47</sup> *Thurloe*, vii, 588-89: Thurloe to H. Cromwell, 4 Jan. 1659.

<sup>48</sup> Several versions of this bill survive – see Bodl., MS Rawlinson A 63, fol. 68; TNA, SP18/201, fol. 1; BL, Additional MS 5138, pp. 123-4 (Goddard's Diary, 7 Feb. 1659).

<sup>49</sup> *Burton*, iii, 25-6; BL, Additional MS 5138, p. 112.

<sup>50</sup> *Burton*, iii, 26; BL, Additional MS 5138, p. 113.

‘wee the two houses of parliament.... thinke it o[u]r duty... to make this acknowledgement & Recognition following’.<sup>51</sup> This opening line was a highly loaded one; it effectively admitted the Other House to have a co-ordinate legislative power with the Commons. Given that the bill was by both Houses, it would be necessary to seek the Other House’s approval once it passed the Commons. Therefore the bill would not only confirm the legitimacy of Richard Cromwell’s title but it would recognise the Other House as well.

The government’s opponents were quick to criticise this bill as a trick, designed to bind the Commons. According to Sir Henry Vane, ‘this Bill huddles up, in wholesale, what you have fought for, and is hasted on, lest you should see it’.<sup>52</sup> Not only would the bill ‘make’ the Protector rather than ‘recognise’ him, it would bring in the Other House as well. According to Thomas Sadler, they would ‘beg the question’ and ‘give up all that can be given, House of Lords, and power to dissolve you by law; all that ever is in the Petition and Advice’.<sup>53</sup> Some demanded that the question for the protector be put ‘barely’ without deception. William Kenrick, for one, ‘would have it understood, whether the House of Lords shall be appurtenances to this Chief Magistrate; whether the militia, negative voice, and uncontrollable power, shall go along with it’.<sup>54</sup>

In response, MPs close to the Court stressed the necessity of passing the bill swiftly. Sir John Lenthall believed that ‘we cannot be so disingenuous as not to admit the Other House to be part of the Constitution’. According to Lenthall, although the

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<sup>51</sup> Bodl., MS Rawlinson A 63, fos 67-8; TNA, SP 18/201, fo. 1; BL, Additional MS 5138, pp. 123-4.

<sup>52</sup> *Burton*, iii, 178 (9 Feb.). See also *Ibid.*, iii, 169, 171-2 (Packer & Vane, 9 Feb.), 282-3 (Ludlow, 14 Feb.).

<sup>53</sup> *Ibid.*, iii, 280-1 (14 Feb.).

<sup>54</sup> *Ibid.*, iii, 155-6 (9 Feb.).

*Humble Petition* was imperfect it was the best constitution they had – he ‘had rather have a cottage here, than a glorious palace in the air’.<sup>55</sup> George Starkey claimed that he could ‘find nothing in this Bill, of the Lords’ House’ and would ‘cheerfully and readily conclude this business, which will be of great consideration to the quiet and settlement of the nation’.<sup>56</sup> The Protectorist-Presbyterians failed to be led by Starkey’s naive assertions, however. John Bulkeley, for instance, professed he was ‘engaged... to promote a House of Lords’ and that ‘it were the greatest dishonour that ever were to kick them out’. Although this did not mean that Bulkeley was against ‘a single person and another House’, he ‘would have that about the other House laid aside’ momentarily ‘and take the recognition singly’.<sup>57</sup> As Thurloe had feared there were a number of the government’s ‘friends’ who simply could not swallow the *Humble Petition* in one go – particularly because of its implications for the upper chamber. The tactic of gaining general approbation of the constitutional settlement swiftly had failed through a combination of Republican filibuster and unease within the Court party itself.

After days of tedious debate, on 14 February 1659 it was finally agreed that there should be a previous vote ‘that it be Part of this Bill, to recognize and declare his Highness *Richard* Lord Protector to be the Lord Protector and Chief Magistrate of England, Scotland, and Ireland’. But it was also resolved, without division, that before the Commons pass their bill of recognition they would ‘first declare such additional Clauses to be Part of the Bill, as may bound the Power of the Chief-Magistrate; and fully secure the Rights and Privileges of Parliament, and the Liberties

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<sup>55</sup> *Ibid.*, iii, 122 (8 Feb.).

<sup>56</sup> *Ibid.*, iii, 115 (7 Feb.).

<sup>57</sup> *Ibid.*, iii, 107 (7 Feb.). See also *Ibid.*, iii, 143-4 (Godfrey, 8 Feb.).

and Rights of the People'.<sup>58</sup> In total, these resolutions demonstrate neatly the feeling of the conservative majority in the Commons. On the one hand, they were prepared to recognize Richard and showed a reluctance to question his title directly. On the other hand, they shared the Republican's unease over the *Humble Petition* as a sound basis for government. In particular, there were a number of Protectorist-Presbyterians who were unsatisfied with the Protectorate as it stood – not least the anomalous position of the Other House.

Thurloe was fuming at this outcome.<sup>59</sup> The act of recognition had been designed to bind Parliament and the nation at large to the political status quo. In reality, it generated divisive debate that was highly destructive to the Protectorate. Although Richard was recognized, it was only on a probationary basis while Parliament decided what sort of government he would be fitted to.

With this resolution in mind, the Republicans were keen to move debate straight onto the bounds of the Lord Protector, including the thorny issue of whether he should be allowed a negative voice. Sir Henry Vane thought it was fit that they 'take things in order as they lie before you' and they should 'first begin with bounding the power of the Chief Magistrate'; particularly, 'how far you will have him have the militia and the negative voice'. It was a question that the Court party were understandably keen to avoid.<sup>60</sup>

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<sup>58</sup> *CJ*, vii, 603 (14 Feb.); *Burton*, iii, 287.

<sup>59</sup> Bethel, *A true and impartial Narrative*, p. 7.

<sup>60</sup> *Burton*, iii, 316 (17 Feb.). See also *Ibid.*, iii, 327-32: Speeches by St. Nicholas, Haselrig, Vane & Reynolds, 18 Feb.

At the same time, however, a number of motions were made to shift debate towards the Other House. John Birch warned that he could not bind the chief magistrate ‘until it be agreed whether there be another House or not; for if there be, I would have the militia and negative voice disposed one way; if not, another way’.<sup>61</sup> Time and again the same point was made – until the Other House was debated, they could not come to a decision on the bounds of the Lord Protector.<sup>62</sup> As Thomas Bampfield put it, ‘If you put the question that the Chief Magistrate shall have a negative on laws made by Parliament, then you still bring in debate what is meant by Parliament’.<sup>63</sup> Until they had resolved what a Parliament *was* it was impossible to determine the Lord Protector’s relationship to it. Although these motions were clearly a subterfuge to deflect debate away from the potentially destructive issue of the Lord Protector’s negative voice, it is intriguing that most of the moving was done by the Protectorist-Presbyterians rather than more familiar Courtiers. Indeed, given Thurloe’s earlier misgivings about allowing open discussion on the Other House for fear that it would divide the government’s supporters, it is unclear whether all the Courtiers were totally comfortable with this shift of debate.

The Republicans were infuriated at the way they were outmanoeuvred in the House. For them, the question of the Other House was superfluous to the resolution passed on 14 February – as Sir Henry Vane put it ‘The Lords’ House doth not concern the building of the single person, the liberties of the people, or any thing in that vote’. They could see that the Protectorist-Presbyterians’ attempts to move debate onto the Other House were a snare. ‘Pass this’ warned Vane, and then ‘the Other House... will

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<sup>61</sup> *Ibid.*, iii, 320 (17 Feb.)

<sup>62</sup> *Ibid.*, iii, 321, 328-9, 333, 337, 339, 340: speeches by Starkey (17 Feb.), Swinfen, Trevor, Hewley, Manley, Bodurda & Raleigh (18 Feb.).

<sup>63</sup> *Ibid.*, iii, 341-2 (18 Feb.).

confirm the single person in all things that concern him, and so your own liberties are left at loose.’<sup>64</sup> Yet, they were fighting a losing battle. When, on 18 February, the question was put whether ‘to determine the negative voice in the Chief Magistrate...*before* the constitution of Parliament as to the two Houses be resolved on’, the *Yeas* lost by 86 votes to 217.<sup>65</sup>

Further progress followed on 19 February, when, without even having to divide, it was resolved to ‘declare the Parliament to consist of two Houses’.<sup>66</sup> Given the fruitless debates over recognizing the Other House in 1658, this vote was certainly a breakthrough. That the resolution passed so smoothly, however, is hardly surprising; to vote against it would have been to admit that Parliament consisted of one house only and there were few willing to advocate that. Those Rumpers such as Haselrig and Scot who believed in unicameral Parliaments were very much a minority in the Commons.<sup>67</sup> The Republicans knew it was an issue they could not win, not least because they were in disagreement among themselves over it. For instance, ‘Harringtonians’ such as Henry Neville would freely admit that ‘another House’ might be ‘convenient’.<sup>68</sup> It is unsurprising, therefore, that the French Ambassador could report that ‘the Parliament resolved that it should be composed in future of two Houses... without the Republicans opposing the resolution’.<sup>69</sup>

The 19 February declaration was left deliberately vague so that men of a wide range of political outlooks could agree on it. It only mentioned ‘two houses’ in general, not

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<sup>64</sup> *Burton*, iii, 330-1, 343-44. See also *Ibid.*, iii, 329-30, 331-2, 333-4: speeches by Haselrig, Reynolds & Lambert (18 Feb.).

<sup>65</sup> *CJ*, vii, 605 (18 Feb.).

<sup>66</sup> *Ibid.*, vii, 605 (19 Feb.).

<sup>67</sup> *Clarke Papers*, iii, 176 (27 Jan.).

<sup>68</sup> *Burton*, iii, 320-1 (17 Feb.); See also *Ibid.*, iii, 134 (Neville, 8 Feb.).

<sup>69</sup> Guizot, *Richard Cromwell*, i, 311: Bordeaux to Mazarin, 21 Feb. / 3 Mar. 1659.

the ‘Other House’ specifically. Those close to the Court talked ambivalently about the importance of an upper chamber, avoiding the term ‘Other House’. According to Master of Requests, Nathaniel Bacon, Parliament had consisted of two houses ‘for many hundred years’ and that ‘long usage hath so settled it, as Acts of Parliament cannot alter it... The people of England have a right to the single person and two Houses of Parliament, and it cannot be taken away without their consent’.<sup>70</sup>

Immediately, motions were then made to divert discussion onto the ‘bounds’ of the upper chamber. Prideaux wanted the ‘bounding of this House first taken up, because it is easier to bound the Chief Magistrate than to bound them’.<sup>71</sup> The Republicans, sensing this was yet another opportunity to put off the negative voice of the Lord Protector, reacted with indignation. Vane was convinced that ‘we are for bounding every thing but the single person’.<sup>72</sup> Once again, however, the Protectorist-Presbyterians steamrolled their resolution through the house by keeping the question as vague as possible. Avoiding the term ‘Other House’, John Bulkeley suggested that their question should be for the ‘bounding of *another* House’.<sup>73</sup> Although this raised the complaint that by putting ‘another’ House in the question they would be discussing ‘three houses’, it was still resolved without division that the ‘bounds and powers of *another* House’ were to be the issue of debate.<sup>74</sup>

This equivocation could only go on for so long, however. When debate resumed on 22 February, a number of MPs stressed the impossibility of bounding that chamber before they understood ‘which of the Houses you will have’. Unless they knew

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<sup>70</sup> *Burton*, iii, 356-7 (19 Feb.). See also *Ibid.*, iii, 362-3 (Beake, 19 Feb.).

<sup>71</sup> *Ibid.*, iii, 367 (19 Feb.).

<sup>72</sup> *Ibid.*, iii, 368 (19 Feb.); See also *Ibid.*, iii, 368 (Neville, 19 Feb.).

<sup>73</sup> *Ibid.*, iii, 368 (Bulkeley & Bampffield, 19 Feb.).

<sup>74</sup> *Ibid.*, iii, 368-9 (19 Feb.); *CJ*, vii, 605.

whether they were discussing the ‘Other House’, ‘another House’ or a ‘House of Lords’, how could they determine its bounds?<sup>75</sup> It was at this point the crypto-Royalists and old Presbyterians came to the fore. Rather than continue debating bounds, these men wanted the lords themselves to be the topic of discussion. Sir George Booth thought it right ‘to consider of the persons before you consider of the powers; for what is more natural’.<sup>76</sup> In their opinion, the old lords should be restored to their ancient rights. John Stephens, among others, recommended that they ‘restore such old Lords as have not forfeited’.<sup>77</sup>

These motions for the old lords proved popular in the House. Bordeaux was of the opinion that ‘the majority of the Parliament are disposed to reinstate the old Lords, with the exception of those who have borne arms for the King’.<sup>78</sup> Crucially, among this ‘majority’ in favour of the old peerage were a number of Protectorist-Presbyterians. John Swinfen, for instance, admitted that ‘it is... necessary to have a previous question, whether the Peers be excluded’. As Swinfen explained, unless they knew whether they were dealing with the old peers or not, how could they know which way to vote?<sup>79</sup> Lambert Godfrey could see that the ‘two rocks’ facing the Commons were ‘asserting the Ancient Peers’ on the one hand, and ‘the asserting of the other House’ on the other. In his opinion ‘it would be prudentiall to avoid both these by neither excluding the one nor asserting the other’.<sup>80</sup> With the majority of the House seemingly going along with the issue of composition, Speaker Chaloner Chute

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<sup>75</sup> *Burton*, iii, 413: speeches by Cartwright & Young (22 Feb.).

<sup>76</sup> *Ibid.*, iii, 417 (22 Feb.); See also *Ibid.*, iii, 415: speech by Northcote (22 Feb.).

<sup>77</sup> *Ibid.*, iii, 404-405 (22 Feb.); BL, Additional MS 5138, pp. 214-15.

<sup>78</sup> Guizot, *Richard Cromwell*, i, 311: Bordeaux to Mazarin, 21 Feb. / 3 Mar. 1659.

<sup>79</sup> *Burton*, iii, 419-20 (22 Feb.).

<sup>80</sup> BL, Additional MS 5138, p. 221 (22 Feb.); See also *Burton*, iii, 420, 421 (Godfrey & Gott, 22 Feb.).

‘propounded that question, whether the ancient Peers that have not forfeited, have a right to sit in the other House’.<sup>81</sup>

Already, it was becoming apparent that the Protectorist-Presbyterians were dragging the rest of the Court Party along a path with which they were not entirely comfortable. According to Thomas Burton, upon this question the Courtiers ‘were at a loss, and prayed to adjourn the debate’ which was done accordingly.<sup>82</sup> Yet, despite their best efforts to hold back the tide, it was this issue of determining the membership of the upper chamber which came to dominate the House’s attention until early March.

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### **Attacks on the Other House and Support for the Old Lords**

Punctuating the debate on the Other House from mid-February through to early March was a recurring criticism of the *Humble Petition and Advice*. This line of argument confronted the constitutional inadequacy of the Protectorate head on by questioning whether the *Humble Petition* was a sound basis on which to establish both the Other House and settle the nation as a whole. Unsurprisingly, whenever this issue was raised it garnered universal approval from the government’s opponents – all of whom agreed that the *Humble Petition* was a weak reed. Yet, it was hardly the case that ‘the government’s critics’ were ‘exposing the weakness and incoherence of the constitution... in order to place the protectorate on a more secure footing’.<sup>83</sup>

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<sup>81</sup> *Burton*, iii, 420.

<sup>82</sup> *Ibid.*, iii, 421, 424.

<sup>83</sup> Peacey, ‘Protector Humbled’, p. 40.

Instead, many of their arguments had a destructive potential that would have rendered the constitutional underpinnings of the Protectorate void.

In parallel to the debates in 1658, the *Humble Petition* was maligned as a document forged by force to entrench the tyrannical machinations of the Protector. Republicans, crypto-Royalists and old Presbyterians alike could criticise the arbitrary nature of the *Humble Petition*. A widely quoted maxim, apparently deriving from Anthony Ashley Cooper, was that ‘if Pope Alexander, C. Caesar Borgia, and Machiavel, should all consent together, they could not lay a foundation for a more absolute tyranny’ than the *Humble Petition and Advice*.<sup>84</sup> Old Presbyterians, such as Thomas Gewen, who had been excluded from Parliament both in 1648 and 1656, were justified in criticising things ‘not done in a full and free Parliament’.<sup>85</sup> Yet, it was ironic for Republicans, especially the advocates of the Rump Parliament, itself created by a purge, to argue this point with any authority. Haselrig, for instance, criticised the *Humble Petition* because it was forged by ‘a forced Parliament... an imperfect Parliament, a lame Parliament, so much dismembered’.<sup>86</sup>

While these arguments of force were familiar ones, more far-reaching were those that grappled with the content of the constitutional document itself. Particular emphasis was given to the clauses of the *Humble Petition* and their relationship to the new Lord Protector Richard Cromwell. Picking through the articles of the *Humble Petition*, the old Presbyterian lawyer Thomas Terrill found a number of anomalies and

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<sup>84</sup> BL, Additional MS 5138, pp. 257-8; Bodl., Tanner MS 51, fols. 25-6; Gaunt, *Lansdowne*, p. 466; Gorges to H.Cromwell, 1 Mar. 1659; Bethel, *A true and impartial Narrative*, p. 5.

<sup>85</sup> *Burton*, iii, 180-1 (9 Feb.).

<sup>86</sup> *Ibid.*, iii, 101 (7 Feb.). See also *Ibid.*, iii, 118-9, 204-5 (St Nicholas & Reynolds, 11 Feb.); A. Annesley, *England's Confusion: Or A True and Impartial Relation of the late Traverses of State in England* (1659), p. 5.

inconsistencies – most significantly with the word ‘successor’. According to Terrill, the powers conferred on Oliver Cromwell by the *Humble Petition* were ‘but part permanent, in part temporary’. ‘Where any thing is intended to be placed upon his successor’, Terrill explained, ‘they are particularly named, and not the word successor left out. But where successors are not named’, it was ‘only personal’. Unless the *Humble Petition* explicitly stated that a power was for the Lord Protector *and* his successors then it applied to Oliver’s lifetime only. Of course, had Cromwell been King then that was a different matter: ‘If a grant had been made to the King by the name of King, without [the words] heirs and successors, it had gone to his heirs and successors as a perpetuity; because, in the eye of the law, he dies not’. But, under an elective Protectorate, it was just as possible that the Protector’s heir and successor could be two different people, ‘the one hereditary, the other elective’.<sup>87</sup>

Applying this rule to the *Humble Petition*, Terrill concluded that Richard Cromwell could not summon the Other House. He assured the Commons that ‘the second article, touching the two Houses, is a mere temporary personal power, during the Protector’s life only’. It only stated that ‘*your Highness* [i.e. Oliver Cromwell] will for the future be pleased to call Parliaments consisting of two Houses’, no mention was given to a successor. The fifth article concerning the summoning of the Other House also omitted the word ‘successors’. Only in the *Additional Petition and Advice*, a document designed to tidy inconsistencies in the original constitution, was the successor explicitly named, stating:

That the nomination of the persons to supply the place of such members of the other House as shall die or be removed, shall be by *your Highness and your successors*.<sup>88</sup>

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<sup>87</sup> *Burton*, iii, 223-6, 580-2 (Terrill, 11 Feb., 2 Mar.).

<sup>88</sup> Gardiner, *Constitutional Documents*, p. 461.

This left Richard in a curious situation whereby he could nominate lords to a chamber he could not summon in the first place. ‘It was a providence of God’, Terrill exclaimed, that ‘that House should fall of itself...this part of the law is dead and buried with the Protector’.<sup>89</sup>

The arguments put forward by the court lawyers in defence of the *Humble Petition* were unconvincing. Rather than scrutinize its wording, they pleaded that the ‘sense’ of the law should be taken into account. For John Maynard, ‘the way to examine and expound an act of Parliament [is] according to the meaning of those who made it’. He questioned whether ‘any man’ could ‘lay his hand upon his heart’, and say ‘it was not clearly intended that the successor should call two Houses’.<sup>90</sup> Yet Terrill remained unmoved, ‘the words, it is clear, are wanting’ he replied ‘and the learned Serjeant’s seeking a meaning, by picking out the sense, doth yield that the words will not bear it’.<sup>91</sup>

The fruitless attempts by the courtiers to find a way out of this constitutional quagmire are best demonstrated by Edmund Fowell’s remarkable suggestion on 28 February that ‘the Protector is King of England, to all intents and purposes whatsoever’. Given that ‘since the Conquest we never had but one King’ and that office ‘never dies’, Fowell believed that it was irrelevant that the *Humble Petition* was not punctilious in explicitly listing the rights of the Protector’s successor; the Protector simply claimed the kingly office under a different title. By the same measure, Fowell continued, the Other House were ‘the old House, they have only

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<sup>89</sup> *Burton*, iii, 225-6, 351 (Terrill, 11 & 19 Feb.); See also *Ibid.*, iii, 236, 351, 529-30: speeches by Neville (12 Feb.), Gibbons (19 Feb.) & Gewen (28 Feb.).

<sup>90</sup> *Ibid.*, iii, 571-4 (1 Mar.); BL, Additional MS 5138, p. 267.

<sup>91</sup> *Ibid.*, iii, 581 (2 Mar.).

changed the names. Though new members, they are the old House'. It was pointless to refer to the *Humble Petition* alone to define the upper chamber, for 'no power is given to the other House but negative'. Indeed, 'in all things else', Fowell was confident that the Other House 'go according to the ancient usage'.<sup>92</sup> In being forced to define the constitution, the studied ambivalence of the *Humble Petition* was being exposed as a sham. The government's apologists were forced to define precisely what the constitution meant and inevitably found that they could not even agree among themselves over the issue.

Maynard muddied the waters further on 1 March when he claimed that the *Humble Petition* was 'not a grant' but a 'qualified restitution'. In particular, he emphasised how Parliament had always anciently consisted of two houses. Maynard asked rhetorically, 'How ancient is the law for a House of Commons alone to make laws?'; the answer was 'not older than 48. No Englishman will claim to it'.<sup>93</sup> Like Fowell, Maynard seemed to be suggesting that the Other House was simply the old House of Lords under a different name. Yet, there was a glaring flaw in the lawyers' claims that the *Humble Petition* was a 'restitution' of the ancient constitution. The old Presbyterian, Sir John Northcote, agreed with Maynard: 'no law was rightly made, but by King, Lords, and Commons'. But, he added tersely, 'I am sure this law [the *Humble Petition*] was not made so'.<sup>94</sup> Rather than restoring what was lost in 1649 it merely confirmed that usurpation.

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<sup>92</sup> *Ibid.*, iii, 531-3 (28 Feb.); BL, Additional MS 5138, pp. 253-4; Schilling, pp. 134-5, wrongly attributes this speech to Maynard.

<sup>93</sup> *Ibid.*, iii, 573; BL, Additional MS 5138, p. 267; Schilling, p. 145.

<sup>94</sup> *Burton*, iii, 575.

The arguments against the *Humble Petition* appealed universally to all the opponents of the Protectorate. But when they took them to their logical conclusions they found themselves at very different standpoints. For Sir Henry Vane, the destruction of the *Humble Petition* was so obvious, that ‘unless you shut your eyes, you may see that you are the undoubted legislative power of the nation’ with the ability to create a new constitutional settlement.<sup>95</sup> For the old Presbyterians and crypto-Royalists, however, the fall of the Protectorate meant an unqualified restitution or restoration not the opportunity for construction.

Indeed, besides those occasional glances at the inadequacy of the *Humble Petition*, most of the debates from February to early March were spent on the issue of ‘reversion’ – specifically, the restoration of the old peers. This is why the Republicans, as contemporaries noted, fell silent for some time.<sup>96</sup> For them, this issue presented them with an invidious situation; argue for the peers and concede that all done since 1648, including the Commonwealth, was void; argue against them and risk an open fracturing of the government’s opponents that could only benefit the Court party. Instead, the crypto-Royalists and old Presbyterians took the lead in debate. With their arguments increasingly for the rights of the old peers, one can see the beginnings of a proto-Restoration argument the extent of which had the potential to erase the Protectorate and restore the ancient constitution.

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<sup>95</sup> *Ibid.*, iii, 565 (1 Mar.); BL, Additional MS 5138, p. 264; Schilling, p. 143.

<sup>96</sup> *Thurloe*, vii, 626; Guizot, *Richard Cromwell*, i, 312-17; Bethel, *A true and impartial Narrative*, pp. 9-10.

One line of defence for the old peers was by reference to the law; specifically the laws of the pre-purged Long Parliament. Referring to the 1641 act against dissolution, Francis Goodrick explained that ‘in that very law, 16 *Caroli*, there was a clause that the House of Peers should not be prorogued, adjourned, or dissolved, without their consent’. There was also the 1641 triennial act, ‘by which twelve peers ought to meet to summon Parliament’. As such, Goodrick believed they should ‘determine first, whether you will have a House of Peers, and then, whether that House of Peers be taken away or no’.<sup>97</sup> After both these acts were brought in and read, John Stephens professed to be perplexed over how the House of Lords ‘came to forfeit’; those laws were, ‘without doubt, not repealed’.<sup>98</sup>

There were also other engagements to consider. Of particular importance was the *Solemn League and Covenant*. Stephens declared that he was ‘always against taking away the House of Peers; and that upon account of the covenant’.<sup>99</sup> Many in the Commons seemed reluctant to break this sixteen-year-old oath. Sir Henry Vane attacked the covenant, ‘calling it an Almanac out of date’, but, as the Scottish minister James Sharp observed, he was very much ‘out of fashion’.<sup>100</sup> Indeed, Presbyterians of all hues – including the Protectorist-Presbyterians – believed that the Covenant was still binding. Robert Beake, for instance, admitted that ‘we have sworn by the covenant to maintain the two Houses; and the Parliament might as well take away *meum* and *tuum* as a House of Lords’.<sup>101</sup>

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<sup>97</sup> *Burton*, iii, 352 (19 Feb.); BL, Additional MS 5138, p. 190; Schilling, p. 93.

<sup>98</sup> *Burton*, iii, 357-8 (19 Feb.); Schilling, p. 94.

<sup>99</sup> *Ibid.*, iii, 357-8 (19 Feb.); BL, Additional MS 5138, pp. 191-2; Schilling, p. 94.

<sup>100</sup> Stephen, ii, 153-6; Sharp to Douglas, 1 Mar. 1659.

<sup>101</sup> *Burton*, iii, 363 (19 Feb.).

Of course, despite both Protectorist and old Presbyterians professing to uphold the Covenant, they differed significantly over the criteria for fulfilling their engagement. For the Protectorist-Presbyterians it could be argued that the Other House was, to all intents and purposes, the House of Lords that they had sworn to maintain. For the old Presbyterians and crypto-Royalists, however, the Other House was an interloper in the place of the 'rightful' House of Peers. As Terrill was keen to point out, there were 'both civil and sacred obligations' for the rights of the old Lords. The act abolishing the Lords was completely void: 'It was inconsistent for one House to say the other was useless'. If this was allowed to be the rule then 'a Grand Jury may as well vote down the Judges; the Commonalty of London vote down the Lord Mayor and Aldermen; nay, the judges in Westminster-hall vote down this House; as this House... vote down the Lords'. As such, Terrill resolved 'to restore the old Lords to their ancient right... for two Houses being in our eye, we are obliged to set up that which hath most right'.<sup>102</sup>

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Moreover, it was not just the law that proved the Lords' right, but also the ancient qualities of the peers themselves. The old lords had always been for the interests of the people, Thomas Edgar argued; most notably 'they were the procurers of *Magna Charta*, by the Barons' wars'.<sup>103</sup> Terrill was sure that 'among Romans, Saxons, Danes, &c. the great men of the nation, the barons and nobles have been consulted with in all councils and assemblies, especially in Parliament'.<sup>104</sup> Once again, the

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<sup>102</sup> *Burton*, iii, 525 (28 Feb.); BL, Additional MS 5138, pp. 250-1; Schilling, pp. 130-1.

<sup>103</sup> *Burton*, iii, 349-50 (19 Feb.); BL, Additional MS 5138, pp. 188-9; Schilling, pp. 91-2.

<sup>104</sup> *Burton*, iii, 513-14 (28 Feb.); BL, Additional MS 5138, pp. 247-8; Schilling, p. 130; The argument is almost a carbon-copy of Prynne, *Plea for the Lords*, pp. 12-13.

Protectorist-Presbyterians were in agreement. Sir John Lenthall insisted that ‘their merits in ancient times were great’. Many ‘great benefits’ had been procured by the ‘old Lords’, not least *Magna Carta*, which ‘was obtained by them, in such a time when the Commons scarce durst ask such a thing from the King’.<sup>105</sup> There were also more recent events to consider. Terrill asked the Commons to remember back to 1640 ‘when Parliaments were grown contemptible’. In these circumstances it was the Twelve Peers ‘that took courage even whilst the King was in the midst of the army’ and ‘went with a paper in one hand, and their lives in the other, to solicit the King to call Parliament’.<sup>106</sup>

More far-reaching were references to ancient custom; particularly the lords’ hereditary rights. Whereas arguments grounded on the quality of the old lords might lead to only a limited admittance of ‘faithful’ peers; arguments based on ancient custom demanded a full-scale restoration of all the lords. Speaking for the old peers on 22 February, Thomas Gewen asserted ‘that the[y] had [a] right, it’s undoubted’, and this ‘right cannot dye tho[ugh] interrupted’. The ‘ancient bounds’ dictated that the old peers were ‘not to be removed’. According to Burton, who entered the chamber to find ‘Mr. Gewen speaking’, it seemed ‘his aim was at Kings, Lords, and Commons’.<sup>107</sup> Thomas Edgar was adamant that it was imperative to ‘maintain the honour and birthright of that House’, for ‘it is a very dangerous thing to alter laws and customs’.<sup>108</sup> All this raised an important question: did the old peers have an undisputed inheritable right to sit in the Other House?

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<sup>105</sup> *Burton*, iii, 411-12 (22 Feb.); BL, Additional MS 5138, pp. 218-19; Schilling, p. 103.

<sup>106</sup> *Burton*, iii, 515 (28 Feb.); BL, Additional MS 5138, p. 248; Schilling, p. 130; See also *Burton*, iii, 356 (Manley, 19 Feb.), 577 (Northcote, 1 Mar.).

<sup>107</sup> Schilling, p. 98; *Burton*, iii, 403 (22 Feb.).

<sup>108</sup> *Burton*, iii, 349-50 (19 Feb.); Schilling, pp. 91-2.

Those close to the Court thought not. For one, ancient custom did not demonstrate an inheritable right of parliamentary peerage. Nicholas Pedley argued that few peers could actually demonstrate an ancient right to their title. ‘Can any lineally claim, since Henry III?’, asked Pedley; he was sure ‘they cannot’. Thus, if these titles had been ‘interrupted’ in the past, then surely they could be interrupted in the present as well. ‘It is no new doctrine’, Pedley explained, ‘that the rights of particular persons may suffer for the public interest’.<sup>109</sup> Lislebone Long reminded MPs of the ‘difference betwixt the House of Yorke and Lancaster’. In those times, as each House prevailed, ‘they excluded the other party, sometimes one, sometimes the other, from sitting, tho[ugh] [they were] barons’. As such, Long found that ‘some Parliaments a whole House called, and all left out the next Parliament’.<sup>110</sup> The lessons from the past demonstrated that regime changes often necessitated changes in personnel – even the so-called ‘hereditary’ peerage.

There were also practical considerations for denying the peers a hereditary right. According to Master of Requests Nathaniel Bacon, not every peer was summoned to every parliament for ‘they were sometimes called, and sometimes left out’. The reason for this, Bacon explained, was because not all lords were fit to sit. ‘It was never intended that children, fools, and madmen, should sit there’, he explained.<sup>111</sup> John Hewley, reflecting on the important judicial functions of the Other House, believed that ‘a judicial office cannot in reason be granted to a man and his heirs’ for ‘it requires skill and science’. Given that one could never be sure that the son would

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<sup>109</sup> *Burton*, iii, 553 (1 Mar.); BL, Additional MS 5138, pp. 259-60.

<sup>110</sup> *Burton*, iii, 416 (22 Feb.); Schilling, pp. 104-5.

<sup>111</sup> *Burton*, iii, 409 (22 Feb.); BL, Additional MS 5138, p. 217; Schilling, p. 101.

share the qualities of his father, Hewley wondered ‘how can such a power be inherent that is the highest judicature?’<sup>112</sup>

It was an issue that struck at the very foundations of the Protectorate. The court lawyers were wary of hereditary peerage because it rendered the constitution inconsistent. Attorney-General Prideaux believed that ‘since the Chief Magistrate is elective, and this House elective, I wish the other House elective, and not hereditary; and so the Constitution will be homogenous’.<sup>113</sup> Nathaniel Bacon wondered if the old peers ‘come in by right of peerage, are they peers to his Highness?’ Obviously they were not; they would sit by a different right to that of those already elected. The old peers would not sit by virtue of a summons under the *Humble Petition* but by their hereditary right as confirmed by the king’s letters patent. ‘I fear they are not peers to the present powers’, Bacon explained, ‘and will not own a right from this Protector’.<sup>114</sup>

In denouncing hereditary peerage, the Court lawyers found support from some unlikely quarters. Thomas Chaloner, for instance, ‘would have no one sort of men to be hereditary judges of the nation, to them and their heirs for ever’.<sup>115</sup> Like the court lawyers, the Republicans feared the implications of setting up a hereditary right in the lords. In Sir Thomas Wroth’s opinion, the only reason certain MPs were raking up the issue of hereditary right was ‘to bring in the old Lords by degrees, and then, consequently, one who I hope my eyes shall never live to see here’.<sup>116</sup>

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<sup>112</sup> *Burton*, iii, 558-9 (1 Mar.); Schilling, pp. 140-1. See also *Burton*, iii, 359-61; Schilling, p. 95 (Bennet, 19 Feb.).

<sup>113</sup> *Burton*, iii, 590 (2 Mar.); BL, Additional MS 5138, p. 272; Schilling, pp. 154-55.

<sup>114</sup> *Burton*, iii, 534-7 (28 Feb.); BL, Additional MS 5138, p. 254; Schilling, p. 135.

<sup>115</sup> *Burton*, iii, 540 (28 Feb.)

<sup>116</sup> *Burton*, iii, 413-14 (22 Feb.).

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The Republicans and Court party also found common ground in the ideas of James Harrington; in particular his notion of a ‘balance of property’. According to *Oceana*, a government’s superstructure was determined by ‘the proportion or balance of dominion or property in land’ in the foundation. If ‘one man be sole landlord of a territory’ and thereby ‘overbalance the people’ then ‘his empire is an absolute monarchy; if ‘the few or a nobility... be landlords, or overbalance the people’ then ‘the empire is mixed monarchy’; but ‘if the whole people be landlords, or hold the lands so divided among them, that no one man, or number of men... overbalance them’ then ‘the empire... is a commonwealth’.<sup>117</sup>

The publication of Harrington’s *Art of Lawgiving* in mid-February 1659 made these ideas available to a wider audience.<sup>118</sup> The opaque form of *Oceana* had necessitated Harrington to translate his work into ‘plain’ English. No longer using the veil of a fictitious Commonwealth, England was now substituted for Oceana. Harrington demonstrated how his constitutional model was in every way agreeable to circumstances in England. Whereas ‘the land in possession of the Nobility and Clergy of *England* till Henry 7<sup>th</sup>, cannot be esteem’d to have overbalanc’d those held by the People less than four to one’; now, argued Harrington, ‘the Clergy being destroy’d, the Lands in possession of the People overbalance those held by the

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<sup>117</sup> J.G.A. Pocock (ed.), *Harrington: The Commonwealth of Oceana and A System of Politics* (Cambridge, 1992), pp. 11-13.

<sup>118</sup> See J. Scott, *Commonwealth principles: republican writing of the English revolution* (Cambridge, 2004), pp. 294-302; B. Worden, ‘Harrington’s “Oceana”: Origins and Aftermath, 1651-1660’, in D. Wootton (ed.), *Republicanism, Liberty, and Commercial Society, 1649-1776* (Stanford, 1994), pp. 126-7.

Nobility, at least, nine in ten'. Because the People held the overbalance it was beyond dispute that 'actually and positively *England* is a Commonwealth'.<sup>119</sup> The implications for the old Lords were obvious; they no longer had a sufficient balance of dominion to claim power over the People. As Harrington put it, 'an House of Peers having the over-balance, signifies something...and not having the over-balance signifies nothing'.<sup>120</sup>

A number of 'Harringtonian' MPs used this 'balance of property' as justification for the abolition of the old House of Lords. Henry Neville warned the House that 'a House of Peers' was not 'of that use now as formerly', for 'the Lords much outweighed before, and now the Commons and the people outweigh'.<sup>121</sup> Adam Baynes asserted that 'the Lords represented, at least in old time, two thirds of the rest', therefore it was 'all justice and reason they should have a co-ordination in Government'. If such men could be found 'as have such properties as may balance this House by property' he would welcome them as a House of Lords. But, given such men no longer existed, Baynes would prefer to have the Harringtonian bicameral system of 'a propounding and an enacting power... to be chosen either by the people or by some other way'.<sup>122</sup>

This notion that the old lords were superfluous because they were no longer a sufficient 'balance' had a great deal of appeal for the Courtiers as well. Struggling to win the finer legalistic debates over the rights and status of the old peers,

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<sup>119</sup> J. Harrington, *The Art of Lawgiving* (1659), pp. 142-3.

<sup>120</sup> *Ibid.*, pp. 136-8.

<sup>121</sup> *Burton*, iii, 330-1 (18 Feb.); BL, Additional MS 5138, pp. 182-3; Schilling, p. 84. See also *Burton*, iii, 132-5 (Neville, 8 Feb.).

<sup>122</sup> *Burton*, iii, 335-6 (18 Feb.); BL, Additional MS 5138, pp. 185-6; Schilling, pp. 85-6. See also *Burton*, iii, 146-8, (Baynes, 8 Feb.), 363-5 (Jenkinson, 19 Feb.), 538-40 (Chaloner, 28 Feb.)

Harringtonian theory provided a much broader justification for removing the ancient peerage that hinged on the very foundations of political power. Thomas Kelsey insisted that if they ‘divide the lands of the nation into twelve parts’ then ‘the peers at this day have scarce a twelfth part, when [before] they had two thirds’. In Kelsey’s opinion, ‘many gentlemen now sit in this House of Commons, that have as good estates as any of those Lords’.<sup>123</sup> According to Edmund Fowell the lowly standing of the new lords made them superior to the old ones. The lord protector ‘did not think fit to make every lump of gilded earth a Lord’; instead, Cromwell took ‘another measure’. In direct echo of the nobility of *Oceana*, it was, ‘their valour and virtue’ that ‘were objects to him of their honour’ not just the greatness of their estates.<sup>124</sup>

Clearly, the crypto-Royalists and old Presbyterians did not find this criticism of the old nobility easy to answer. Whenever they tried to engage with it, their objections were grounded on a stubborn assertion that the old lords still outweighed the commons. Annesley complained how ‘it is objected that the Peers sat at first upon account of their ancient possessions, and their great properties and estates’ but have little interest now. But, if those new lords were compared to the old ones, Annesley was confident that he ‘could name five or six of the ancient Peers that are not disabled from sitting; that have estates and interests equivalent to buy out all that sit there now’.<sup>125</sup> John Stephens went so far as to admit that ‘the ground why the Lords were always called to sit in Parliament was because they had the greatest share in the kingdom’ which was ‘not so now’. Yet, while he accepted the Commons, having a ‘larger interest’, should ‘have a greater share in the Government’, he did not believe

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<sup>123</sup> *Burton*, iii, 408 (22 Feb.); BL, Additional MS 5138, pp. 215-16; Schilling, pp. 100-1.

<sup>124</sup> *Burton*, iii, 353-4 (19 Feb.); BL, Additional MS 5138, pp. 190-1. See Pocock (ed.), *Oceana*, pp. 23-4, 137-41.

<sup>125</sup> *Burton*, iii, 592 (2 Mar.); BL, Additional MS 5138, p. 273; Schilling, p. 156.

that gave licence to bar those old lords ‘as have not forfeited’. In Stephens’ analysis, the balance of property might change, but ancient custom remained constant.<sup>126</sup>

This inability to engage with Harringtonianism also puts an interesting spin on the arguments made by Norwich MP John Hobart on 28 February 1659. Hobart is a curious figure. Although he has often been labelled a Republican, Egloff believes ‘that Hobart was no Republican but rather an extremely clever crypto-royalist’. It is an intriguing theory that neatly sums up the ‘fluidity’ and ‘confusion of party groupings’ in this period.<sup>127</sup> Undoubtedly, Hobart’s case is an exemplar of the ease with which contemporaries often saw Republicans and crypto-Royalists as one and the same. Yet there are some significant inconsistencies with Hobart’s stance on the old peerage that would suggest that historians have not ‘been misled’ quite as much as Egloff would contend. Indeed, it is possible to examine Hobart’s arguments on 28 February in a level of detail not afforded by many of the other orations during this Parliament. Not only do all three surviving parliamentary diaries record his speech, but a draft in Hobart’s hand also survives that significantly supplements the points raised and recorded in the House.<sup>128</sup>

If Hobart was a crypto-Royalist, he was unique among their number for coming out in favour of Harringtonian theory. He professed that ‘I cannot here but take notice of the

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<sup>126</sup> *Burton*, iii, 404-5 (22 Feb.); BL, Additional MS 5138, pp. 214-5; Schilling, p. 99.

<sup>127</sup> C. Egloff, ‘John Hobart of Norwich and the Politics of the Cromwellian Protectorate’, *Norfolk Archaeology*, 42 (1994), pp. 38-56.

<sup>128</sup> There are four surviving versions of this speech: BL, Additional MS 15863 (*Burton’s Diary*, Vol. 5), fols. 37v-38r; BL, Additional MS 5138 (*Goddard’s Diary*), pp. 257-8; Schilling, p. 137; Bodl., Tanner MS 51, fols. 25-6: draft of Hobart’s speech, 28 Feb. 1659.

Ingenuity of those gents who seeme to be most fixed upon Popular Principles'.<sup>129</sup>

According to those gentlemen:

The Monarchy of England [was] the best limited Monarchy in the world, the House of Peers [was] the best Boundary between the Supream Magistrate and the people and if such a Boundary could be now found it would be but to submit to it.<sup>130</sup>

So it must be the 'first care' of the Commons 'to find such another House as the old House of peers was which may be a sufficient Bulwark for us'.<sup>131</sup> Yet, Hobart, like the Harringtonians, was certain the old lords were no longer sufficient. Even if they were to 'restore all the late House of Peeres & add to them those who are now called to sitt in the other House', it was no more 'the auncient Bullwarke between the Prince & People than those partitions of reed wherew[ith] the gardiners here defend theyr Cowcumers & melons can be called the Picts wall or that wh[ich] divides China from the Tartars'.<sup>132</sup>

This denunciation of the old peers seems startling if Hobart is taken to be crypto-Royalist. At a time when other crypto-Royalists were moving openly for a restoration of the old peers, it seems odd that Hobart should continue to 'mask' his true feelings. Instead, Hobart went on to express ideas for modelling the upper chamber that were conspicuously close to Harringtonianism and diametrically opposed to the old Presbyterians and crypto-Royalists. In particular, he noted the Harringtonian proposal of dividing the functions of the two houses so that they would have 'a propounding & a deliberating power in makeing Lawes'.<sup>133</sup> Although it appears Hobart said no more

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<sup>129</sup> Bodl., Tanner MS 51, fol. 25.

<sup>130</sup> BL, Additional MS 5138, pp. 257-8. It is clear from the other surviving versions that Hobart talks about monarchy and the lords in the past tense. See BL, Additional MS 15863, fols. 37v-38r; Bodl., Tanner MS 51, fo. 25; Schilling, p. 137.

<sup>131</sup> BL, Additional MS 5138, pp. 257-8.

<sup>132</sup> BL, Tanner MS 51, fol. 25; BL, Additional MS 15863, fols. 37v-38r.

<sup>133</sup> BL, Additional MS 15863, fols. 37v-38r; Bodl., Tanner MS 51, fol. 25.

on the subject in Parliament, or if he did the three diarists failed to record it, he made a lengthy note on the subject in his draft speech. Specifically, Hobart would allow the upper chamber to have a negative on bills that concerned the perpetuation of parliament, matters of religion, revenue and altering government by a single person and two houses of Parliament. In all other things, however, the upper house would only be allowed 'a deliberative power'.

The conclusion to Hobart's speech also reveals how far he was from the crypto-Royalists in this debate. While the old Presbyterians and crypto-Royalists were seeking to shift debate onto the 'persons' sitting in the Other House and, more specifically, the rights of the old Lords, many of the Republicans wanted to move discussion back onto the 'bounds' or 'powers' of the chamber. According to Thomas Burton, Hobart concluded his speech by taking a conservative line on the issue; that is, he would 'first deb[ate] ye p[er]sons & then the powers'. Yet this was a mistake on the diarist's part. Perhaps prejudging Hobart as a supposed 'Royalist' and therefore writing what he thought he heard, or maybe just making a genuine scribal error, Burton got it wrong. Goddard's diary and Hobart's draft speech both confirm that his true motion was to 'bound the Negatives before you assert ye persons'.<sup>134</sup> Rather than moving for the old lords, he wanted to get back to the issue of the powers of the Other House. Instead of Hobart's 'occasional use of republican rhetoric' being some sort of window-dressing for his secret desire of monarchical government, it would appear that it was actually the genuine expression of a Harringtonian view on the way Parliament should be structured.

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<sup>134</sup> BL, Additional MS 5138, pp. 257-8; Bodl., Tanner MS 51, fols. 25-6. Rutt, faced with this apparent inconsistency, merely inserts the phrases from both Burton and Goddard without comment, leaving a hopelessly confused conclusion which reads 'First debate the persons, and then the powers. I move to bound the negatives, before you assert the persons', *Burton*, iii, 543.

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Overall, at the core of the initial phase of the Other House debates was a significant difference of opinion over where true legitimacy lay. For the Republicans, all power was in the people. As Thomas Scot put it: ‘we are not King, Lords and Commons, we lost that about 44 or 45, before we lost our virginity’. Nor were they ‘upon the Petition and Advice’; instead they were ‘only upon the foundation of the people’.<sup>135</sup> For them, true authority had been usurped in 1653 with the intervention of Cromwell and the army. Although the Republicans might differ on what they would replace the Protectorate with, they had no doubts that the *Humble Petition and Advice* was void. Their ‘Good Old Cause’, as it became known, was to restore the people’s liberties.

The crypto-Royalists and old Presbyterians, on the other hand, saw 1648 as marking the point at which the nation’s liberties were overthrown. Writing shortly after the dissolution of Richard’s Parliament, Annesley claimed that the true ‘Good Old Cause’ was embodied in a parliamentary declaration of 17 April 1646, in which it was declared that ‘the fundamental constitution and Government of the Kingdome’ was ‘to be by King, Lords and Commons, which they will not alter’.<sup>136</sup> For the old Presbyterians in particular, the Solemn League and Covenant was a sacred oath to be maintained to the letter. Time and again, the crypto-Royalists and old Presbyterians stressed that such engagements were not a thing to be taken lightly. That the old peers should be preserved was evident from the sheer number of ‘protestations, vows, covenants, solemn leagues, and declarations of Parliament for the preservation of

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<sup>135</sup> *Burton*, iii, 336-7 (18 Feb.); BL, Additional MS 22919, fol. 78: Marvell to Downing, 11 Feb. 1659.

<sup>136</sup> Annesley, *England’s Confusion*, pp. 19-20.

their privileges'.<sup>137</sup> For these men, the clock needed to go back to the late 1640s and preferably to the time of the Newport Negotiations; before those engagements had been irrevocably broken by Pride's Purge and the Regicide.

For the Court and their allies, legitimate authority lay with the *Humble Petition and Advice*. John Birch wanted 'our cause to be, not what we said it was, that were engaged in it, but what those that engaged us said'.<sup>138</sup> This included punishing delinquents, balancing control of the militia and preserving people's estates – all of which, Birch argued, were 'provided for in the Petition and Advice'. In Maynard's phrase, the *Humble Petition* represented a 'qualified restitution' under which the Protectorist-Presbyterians could acquiesce comfortably by substituting the words 'king' and 'House of Lords' for 'Protector' and 'Other House'. By this reading, the government was founded on a deliberately ambivalent mix of old and new. Although the Protectorate was grounded upon the *Humble Petition*, wherever it was unclear or unspecific the 'ancient laws' would supply the discrepancy. As such, it offered the best of both worlds; a return to a familiar system of government without having to risk everything on a Stuart Restoration. It was not in their interests to look back; indeed, they had to tacitly accept all done since 1648 as a necessary evil to reach the current constitutional settlement. As Saumel Gott put it, they should 'not go back to times past, nor look forward to *Oceana's* Platonical Commonwealth; things that are not, and that never shall be'.<sup>139</sup>

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<sup>137</sup> *Burton*, iii, 591-2 (Annesley, 2 Mar.)

<sup>138</sup> *Ibid.*, iv, 61 (7 Mar.)

<sup>139</sup> *Ibid.*, iii, 144 (8 Feb.)

Many of the old courtiers insistently questioned whether ‘Charles Stuart be at the bottom of this debate’ for the old Lords.<sup>140</sup> As Thomas Kelsey argued, if the laws that took away the House of Lords were void then ‘there is no foundation for any thing that had been done since. All hath been a mere usurpation of the House of Commons’. As such, ‘it will naturally follow that Charles Stuart is as rightful king at this day as the Lords are rightful Lords’.<sup>141</sup> It was a potent reminder to their newfound Protectorist-Presbyterian allies of the risks lurking behind those seemingly plausible motions for the old peerage; it would be self-destructive to the existing constitutional settlement to allow the lords to be restored by virtue of their ancient rights.

It is equally apparent that the Court was endeavouring to draw the Republicans into the debate against the crypto-Royalists and old Presbyterians as well. Obviously, neither group wanted to see a Restoration of monarchy. Lechmere could see that if the results for the old peerage were taken to their logical conclusions then the result would be ‘invalidity’ for both the Petition and Advice and ‘many good Acts in the end of the Long Parliament’ as well; it ‘brings us to what, and where, we were’.<sup>142</sup> Prideaux was sure that ‘peerage will necessarily bring in regality, high and great enough’. He was particularly keen to highlight how restoring the old lords would mean that ‘from 42 to 48... from thence to 53, and from thence, hither, - all are void’.<sup>143</sup> The implications were clear; the underpinnings for both Commonwealth and Protectorate would be destroyed.

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<sup>140</sup> *Burton*, iii, 525 (Prideaux, 28 Feb.).

<sup>141</sup> *Burton*, iii, 406-8 (22 Feb.); See also *Burton*, iii, 553-4: speech by Pedley (1 Mar.).

<sup>142</sup> *Burton*, iii, 353 (19 Feb.); BL, Additional MS 5138, p. 190.

<sup>143</sup> *Burton*, iii, 526 (28 Feb.); BL, Additional MS 5138, p. 251; Schilling, p. 132.

Clearly, this initial stage of the Other House debates had divided the Commons significantly and highlighted a number of important differences between the ends to which certain MPs were working. Rather than the Republicans taking the lead in debate, the crypto-Royalists and old Presbyterians were the government's main opponents. Indeed, the Republicans often remained silent or could even be found siding with the Court on certain topics. By early March 1659, however, all this would change. A crucial motion on 1 March helped to shift the initiative in debate back to the Court, thereby realigning the parties in the House into a more familiar pattern.

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### **The Issue of 'Transacting' and the Question of the Old Peers**

Seeking to move away from the divisive issue of the old lords, the Protectorate's supporters, led by the Protectorist-Presbyterians, began to make motions to divert focus onto the new lords and the incumbent Other House instead. This change in emphasis became apparent on 28 February when John Bulkeley and John Birch argued that the best way to proceed was to 'declare that the members to sit hereafter in the other House shall be approved of by both Houses'.<sup>144</sup> Of course, this would tacitly mean the acceptance of the existing Other House and all those who already sat there; as Sir Henry Vane complained 'it is a granting by the lump all that are in

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<sup>144</sup> *Burton*, iii, 544. 547 (28 Feb.).

possession to be approved on already by this House, and only gives us power to consider of members hereafter to be added'.<sup>145</sup>

In a similar vein, on 1 March John Swinfen moved that 'the best and nearest an issue, will be to put whether this House now sitting, will transact with the other House now sitting, as a House of Parliament'.<sup>146</sup> According to Goddard, 'the Q[uestion] thus propounded was Immediately Seconded & Thirded by some little ones of the same party, and was soon apprehended as a thing that had been Studiously contrived and forged at Court'. By the end of the day's debates, Goddard notes how 'that party became to be called by the name of Transactors'.<sup>147</sup>

Immediately, the Republicans were on their feet in opposition to Swinfen's motion. Henry Neville warned that 'to move that we shall transact with them begs the question... you will swallow the Petition and Advice at once'. For Neville 'your proper question... is whether the House you intend shall be the Other House mentioned in the Petition and Advice'.<sup>148</sup> Haselrig, harking back to the legalist arguments of Terrill, believed the more appropriate question was 'whether those Peers... that now sit in the Other House, have any foundation to sit by the Petition and Advice'.<sup>149</sup> Their opposition proved futile, however. When the vote was taken whether to put the question that 'it be the matter of the debate to-morrow morning, that this House will transact with the persons now sitting in the Other House, as a

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<sup>145</sup> *Ibid.*, iii, 545-6 (28 Feb.)

<sup>146</sup> *Ibid.*, iii, 563-4 (1 Mar.)

<sup>147</sup> BL, Addition MS 5138, p. 263 (1 Mar.); See also Stephen, ii, 153-6.

<sup>148</sup> *Burton*, iii, 564 (1 Mar.)

<sup>149</sup> *Ibid.*, iii, 569 (1 Mar.); See also *Ibid.*, iii, 579-80, 581-3: speeches by St Nicholas & Terrill (2 Mar.).

House of Parliament', Neville and Haselrig, acting as tellers for the *Noes*, were defeated by 177 votes to 113.<sup>150</sup>

The crypto-Royalists and old Presbyterians were equally alarmed by the ramifications of Swinfen's motion. If the new Cromwellian peers were confirmed in their seats under the constitutional arrangements of the *Humble Petition*, then any hope of restoring the old lords on the basis of their ancient rights was effectively precluded. Annesley attempted to forestall Swinfen's motion on 2 March by imploring the house that 'if you right not the antient peeres, yet do them no wrong'. No doubt, attempting to tap the consciences of those Protectorist-Presbyterians who remained ambivalent towards the old peers, Annesley was 'sorry we have forgot the beginning of the debate, when the current opinion was, if not to restore, yet not to prejudice the old Peers'. He doubted whether 'the expedient offered will not hinder the excluding of the old lords', because it would 'clog them so that they will not sit'. The old peers would not sit under the *Humble Petition*; unless they could sit by their ancient right, they would simply be betraying themselves. As such, Annesley wanted the question to be that 'this House will transact with the persons called by writ, and now sitting in the Other House', with the addition 'not intending hereby to exclude such of the ancient Peers who have been faithful to the Parliament from their privileges of being summoned, and sitting members of that House'.<sup>151</sup> Annesley was advocating a 'two tier' Other House with the new lords summoned on the basis of the *Humble Petition* and the old peers sitting by virtue of their ancient 'privileges'.

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<sup>150</sup> *CJ*, vii, 609 (1 Mar. 1659).

<sup>151</sup> Schilling, pp. 155-7; *Burton*, iii, 591-4 (2 Mar.); BL, Additional MS 5138, pp. 272-4.

Yet Annesley's motion made little impact because the Court party had already seen it coming. Even before Annesley spoke, some of the court lawyers began to express a preference for letting some of the old lords take their seats. Prideaux, for instance, was 'very willing that those of the old Lords that have been faithful be taken in'.<sup>152</sup> Lechmere's only objection to Swinfen's motion was that 'those honourable persons that have been courageous and persons of fidelity are not restored'.<sup>153</sup>

This apparent *volte face* by the court lawyers was undeniably borne out of a concern to keep the 'Court party' together. As the debates on the old lords in late February had demonstrated there were many among the Protectorist-Presbyterians who were uneasy about positively excluding the old lords from the Other House. Similarly, when focus shifted to transacting with the Other House, a number of Protectorist-Presbyterians continued to stress their concern for the old peers. Even Swinfen admitted that 'the only fault' with his motion was that 'fit persons, that ought rightfully to sit, and have been faithful to you, are left out'.<sup>154</sup> The Protectorist-Presbyterians felt obliged under the *Solemn League and Covenant* to at least do 'no wrong', as Annesley put it, to the old peers. According to the Irish MP Jerome Sankey the addition for the old lords was 'urged by such Presbyterians as I am perswaded thought... they were bound not to prejudice the peers upon the accompt of the covenant'. Chief among these were the prominent Protectorist-Presbyterians Bulkeley, Grove, Swinfen, Bampffield and Godfrey.<sup>155</sup>

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<sup>152</sup> *Burton*, iii, 591 (2 Mar.)

<sup>153</sup> *Ibid.*, iii, 587 (2 Mar.)

<sup>154</sup> *Ibid.*, iii, 563-4 (1 Mar.)

<sup>155</sup> Gaunt, *Lansdowne*, pp. 473: Sankey to H. Cromwell, 8 Mar. 1659.

The Courtiers were forced to fall in with the Protectorist-Presbyterians on this issue or risk losing their support. According to Sankey, Thurloe was so indiscreet as to admit that ‘he liked not the addition, but could not tell how to helpe it, unless to bringe in confusion by the loss of the question’; this pragmatic approach was apparently shared by ‘Mr. Trevor, sargeant Maynard, Mr. solicitor [Ellis], Mr attorney generall [Prideaux] etc’.<sup>156</sup> The addition to the question was a guaranteed vote-winner for the Court party. As Thomas Gorges informed Henry Cromwell on 8 March, the Court ‘findinge the yonge gentlemen very zealous to preserve the rights of the anteant lords, added a salvo to the rights of the aunteant peers that have contened faythfull to this commonwealth’.<sup>157</sup>

Yet, despite favouring the addition to Swinfen’s motion, the Courtiers and Protectorist-Presbyterians were highly ambivalent over what it actually meant for the old lords. By their reading, it offered a lot while actually giving away very little. As Samuel Gott explained, ‘the salvo offered’ for the old lords, ‘will be enough to discharge us’ because ‘after that we have saved their rights’. As such, Gott ‘would have the addition put first, that all things *in time* may be settled in a fair and satisfactory way’.<sup>158</sup> This was hardly a firm assurance that the old lords would be allowed to sit with the new peers. It stated that they would not take away the lords’ rights but, by the same token, it did not say they would positively promote them either. John Birch, was ‘for that addition, that they shall not be excluded, *when duly summoned*’.<sup>159</sup> Again, when that would be precisely was left open to interpretation. By the Court’s rendering, the addition for the old lords was worthless; only after the

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<sup>156</sup> *Ibid.*, p. 473; Bethel, *A true and impartial Narrative*, p. 8.

<sup>157</sup> Gaunt, *Lansdowne*, p. 468; *Ludlow*, ii, 59-60.

<sup>158</sup> *Burton*, iv, 58 (7 Mar.); See also *Ibid.*, iii, 587 (Lechmere, 2 Mar.); *Ibid.*, iv, 49-50 (Swinfen, 7 Mar.).

<sup>159</sup> *Ibid.*, iv, 60 (7 Mar.). Emphasis added.

Other House had been recognised would they be allowed to take up their seats in the upper chamber. They would sit as members of the Other House rather than peers of the House of Lords; their foundation would be the *Humble Petition* not the ancient constitution.

To distract from this short-changing of the ancient peers, arguments of expediency and necessity were advanced stressing the need to transact with the Other House sooner rather than later. Gott admitted that ‘I am as little pleased with these Lords as any man’ yet the Commons were ‘but one leg, and cannot go, but hop up and down without them’. Even if they were a second-rate substitute, it was better to transact with the Other House than to reject them altogether; as Gott put it, ‘I have seen a man walk very well with a wooden leg’.<sup>160</sup> John Thurloe also reminded MPs of the consequences of not transacting with the Other House. ‘If this pass in the negative’, he argued, ‘you must lay aside your officers, and change your militia. You must lay aside his Highness... You will be just where you were in 48. You declare all that in the lump.’<sup>161</sup> The threat of force from the army was also raised; John Birch, for one, believed a negative on this question would ‘make them gird their swords closer about them’. These were strong words that, according to Burton, ‘some said he should not have said’.<sup>162</sup>

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<sup>160</sup> *Ibid.*, iv, 57 (7 Mar.)

<sup>161</sup> *Ibid.*, iv, 70 (7 Mar.); See also *Ibid.*, iv, 30, 32-33 (Steward & Bacon, 5 Mar.), 65-66, 73-5 (Bacon & Maynard, 7 Mar.).

<sup>162</sup> *Ibid.*, iv, 62 (7 Mar.).

It was at this juncture that the Republicans, crypto-Royalists and old Presbyterians came together in debate. Writing to Henry Cromwell on 8 March, Jerome Sankey noted how many were now ‘assertinge the right of the old peers’ upon the belief that the addition ‘would wholly exclude them’. These included Booth, Hungerford, Annesley, Turner, Tyrrell, and Morice among others, who in this debate ‘fell [in] with the commonwealth party’.<sup>163</sup> Anthony Morgan believed that the ‘commonwealth party’ were likely to be joined in this debate by ‘such as... are violent for the old peerage under which cloke some carry Charles Steward’.<sup>164</sup> This alliance was no coincidence; Edward Massey informed Secretary Nicholas that with ‘Cromwell’s party being so strong’, the best hope for the Royalists was to ‘account with the Republick Party and pres them on to interrupt Cromwell in his course’.<sup>165</sup> Even Edward Hyde believed it was a mistake to look upon the ‘Republicall party as the only iriconcilable people’ for voting in the opposite direction ‘doe asist Cromwell to that degree and make him too much master’.<sup>166</sup>

With the vote for transacting with the Other House imminent, the issue up for debate was no longer what they would replace the Protectorate with but whether they should recognise the constitutional arrangement as it stood, starting with the Other House. As such, these groups were forced to collaborate in order to prevent the Protectorate from entrenching itself and thereby undermining any chance of an alternative settlement – whether commonwealth or monarchy. They hoped to at least keep the Protectorate in a state of suspended animation.

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<sup>163</sup> Gaunt, *Lansdowne*, p. 472.

<sup>164</sup> *Ibid.*, p. 469: Morgan to H. Cromwell, 8 Mar. 1659.

<sup>165</sup> *Nicholas Papers* iv, 74-6: Massey to Nicholas, 5/15 Mar. 1659.

<sup>166</sup> Bodl., MS Clarendon 60, fols. 270-1: Hyde to Modaunt, 1/11 Apr. 1659.

This alliance proved frustrating for the Courtiers. Writing on 25 March one agent revealed to Hyde that ‘the Cavaliers joyne so apparently’ with the Commonwealths, that ‘Serg[ean]t Maynard... protested in the lobby with such indignation that he thought C[harles] Stuart had more freinds in the House then the Protector’. Commenting on this seemingly unholy alliance, Hyde’s informant admitted that ‘strange it is how those two factions, different in minds, and manners, principalls and *ends*, shuld unite thus firmly’.<sup>167</sup> Yet it was not difficult to see why these groups came together; as John Mordaunt confessed to Hyde, he could not ‘say they agree perfectly in anything but opposition’.<sup>168</sup> With their backs against the wall, Republicans, crypto-Royalists and old Presbyterians all began to make the same noises. Primarily, their arguments came to revolve around three connected issues – the inadequacy of the new Cromwellian peers, the need to ‘approve’ the existing members of the Other House and the betrayal of the old lords.

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The most recurrent argument to emerge from all the government’s opponents from 2 March onwards concerned the inadequacy of the existing membership of the Other House as a ‘balance’ on the Commons. First of all, there was the obvious criticism of the large military contingent sitting in the Other House. According to Adam Baynes, the Other House ‘have twenty-two or twenty-three regiments, divers garrisons, and the Tower of London’. As such ‘it matters not what laws you make, or they consent to’, for ‘if they have a mind to break in upon a paper law, they have a force to do

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<sup>167</sup> Bodl., MS Clarendon 60, fol. 248: Broderick to Hyde, 25 Mar. 1659.

<sup>168</sup> Bodl., MS Clarendon 60, fols. 209-10: Mordaunt to Hyde, 8 Mar. 1659.

it'.<sup>169</sup> Thomas Scot complained how the constitution was now settled in 'a House of Commons, a council of officers, and a single person'.<sup>170</sup> Sir John Northcote was disgusted that 'some of them that offered force to Parliaments, and disturbed us, are sitting there' and warned that 'what they have done they may do' again.<sup>171</sup> In response, members of the Court party, including a number of Protectorist-Presbyterians, made some remarkable speeches in defence of the military contingent. John Birch was adamant that 'the army should be there'.<sup>172</sup> Francis Drake answered the objection that 'there are many soldiers' by quipping that they would be 'the better guards'.<sup>173</sup> Yet, such arguments could not overcome the latent anti-militarism of the majority of the House.

This distaste for the military element in the Other House also amplified a wider question of political independence. The majority of those sitting in the Other House were protectoral 'salary men'; 'they are all officers, counsellors, judges, and chancellors' as Herbert Morley put it.<sup>174</sup> Henry Neville pointed out the paradox in giving 'them salaries to be your balance'. By doing so, 'they depend upon the single person, and they are paid by the public revenue' meaning the Commons would have 'two negatives upon you...when you think to diminish' that revenue.<sup>175</sup> Haselrig mocked how many that now sat in the Other House had originally offered the *Humble Petition and Advice* to Oliver Cromwell in the first place. As such, 'those persons that now sit, indeed did choose themselves. They chose the single person, and he chose

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<sup>169</sup> *Burton*, iv, 31 (5 Mar.); Schilling, p. 170.

<sup>170</sup> *Burton*, iv, 35 (Scot, 5 Mar.); Schilling, p. 171.

<sup>171</sup> *Burton*, iv, 33 (5 Mar.); Schilling, pp. 170-1.

<sup>172</sup> *Burton*, iv, 61 (7 Mar.)

<sup>173</sup> *Ibid.*, iv, 25-6 (5 Mar.); BL, Additional MS 5138, p. 281; Schilling, p. 167.

<sup>174</sup> *Burton*, iii, 588 (2 Mar.); Schilling, p. 153.

<sup>175</sup> *Burton*, iv, 25 (5 Mar.); BL, Additional MS 5138, pp. 279-80; Schilling, p. 166. See also *Burton*, iv, 48, 64, 65 (Chaloner, Hungerford & Booth, 7 Mar.)

them'.<sup>176</sup> William Morrice agreed that the Other House effectively gave the Protector 'two negatives' upon the Commons – 'they will be but his echo'.<sup>177</sup>

Remarkably, the Republicans even lavished praise on the old lords as a means to discredit the new. On 5 March, Henry Neville remembered the days when 'the Lords' House paid this' and there were 'so many blue coats... that sat in this House, as we could see no other colours there'; that is, 'near twenty Parliament-men would wait upon one Lord, to know how they should demean themselves in the House of Commons'. Yet, it was now the case that 'the Commons... are much more considerable' and that 'we must...pay the Lords'. As such, Neville professed to like the old lords much better than the new ones; because they had 'no dependency' they were 'much more fit and indifferent'.<sup>178</sup>

Commenting on Neville's speech, Gaby Mahlberg has suggested that Neville was sincere in his preference for the old Lords 'but he would change their status and function and turn them into something resembling a Harringtonian senate'; they would be a 'Harringtonian senate in disguise'.<sup>179</sup> Yet, Mahlberg is reading too much into a debate that was deliberately misleading. At the beginning of his speech, Neville went so far as to state that he was 'for another House' before adding 'but not this, nor that, but another. I am, in truth, against both these Houses'.<sup>180</sup> As Mahlberg admits, Neville 'came to accept the old Lords only as the lesser evil in comparison to the Cromwellian other House'; he would obviously have preferred neither.<sup>181</sup> Instead,

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<sup>176</sup> *Burton*, iv, 77 (8 Mar.); Schilling, p. 183.

<sup>177</sup> *Burton*, iv, 59 (7 Mar.); Schilling, p. 181.

<sup>178</sup> *Burton*, iv, 23-5 (5 Mar.); BL, Additional MS 5138, pp. 279-80; Schilling, pp. 165-66.

<sup>179</sup> Mahlberg, *Henry Neville*, p. 155.

<sup>180</sup> *Burton*, iv, 23 (5 Mar.); BL, Additional MS 5138, p. 279.

<sup>181</sup> Mahlberg, *Henry Neville*, pp. 152-3.

Neville was clearly trying to align himself with the old Presbyterians and crypto-Royalists in the Commons by suggesting that the old lords ‘though rich commoners now’ were, on balance, preferable to those timeservers who sat in the Other House.<sup>182</sup>

Mahlberg’s suggestion that Neville was developing a unique brand of Harringtonianism that absorbed and restructured the ancient constitution ‘on the basis of changed property and power relations’ misses the wood for the trees. The same is true of Worden’s argument that Neville’s tactics were reflective of his Machiavellian approach to politics. He was ‘doing in 1659 what we shall find him doing in 1680-81: smuggling in as much as he can of Harrington’s program while making only occasional use of its more exotic and unsettling language’. True, earlier in the debate when the issue at stake was a new constitution, or reconstruction of the *Humble Petition*, Neville deviated from his fellow Commonwealthmen – castigating the Rump parliament on 8 February 1659 as an ‘oligarchy, detested by all men that love a Commonwealth’ before claiming that we ‘that are for a Commonwealth, are for a single person, senate, and popular assembly’.<sup>183</sup> By March 1659, however, Neville, like all other opponents of the Protectorate, was simply striving to prevent the recognition of the Other House in its current guise; constitution building was no longer the issue foremost in his mind.

Indeed, there was nothing particularly unique about what Neville was arguing at this point – it was a view shared by a number of Republicans who commented on the issue during these debates. Sir Arthur Haselrig, who was certainly no Harringtonian, ‘had rather, with all my soul, those noble Lords were in’; ‘such men as depend upon

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<sup>182</sup> *Burton*, iv, 25; Schilling, p. 166.

<sup>183</sup> Worden, ‘Harrington’s “Oceana”’, pp. 127-32.

thems[elves] [and] not the court'.<sup>184</sup> Like Neville, Scot admitted he was 'neither for old nor new' lords. But he wondered what was the use of 'such a Peerage... that must borrow 12*d.* to buy a blue ribband to distinguish their honour'. The old lords, on the other hand, were much better given that they did 'not serve according to the institution and interest' of the single person.<sup>185</sup> By stressing the qualities of the old peers compared to the new these Republicans were cleverly aligning themselves with those who would have preferred a restoration of the House of Lords outright. It was never anything more than a calculated argument in order to convince more moderate MPs to oppose Swinfen's motion.

The opponents of the Other House also converged on the issue of 'approving' the new lords. Haselrig, for instance, claimed remarkably that 'I am for another House, if you, as the Commons of England, may bound them and approve them'.<sup>186</sup> Unlike the motions by Birch and Bulkeley on 28 February, however, these opponents were looking to approve the existing members of the Other House, not just those who came in subsequently. In John Stephens' opinion it was not fit to admit them all 'in a lump', but would be better for the Commons to first 'approve them one by one'. Stephens even went so far as to produce a 'list in print' of the members of the Other House and moved that 'we approve of those now sitting, beginning at the bottom of the list and going up to the top'.<sup>187</sup> The obvious implication, however, was that by picking through the names of the current members, the Commons would fall into debilitating debate as they sought to remove all those who they saw as objectionable. Indeed, it was for that very reason that both civilian and military Cromwellians alike had agreed

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<sup>184</sup> *Burton*, iv, 78, 81-2; Schilling, pp. 184-5.

<sup>185</sup> *Burton*, iv, 34-7 (5 Mar.); Schilling, p. 172. See also *Burton*, iv, 39-40, 48, 77, 84: speeches by White (5 Mar.), Chaloner (7 Mar.), Reynolds & Lambert (8 Mar.).

<sup>186</sup> *Burton*, iv, 13-14 (4 Mar.).

<sup>187</sup> *Ibid.*, iv, 20-1 (5 Mar.); See also *Ibid.*, iv, 11-12 (Stephens, 4 Mar.), 59-60 (Morrice, 7 Mar.).

in June 1657 to rescind the Commons' approbation in the first place. John Hewley saw what they aimed at when he asked the Commons to consider what would happen 'if you should approve none of them, then you must transact with the walls'.<sup>188</sup>

Moreover, this idea of 'approving' the members of the House of Lords had its origins before the *Humble Petition*. One of the 'Four Bills' sent to Charles I after his escape to the Isle of Wight in 1647 had demanded that 'no person that shall hereafter be made a Peer... shall sit or vote in the Parliament of England without consent of both Houses of Parliament'. Colonel Joachim Matthews was certain that 'the approbation of those in the other House ought to be in this House' and this was 'not only clear by the Petition and Advice, but by an ordinance sent to the King [on] the Isle of Wight'.<sup>189</sup> It had also been part of the negotiations with Charles I at Newport that the Commons should approve all subsequent creations of peers.<sup>190</sup> Indeed, this precedent had been first raised on 19 February, when 'Mr. Onslow' in pursuance of the 'propositions at the Isle of Wight', offered a Bill that 'all peerages made after the great seal was taken away [in 1642], be void and that no Peers be afterwards made but such as shall be by judgment of both Houses'.<sup>191</sup> Although originally intended as a bound on the king's ability to compose the House of Lords at will, the rule was easily translated to the Lord Protector and his Other House. For the old Presbyterians and crypto-Royalists it would not have been incompatible to restore the old peers and have the approbation of the new ones in the House of Commons; it was no more than had already been agreed in 1648.

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<sup>188</sup> *Ibid.*, iv, 14 (4 Mar.).

<sup>189</sup> *Burton*, iv, 15 (4 Mar.); Schilling, p. 163. See also *Burton*, iii, 541: speech by Godfrey (28 Feb.).

<sup>190</sup> See *Burton*, ii, 21-2: speech by Bond (24 Apr. 1657).

<sup>191</sup> *Burton*, iii, 366 (Onslow, 19 Feb.). See also BL, Additional MS 5138, p. 214 (Stephens, 22 Feb.).

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More importantly, crypto-Royalists, old Presbyterians and Republicans alike complained that the addition to the transacting vote was a sham, emphasising how it forced the old lords to sit under the terms of the *Humble Petition* rather than by their ancient right. John Stephens was very much ‘against that addition offered’ because rather than ‘not excluding the rights of the old Peerage’ he believed it ‘will exclude them in fact’.<sup>192</sup> Sir Arthur Haselrig emphasised this point when he claimed from his ‘soul’ to ‘exceedingly honour’ the old Lords, particularly the earls of Manchester and Northumberland, Viscount Saye and Lord Wharton.<sup>193</sup> No doubt, these names were chosen carefully; all of them had been asked to sit in the Other House and all had refused in order to avoid betraying their ancient rights.<sup>194</sup> Clearly, if those lords who had already been invited to sit had refused, then it was unlikely that the addition to the transacting question would make much difference. Few of the old lords would demean themselves by sitting among the new Cromwellian peers. As one Royalist agent mocked, ‘should the old Lords accept the honor to accompany Goff, Huson, etc., there’, it ‘would make a fine Courte Hodge-podge’.<sup>195</sup>

Moreover, those defending the old lords tried to demonstrate that in practical terms alone the addition to the transacting vote was disingenuous. Sir Anthony Ashley Cooper reminded the House that by the *Humble Petition* the membership of the Other House ‘is to be but seventy’. Therefore if there were ‘sixty already’ there, ‘how can

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<sup>192</sup> *Burton*, iv, 21 (5 Mar.).

<sup>193</sup> *Ibid.*, iv, 78 (8 Mar.)

<sup>194</sup> According to Mordaunt, Richard had sounded out Northumberland about taking a seat in the Other House, but his answer was ‘till the government was such as his Predecessors have served under, he could not in honour doe it’, Bodl., MS Clarendon 60, fols. 209-10.

<sup>195</sup> *Nicholas Papers*, iv, 88-91: Miles to Nicholas, 1/11 Apr. 1659.

that clause of yours be put in execution?’ In other words, there were more old lords than there were vacant spaces in the Other House. In Ashley-Cooper’s opinion, if they were ‘to bring the old Lords upon the Petition and Advice... I should for ever abhor them and myself for doing it’.<sup>196</sup> According to Adam Baynes, once the Commons ‘admit that House to be a House of Parliament’ then ‘there is no room for the old Peers’; adding, somewhat erroneously, that ‘their number is up within four or five’.<sup>197</sup>

That the Republicans should unite with the old Presbyterians and crypto-Royalists by stressing the betrayal of the old lords is not too surprising. All three groups were working together to prevent the ‘moderate majority’ from being ‘deceived’ into voting with the Court. Haselrig was desirous that they would ‘not mingle questions with subtilty, to deceive one another now; to make it a gilded pill’.<sup>198</sup> Sir Anthony Ashley Cooper warned the Commons that ‘it is but a shoeing-horn to tell us the right of the old Lords is preserved by this’. It was but a ‘way to destroy their rights which you take to preserve them’.<sup>199</sup> For Henry Hungerford, the ‘salvo’ concerning the old lords, was ‘an ignominy and disgrace, like a flap with a fox tail’.<sup>200</sup>

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John Thurloe was unmoved by this criticism. Instead, he mocked how ‘those that complain of the disingenuity of the question brought it in themselves’. In particular, ‘if you have been misled into it’, he said, no doubt looking in the direction of Arthur

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<sup>196</sup> *Burton*, iv, 83-4 (8 Mar.); Schilling, p. 186.

<sup>197</sup> *Burton*, iv, 30-32 (5 Mar.); Schilling, pp. 169-70.

<sup>198</sup> *Burton*, iv, 81 (8 Mar.)

<sup>199</sup> *Ibid.*, iv, 50-52 (7 Mar.); Schilling, pp. 178-9.

<sup>200</sup> *Burton.*, iv, 64 (7 Mar.)

Annesley, 'blame the gentleman that moved it'.<sup>201</sup> But Thurloe's criticism was unfair; the Court had manipulated Annesley's original motion in such a way that it was now impossible for the old Presbyterians or crypto-Royalists to swallow. In response, on 8 March Annesley moved that the question be put more clearly. 'I hope... this House does not intend to trepan, or shoeing-horn, anybody', he declared. Instead, he wanted them to put the question separately, 'to restore the old Peers to their rights, that it may be known what you intend for them'.<sup>202</sup> Gewen agreed that 'if you put the question to restore them, without delusion, I shall not be against it'. In his opinion it was inappropriate to have words 'to bid men warm them and eat, and give them nothing'; the question needed to be put plainly.<sup>203</sup>

With Annesley's motion in mind, the Speaker 'offered an independent question, for saving the rights of the old Peers'. Others moved that the question for transacting be first put singly, without any misleading additions.<sup>204</sup> At this point, however, John Trevor 'interrupted and moved the addition be first put... for saving the rights of the ancient peers'. Overconfident that the Court was losing the initiative, Henry Hungerford and Herbert Morley moved that 'seeing they were so fond of the question', they should 'put it'; adding 'everybody is able to see the fallacy of it'.<sup>205</sup> Following a 'great debate' about whether the *Noes* or *Yeas* should go out, it was resolved by 203 votes to 184 that the question for the addition be put; the tellers for the *Noes* were Republican Sir Arthur Haselrig and crypto-Royalist Sir Horatio Townsend. When it came to the main question, it is unsurprising to find that Annesley, accompanied by the earl of Pembroke's kinsman, John Herbert, were

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<sup>201</sup> *Ibid.*, iv, 68-9 (7 Mar.)

<sup>202</sup> *Ibid.*, iv, 77 (8 Mar.)

<sup>203</sup> *Ibid.*, iv, 82-3 (8 Mar.)

<sup>204</sup> See *Ibid.*, iv, 83-6: speeches by Boscowen, Baynes, Lambert, Earle & Hewley (8 Mar.).

<sup>205</sup> *Ibid.*, iv, 86.

tellers for the *Noes*. The voting was tight, with the *Yeas* prevailing by 195 to 188. Therefore by a margin of just seven votes, it was resolved that the words “it is not hereby intended to exclude such Peers as have been faithful to the Parliament from their privilege of being duly summoned to be members of that House” be part of the question for transacting.<sup>206</sup>

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### **The Resolution of 28 March 1659 and its Aftermath**

The vote of 8 March was not, as one scholar suggests, ‘a significant vote of confidence in the old Lords’ nor did it help the rehabilitation of the old lords from the ‘political wilderness’.<sup>207</sup> If anything, it was a vote of confidence in the Protectoral regime; it confirmed the Other House as specified in the *Humble Petition* and ensured that the rights of the old peers were subordinated to the new constitutional arrangement. Yet, significantly, it was also a vote that the Court party came perilously close to losing. Overly optimistic Royalist agents had even predicted a defeat for the government’s supporters; Mordaunt, for instance, believed ‘the Court arguments will not beare water... soe that without a trick or open force, after nine dayes dispute, the question will be carryed in the negative’.<sup>208</sup>

With the vote won, however, it was only a matter of time before the Commons passed the whole question for transacting with the Other House. In order to try and stall this vote, the government’s opponents questioned the legality of the members for Scotland

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<sup>206</sup> *CJ*, vii, 611-12 (8 Mar.); Gaunt, *Lansdowne*, pp. 467-8: Annesley to H. Cromwell, 8 Mar. 1659.

<sup>207</sup> N. Waddy, ‘Restoration by stages: The debate over the House of Lords during the reign of Richard Cromwell, 1658-59’, *Parliaments, Estates & Representation*, 24 (2004), p. 186.

<sup>208</sup> Bodl., MS Clarendon 60, fols. 209-10: Mordaunt to Hyde, 8 Mar. 1659.

and Ireland. With the vote on the addition being so close, and the Scottish and Irish MPs considered solid voters for the Court interest, this was a final attempt to try and prevent a Court victory on the Other House. Prideaux protested that ‘no new debate to be admitted’ before the ‘main question’ on transacting was put – he could see ‘what this savours of’.<sup>209</sup> Burton notes how this ‘bone thrown in, touching the Scotch and Irish members, prevailed so far, that it obstructed the question’.<sup>210</sup> Two weeks of intermittent debate followed on whether first the Scottish, and then the Irish, MPs should be allowed to sit in the House.<sup>211</sup> Both questions passed comfortably in the end, not least because the opponents were apparently divided among themselves on the issue of union; the Scottish MPs gaining a majority of ninety-one on 21 March and the Irish MPs a narrower margin of fifty two days later.<sup>212</sup>

With both these votes lost, the game was all but up. When debate on the Other House resumed on 28 March, attempts were made to revive the issue of ‘bounding and approving’ the existing membership of the upper chamber. Thomas Gewen, for instance, wanted ‘not to transact w[i]th them in their lordly dignity, but as bounded, & limited & approved’.<sup>213</sup> Dejected, many of the crypto-Royalists had already given up hope of putting any meaningful restriction on the Other House. In Sir George Booth’s opinion they could ‘make what additions you will’ but ‘at the very moment of your transacting, you put your bounding out of doors’.<sup>214</sup> Viscount Falkland wanted them to ‘put the plain question, that we be not deceived by fallacies’.<sup>215</sup> Although a number of Republicans and old Presbyterians continued to push for an addition for

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<sup>209</sup> *Burton*, iv, 87 (8 Mar.).

<sup>210</sup> *Ibid.*, iv, 88-90 (8 Mar.); Bethel, *A true and impartial Narrative*, pp. 10-11.

<sup>211</sup> For debates on Scottish and Irish MPs see *Burton*, iv, 90-139, 143-7, 163-220, 225-34, 237-43.

<sup>212</sup> *Ibid.*, iv, 219, 243; *CJ*, vii, 616, 618-19 (21, 23 Mar.).

<sup>213</sup> DRO, MS D258/10/9/2 (Diary of John Gell), fol. 6r.

<sup>214</sup> *Burton*, iv, 280-1 (28 Mar.); DRO, MS D258/10/9/2, fol. 7v.

<sup>215</sup> *Burton*, iv, 281 (28 Mar.); See also *Burton*, iv, 284: speech by Annesley (28 Mar.).

‘approving’ the members of the Other House in the Commons, their strength was clearly dwindling; the vote on the addition being defeated by 183 votes to 146.<sup>216</sup> Moreover, when Slingsby Bethel then moved that “when they shall be bounded by this House” should be added to the question, it was ‘layd aside... without dividinge’.<sup>217</sup>

Sensing the inevitable, the government’s opponents made a number of motions to try and bolster their numbers. Adam Baynes complained how many of the members ‘who had attended the debate...were in the Speaker’s chamber’. The Serjeant at arms was sent out to command their attendance but Baynes went on to claim that ‘the door was bolted, and many members could not come in’ although Burton adds ‘he was mistaken’.<sup>218</sup> A vote was taken to adjourn for an hour, with Viscount Falkland and John Herbert acting as tellers for the *Yeas*, but they were defeated 169 to 89. According to Burton, who was astonished to find that ‘neither Sir Arthur Haselrig nor Sir Henry Vane were at the House’, Sir Anthony Ashley Cooper proceeded to ‘make a long speech till the House was fuller of those of his party’.<sup>219</sup> That afternoon, following the arrival of Haselrig and Vane, the opponents did succeed in getting a slight limitation in the question by adding that they would transact with the Other House “during this present Parliament”; but failed to add the words “and no longer”.<sup>220</sup>

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<sup>216</sup> *Burton*, iv, 282-4: speeches by Boscowen, Hobart, Goodrick, Northcote and Temple; DRO, MS D258/10/9/2, fol. 8v; *CJ*, vii, 621 (28 Mar.).

<sup>217</sup> *Burton*, iv, 285; Gaunt, *Lansdowne*, pp. 487, 489.

<sup>218</sup> *Ibid.*, iv, 285.

<sup>219</sup> *Ibid.*, iv, 286-7.

<sup>220</sup> *Ibid.*, iv, 288-92.

Therefore, despite the delaying tactics, the main question for transacting was finally propounded that afternoon:

That this House will transact with the Persons now sitting in the Other House, as an House of Parliament, during this present Parliament; and that it is not hereby intended to exclude such Peers, as have been faithful to the Parliament, from their Privilege of being duly summoned to be Members of that House.

The pairing of Sir George Booth and Sir Arthur Haselrig as tellers for the *Noes*, nicely epitomized the uneasy alliance which had been striving against the Other House. Yet despite their best efforts, the Court still carried the day by 198 votes to 125.<sup>221</sup> This marked the final deathblow to those who were hoping to remove or replace the Other House. MPs, both Republican and crypto-Royalist, began to talk of leaving the Commons. Thomas Gorges noted how upon this vote the ‘commonwealthsmen crye out on slavery and write an Ichabod on the freedom of England’.<sup>222</sup> Writing directly to Charles II, Mordaunt confessed that ‘upon the vote for transacting the generall opinion was, whatsoever Cromwell[‘s] party pretended they would succeed in’ as a result ‘dejection and consternation seizd us’ all.<sup>223</sup>

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There was certainly a change of tactics among the government’s opponents in the wake of this vote. Defeated in the Commons, both Republicans and crypto-Royalists alike tried to appeal to a wider audience by taking their arguments into print instead. Particularly important in this respect was an anonymous Royalist pamphlet entitled *A Seasonable Speech, Made By a worthy Member of Parliament in the House of Commons Concerning the Other House*. Bearing the date ‘March 1659’ but not

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<sup>221</sup> *CJ*, vii, 621 (28 Mar.).

<sup>222</sup> Gaunt, *Lansdowne*, pp. 487.

<sup>223</sup> Bodl., MS Clarendon 60, fols. 292-3: Mordaunt to Charles Stuart, 6 Apr. 1659; See also Bodl., MS Clarendon 60, fols. 262-3, 307, 354-5.

appearing until early April, this was a fictitious speech, bringing together all the arguments used against the Other House during the debates in March.<sup>224</sup> The pamphlet seems to have been well known at the time and ran into several editions.<sup>225</sup> It was of particular interest to the Royalist agents. Percy Church informed Secretary Nicholas in late April that there ‘is an excellent printed speech of fower sheets lately come forth and pretended to have bine spoken in ye Howse of Commons’.<sup>226</sup> Sending a copy to Secretary Nicholas on 8 April, ‘Mr Miles’ noted how the ‘inclosed speech was thrown aboute the Parliament doores, into their coches, and about the greate hall’. Given that it was ‘soe noysd aboute the towne and soe laughed att by the Commons’, the ‘Lords of the other Howse caused itt to [be] reade in their howse’.<sup>227</sup> Wariston complained to George Monck about ‘a vile paper called a Seasonable Speach, spread to make Members of our House odious’.<sup>228</sup>

These Royalist pamphlets might have amused those close to the exiled court and infuriated government officials but they did not impact significantly upon the course of events. As the final chapter will demonstrate, it was the Republican foray into print that had the more significant impact, especially in its ability to capture the imagination of the army. The rhetoric of Restoration, for the moment, played second fiddle to that of the Republican ‘Good Old Cause’.

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<sup>224</sup> *A Seasonable Speech, Made By a worthy Member of Parliament in the House of Commons Concerning the Other House* (1659).

<sup>225</sup> It was also printed in Nov. 1692 under the title *A brief Character of the Protector Oliver Cromwell... Comprehended in a Seasonable Speech...* (1692); A version was also printed anonymously in July 1716.

<sup>226</sup> *Nicholas Papers*, iv, 112-13: Church to Nicholas, 22 Apr. / 2 May 1659.

<sup>227</sup> *Ibid.*, iv, 100-102: Miles to Nicholas, 8/18 Apr. 1659; A copy was also sent to Hyde by Dr. Moore, see Bodl., MS Clarendon 60, fol. 310: 8 Apr. 1659.

<sup>228</sup> *Clarke Papers*, iii, 188-9: ‘A.J.’ to Monck, 14 Apr. 1659.

The debates on the Other House had marked a crucial phase for the survival of Richard Cromwell's Protectorate. First of all, it produced arguments that clearly had a destructive potential for the regime. During the opening phase of the debate in late February 1659 both the crypto-Royalists and old Presbyterians put forward the case for dispensing with the *Humble Petition and Advice* and restoring the old House of Lords. This was hardly an example of constructive criticism. Moreover, this initial stage of the Other House debate was not typified by Court party versus Commonwealthmen but was primarily a conflict between Protectorist and old Presbyterians. Only after Swinfen's motion for transacting with the Other House on 1 March did the arguments of the crypto-Royalists, old Presbyterians and Republicans begin to run congruent. With their backs against the wall, these groups came together to argue against the Other House. None of them wanted to see the Other House established and all of them joined together in opposing it. What held them together, therefore, was 'opposition' in a very basic, negative sense.

Crypto-Royalists, old Presbyterians and Republicans could all agree on what they did not want, but not on what they would have. While they could almost outvote the Court party when the issue at stake was the existing constitutional settlement, they could never agree on what to replace that settlement with. So although the Royalist-Republican alliance did exist, it only ever worked on a very superficial level. Once the vote on the Other House was lost, these opponents once again went their separate ways. Those Royalists and old Presbyterians that continued to sit at Westminster began to gravitate towards the Protectorist-Presbyterians and conservative majority in the Commons by making inflammatory statements against the army's malign

influence. The Republicans, on the other hand, went in the opposite direction and actively sought to build bridges with the army. Ultimately, the Republicans understood that military might still held the sway in the political balance; it was a potent alliance of army officers and Republicans, not Royalists and Republicans that would finally be the Protectorate's undoing.

## **Chapter 5: The Other House, the Army and the Collapse of the Cromwellian Protectorate**

Writing to Cardinal Mazarin on 24 February 1659, the French Ambassador Bordeaux assessed the political situation in London. Despite earlier tensions and mutual suspicions between Richard Cromwell and the army officers, Bordeaux believed these problems were beginning to fade. Not only was Richard supposedly falling into the hands of the army grandees in the face of an increasingly recalcitrant House of Commons, Bordeaux was also certain that both were united in defending the constitutional settlement enshrined in the *Humble Petition and Advice*. In particular, ‘the new House of Lords is one of their points of concord, and as it is composed of the principal officers, they intend to maintain it, and thereby to secure the balance of authority in themselves’.<sup>1</sup>

Indeed, it has become something of a truism that the Other House was a stronghold for the army interest. As demonstrated in the previous chapter, one can find a plethora of Republican and crypto-Royalist tirades against the Other House’s predominantly military character. It is a characterization that permeates much of the historiography. Godfrey Davies, for instance, believes the Commons’ votes for transacting with the Other House generated much heat ‘because so many swordsmen had been nominated to sit in it’.<sup>2</sup> Firth claims that the ‘maintenance of the other House was essential’ to the army officers ‘as a guarantee of their own influence’. Although Firth does offer a telling corrective, that the officers ‘were not the majority’ in the Other House, he goes

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<sup>1</sup> Guizot, *Richard Cromwell*, i, 312-17.

<sup>2</sup> Davies, *Restoration*, pp. 48, 59-60.

on to reaffirm the contemporary view that ‘they were at all events the preponderating influence there’.<sup>3</sup>

Yet one should be wary of conflating contemporary perceptions with political realities. Too many historians, like Bordeaux before them, have failed to question, or have been too ready to accept, the hyperbole of Republican and Royalist polemicists. True, a number of high-profile absentees from the Other House in 1658 had helped to strengthen the perception that this chamber was simply a packed assembly of janissaries. But, while these criticisms and fears revealed much about the latent anti-militarism of the conservative majority in the Commons, they tell us little about the actual nature of the Other House itself.

Building upon the findings in chapter two, I will demonstrate that both the membership of the Other House and its activities during the 1659 Parliamentary session prove that it was never a rubber stamp for the military interest. Rather than being indicative of the strength of the army’s position, the Other House was yet another example of the waning power of the military Cromwellians following Richard’s succession. In effect, there were two, seemingly paradoxical, forces pushing the army into its coup of late April 1659. On the one hand, the anti-military tirades of the Commons, including those accusations levelled against the army’s perceived dominance in the Other House, created suspicions among the junior ranks over the loyalties of their commanders and prompted demands to dissolve Parliament. At the same time, however, the army grandees were increasingly frustrated by their actual inability to manage Parliament through the Other House. Faced with hostile

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<sup>3</sup> Firth, *Last Years*, ii, 23-4; Firth, *House of Lords*, pp. 248-9, 252. See also D. Hirst, ‘Concord and Discord’, pp. 350-1.

criticism but with no effective, parliamentary, means to control it, the grandees fell back to their ultimate locus of power – the army.

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### **The Membership of the Other House in January 1659**

Before turning to the events of January-April 1659, it is first worth considering how the membership of the Other House stood when it reassembled on 27 January 1659. The potential total membership of the Other House had shrunk slightly since the dissolution of the second Protectorate Parliament. The deaths of Thomas Pride, Francis Rous and the earls of Mulgrave and Warwick, together with the elevation of Richard to the lord protectorate meant that there were a potential fifty-seven lords of the Other House when the third Protectorate Parliament opened.<sup>4</sup> Yet, despite the fact that there were now thirteen vacancies in the upper chamber, Richard apparently made no effort to fill the spaces.

For George Monck, communicating with the new Protector in mid-September 1658, Richard's accession had presented a golden opportunity 'to engage to him those of power and interest among the people'; Richard 'haveing not the same obligations to many disquieted spirits' as his father. In particular, Monck was sure that the 'calling a parliament' would require 'much consideration', not least the 'house of lords'. He recommended that Richard fill the spaces in the Other House with 'the most prudent of the old lords, that have bin faithfull, and some of the leading gentry in the severall

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<sup>4</sup> Warwick died 19 Apr. 1658, Mulgrave on 24 Aug. 1658, Pride on 23 Oct. 1658 and Rous on 7 Jan. 1659.

counties'; these included William Pierrepont, Richard Hampden, Alexander Popham, Sir John Hobart, Sir Edward Baynton, Sir George Booth and Francis Rolle.<sup>5</sup>

Interestingly, although the first four men had all received writs of summons in December 1657 only Richard Hampden would take his seat in the upper chamber in 1659.<sup>6</sup> Indeed, Monck was all too aware of the unwillingness of these moderate men to associate with the regime on account of the continued presence of a large standing army and the 'progresse of blasphemy and profanes, that I feare is too frequent in many places by the great extent of toleration'. His 'bold advice' concerning the first issue was a radical scheme to 'put two regiments into one; whereby his highnes may be freed from some insolent spiritts'. In Monck's analysis this purge of the military would 'be much pleaseing to the best men in the nation, whoe were not so free to a hearty conjunction with his highnes father, because they conceived the army in hands they could not trust'. To tackle the religious problem, Monck proposed an assembly of 'moderate presbiterian divines'. Monck was confident that once these reforms were implemented then the conservative country gentlemen 'will be the more encouraged to sitt, when they perceive the good inclinations in his highnes'.<sup>7</sup>

Yet, Richard failed to seize the opportunity outlined by Monck. There was no mass disbandment of the army, no assembly of divines, no swift meeting of Parliament and, crucially, no change in the membership of the Other House. Recently, Peacey has suggested that this failure to bring new men into the upper chamber was a direct result of the limits placed upon Richard by the *Humble Petition*; 'Richard evidently felt constrained to call the same peers' and because of the 'longevity of individual lords...

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<sup>5</sup> *Thurloe*, vii, 387-88.

<sup>6</sup> Sir John Hobart had sat in the 1658 session but not in 1659.

<sup>7</sup> *Thurloe*, vii, 387-88.

he was also unlikely to be able to nominate new men'.<sup>8</sup> This was hardly the case. Not only had Oliver left eight spaces free when he originally nominated the house, but the death of four of its founding members gave Richard further room to manoeuvre. True, the constitutional arrangements stipulated that Richard could only nominate the replacement members, who would then be approved by the members of the Other House themselves; but closer inspection of the membership demonstrates that this was not necessarily a problem for Richard. Moreover, given that, by the *Additional Petition*, the Commons had given Oliver Cromwell *carte blanche* to nominate the founding members of the Other House 'without further approbation', the extent to which Richard would receive a check if he chose to fill the original eight vacant spaces was a grey area.<sup>9</sup> That Richard never used these powers should not simply be read as a product of his timidity or constitutional straitjacketing. It is equally plausible that Richard failed to change the membership because he felt no need to do so.

Of the fifty-seven potential members of Richard Cromwell's Other House, forty-two would sit at some point during the session; Pickering, Tomlinson and Wariston all taking their seats for the first time. This left a group of fifteen nominated 'lords' who failed to appear in the upper chamber.<sup>10</sup> Undoubtedly, some of them continued to abstain because of outright opposition – such as Haselrig who, once again, sat in the Commons and the small knot of 'old' peers including Viscount Saye, Lord Wharton and the earl of Manchester who were still unwilling to betray their birthright. Others continued to be engaged elsewhere; including Henry Cromwell and William Steele in Ireland, George Monck in Scotland and William Lockhart in Flanders. The remaining absentees are less easy to explain. Unlike the 1658 parliamentary session, the Other

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<sup>8</sup> Peacey, 'Protector Humbled', p. 34.

<sup>9</sup> Gardiner, *Constitutional Documents*, p. 463.

<sup>10</sup> See appendix.

House decided against appointing a day for ‘calling’ the House on 30 March 1659, thereby precluding the opportunity for absentee members to tender their excuses.<sup>11</sup>

Turning to the military contingent, the number of Cromwellian lords in active service in 1659 had fallen slightly since 1658. Although Montagu was promoted to the command of a horse regiment in September 1658, the death of Thomas Pride and the elevation of Richard to the lord protectorate meant that there were only a total of sixteen active army officers, commanding twenty-two regiments between them, who could have sat in the Other House in 1659.<sup>12</sup> In this respect, Adam Baynes’s criticism in the Commons on 5 March 1659 that the Other House ‘have twenty-two or twenty-three regiments, divers garrisons, and the Tower of London’ was a valid one.<sup>13</sup> But, given that Henry Cromwell, Monck and Lockhart were all engaged in military service elsewhere, the actual number of army officers who took their seats during the third Protectorate Parliament was just thirteen – commanding a total of sixteen regiments. Moreover, as outlined in chapter two, not all those army officers nominated to the Other House were ‘military Cromwellians’ in the political sense. Indeed, of the serving army officers sitting in the Other House in 1659, the slight majority – that is, seven out of thirteen – were conservative or ‘civilian’ in their political outlook.<sup>14</sup>

This left a minority of just six active army officers - Fleetwood, Desborough, Barkstead, Berry, Cooper and Hewson - who can be described as ‘military Cromwellians’. Undoubtedly it was these men that the Royalist agent John Barwick had in mind when he informed Hyde on 16 February that ‘the Temper of some

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<sup>11</sup> *HMC Lords*, pp. 521-22, 554.

<sup>12</sup> See appendix.

<sup>13</sup> *Burton*, iv, 31 (5 Mar.); Schilling, p. 170.

<sup>14</sup> Broghill, Fauconberg, Goffe, Howard, Ingoldsby, Montagu and Whalley.

leading men in the other House begins already to shew it self to be such as he [Richard] could wish he were fairly ridd of them'. This was particularly true, Barwick continued, because 'the Republicans reckon of 12 Colonels (now in Comand) that will be for them... 6 of them at least are of that House'.<sup>15</sup> Barwick was extremely prescient in this sense for it was these six 'Wallingford-House' grandees who, two months later, would go on to lead military coup that would ultimately bring about the collapse of the third Protectorate Parliament. In reality, of course, the 'military' interest was more than just this tiny knot of officers alone. Of those twenty potential military Cromwellian members of the Other House identified in chapter two, all but the recently deceased Pride and the Lord Chancellor of Ireland William Steele would take their seats in 1659.<sup>16</sup> Yet, even with these members factored in, the 'military' interest in the Other House was still in the minority. In sheer numbers, of the forty-two members who sat during Richard Cromwell's parliament, the military Cromwellians could command, at best, just over forty per cent of the total votes in the upper chamber.<sup>17</sup>

Therefore, a closer examination of the membership of the Other House in 1659 demonstrates that the army officers did not actually predominate there, nor were the military Cromwellians all-powerful. As the events of the third Protectorate Parliament would demonstrate, the military Cromwellians had a sizeable bloc of members in the Other House but it was not enough to give them a majority in a full chamber. Contrary to the jeers of the Republicans and crypto-Royalists, the Other House was never a 'council of officers'.<sup>18</sup>

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<sup>15</sup> Bodl., Clarendon MS 60, fol. 129-30: Barwick to Hyde, 16 Feb. 1659.

<sup>16</sup> See appendix.

<sup>17</sup> That is 18 out of 42 or 43%.

<sup>18</sup> *Burton*, iv, 35 (5 Mar. 1659).

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### **The Other House and its Business, January-March 1659**

The problems generated by this imbalance in the membership did not manifest themselves immediately, however. In the opening weeks of Richard Cromwell's Parliament, most contemporary accounts stressed the apparent inactivity of the upper chamber. On 15 February, Robert Beake reported that 'the other house doe little, nor doe wee take notice of them'.<sup>19</sup> If Ludlow is to be believed, the Other House spent most of its time doing little other than consuming 'great store of fire to keep them warm at the publick charge'.<sup>20</sup>

Yet it is simply not the case that the Other House did nothing. On 31 January, just five days into the parliament, it was already attempting to open the dialogue between the two houses in the form of its own bill for 'recognizing his Highnes the Lord Protector and disclayming the Title of Charles Stuart'.<sup>21</sup> Intriguingly, this bill differed in many ways to that presented by Thurloe to the Commons the following day.<sup>22</sup> Not only was the Other House's bill of recognition significantly longer, but it also resonated with a monarchical language that was largely absent from that presented to the Commons on 1 February.

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<sup>19</sup> Gaunt, *Lansdowne*, pp. 459-60.

<sup>20</sup> *Ludlow*, ii, 60-1.

<sup>21</sup> *HMC Lords*, p. 528-9; Mus. of Lon., Tangye MS 11a, fol. 20v-21r; A version of this bill survives at Bodl., MS Rawlinson A 63, fo. 67. This document was partly transcribed by Birch in *Thurloe*, vii, 603-4, but is highly misleading, failing to record any of the excisions or marginalia.

<sup>22</sup> Gaunt, *Lansdowne*, pp. 443-44; Tomlinson to H. Cromwell, 1 Feb. 1659; *Thurloe*, vii, 604; Fleetwood to H. Cromwell, 1 Feb. 1659.

Attempting to legitimise Richard's position as Lord Protector, the bill was designed to mask the botched reality of his succession by likening it to a hereditary, monarchical process. Its opening lines failed to mention anything about the procedure or authority by which Richard was nominated, merely stating:

Whereas yo[u]r Highness imediately after the death of yo[u]r renowned ffather Oliver late Lord Protector... became his lawfull Successor to succeed in the Governm[en]t of the said Nations...

This deliberately ambiguous language left the impression that Richard 'became' Oliver's successor simply by virtue of the fact that his 'renowned father' had died. Like the Commons' bill, it passed silently over the nomination process and neglected to mention the *Humble Petition*; it gave undue emphasis to the 'great joy of the people' as proof enough that Richard's succession was legitimate. Their 'general consent' was demonstrated by the 'many particular Declaracons, and addresses from the Armyes & Navyes, and the respective Countyes Cityes & Borroughs of the three Nations'. Those contrived addresses that continued to flow into Whitehall were upheld as the primary evidence for the legitimacy of Richard's claim to the chief magistracy.<sup>23</sup>

It was not only Richard's title that the bill was seeking to recognise, however. In particular, it stressed how it was the 'duty' of the 'High Court of Parl[iamen]t where all the people of the nations in generall, and every Member hereof in particular, either in person or by representacon are present, to make this Our Recognition to yo[u]r Highness of the said Succession'.<sup>24</sup> The phrase was a clever one as it invoked the bicameral power of the old 'High Court of Parliament' of which the House of Lords

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<sup>23</sup> Bodl., MS Rawlinson A 63, fol. 67. For a printed catalogue of those addresses, as well as a hostile commentary upon them, see *A True Catalogue, Or An Account of the severall Places and most Eminent Persons in the three Nations, and elsewhere, where, and by whom Richard Cromwell was Proclaimed Lord Protector...* (1659).

<sup>24</sup> Bodl., MS Rawlinson A 63, fol. 67.

was very much the senior partner. It stressed that the bill was, by its very definition, a joint-effort needing the ratification of the Parliament as a whole – both Commons and Other House. Like those abortive messages to the Commons in 1658, this bill was a deliberate attempt to get the cogs of the parliamentary machine to mesh and turn. In effect, the bill of recognition was not just for the benefit of the new Protector; it was also a recognition of the Other House itself.

Of course, as highlighted in the previous chapter, the Commons' bill of recognition attempted to do much the same thing, albeit with less emphasis on traditional terminology – choosing the more forthright, but relatively novel, 'two houses of parliament' as its label for parliamentary authority. Where the Other House's bill deviated significantly from its Commons counterpart, however, was in the addition of a lengthy final section for 'disclaiming the Title of Charles Stuart'.

Intriguingly, however, there was nothing original about this section of the draft bill. The text itself was an almost verbatim copy of an 'act for renouncing and disannulling the pretended title of Charles Stuart' which passed the House of Commons on 26 September 1656 and was given Oliver Cromwell's approval on 27 November of the same year.<sup>25</sup> Why it was felt necessary to insert this existing piece of legislation into the bill of recognition is, on the face of it, perplexing. Perhaps it was felt that there would be greater security for the original 1656 act if it was ratified by the Other House and therefore had the assent of both Houses of Parliament. Yet it was hardly essential. The *Humble Petition* stated unequivocally that all existing 'Acts and Ordinances not contrary' to the constitutional document were to 'continue and remain

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<sup>25</sup> See C.H. Firth & R.S. Rait (eds.), *Acts and Ordinances of the Interregnum, 1642-1660* (3 vols., 1911) ii, 1036; *CJ*, vii. 428-9, 460; Bodl., MS Rawlinson A 63, fol. 67.

of force, in such manner as if this present Petition and Advice had not at all been had or made'.<sup>26</sup> Therefore it hardly mattered that the extant bill disclaiming Charles Stuart's title had been made by a unicameral parliament – it still had the same force of law as if it had been ratified under the *Humble Petition* by both houses.

Compared to the stuttering progress of the Commons, the Other House dealt with their bill of recognition with great alacrity. First read on 31 January the bill was committed after its second reading the following day. William Lenthall reported from the committee on 3 February and amendments to the bill were twice read. From the journal, it appears that these additions were designed to tighten the definition of the Lord Protector's powers; specifically, that Richard govern 'according to the humble petition and advice so farre as concernes matters of Religion'.<sup>27</sup> That the Other House was keen to restrain the powers of the chief magistrate is instructive, seemingly anticipating the debates on the matter in the Commons. Yet it is unlikely the discussion ever grew as heated as in the lower chamber a week later. Indeed, the only recorded opposition was from Wariston who, before the question was put for the amendments, entered his official 'dissent and p[ro]testacon' because, as a staunch Presbyterian Scot, he disagreed with restricting Richard to the religious settlement enshrined in the *Humble Petition* 'especially in Scotland'.<sup>28</sup> Nevertheless, the amendments were accepted and the bill, in its amended state, was ordered to be engrossed.<sup>29</sup>

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<sup>26</sup> Gardiner, *Constitutional Documents*, p. 457.

<sup>27</sup> *HMC Lords*, pp. 531-2; *Clarke Papers*, iii, 179; Gaunt, *Lansdowne*, pp. 434-44.

<sup>28</sup> *HMC Lords*, pp. 531-2. For more detail on this episode see Stephen, ii, 152-3. 154-55.

<sup>29</sup> *HMC Lords*, pp. 531-2.

Intriguingly, the Other House also decided to ‘leave out of the Bill for Recognizing his Highnes those Clauses that Concerned the disanulling and Disclayming the pr[e]tended Title of Charles Stuart’.<sup>30</sup> Perhaps they realised that this section, copied from the 1656 act, was superfluous and distracted, rather than added, to the bill for recognition. It might have also been deemed necessary to prune extraneous material in order to bring the Other House’s bill into greater conformity with the much shorter version that had since emerged in the Commons. Instead, a motion was made, and ‘seconded by diverse others of the Lords’, that a separate bill be brought in for disclaiming Charles Stuart’s title. This was referred to the legal assistant in the Other House, Roger Hill, who was to ‘prepare a bill to that purpose’.<sup>31</sup> In the interim, the engrossed bill of recognition was checked against the original by Lenthall’s committee before being brought into the Other House on 5 February, when it was read a third time and ‘uppon the Question passed’.<sup>32</sup> Therefore, two days before the Commons had even begun the second reading of its bill of recognition, the Other House had already engrossed, and passed, their own.

Yet, despite the speed with which it passed though the Other House, this bill of recognition vanished soon after and was never communicated to the Commons for their approval. Indeed, one is left wondering why the Other House bothered to pursue this piece of legislation at all. That two distinct draft bills, both serving ostensibly the same purpose, were presented to parliament within a day of one another is perplexing. The whole episode could be indicative of the lack of confidence that the Protectorate’s supporters had in their ability to manage parliament as a whole. No

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<sup>30</sup> *Ibid.*, pp. 531 (3 Feb.).

<sup>31</sup> The bill was introduced 11 Feb.; following amendments, it was read the third time and passed on 22 Mar. See *HMC Lords*, pp. 535-7, 549, 551-2.

<sup>32</sup> *Ibid.*, pp. 531-3.

doubt it was felt that an act of recognition would have more success in the Other House. With the expectation of a recalcitrant House of Commons it was probably felt prudent to get formal recognition of Richard Cromwell in at least one House of Parliament – especially the senior partner of the ‘High Court of Parliament’.

On the other hand, the Other House’s bill of recognition could just as easily be interpreted as demonstrating a lack of political sense. The Other House was a weak reed without the Commons and although the Other House could try to force the legislative agenda with its draft act, it would still need the assent of the lower house to have force of law. As the uncooperative response of the Commons in the 1658 parliamentary session had demonstrated, this support was hardly likely to be forthcoming when dictated from above. For this reason, the bill of recognition presented by Thurloe to the Commons on 1 February was the crucial one. Careful management from below, not a highhanded fiat from above, was needed to coax the Commons into accepting the new upper chamber. Ultimately, the government adopted neither approach consistently and it would be a further two months of intense debate in the Commons before the obstacles to communication between the Houses were overcome. In the meantime, the Other House could draft all the legislation they wanted, but as long as the Commons chose to ignore them they remained impotent.

Therefore it is unsurprising that, despite this energetic start, contemporaries believed the Other House to be lethargic. Charles Fleetwood, writing to Henry Cromwell on 8 February admitted that ‘we are very silent in our howse’; not least because of the ‘little probability that we shall be owned’ by the Commons.<sup>33</sup> It was a frustrating

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<sup>33</sup> *Thurloe*, vii, 609; Fleetwood to H. Cromwell, 8 Feb. 1659.

experience for the lords of the Other House. As Annesley noted in mid-March, with some understatement, ‘the other house are a little impatient at our delays’.<sup>34</sup> Until the Commons could be brought to accept the Other House, then it would remain in the background. One Royalist agent best summed it up when he tersely noted how ‘those they call the lords meet and adjourn’, while ‘all mens eyes are upon the commons’.<sup>35</sup>

This is not to say the Other House acquiesced in a state of suspended animation. Apart from the act of recognition, the Other House went about its routine business, appointing standing committees for petitions and privileges on 28 January. Although the meetings of these two committees are not recorded, there are hints that they were not always diligent in their work. For instance, despite the fact that the Other House ordered the committee for privileges to ‘appoint a sub Com[mit]tee to p[er]use the Journall of this house and to examine the same’, it had to repeat the order a month later.<sup>36</sup>

Much business was discussed in the chamber in the opening weeks of the Parliament but most of it proceeded to languish in committees. On 31 January a committee was established to ‘p[er]use the Acts and lawes allready made against Cursing, swearing, Breach of the Sabeth and Drunkenesse and to see wherein the same are defective and have need to be supplied’.<sup>37</sup> Yet, given that the first meeting of the committee was carelessly set for the afternoon of 2 February in the Lord Keeper’s lodgings – the exact same time and location already set for the inaugural meeting of the committee

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<sup>34</sup> Gaunt, *Lansdowne*, pp. 474-5: Annesley to H. Cromwell, 15 Mar. 1659.

<sup>35</sup> Bodl., Clarendon MS 60, fols. 129-30: Barwick to Hyde, 16 Feb. 1659.

<sup>36</sup> *HMC Lords*, pp. 527, 541 (28 Jan, 25 Feb.).

<sup>37</sup> *Ibid.*, p. 529.

for petitions – it is unlikely it assembled that day.<sup>38</sup> Indeed, on 5 February the Other House had to make a fresh order for the committee for examining laws ‘against profane swearing etc’ to meet on Monday 7 February.<sup>39</sup> On 1 February it was referred to the House’s assistant, Serjeant-at-Law Erasmus Earle, to prepare a bill ‘for Confirmacon of the publique sales w[hi]ch have been made by the Comonwealth of the lands of the late King, &c. B[isho]pps, Deanes and Chapters and Delinquents’.<sup>40</sup> A week later, a committee was established ‘to Consid[e]r of the law for restrayning the use of the booke of Com[mo]n prayer’.<sup>41</sup> This was followed on 15 February with yet another committee on moral reformation which was ‘to p[er]use the lawes w[hi]ch have been made against Stage playes, Interludes and meetings of the like nature’.<sup>42</sup> Interestingly, both this committee and that for examining the laws against the Book of Common Prayer were ordered to meet the following morning despite half of the personnel of the latter being nominated to the former as well.<sup>43</sup>

Although numerous committees were established, by mid-March not one of them had made a report to the Other House. Therefore, on 14 March it was ordered that ‘the sev[er]all Committees to whom there have been any matters referred or C[o]m[mit]ted by this house Doe expedite their sev[er]all Reports and make report to the house as speedily as may be’.<sup>44</sup> Yet, despite this prompt, both the Other House and its committees continued to be gripped by inaction. On 17 March Earle was also given a hurry-up to prepare the bill for the ‘Confirmacon of Sales made of the late Lands of the king, Queene and Prince, Achb[isho]pps &c’.<sup>45</sup> Although this was read for

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<sup>38</sup> *Ibid.*, pp. 527, 529.

<sup>39</sup> *Ibid.*, pp. 532-33.

<sup>40</sup> *Ibid.*, p. 530 (1 Feb.).

<sup>41</sup> *Ibid.*, p. 534 (8 Feb.).

<sup>42</sup> *Ibid.*, p. 537 (15 Feb.); Stephen, ii, 154.

<sup>43</sup> *HMC Lords*, pp. 534, 537.

<sup>44</sup> *Ibid.*, p. 547 (14 Mar.)

the first time on 22 March, the second reading was twice deferred and finally took place a week later when the bill was sent to yet another committee.<sup>45</sup> It appears this committee did very little as, on 14 April, it was ordered that the committee ‘to whom the bill for Confirmacon of publique sales’ was referred ‘be revived and that they meete on Tuesday nexte’. That same day an act for ‘abolishing the Booke of Comon prayer’ also emerged for the first time. Although this was ordered to be read the second time the following morning, it never resurfaced. The committees against prophane swearing and stage plays, on the other hand, failed to make even a preliminary report to the House before the end of the session.<sup>46</sup>

Symptomatic of the frustration within the Other House was a dwindling attendance throughout late February and March. The largest turnout for the entire parliamentary session was achieved on the opening day with thirty-six members present on 27 January 1659. It went steadily downhill from there until a significant upturn in April. Average attendance in the first week of February, for instance, was thirty-two; thereafter it struggled to make it over thirty – the average for the whole of March being twenty-five. On occasions the numbers in the chamber were perilously close to the quorum and even dipped below twenty-one on 2 March.<sup>47</sup>

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While the Other House procrastinated, the Commons remained locked in debate over the issue of transacting with the upper chamber. Mud-slinging against the new Cromwellian peers was rife, as were calls from a large number of Presbyterian and

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<sup>45</sup> *Ibid.*, pp. 549, 552, 553, 554.

<sup>46</sup> *Ibid.*, pp. 560-1 (14, 15 Apr.).

<sup>47</sup> *Ibid.*, p. 543. Only 20 are recorded as present that day.

crypto-Royalist MPs to bring back the old faithful lords who were not to be denied their hereditary birthright of sitting in the upper chamber. In order to break the deadlock, on 8 March the Commons resolved upon the addition that ‘it is not hereby intended to exclude such Peers as have been faithful to the Parliament from their privilege of being duly summoned to be members of that House’.<sup>48</sup>

According to one Royalist agent this resolution was ‘not satisfactorie to ye other howse’.<sup>49</sup> In particular, it seems to have provoked the animus of the military Cromwellians. Commenting on the prospect of admitting the ancient peers in late February, Irish MP Arthur Annesley questioned ‘how farre the army will approve thereof’.<sup>50</sup> Anticipating the military reaction to the debates in the Commons on 8 March, Scottish minister James Sharp was adamant that ‘the officers will stickle to hold what they have gott’.<sup>51</sup>

Indeed, the army grandees in the Other House would have felt that they had much to lose if the old lords were admitted. The restoration of the old peerage threatened to dilute their influence further while consolidating the dominance of conservative opinion. In order to prevent this from happening John Desborough presented a bill on 14 March for the Other House’s consideration.<sup>52</sup> Although the draft bill has not survived, its contents can be gleaned from the description provided in the journal of the Other House; it was a bill for ‘limiting the number, Rights and priviledges of the

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<sup>48</sup> See previous chapter, pp. 242-57.

<sup>49</sup> *Nicholas Papers*, iv, 99-100: Percy Church to Nicholas, 8/18 Apr. 1659.

<sup>50</sup> Gaunt, *Lansdowne*, p. 462: Annesley to H. Cromwell, 22 Feb. 1659.

<sup>51</sup> Stephen, ii, 157-9: Sharp to Douglas, 8 Mar. 1659.

<sup>52</sup> Guizot, *Richard Cromwell*, i, 337-46: Bordeaux to Mazarin, 17/27 Mar. 1659; Bodl., MS Clarendon 60, fols. 224r-225v: Broderick to Hyde, 18 Mar. 1659.

persons sitting in that House'.<sup>53</sup> More information is provided by an army newsletter which claims that the bill was 'for declaring of those that are summoned, and such as hereafter shall bee summoned by his Highnesse and approved by the Houses', not exceeding an unspecified number, 'to bee the other House of Parliament, formerly called the House of Lords'. They were 'to have all the priviledges belonging therunto, and not limitted by the Petition and Advice, butt withall, that none of their heires, nor the heires of any others, shall claime right to sitt in that House, unlesse they bee first summoned and approved as aforesaid'.<sup>54</sup>

On the face of it, the bill could be interpreted as a design to accommodate proceedings in the House of Commons. It would facilitate the entry into the Other House of a fresh influx of members. Given that, under the *Humble Petition*, the maximum membership of the House was seventy, it would have been necessary to raise this number – hence the blank in the draft bill. Moreover, the lords were to be given the privileges of the old House of Lords, where 'not limitted by the Petition and Advice'. Yet, at the same time, the terms offered were hardly generous towards the old peers. It seems that Desborough was attempting to downgrade the status of the old peerage, even to the point of advocating the abolition of the title of 'lord' altogether. One Royalist agent reported that it was Desborough's opinion that the 'stile of Lords' should not be given to the members of the Other House, and 'to that purpose brought in a bill... which with humbler title will give them a firmer basis'.<sup>55</sup> Bordeaux also noted how 'an act has been proposed in the new House to suppress the title of Lord in regard to the new as well as the old nobility'.<sup>56</sup> As such, the old lords would have had

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<sup>53</sup> *HMC Lords*, p. 547.

<sup>54</sup> *Clarke Papers*, iii, 185: 17 Mar. 1659.

<sup>55</sup> Bodl., MS Clarendon 60, fols. 224r-225v.

<sup>56</sup> Guizot, *Richard Cromwell*, i, 337-46.

to surrender their hereditary title as a condition of entry to the upper chamber. It is probably in reference to this clause that one Royalist agent informed Hyde on 18 March that ‘the other house... have unlorded themselves by vote, butt still to remaine true members of their new upstart house’.<sup>57</sup>

Yet, Desborough’s bill did not receive an easy passage through the Other House. Presented on 14 March it was read for the second time on the following day and committed.<sup>58</sup> Thereafter, the bill vanished and never re-surfaced before the Parliament’s dissolution over a month later. This disappearance was more than just the result of a dawdling committee, however. On 17 March, Bordeaux was already reporting that the proposal for suppressing the lordly title was ‘not supported, although it was made by Major-General Desborough’. Four days later, he heard that ‘the House of Lords has... rejected the Act which exterminated all the Lords, both new and old’.<sup>59</sup> Although no formal rejection of the bill is recorded in the Other House’s journal, Viscount Fauconberg, himself a member of that chamber, informed Henry Cromwell on 22 March that the bill ‘tho’ twice read, proceeds no farther’.<sup>60</sup> It appears the Other House had agreed to let the matter drop.

The failure of the bill, despite Desborough’s sponsorship of it, might hint at the lack of control exercised by the army grandees over the upper chamber. But it is also likely that it was dropped because it was superfluous; that is, Desborough had over-reacted by bringing in the bill in the first place. In reality, the Commons’ addition for saving the rights of the old peers was a sham exploited by Thurloe and the Court lawyers to

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<sup>57</sup> Bodl., MS Clarendon 60, fols. 226r-227r: Moore to Hyde, 18 Mar. 1659

<sup>58</sup> *HMC Lords*, pp. 547-8.

<sup>59</sup> Guizot, *Richard Cromwell*, i, 337-46.

<sup>60</sup> *Thurloe*, vii, 637: Fauconberg to H. Cromwell, 22 Mar. 1659; See also Gaunt, *Lansdowne*, pp. 476-77.

assuage the concerns of conservative MPs and thereby ensure the easy passage of the main question for transacting with the Other House.<sup>61</sup> It was highly unlikely the old peerage would return upon the conditions being offered to them. The Venetian Resident, writing on 11 March, believed that ‘many are of the opinion’ that the old lords ‘will not sit for scruples of honour and precedence... for instead of the new coming to join with the old, the old are to be forced to unite with the new, who in extraction, titles and every other requisite are vastly inferior to them’.<sup>62</sup> It was enough that the vote gave the *potential* for the old lords to sit in the Other House, even if that offer was not entirely sincere. Had Desborough’s bill progressed it would have given the wrong (that is to say the truthful) impression to the Commons: that the addition for the old peers was totally disingenuous.

Primarily, Desborough’s bill was dropped in order to speed up the transacting process between the two Houses of Parliament. Contemporaries interpreted it as a sign of good faith on behalf of the Other House – a willingness to allow the Commons to conclude its business on transacting without interference from above. Writing to Henry Cromwell on 22 March, Annesley was pleased to note that the Other House were ‘preparing the way’ for the Commons vote on transacting ‘having allready laid aside in compliance with the house of commons a bill... against their being hereditary peeres’.<sup>63</sup> It was a measure both of the desperation those in the Other House felt over ever gaining formal recognition from the Commons and their optimism that a few conciliatory gestures might just tip the balance towards a favourable outcome. As Bordeaux mocked, unlike the ‘House of Lords, as in former times, serving as an

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<sup>61</sup> See Gaunt, *Lansdowne*, pp. 472-4: Sankey to H. Cromwell, 8 Mar. 1659; *Burton*, iv, 52, 81.

<sup>62</sup> *CPSV 1657-1659*, pp. 297-99: Giavarina to Doge and Senate, 11/21 Mar. 1659; *Nicholas Papers*, iv, 88-91: ‘Mr Miles’ to Nicholas, 1/11 Apr. 1659.

<sup>63</sup> Gaunt, *Lansdowne*, pp. 476-77. See also Guizot, *Richard Cromwell*, i, 337-46: Bordeaux to Mazarin, 21/31 Mar. 1659

example to the people's House, the new Lords now conform their conduct very regularly to that of the Commons'.<sup>64</sup> The Other House accepted that it had to defer to the House of Commons momentarily if it was to have any hope of being recognised as a balance over it.

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An end to the drought finally came on 28 March 1659 with the resolution in the House of Commons to transact 'with the Persons now sitting in the Other House, as an House of Parliament'.<sup>65</sup> It was now only a matter of time before the two Houses began to transact with one another and interact effectively as a Parliament. Many began to look upon the situation at Westminster with some optimism. Fauconberg, writing to Henry Cromwell the day after this resolution, noted how 'honest men begin to renew their hopes of settlement, which God grant'.<sup>66</sup> Yet, despite the seemingly rosy situation, there were murmurings both within and outside of Parliament. In particular, a growing feeling of discontent among the army officers threatened to shatter this newfound tranquillity at Westminster.

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### **The Growth of Army Discontent and the Revival of the General Council of Officers**

Although the army had remained largely quiet since the previous autumn, tensions had continued to bubble below the surface. The general lack of progress at

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<sup>64</sup> Guizot, *Richard Cromwell*, i, 337-46.

<sup>65</sup> *CJ*, vii, 621.

<sup>66</sup> Gaunt, *Lansdowne*, p. 486: Fauconberg to H. Cromwell, 29 Mar. 1659.

Westminster merely served as a catalyst for the army's agitation; bogged down with the issues of recognising the Lord Protector and transacting with the Other House, the Commons continued to ignore the soldiers' pressing grievances – not least their arrears of pay.<sup>67</sup> Instead, they launched a barrage of highly insensitive anti-military salvos that served to heighten tensions further. Besides the constant criticism of the Other House for its military contingent, there were also a number of uncomfortable investigations into arbitrary imprisonments authorised by the previous Protector, leading to the release of the Fifth Monarchist John Portman on 26 February and the long-suffering Richard Overton on 16 March.<sup>68</sup>

Of course, this represented a fundamental challenge to the powers of the Protector and any who claimed to act under his authority. Yet, its implications had the potential to hit the military Cromwellians, particularly those ex-Major-Generals, the hardest. For instance, as Lieutenant of the Tower of London, John Barkstead was ordered to explain the causes of the 'commitment and detainer' of John Portman before a Commons' committee on 23 February. The examination of Barkstead was extremely hostile; Burton notes how the chairman of the committee Thomas Terrill, 'would not call him Lord Barkstead' because 'it was not fit for a Lord of the other House to be a gaoler'.<sup>69</sup> The committee was unmoved by Barkstead's plea of simply following orders. Although the warrant and letter, written in Oliver Cromwell's hand, ordering Portman's arrest were produced, the 'general sense' of the committee was that 'it was a high breach of the liberties of the subject' and it was resolved that 'the

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<sup>67</sup> For a more detailed study of the relationship between Richard and the army during this period see G. Davies, 'The Army and the Downfall of Richard Cromwell', *The Huntingdon Library Bulletin*, 7 (1935), pp. 131-67.

<sup>68</sup> *Burton*, iii, 448-9, 494-8, 548-9.

<sup>69</sup> *Ibid.*, iii, 448-9 (23 Feb.); *Thurloe*, vii, 626.

imprisonment of Mr. Portman was unjust and illegal'.<sup>70</sup> Writing to Thurloe following his encounter, Barkstead did 'heartily wish this occasion had been prevented, either by Portman's discharge before, or such warrant given for his detayner, as might have justified me more'. Now that the floodgates were opened, Barkstead was 'confident I shall be brought againe upon the stage by severall prisoners in my custody'.<sup>71</sup>

In response, the Other House appointed a committee of lords on 3 March to 'consider what provision may be made for the indemnifying of such persons... as have acted anything by order of his Highnes or the Councill for ye safety and peace of the Nations'. Among those named to the committee were the one-time Major Generals Desborough, Berry, Goffe and Cooper. Once the matter of indemnity had been considered, the committee was empowered by the Other House to 'prepare an act for the purpose yf they see it necessary'.<sup>72</sup> On 14 March, the Other House urged the committee preparing the 'bill for indemnifying' to meet the following morning and 'bring in the bill w[i]th all speed'.<sup>73</sup> Their haste was probably no coincidence; the bill was first reported by Desborough on 16 March – the same day that Colonel Robert Overton, another who had been arbitrarily imprisoned by the Protector's command, appeared at the bar of the House of Commons.<sup>74</sup> Read for the second time exactly a week later the bill was then committed, consigning it to the same state of limbo as the other draft legislation under consideration by the Other House; the much-needed indemnity bill proved to be unforthcoming.<sup>75</sup>

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<sup>70</sup> *Burton*, iii, 448-9 (23 Feb.).

<sup>71</sup> *Thurloe*, vii, 622-23: Barkstead to Thurloe, 24 Feb. 1659.

<sup>72</sup> *HMC Lords*, pp. 543-4 (3 Mar.).

<sup>73</sup> *Ibid.*, p. 547 (14 Mar.).

<sup>74</sup> *Ibid.*, pp. 548-9 (16 Mar.).

<sup>75</sup> *Ibid.*, pp. 552-3 (23 Mar.).

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What made the anti-military actions of the Commons even more alarming for the army grandees, however, was the growing uncertainty they felt over the Protector's loyalties. A series of incidents worked to erode confidence in Richard Cromwell, highlighting his predilection to favour his conservative supporters over men of a more godly spirit. These included his high-handed dealings with the radical Colonel Richard Ashfield who, following a heated exchange with Edward Whalley was ordered by the Protector to 'give satisfaction to Whaly... or else it should be referred to a court marshall'.<sup>76</sup> Around the same time Richard had apparently berated a cornet in Ingoldsby's regiment for accusing his Major 'to be such as to dis-own and brow-beat the honest men in the Regiment, and to countenance Drunkards, Liars, Swearers, and Haters of Goodness'. Ordering the cornet to Whitehall, Richard allegedly complained that:

You article against your Major because he is for me? You are a company of Mutineers, you deserve a hundred of you to be hanged; and I will hang you, and strip you as a man would strip an Eele; you talk of preaching and praying men, they are the men that go about to undermine me.

Finally, 'clapping his hand upon Col. *Ingoldsby*'s shoulder', Richard implored him to 'go thy way *Dick Ingoldsby*, Thou canst neither preach nor pray, but I will believe thee before I will believe 20 of them'. The whole episode nicely encapsulated the growing gulf between the conservatives at Whitehall and the religious radicals of the army and was used to great effect by the government's critics to fan the flames of discontent.<sup>77</sup>

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<sup>76</sup> Gaunt, *Lansdowne*, pp. 469-72: Morgan to H. Cromwell, 8 Mar. 1659.

<sup>77</sup> *Second Narrative*, pp. 30-1 (second pagination); *Ludlow*, ii, 63.

Overall, the events of late-February and March had exposed a burgeoning conservative attitude at Whitehall and a rabid anti-military spirit at Westminster that served to unite the army. Early in the parliamentary session, a tripartite division in the army had been apparent to contemporaries – the grandees at Wallingford House, the junior officers at St James’s and those sympathetic to the Protector at Whitehall.<sup>78</sup> Gradually, however, the distinction between the first two groups became blurred as the Wallingford House officers shifted allegiances. With almost nightly meetings occurring among the inferior officers at St James’s, the grandees were well aware that something had to be done to bring the army back into line.<sup>79</sup> Rather than implore the rank and file to rally behind Richard, however, the grandees distanced themselves from him. Symbolising this split was the creation of a new gathered church under Dr. John Owen in mid-March – among the congregation were Fleetwood, Desborough, Lambert, Sydenham, Berry and Goffe. It was a move which, according to Annesley, was ‘not...very well liked at Whitehall’.<sup>80</sup>

The sanguine predictions of the French Ambassador in late February had proven to be false. Instead of a rapprochement between the military Cromwellians and the Protector in the face of a hostile Commons, it became increasingly obvious that Richard was a lot closer to the conservative contingent in the lower chamber than he was to the military. No longer enjoying the intimate relationship that they had with his father, the army grandees began to wonder how much they could rely on Richard’s support should the Commons make more purposeful strides in their anti-military programme. What made this fear all the more intense, however, was the

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<sup>78</sup> See *Ludlow*, ii, 61.

<sup>79</sup> Bodl., MS Clarendon 60, fols. 224r-225v.

<sup>80</sup> Gaunt, *Lansdowne*, pp. 474-5: Annesley to H. Cromwell, 15 Mar. 1659; Stephen, ii, 157-9: Sharp to Douglas, 8 Mar. 1659.

composition of the Other House. Contrary to Bordeaux's report, the army grandees were not the majority in that chamber and realised that they could not depend on its support as a bulwark for their own interests. Fearing that they could not influence matters from within Westminster, the Wallingford House officers looked to revive the meetings of the General Council of Officers to apply external pressure through military institutions instead.<sup>81</sup>

When the General Council of Officers met on 2 April, Fleetwood lost no opportunity to let the officers present understand that he empathised with their plight.<sup>82</sup>

According to one eyewitness, he told the assembled officers that the cause of their meeting was 'to let us understand the great sence *hee* had of the want of pay for the souldiers of the armies, and desired the officers to consider it'.<sup>83</sup> Fleetwood was stating clearly to the officers that he was ready to unite the army behind a campaign of agitation. With the heads of the petition listed, the matter was then referred to a committee of officers, dominated by the radical Ashfield and Lilburne, 'to draw a draught of a representation, and a petition of all the officers to bee delivered to his Highnes'. This draft emerged on 4 April and was subscribed two days later.<sup>84</sup>

On the face of it, this *Humble Representation and Petition of the General Council of Officers* mimicked the military manifestoes of 1647, even opening by restating that they were not 'a mercenary army'. The perennial concern for arrears of pay remained – 'the Armies are already under great extremities for want of Pay'. Compounding the army's frustration was the fact that although their 'condition hath been represented' to

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<sup>81</sup> *Clarke Papers*, v, 282: Newsletter from R. Lilburne, 29 Mar. 1659.

<sup>82</sup> *Ludlow*, ii, 65; *Clarke Papers*, iii, 187-8: 7 Apr. 1659; *Boyle State Letters*, p. 27.

<sup>83</sup> *Clarke Papers*, iii, 187-8. Emphasis added.

<sup>84</sup> *Ibid.*, iii, 187-8; Gaunt, *Lansdowne*, pp. 499-500: Fauconberg to H. Cromwell, 12 Apr. 1659.

the Parliament ‘no effectual remedy hath been applied’.<sup>85</sup> Similarly, the old issue of indemnity was resurrected; it complained how ‘encouragement is taken for the prosecution of several Well affected persons... for matters by them transacted as Souldiers, by command from their Superiours, in order to the safety and security of the Nations’.<sup>86</sup> As recent events in the Commons had demonstrated, particularly the release of Portman and Overton, this was not just a concern for the common soldier. Finally, the *Humble Representation* also drew conspicuous attention to the ‘many old Cavaliers’ were having ‘their frequent meetings in and neer the City of *London*’.<sup>87</sup> As one Royalist cynic lamented to Secretary Nicholas, ‘the old foe, that grand enemy the Cavee, must be reviled and blowen upp into a formidable Hobgoblin’ – in his opinion it was an excuse to spread ‘feares and jealousies’ and thereby keep the army in being.<sup>88</sup>

That Fleetwood and Desborough did nothing to stop the petition suggests they were not altogether unsympathetic to its contents.<sup>89</sup> Besides the calls for pay and indemnity, they would have also shared the petition’s central concern over ‘the implacable Adversaries’ of the Cause who ‘begin to appear every where visible amongst us’. In order to remedy the situation, the officers swore menacingly to assist Richard and the Parliament ‘in the plucking the wicked out of their places wheresoever they may be discovered, either amongst our selves, or any other places of trust’.<sup>90</sup> Undoubtedly those ‘wicked’, ‘implacable Adversaries’ included those

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<sup>85</sup> *The Humble Representation and Petition of the General Council of the Officers of the Armies of England, Scotland, and Ireland* (1659), pp. 5, 6-7.

<sup>86</sup> *Ibid.*, p. 4.

<sup>87</sup> *Ibid.*, p. 3; *Clarke Papers*, iii, 187: 2 Apr. 1659.

<sup>88</sup> *Nicholas Papers*, iv, 100-2: Miles to Nicholas, 8/18 Apr. 1659.

<sup>89</sup> *Whitelocke Diary*, p. 511: 14 Apr. 1659; See also Bodl., MS Clarendon 60, fols. 346-8: Rumbold to Hyde, 11 Apr. 1659.

<sup>90</sup> *Humble Representation and Petition*, pp. 3, 6.

conservatives or ‘neuters’ that were frustrating the Wallingford House group at Whitehall and Westminster.

According to the printed version of the *Humble Representation*, the document presented by ‘the Right Honourable the Lord *Charles Fleetwood*’ and the other signatories on 6 April was ‘most graciously accepted by His Highness, who expressed himself with much affection towards both it and them’.<sup>91</sup> Yet, there were rumours that the situation was far from harmonious. The Royalist agent, John Mordaunt, believed that ‘the Remonstrance... takes place though much against Cromwell’s will who told Fleetwood it should be suppressed’.<sup>92</sup> In their petition, the army officers were clear that the Protector should ‘Represent these things which we have herein laid before Your Highness, to the Parliament’.<sup>93</sup> There were suggestions, however, that Richard was reluctant to do so, upon which ‘the Officers mett againe resolving to gaine Reputation by striking the first blow’ and ‘printed it by publique order from themselves’.<sup>94</sup> According to Annesley, the *Representation* was ‘published by the Officers own order, the seventh of *April*’; the day before it was formally sent to both Houses of Parliament with a letter from the Protector.<sup>95</sup>

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### **Reactions to the *Humble Representation* in Parliament**

Although the army’s *Humble Representation* was forwarded by Richard to both Houses on 8 April, there still remained the problem of getting it read and debated.

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<sup>91</sup> *Ibid.*, p. 8; See also *Merc. Pol.*, 561 (31 Mar. – 7 Apr. 1659), p. 352; *Publ. Intel.*, 171 (4-11 Apr. 1659), p. 344.

<sup>92</sup> Bodl., MS Clarendon 60, fol. 322r: Mordaunt to Hyde, 10-14 Apr. 1659; *CSPV 1659-1661*, pp. 6-7.

<sup>93</sup> *Humble Representation and Petition*, pp. 6-7.

<sup>94</sup> Bodl., MS Clarendon 60, fols. 308, 322-5; See also Falkland’s speech in *Burton*, iv, 449 (18 April).

<sup>95</sup> Annesley, *England’s Confusion*, p. 7.

John Barwick was convinced that the recent Commons' vote to transact with the Other House had 'imboldened the army to that petition' given that they could now 'make their party good in one of the houses, and not fearing to be voted down by either of them apart, now that both must concur in things of that nature'.<sup>96</sup> In reality, however, little headway was made in either House. Although the *Humble Representation* was read in the Other House on 8 April, debate on the issue 'so farre as Concernes this House' was deferred until Monday 11 April.<sup>97</sup> When the house resumed the debate, the only order made that day was to set up a committee to 'consider of some necessary provision to be made for securing the Nation against the Common enemy'. It would be a further week before that committee reported a draft act 'enjoining Papists and other persons who have borne Armes under the late king... to depart out of the Cityes of London and Westminster'.<sup>98</sup> Beyond that, there were no further motions towards satisfying the army's grievances in the Other House.<sup>99</sup>

While this lethargic response in the Other House appears to be further evidence of the lack of control by the Wallingford House officers there, it is also possible that they were waiting to see what the Commons' response would be. If so, they were to be sorely disappointed. According to Bordeaux, the *Representation* was 'very ill-received' by the Commons.<sup>100</sup> Burton notes how there was some debate on 8 April 'whether the petition should be read' at all 'in regard it was late, and the contents known to all' because it was already available 'in print'.<sup>101</sup> While the debate

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<sup>96</sup> *Thurloe*, vii, 646-7: Mr. John Barwick to Sir Edward Hyde, 9 Apr. 1659

<sup>97</sup> *HMC Lords*, pp. 557-9 (8, 11 Apr.).

<sup>98</sup> *HMC Lords*, p. 562 (18 Apr.).

<sup>99</sup> *HMC Lords*, pp. 562-3, 565-6. The bill was read for the second time on 19 Apr. and committed. The bill would finally resurface again on 21 Apr.

<sup>100</sup> Guizot, *Richard Cromwell*, i, 352-60; Bordeaux to Mazarin, 11/21 Apr. 1659.

<sup>101</sup> *Burton*, iv, 379.

continued Burton went to dinner, thereby failing to record any details of the Commons' reaction to the petition.<sup>102</sup>

When the Commons met the following day, some tentative steps were made towards satisfying one of the key grievances in the petition – the army's pay. According to Giavarina, 'parliament resolved that the army should immediately receive three months pay to meet its pressing needs... and thus secure the fidelity of the troops and their steady support of the present government'.<sup>103</sup> Yet, in reality, things did not pass quite so serenely. Thurloe opened proceedings on the matter by urging the Commons to 'take some care about the arrears of the army' not least the 'money due upon the excise' of which, he claimed, 'nearly 200,000*l.* is due' but 'not above 10,000*l.* came in'.<sup>104</sup> A report from the 'Committee for inspecting the Accounts and Revenue of the Commonwealth' was duly read detailing the revenue required from the monthly assessment and excise to fund the army *in England* for three months. On the face of it, this report was an immediate reaction to the army's demand for pay. Yet, all it served to highlight was the massive gulf in the exchequer left by the farmers of the excise for beer and ale. Indeed, any further debate on the *Humble Remonstrance* was shelved as the Commons devoted the following three days to interrogating the excise farmers.<sup>105</sup>

It is hardly surprising that expedients designed to bolster the government's finances should take priority at this point. On the morning of 7 April, the Commons had received a substantial shock when its committee for inspecting accounts reported an

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<sup>102</sup> *Burton*, iv, 379 (8 Apr.). Unfortunately, Gell's diary also breaks off at the point, DRO, MS D258/10/9/2, fols. 31r-32r.

<sup>103</sup> *CSPV 1659-1661*, pp. 8-10: Giavarina to Doge and Senate, 15/25 Apr. 1659.

<sup>104</sup> *Burton*, iv, 383.

<sup>105</sup> *CJ*, vii, 632-9 (9, 11, 12, 13 Apr.); *Burton*, iv, 395-402, 412, 416-20.

expected public debt of £2.5 million by the year's end.<sup>106</sup> For Annesley, this was 'one of the saddest mornings that ever I had in my life'; with the yearly deficit estimated to continue growing by over £300,000 a year he expected it to be 'an incurable disease, unless you apply a cure presently'.<sup>107</sup> Of course, there was more than one way to reduce a deficit; as some MPs began to argue, cuts in expenditure could be just as effective, or even necessary, as squeezing every last drop out of a hard-pressed, over-taxed nation.

Indeed, a number of proposals for financial retrenchment were put forward in the Commons that only served to heighten rather than soothe tensions with the army officers. During the debates on 9 April, for instance, Colonel John Birch – a man who had been entrusted with slashing the army's size during the first Protectorate Parliament – was keen to highlight the officers' culpability in the nation's financial woes. He was especially critical of the fact most army officers held civil office as well – the 'Officers pay their own salaries' and 'it was 'the salaries [that] eat out all your revenue'. To remedy this situation, Birch moved for a new 'Self-denying Ordinance'.<sup>108</sup>

If this criticism of the army officers' salaries was tactless, the Commons' subsequent decision to pursue impeachment proceedings against Major-General William Boteler was bold to the point of reckless. According to one newsletter, complaints against Boteler had been forwarded to the Commons' committee for grievances in mid-

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<sup>106</sup> *CJ*, vii, 627-31, 640-1 (7, 16 Apr.).

<sup>107</sup> *Burton*, iv, 363 (7 Apr.).

<sup>108</sup> *Burton*, iv, 383-4 (9 Apr.).

March.<sup>109</sup> Following in the wake of the Portman and Overton cases, the charges against Boteler would have been particularly worrying for the army grandees as they were aimed specifically at acts he had committed in his capacity as a Major-General. According to the committee's report, the complaint centred around a convoluted dispute over debt in which Boteler rode roughshod over a number of Common Law procedures and judgments.<sup>110</sup> Although, like Barkstead before him, Boteler claimed to have acted under Oliver Cromwell's writ, the committee proceeded to vote his actions 'unjust and illegal'.<sup>111</sup>

When the committee's report was made to the Commons on 12 April, a number of Presbyterian and crypto-Royalist MPs demanded that Boteler be stripped of all civil and military office.<sup>112</sup> Colonel White wanted the matter to be taken even further, believing that 'the offence of Lord Strafford' was 'not so high' as that committed by Boteler.<sup>113</sup> Resolutions were passed to both agree with the committee's report and to put Boteler out of the commission of the peace. All this was a dangerous precedent that did little to improve relations with the army officers. As Bordeaux noted, the army was 'not at all satisfied at finding that the Parliament does not defer to its demands but punishes past misconduct with such severity'.<sup>114</sup>

Bad as the situation was, however, there were attempts to prevent it from getting any worse. A number of civilian Cromwellians tried to stop the Commons voting on

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<sup>109</sup> *Clarke Papers*, v, 281: 17 Mar. 1659; Gaunt, *Lansdowne*, pp. 488-89: Mabbott to H. Cromwell, 29 Mar. 1659.

<sup>110</sup> *Thurloe*, vii, 653; *CJ*, vii, 636-7 (12 Apr.).

<sup>111</sup> Gaunt, *Lansdowne*, p. 489.

<sup>112</sup> *Burton*, iv, 403-4. See speech by Falkland, *Ibid.*, iv, 405-6.

<sup>113</sup> *Ibid.*, iv, 404-5.

<sup>114</sup> Guizot, *Richard Cromwell*, i, 361-3: Bordeaux to Mazarin, 14/24 Apr. 1659; BL, *Lansdowne MS* 823, fols. 291-2 (Gaunt, pp. 499-500): Fauconberg to H. Cromwell, 12 Apr. 1659; *Clarke Papers*, v, 283-4: Newsletter from Mabbott, 14 Apr. 1659.

whether Boteler should be stripped of his military command as well. Thurloe, claimed that it was ‘without precedent, that, upon a report from a committee, such judgment should be given in this House’. Instead, it was Thurloe’s opinion that ‘when a charge came here against any man, an impeachment was drawn up, and sent to the other House, and was there proceeded upon, as formally as if at the Upper Bench, or other Court’.<sup>115</sup> These calls for bicameral impeachment proceedings gained support from some unlikely quarters. Sir Henry Vane urged that ‘this vote of yours must be carried to the Other House before it can take effect. There he must be heard. Your judgment [alone] is not conclusive’.<sup>116</sup> Thomas Scot professed that he would ‘rather be hanged by the other House’ than impeached by the Commons alone.<sup>117</sup> Eventually, a committee was appointed to draw up an impeachment against Boteler and ‘to consider of a course how to proceed, judicially, against him’.<sup>118</sup>

That civilian Cromwellians and Republicans alike were keen to refer Boteler’s case to the Other House by way of impeachment is revealing. By having the issue sent upstairs, the civilian Cromwellians probably hoped to contain the fury of anti-militarism that gripped the Commons.<sup>119</sup> Referring the matter to the Other House ensured that the proceedings would conform to traditional practices and were also less likely to get out of control. Even if Boteler’s actions were questionable, it was not in the interests of any in the Other House – whether military or civilian – to prosecute Boteler excessively for pursuing the Protector’s writ. The Republican’s eagerness to refer the issue to the Other House, however, is less easy to explain. Despite the fact that they had been among the most vociferous opponents of the upper chamber

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<sup>115</sup> *Burton*, iv, 407, 410; Bodl., MS Clarendon 60 fols. 322-5, Mordaunt to Hyde, 10-14 Apr. 1659.

<sup>116</sup> *Burton*, iv, 408.

<sup>117</sup> *Burton*, iv, 409-10.

<sup>118</sup> *Burton*, iv, 412; *CJ*, vii, 636-7 (12 Apr.).

<sup>119</sup> Guizot, *Richard Cromwell*, i, 361-3.

throughout February and March, they now professed a keenness to deal with it. Undoubtedly, this sudden u-turn gives further credence to the rumours that the Wallingford House officers and Republicans were gravitating towards one another.

Far from satisfying the army's grievances, as outlined in the *Humble Representation*, the majority in the Commons had pursued policies that only served to make those problems worse. Despite attempts from a number of the Court party and Republicans to try and cool the Commons' temper, the House remained undaunted. The only significant action taken by the Commons to shield the army from its debate was a vote on 13 April that 'the Orders and Resolutions of this House shall not be printed by any Person or Persons whatsoever, without the special Leave of this House'. Yet, this media blackout only served to heighten rumours and suspicions among the army officers.<sup>120</sup>

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### **Transactions Between the Commons and the Other House**

Once again, like so many times in the past, the army officers responded to political crisis by seeking God. According to Mabbot 'the whole day' of 13 April 'was spent by the army in prayer and preaching at the Lord Fleetwood's howse'.<sup>121</sup> As the prayer meeting continued, however, proceedings in the Other House faltered. All of the army officers who had seats in the Other House and were present in London, with the

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<sup>120</sup> *CJ*, vii, 637-9 (13 Apr.); *Burton*, iv, 413-23 (13 Apr.); *Clarke Papers*, iii, 189-90; Gaunt, *Lansdowne*, pp. 503-4; Mabbott to H. Cromwell, 19 Apr. 1659; *CSPV 1659-1661*, pp. 8-10; Giavarina to Doge and Senate, 15/25 Apr. 1659.

<sup>121</sup> *Clarke Papers*, iii, 189-90; Gaunt, *Lansdowne*, pp. 503-4; Guizot, *Richard Cromwell*, i, 361-3; *CSPV 1659-1661*, pp. 10-12; Giavarina to Doge and Senate, 22 Apr. / 2 May 1659.

notable exceptions of Broghill and Fauconberg, chose to neglect their attendance at Parliament and went to Wallingford House instead.<sup>122</sup> Of course, it was not merely the military Cromwellians who were present – there were also Richard’s supporters such as Whalley, Goffe, Howard and Ingoldsby who were equally entitled to attend and no doubt did so both to pray and to keep an eye on the Protector’s interests. With so many lords absent, those who attended in the Other House were left with a significant problem. According to the journal, only eighteen lords made an appearance in the chamber on 13 April.<sup>123</sup> Lacking three members to make a quorum, the Other House was left in a state of paralysis; the day’s intended business had to be postponed and the House adjourned until the following morning.<sup>124</sup>

The whole episode provided an important lesson about the influence of the army officers in the Other House. Although they did not have a numerical majority, their absence could be enough to stop the chamber from functioning momentarily due to a lack of members. More importantly, from the perspective of the government’s supporters it was also an ill omen – another sign that the grandees were willing to abandon parliament for the sake of preserving both their own and the army’s interests.

What made the army’s timing especially inopportune, however, was that after months of waiting the Commons was finally ready to open official communications with the Other House. On 5 April, the Commons had resolved that they would ‘desire the concurrence of the Other House’ in a declaration for a fast day to be observed in all parts of the Commonwealth on 18 May 1659. Friction occurred almost immediately

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<sup>122</sup> Berry, Goffe, Cooper, Desborough, Whalley, Ingoldsby, Hewson, Fleetwood, Howard and Barkstead were all absent from the Other House that day.

<sup>123</sup> *HMC Lords*, p. 559-60 (13 Apr.).

<sup>124</sup> *Ibid.*, p. 559-60 (12, 13 April 1659). The bill was finally reported to the House on 18 Apr., *Ibid.*, p. 562.

when it was suggested that ‘this Declaration be carried *up* to the other House’ – as Burton noted, ‘some said, underhand, “rather carry it down”.’<sup>125</sup> The issue at stake was which House, if any, should have precedence when transacting business between one another. Thomas Scot was adamant that the Other House were ‘rather inferior than superior’ they being ‘but a rib from your side’. Indeed, Scot suggested that the Commons should use ‘Masters of Chancery’ to attend them and ‘go on errands as they do’ for the Other House. He wished they would ‘not restore those that are but two years old to have all the privileges of the old Lords’.<sup>126</sup> George Starkey attempted to calm the situation by hoping that ‘we shall not fall out about the ceremony... it is not reasonable that a punctillio should destroy us in our intendment of transacting with them’, yet his words went unheeded.<sup>127</sup>

Primarily, debate on 6 April revolved around the thorny issue of the ceremony of the ‘cap’ and whether members should remain covered or uncovered in the presence of one another. Traditionally, when the Commons delivered a message to the Lords’ House, both the messenger, and those MPs attending him were ‘uncovered’. After the message was delivered to the Speaker at the bar of the House, the messengers from the Commons would withdraw and await an answer. Upon their return into the chamber they would again enter ‘uncovered’ but the Lords then sat with their hats on. On the face of it, the rules were not in need of much modification. As John Swinfen pointed out, given that ‘when the message is carried up, all are bare on both sides’ there was little to complain about. The only point that Swinfen suggested was in need of change was that when the Commons’ messenger ‘goes in again, if they be covered,

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<sup>125</sup> *Burton*, iv, 348 (5 Apr.).

<sup>126</sup> *Ibid.*, iv, 351-2 (6 Apr.); Gell’s diary does not cover the debates of 6 Apr.

<sup>127</sup> *Ibid.*, iv, 353 (6 Apr.).

let him be covered, and those that go with him'.<sup>128</sup> Others proposed an expedient to avoid the tricky second phase of the message ceremonial altogether – the messenger should 'deliver the message, and return to this House immediately, without an answer'.<sup>129</sup> Solicitor-General Ellis was unimpressed by both suggestions. Not only was he against 'your messenger's coming away without an answer' but he wondered whether 'you would be loth to have any member of their House stand covered in your House' – if not, then 'no less ought we to do'.<sup>130</sup> Failing to reach a positive conclusion, the Commons decided to let the Other House be their own executioners in the matter, resolving that 'in all messages unto, and conferences with, the other House, the like respect, and no other, be observed by the members of this House, that is observed by the persons sitting in the other House'.<sup>131</sup>

A committee was also appointed on 6 April to tackle the related issue of who should send messages to and from the Other House. The committee's suggestions, reported to the House on 8 April, were: 'that such messages as shall be sent from this House to the other House, shall be carried by members of this House', and, more contentiously, that 'such messages as shall be sent from the other House to his House, shall not be received, unless brought by members of their own number'.<sup>132</sup> After considerable debate over whether the two questions should be debated separately or together, it was decided to take the question of the Commons' messengers first – eventually voting by 136 to 102 'that such messages as shall be sent from this House to the other House, shall be carried by members of this House'.<sup>133</sup>

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<sup>128</sup> *Ibid.*, iv, 356-7 (6 Apr.). Similar point by Prideaux *Ibid.*, iv, 354-55.

<sup>129</sup> *Ibid.*, iv, 358: speech by Northcote (6 Apr.).

<sup>130</sup> *Ibid.*, iv, 359 (6 Apr.).

<sup>131</sup> *CJ*, vii, 626-7 (6 Apr.).

<sup>132</sup> *Burton*, iv, 370-1 (8 Apr.); DRO, MS D258/10/9/2, fol. 31r.

<sup>133</sup> *CJ*, vii, 631-2 (8 Apr.).

It was the second question, concerning the messengers *from* the Other House that was to prove more complex. Some Court MPs were particularly uneasy at this debate; John Hewly, for one, was sure the Commons ‘had only to do with messages from this House, but nothing with messages from the other House’ – they could not ‘make laws for them’.<sup>134</sup> Thomas Sadler, noting the recent dip in attendance in the upper chamber, had more practical concerns for the efficacy of such a proposal. ‘They are not such a full body’, he warned, ‘sometimes they may want two or three members, and so cannot so well send’ messengers from their own number.<sup>135</sup> Serjeant Maynard implored the Commons that this was no minor procedural issue, for ‘a feather in a clock will retard, as well as an iron wedge’.<sup>136</sup> John Trevor agreed that it was not fit to ‘impose on them as to make them ridiculous’.<sup>137</sup>

Growing increasingly frustrated by the Republicans, Scottish MP William Rosse suggested that a solution to the problem would be to let ‘any person here that sit in the Other House’ deliver the message. Thomas Scot rebuked Rosse for this blatant jibe at Sir Arthur Haselrig (who continued to sit in the Commons despite his summons to the Other House) claiming ‘that gentleman deserves not so ill from you to be employed as a lacquey’.<sup>138</sup> Despite this minor flashpoint, however, the Republicans had little to complain about when the vote was finally taken on the main question. By 127 votes to 114 it was resolved that ‘such messages as shall be sent from the other House to this House, shall not be received, unless brought by Members of their own Number’; that

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<sup>134</sup> *Burton*, iv, 371-2 (8 Apr.).

<sup>135</sup> *Ibid.*, iv, 372-3 (8 Apr.).

<sup>136</sup> *Ibid.*, iv, 376-77 (8 Apr.); DRO, MS D258/10/9/2, fol. 31v; Stephen, ii, 169-70; *Ludlow*, ii, 60.

<sup>137</sup> *Burton*, iv, 378.

<sup>138</sup> *Ibid.*, iv, 377-78. The parliament pawn confirms that Haselrig received a summons to the Other House in 1659, see TNA, C218/1/35.

is, by the lords themselves and not their assistants.<sup>139</sup> For Burton, it was a significant moment and much against expectations – ‘query the consequence’, he noted, for ‘it was the first question that ever the Republicans got’.<sup>140</sup>

These votes seriously redefined the nature of the Other House. As one Royalist correspondent informed Secretary Nicholas on 8 April, ‘the Commoners have resolved to meete the members of the other howse, as their peeres, not their superiors’.<sup>141</sup> James Sharp believed these votes could ‘retard... Parliamentary actings’ altogether. In particular, he was sure that ‘persons of honor and interest will not sitt in the [other] House’ which by these votes would ‘be limited as to their privileges’. In Sharp’s opinion, the only people ‘contented to sitt upon any termes are sword men’.<sup>142</sup>

Indeed, these votes were likely to have pleased the grandees. After all, their impact was not too dissimilar to the reduction of lordly privilege and title that Desborough had been seeking in his draft bill of the previous month. The civilian courtiers in the Commons had been keen to avoid limiting the privileges of the Other House because it would alienate the old peerage and make nonsense of that clause for saving the rights of the old faithful peers which had been the clinching factor for securing the passage of the vote recognising the Other House on 28 March. Nathaniel Bacon best summed up their position on 6 April. ‘You have saved the rights of the old Lords’, he argued, yet ‘they will not come in upon other terms than formerly’.<sup>143</sup>

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<sup>139</sup> *CJ*, vii, 631-2 (8 Apr.).

<sup>140</sup> *Burton*, iv, 378 (8 Apr.).

<sup>141</sup> *Nicholas Papers*, iv, 100-2: Miles to Nicholas, 8/18 Apr. 1659; Bodl., MS Clarendon 60, fol. 322v.

<sup>142</sup> *Stephen*, ii, 169-70.

<sup>143</sup> *Burton*, iv, 352.

But, as frustrating as the debate over the forms of transacting was for the government's supporters, it was by no means disastrous. After all, by clearing this hurdle, the Commons were now ready to communicate their declaration for a day of public fasting to the Other House. Once again, however, the army's activities conspired to stall activity at Westminster. Concerns were raised over the prudence of sending a message to the Other House on 14 April, the day following the army's prayer-meeting. It was reported that 'they are not sitting in the other House. Most of them are at Wallingford House'. To this Burton adds revealingly that 'it seems they were, and not above four in the House; but they were gathering up their number, while we were debating'.<sup>144</sup> According to the Other House's journal, twenty-four members would eventually attend the house that day –but there were some significant 'military' absentees, such as Fleetwood and Hewson, who were presumably among those who continued to linger at Wallingford House.<sup>145</sup>

While the Commons waited, they occupied their time with yet another wrangle over the minutiae of parliamentary ceremonial. Arriving late on 14 April, Burton found the Commons in debate about 'Mr. Grove's going to the other House with the Declaration for the fast'.<sup>146</sup> Once again the issue of whether the messenger should wait for an answer from the Other House was debated. Griffith Bodurda did not think it was 'rational that he should come away without an answer'. There were only two cases when a messenger did not stay for an answer, Bodurda noted dryly: when 'a herald goes to proclaim war' or 'when an apparitor comes to serve a citation', in which case 'he claps it upon the door, and runs away for fear of a beating'.<sup>147</sup> Nonetheless, the

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<sup>144</sup> *Ibid.*, iv, 426-7.

<sup>145</sup> *HMC Lords*, p. 560 (14 Apr.)

<sup>146</sup> *Burton*, iv, 426-7 (14 Apr.).

<sup>147</sup> *Ibid.*, iv, 426-7 (14 Apr.).

question was put whether Grove, having delivered the message, ‘shall return to this House, without staying for any answer’. The motion was rejected by forty-four votes, prompting Haselrig, teller for the *Yeas*, to complain sardonically that ‘he had the worst luck in telling of any man’.<sup>148</sup>

With the final details agreed upon and the membership of the Other House returning to strength, Grove made the short journey to the Lords’ chamber. The ceremonial that attended the transacting process passed awkwardly. According to Wariston, who was present in the Other House that day, around sixty MPs attended the upper chamber to deliver the message.<sup>149</sup> Black Rod informed the Other House of their arrival, ‘whereuppon they were called in’ and made their way to the bar.<sup>150</sup> Speaker Fiennes along with the ‘most part’ of the Other House ‘went downe to the Barr uncovered, and received from them the message’.<sup>151</sup> While Grove approached the bar and ascended the ‘high step’, the MPs following behind him made two ‘legs’.<sup>152</sup> As instructed, Grove, when delivering the message, kept his form of address as ambivalent as possible, declaring that:

The Knights, Citizens and Burgesses in this pr[e]sent Parliam[en]t assembled have sent upp a Declaracon for a Fast wherein they desire the Concurrence of *this* House.<sup>153</sup>

Burton, who was among those accompanying Grove on his errand, also notes how the ‘Lords were bare all the time’ and that the MPs withdrew by making another ‘two legs’. After some deliberation by the lords, the MPs, who were waiting in the Painted

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<sup>148</sup> *Ibid.*, iv, 426-7 (14 Apr.); *CJ*, vii, 639 (14 Apr.).

<sup>149</sup> *Clarke Papers*, iii, 188-9; *Pub. Intel.*, 172 (11-18 Apr. 1659), p. 367; *Merc. Pol.* (14-21 Apr. 1659), p. 373.

<sup>150</sup> *HMC Lords*, p.560 (14 Apr.).

<sup>151</sup> *Clarke Papers*, iii, 188-9.

<sup>152</sup> *Burton*, iv, 427-8.

<sup>153</sup> *HMC Lords*, p. 560 (14 Apr.) emphasis added; Bethel, *A true and impartial Narrative*, p. 12.

Chamber, were called back in.<sup>154</sup> At this juncture the MPs must have waited anxiously to see whether they would be required to put on their hats. As it turned out, there was no need to worry for the Other House decided to break with tradition in order to placate the Commons; when the MPs re-entered the chamber ‘all the Lords [were] bare, sitting in their places, except Lord Fiennes, who was covered; but stood up bare, and returned their answer’.<sup>155</sup> Burton notes how Fiennes tellingly began his answer by stating “The Lords” but ‘then made a pause, as if it had been mistaken’, and continued, “*This House* will return answer to you by messengers of their own”.<sup>156</sup> The slip betrayed the lack of thought the Other House had given to their reply. According to Burton, the lords had not expected the MPs to wait for an answer; as the MPs departed the House for the second time ‘one of the Lords called to Mr. Grove, and told him they desired our excuse for making us stay so long; for they had read half the Declaration before they knew that we stayed’. Perhaps the Other House had anticipated the debates in the Commons earlier that day advocating Grove’s immediate withdrawal and genuinely expected that he would do so. Either way, the incident does not seem to have caused excessive friction. Indeed, much to Burton’s surprise, Grove, in making his report to the Commons, ‘left out the passage that they said “the Lords” while we were delivering the message’.<sup>157</sup>

Yet, this procedural hiccup was the least of the worries for the Other House. It appears that the contents of the message itself were ill-received by many in the chamber. The declaration for the fast day was particularly contentious because it displayed all the hallmarks of the Presbyterian intolerance that was prevalent in the

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<sup>154</sup> *Merc. Pol.*, 563 (14-21 Apr. 1659) p. 373; *Clarke Papers*, iii, 188-9; *Burton*, iv, 427-8.

<sup>155</sup> *Burton*, iv, 427-8.

<sup>156</sup> Emphasis added. *HMC Lords*, p. 560-1 (14 Apr.); *Burton*, iv, 427-8: See also *Clarke Papers*, iii, 188-9; Gaunt, *Lansdowne*, pp. 503-4.

<sup>157</sup> *Burton*, iv, 427-8.

Commons.<sup>158</sup> First proposed on 30 March, the motion for a day of fasting was immediately seized upon by conservative MPs as a way to extirpate religious extremism. John Bulkeley, for instance, commenting on the spread of Quakerism, was adamant that the House should ‘deprecate these evils as famine and pestilence’; he hoped the declaration for the fast would have ‘no censure’ as if ‘this motion proceeds from a spirit of persecution or rigid presbytery, as it is called’.<sup>159</sup>

The draft declaration, presented to the House on 2 April by Thomas Grove, followed Bulkeley’s advice to the letter.<sup>160</sup> Leaving no doubt over its intended target, the declaration complained of the nations being ‘Overspread with many blasphemies, and damnable heresies against God... by denying the authority thereof, and crying up the light in the hearts of sinfull men as the rule and guide of all their actions’. Such errors had ‘opened a wide door for the letting in of the most horrible contempt of the Ordinances and Institutions of *Jesus Christ*, of the Ministers and Ministry of the glorious Gospell, together with the growth of grosse Ignorance, Atheisme and prophanesse of all sorts’.<sup>161</sup> This lamentable situation was made all the worse by the ‘too much remissnesse and connivance of the civill Magistrates (to whom belongs the care of maintaining Gods publique worship, honour and purity of doctrine aswell as of punishing all sins against the second Table) in permitting the growth of these Abominations, by suffering persons under the abuse of Liberty of Conscience to disturbe the publick Ordinances’.<sup>162</sup> As such, it was declared that ‘in all places within *England, Scotland and Ireland*’ 18 May should be set aside as a day for ‘solemn

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<sup>158</sup> Stephen, ii, 165-8: Sharp to Douglas, 5 Apr. 1659.

<sup>159</sup> Burton, iv, 300.

<sup>160</sup> See *CJ*, vii, 622 (30 Mar.); Stephen, ii, 161-3: Sharp to Douglas, 31 Mar. 1659. A printed version of the draft declaration survives entitled *A Declaration of the Lord Protector And both Houses of Parliament For a day of Solemn Fasting... upon the Eighteenth day of May, 1659* (1659).

<sup>161</sup> *A Declaration...For a day of Solemn Fasting*, pp. 4-5.

<sup>162</sup> *Ibid.*, pp. 5-6.

fasting and humiliation'. Moreover, it did 'will and require all Ministers, and Pastors of Congregations, to read or cause to be read this *Declaration* in their severall Churches, Chappels, and Congregations' on the Sunday immediately before 18 May.<sup>163</sup>

Unsurprisingly, the declaration generated a sense of unease for the more radical spirits in the lower chamber. Sir Henry Vane criticised 'this imposition upon conscience' on 4 April as it was 'setting up that which you always cried out against'; it was the 'giving away your cause'.<sup>164</sup> On 5 April, Thomas Scot moved against the declaration because 'in it is complicated the whole quarrel, in point of imposition on conscience'. He was particularly critical of the 'parenthesis' that clarified, or rather widened, the duties of the civil magistrate in religious affairs – its comprehensiveness was akin to 'writing the Lord's prayer on the breadth of a three[penny]-piece'.<sup>165</sup>

Yet, it was not just the Republican MPs who were likely to have found this declaration abhorrent. On 5 April it was resolved that the declaration would be in the name of 'both Houses of Parliament' and would therefore need the assent of the Other House before it could be propounded.<sup>166</sup> Haselrig questioned whether their agreement would be forthcoming, however, given that 'one reason for setting them up was to prevent imposing upon consciences by the Commons'. As such, Haselrig could not believe that this would be the first communication with the Other House; 'it is said, this is to try them the Lord's House, the other House, call them what you will', he

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<sup>163</sup> *Ibid.*, pp. 6-8.

<sup>164</sup> *Burton*, iv, 329. Rutt wrongly dates the entry of 4 Apr. as 2 Apr. Gell's Diary confirms that Vane's speech was delivered on 4 Apr., DRO, MS 258/10/9/2, fols. 19v-20r; Stephen, ii, 161-3.

<sup>165</sup> *Burton*, iv, 342 (5 Apr.). See also Bodl., Tanner MS 51, fols. 44r-45v: Hobart Draft Speech, 5 Apr. 1659.

<sup>166</sup> *CJ*, vii, 325-6 (5 Apr.); *Burton*, iv, 344.

quipped. Haselrig ‘would not have you try them with this’ because, ‘if’, as seemed likely, ‘they grant it not, then we transact no more with them’.<sup>167</sup>

Yet, Haselrig’s words of caution were ignored. On 12 April Sharp was already predicting that the ‘sword men’ would ‘not approve of that Declaration’ when it went to the Other House for approval, adding that ‘what a beginning this may give to the breach betwixt the two Houses may be conjectured’.<sup>168</sup> But one should be wary of simply attributing opposition on religious grounds to the military Cromwellians alone. As demonstrated in chapter two, religious differences did not always develop along political fault-lines and could narrow, rather than accentuate, the gap between ‘military’ and ‘civilian’ Cromwellians. In choosing the membership of the Other House, Oliver Cromwell had made it clear that it was ‘not party’ that was his deciding factor but a ‘Christian interest’ – the majority of those chosen, irrespective of their political outlook were men committed to ‘liberty of conscience’.<sup>169</sup> As Haselrig predicted, the declaration was never going to have an easy ride in the Other House. Writing to Monck shortly after Grove had presented the declaration, Wariston was convinced that it ‘shall cost a great debate’; he was not far wrong.<sup>170</sup>

Although the journal of the Other House only offers minimal information about the details of debate in the chamber, some moments of dispute and deliberation can be discerned. The first reading of the declaration on 14 April seems to have passed smoothly enough – albeit the lords had to break off midway through to allow Fiennes to deliver his hasty answer to the deputation of MPs waiting outside. When business

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<sup>167</sup> *Burton*, iv, 335-7 (5 Apr.). See also speech by Scot, *Ibid.*, iv, 342 (5 Apr.).

<sup>168</sup> *Stephen*, ii, 169-70.

<sup>169</sup> *Clarke Papers*, iii, 137. See chapter 2, pp. 124-34.

<sup>170</sup> *Clarke Papers*, iii, 188-9.

resumed on the 15 April, the declaration was read for a second time. Thereafter, the House seems to have considered adjourning itself into a Grand Committee to continue the debate.<sup>171</sup> Clearly anticipating a great deal of discussion over the wording of the declaration, this expedient would allow the lords to debate matters in a less formal manner. On this occasion, however, the motion was allowed to drop with the almost inevitable result that proceedings in the Other House dragged on slowly as the declaration was again read ‘by parts’. By the end of the day’s debate, the Other House had progressed no further than the fourteenth line, basically the preamble, of the declaration.<sup>172</sup> With business stalling, the question was propounded whether the House should adjourn until Monday 18 April. The question of whether the question should be put produced a tight vote – ‘it being doubtfull w[hi]ch way it was carried, the Lord Viscount Lisle and the Lord Whalley were appointed to take the votes’. But upon ‘numbring... it appeared the greater numb[e]r of Votes were for putting the Question w[hi]ch was accordingly put and resolved in the Affirmative’.<sup>173</sup> Clearly there were some in the House reluctant to defer the debate for two days – but the majority welcomed the respite.

Debate on the declaration resumed on Monday 18 April, beginning with the section dealing with the Quakers. The entire clause concerning the spread of ‘blasphemies and damnable heresies’ was read followed by yet another motion to adjourn into a Grand Committee for further debate. This time the motion was successful and the ‘house was resolved into a Grand Com[mit]tee’. Although the details of what transpired in Grand Committee are not recorded, when the House resumed its

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<sup>171</sup> Although there is no official mention of this in the journals, the anticipation of a Grand Committee can be gleaned from the excisions made by the scribe. See Mus. of Lon., Tangye MS 11a, fols. 54r, 55r.

<sup>172</sup> *HMC Lords*, p. 561; *A Declaration of the Lord Protector... For a day of solemn Fasting*, p. 4.

<sup>173</sup> *HMC Lords*, p. 561.

business it was clear that it had done nothing to expedite matters. Failing to reach an agreement on how to proceed, it was agreed that all the clauses touching the Quakers were 'to be postponed'.<sup>174</sup> Yet, this hardly marked progress for the Other House; by deferring one difficult topic they simply shifted focus onto the equally vexed question of the clause outlining the magistrate's remit in religious matters. A couple of days earlier Sharp was sure that their response would be decisive; 'the generall sense of that House goeth for expunging of that parenthesis trenching upon the magistrats care'.<sup>175</sup> When the Other House came to debate the issue, however, they lacked the dynamism suggestive of a clear-cut response. Perhaps unwilling to reject the declaration outright because of the damage it would do to the relationship between both Houses, or possibly the result of real differences of opinion within the chamber, the Other House continued to prevaricate. Although the clause was read and debated it reached no satisfactory conclusion and the matter was 'adjourned till tomorrow morning'.<sup>176</sup> Thereafter the declaration for a day of fasting disappeared and never surfaced again.<sup>177</sup> Events outside Westminster were rapidly beginning to dominate the agenda of both Houses of Parliament.

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### **The 'Anti-military' Coup of 18 April and the Other House**

Arguably, the declaration for a day of solemn fasting only helped to spur the army officers on in their deliberations. After Grove's message from the Commons had been received and the Other House had adjourned on the afternoon of 14 April, the General

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<sup>174</sup> *Ibid.*, p. 562.

<sup>175</sup> Stephen, ii, 173-4: Sharp to Douglas, 16 Apr. 1659.

<sup>176</sup> *HMC Lords*, p. 562.

<sup>177</sup> Bethel, *A true and impartial Narrative*, p. 12; *Clarke Papers*, v, 284-5: Newsletter from A.J., 19 Apr. 1659.

Council resumed at Wallingford House – attended by an estimated five hundred officers.<sup>178</sup> Following on from the prayer meeting of the previous day, Desborough put forward a daring proposal to purge the army of conservative-minded men by making all officers take an ‘engagement’ asserting that the death of the King had been lawful.<sup>179</sup> According to Ludlow, this ‘proposition found so general an approbation, that it was impossible for the courtiers to resist the stream, and so the meeting was adjourned to another day’.<sup>180</sup> Bordeaux notes how another council meeting had been scheduled for 20 April and in the meantime a ‘committee of twelve officers’, headed by Fleetwood, was inquiring into the matter of the test.<sup>181</sup> One Royalist believed that 20 April was the day ‘the army officers appoynted to meet, and signe this attestation’ to ‘justify the murder of the king’.<sup>182</sup>

Before the officers could meet again, however, Richard Cromwell and his conservative supporters in the Commons launched a bold pre-emptive strike designed to nip this agitation in the bud. On the afternoon of 18 April, the Protector summoned to Whitehall all those officers who had been meeting at Wallingford House.<sup>183</sup> According to Anthony Morgan, who got his information from ‘one present’, Richard told the officers ‘that he had acquainted the parliament with their representation, that the desires in it were under consideration’ and ‘that it was not needfull they should continue their meetings in expectation of an answer’. Therefore they should ‘not meet on Wednesday next as they had appointed but should all repaire to their charges’. The

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<sup>178</sup> *Boyle State Letters*, pp. 27-9; *Clarke Papers*, iii, 189-90; Guizot, *Richard Cromwell*, i, 363-5; Bordeaux to Mazarin, 18/28 Apr. 1659.

<sup>179</sup> *Boyle State Letters*, pp. 27-9.

<sup>180</sup> Ludlow, ii, 67.

<sup>181</sup> Guizot, *Richard Cromwell*, i, 363-5; Bordeaux to Mazarin, 18/28 Apr. 1659; Gaunt, *Lansdowne*, pp. 503-4; Mabbott to H. Cromwell, 19 Apr. 1659; *Clarke Papers*, iii, 190; Newsletter from ‘G.M.’, 16 Apr. 1659.

<sup>182</sup> *Thurloe*, vii, 662; Barwick to Hyde, 20 Apr. 1659.

<sup>183</sup> *Clarke Papers*, iii, 191-2; Newsletter from ‘G.M.’, 21[?] Apr. 1659 [misdated 22 Apr. by Firth]. An identical account in Gaunt, *Lansdowne*, pp. 503-4; Mabbott to H. Cromwell, 19 Apr. 1659.

excuses Richard gave for his actions were twofold; not only were ‘many members of parliament... dissatisfied with such meetings’, but also ‘the cavaleer was arming in order to some new attempts’ meaning that the army needed to be on high alert. Those rumours of Royalist plotting, that the army had complained about so bitterly in the *Representation* were now turned against them.<sup>184</sup>

The momentary shock of this bombshell was swiftly followed by a heated argument between Desborough and the Lord Protector. According to Wariston, ‘the Lord Disbrowe and the Protector had very high words about the officers going from London’.<sup>185</sup> Morgan reports how Desborough ‘wondered that any honest man should be offended at their meetings to regulate disorders among themselves’, to which Richard merely ‘affirmed his 1st orders and withdrew’.<sup>186</sup>

Crucially, at the same time as this meeting between Richard and the officers, the Commons, in what appears a carefully choreographed move, made two critical resolutions.<sup>187</sup> Sitting behind locked doors until four that afternoon, they resolved that:

There shall be no Generall Councell of officers of the army, without the leave, direction, and authority, of his Highnesse and both Houses of Parliament, and that no person shall have or continue any command or trust in any of the armyes or navyes of the 3 nations, who shall not subscribe, that he shall not disturbe or interrupt the free meetinges... of Parliament.<sup>188</sup>

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<sup>184</sup> Gaunt, *Lansdowne*, pp. 504-6; Morgan to H. Cromwell, 19 Apr. 1659; Guizot, *Richard Cromwell*, i, 363-5; Bordeaux to Mazarin, 18/28 Apr. 1659; *Clarke Papers*, iii, 191-2; *CSPV 1659-1661*, pp. 10-12. The official reports were typically sanitized see *Merc. Pol.*, 563 (14-21 Apr. 1659), p. 383; *Pub. Intel.*, 173 (18-25 Apr. 1659), p. 375.

<sup>185</sup> *Clarke Papers*, v, 284-5.

<sup>186</sup> Gaunt, *Lansdowne*, pp. 504-6.

<sup>187</sup> *Ibid.*, pp. 504-6; *Clarke Papers*, iii, 191-2.

<sup>188</sup> *Clarke Papers*, iii, 191-2; Gaunt, *Lansdowne*, pp. 503-4; *Thurloe*, vii, 662; See also *CJ*, vii, 641-2 (18 Apr.).

Reinforcing Richard Cromwell's command that all officers not required in London were to return to their regiments, the first vote would ensure that further meetings of the General Council could not lawfully continue without Parliamentary consent. Moreover, the second vote was a reply to the 'test' proposed by Desborough at the meeting of officers four days earlier. Not content with sending the army officers away, the Commons were also suggesting a purge of all those who were unwilling to acquiesce in Parliament's decisions.

Revealingly, the Republicans were noticeably eager to jump to the army's defence. Anthony Morgan observed how 'the commonwealth party were', in particular, 'much against the 1<sup>st</sup> vote against generall councill'.<sup>189</sup> Thomas Scot went so far as to defend the General Council, claiming that 'there is a "good old cause." If their meetings be, to manage that, I shall not be against them'. Tellingly, for a man who had maligned the upper chamber as a 'council of officers' just weeks earlier, Scot called for 'a Committee to confer with the other House' before the vote was put to the question.<sup>190</sup> Haselrig immediately supported Scot's motion. Professing, rather too strongly, to 'abhor all cabals without doors' and denying that he 'ever was of them', Haselrig called for a 'conference with the other House, and some members of the army, to understand the bottom of this'.<sup>191</sup> Filibuster aside, it seems likely that the Republicans saw this conference as a way for both them and the disgruntled officers in the Other House to join together in opposition and strive to prevent the suppression of the army council. Yet, try as they might, the Republicans could not hold back the anti-military tide.

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<sup>189</sup> Gaunt, *Lansdowne*, pp. 504-6; See also Guizot, *Richard Cromwell*, i, 363-5.

<sup>190</sup> *Burton*, iv, 453-4.

<sup>191</sup> *Burton*, iv, 454-5.

Following these two resolutions, however, a series of seemingly conciliatory motions were made to satisfy the grievances expressed in the army's *Representation*. The House resolved to take into consideration army arrears the following day.<sup>192</sup> Also, in direct echo of the measures already under way in the Other House, the preparation of an indemnity bill was entrusted to the care of the Court lawyers and a committee was set up to 'propose some effectual way' to deal with the many Cavaliers and 'other dangerous persons' who flocked to London.<sup>193</sup> As such, the Commons had covered off any excuse for the army officers to linger in London. Richard was wholly justified in his response to the army officers at Whitehall that afternoon; with their grievances under consideration, there was no justifiable reason why the council of officers should continue.

There was, however, one vital final stage before the machinations of Richard Cromwell and the Commons could be put into effect: both votes would need approval from the Other House. To that end, upon passing the second vote, the Commons resolved that 'the concurrence of the Other House be desired to these Votes And that Mr. John Stephens do carry the same to the Other House for their concurrence'.<sup>194</sup> Interestingly, the anticipated reaction of the Other House to these votes does not seem to have elicited much concern in the Commons. Irish MP Dudley Loftus, for one, was confident they would find a smooth passage, informing Henry Cromwell that 'we do not doubt' of 'their concurrence to these votes'.<sup>195</sup>

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<sup>192</sup> *CJ*, vii, 641-2; *Burton*, iv, 462.

<sup>193</sup> *CJ*, vii, 641-2; *Burton*, iv, 463.

<sup>194</sup> *CJ*, vii, 641-2; *Clarke Papers*, iii, 191-2.

<sup>195</sup> Gaunt, *Lansdowne*, pp. 502-3: Loftus to H. Cromwell, 19 Apr. 1659; See also Guizot, *Richard Cromwell*, i, 363-5: Bordeaux to Mazarin, 18/28 Apr. 1659.

In line with the Commons' order, John Stephens sent up the message to the Other House on the morning of 19 April. Burton, who again accompanied the Commons' messenger to the upper chamber, notes how the ceremonial was mostly a re-run of five days earlier; albeit far 'too many legs were made' by the Commons as they approached and withdrew from the bar.<sup>196</sup> After Stephens and the thirty or more MPs who accompanied him had withdrawn, the lords read the votes and then called the deputation back in to deliver the standard reply that 'the Lords had taken the Message into Consideracon and would retorne an Answ[e]r by Messengers of their owne'.<sup>197</sup>

The Other House's next move would be crucial and many eagerly awaited their response. Gilbert Mabbott claimed that they 'spent much time in debate' over these votes 'but came to no result therein'.<sup>198</sup> Giavarina reported that the upper house 'showed little inclinacion to agree with the lower, and seemed unwilling to consent to any of its bills'.<sup>199</sup> More importantly, Royalist agent John Barwick was of the belief that 'the other house is another clogg' on the Protector and would not pass the votes.<sup>200</sup>

In reality, there is much to suggest that, despite some staunch resistance, the military Cromwellians in the Other House were unable to prevent discussion of these votes. According to Wariston, after the presentation of Stephens' message, the House spent the rest of the day debating 'whether wee should not take them into Consideration or delay it till after the Declaration of the fast was passed'.<sup>201</sup> Indeed, according to the

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<sup>196</sup> *Burton*, iv, 465 (19 Apr.); *HMC Lords*, p. 563.

<sup>197</sup> *HMC Lords*, p. 563; *Burton*, iv, 465.

<sup>198</sup> *Clarke Papers*, iii, 191-2.

<sup>199</sup> *CSPV 1659-1661*, pp 10-12: Giavarina to Doge and Senate, 22 Apr. / 2 May 1659.

<sup>200</sup> *Thurloe*, vii, 662: Barwick to Hyde, 20 Apr. 1659.

<sup>201</sup> *Clarke Papers*, v, 284-5.

journal the question for putting the question of whether ‘the Consideracon of these Votes shalbe taken upp without any other business to intervene’ produced a very ‘doubtfull’ result and necessitated a counting of votes in the chamber by Viscount Lisle and Lord Broghill. According to Thomas Clarges, the Other House was ‘in a great consternation upon receipt of these resolutions of ours’ and although ‘many moved to lay them aside’, it was ‘carried... by one voice in the contrary’.<sup>202</sup> Yet, the fact remained that, ‘the affirmatives were more then the negatives’ and the Other House resolved to take up debate on the Commons’ votes the following morning despite the considerable opposition of many in the chamber.<sup>203</sup>

Undoubtedly, growing attendance levels helped to contribute to the military Cromwellians’ woes. Whereas the Other House barely reached the quorum of twenty-one in late March, numbers in the chamber were consistently above thirty from 18 April onwards.<sup>204</sup> Crucially, a number of leading civilian Cromwellians drifted back into the House, thereby helping to bolster their majority. These included Viscount Fauconberg, John Cleypole and Lord Broghill all of whom had sat only intermittently since late February. Indeed, there appears to have been something of a concerted effort to get as many civilian Cromwellians as possible in attendance at the Other House. On 20 April, for instance, Whitelocke – who was absent the day before – received letters from Lord Broghill desiring him ‘to come to the House’.<sup>205</sup> Moreover, that very morning Black Rod was ordered ‘to send notice unto such of the Lords as can be met with that the house doth expect their presence’; the result was a turnout of

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<sup>202</sup> *Thurloe*, vii, 657-8; Clarges to H. Cromwell, 19 Apr. 1659; *Clarke Papers*, v, 284-5; Guizot, *Richard Cromwell*, i, 366-70; *Burton*, iv, 465, 468-9.

<sup>203</sup> *HMC Lords*, p. 563 (19 Apr.); *Clarke Papers*, v, 284-5.

<sup>204</sup> See Table 1 below.

<sup>205</sup> *Whitelocke Diary*, p. 512; Although absent on 19 Apr., Whitelocke resumed sitting in the Other House on 20 Apr., see *HMC Lords*, pp. 562-3.

thirty-five members – the highest since Parliament opened in January.<sup>206</sup> Indeed, that the voting was so tight on 19 April probably reflects the fact that while the military Cromwellians in the chamber were virtually all in attendance, the civilians were still not quite at full capacity. With only a few extra votes needed to overcome unequivocally the military contingent, every effort was made to get the membership up to its maximum strength.

The table below provides a summary of attendance levels in the Other House in the final days of the third Protectorate Parliament. Using the definitions set out in chapter two, the membership in attendance on each day has been broken down into groups of ‘military’ and ‘civilian’ Cromwellians. Of course, there are some shortcomings; not all of the members can be categorized positively and some – especially among the ‘military’ category – were inconsistent in their allegiances. Moreover, there is also an obvious problem with relying too heavily on the attendance lists – they only record who was present *at some point* during that particular day; it is less certain whether that individual was present throughout the whole day’s debate or not. Yet, with these caveats in mind, the evidence in the table confirms the trend of a growing civilian presence and a relatively stable, and numerically inferior, group of military men. The figures also shed light on why the civilian Cromwellians were anxious to boost their numbers further. While they consistently had enough members to command a majority over the military men, they never had quite enough members to make an outright quorum. Should the military Cromwellians decide to abandon the Other House *en masse*, they could still bring business there to a standstill. Indeed, the crippling effect of the army officers’ prayer meeting on 13 April was a forewarning of

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<sup>206</sup> *HMC Lords*, p. 564 (20 Apr.).

this fact. The result was a paradoxical situation whereby the civilian dominance over the military Cromwellians was effective so long as the military men were prepared to continue sitting in the upper chamber.

*Table 1: Attendance in the Other House, 13-22 April 1659.*

<b>Date</b>	<b>Civilian</b>	<b>Military</b>	<b>Total</b>
13 April 1659	13	5	18
14 April 1659	14	10	24
15 April 1659	14	12	26
18 April 1659	19	12	31
19 April 1659	19	13	32
20 April 1659 AM	20	15	35
20 April 1659 PM	20	13	33
21 April 1659 AM	20	12	32
21 April 1659 PM	17	5	22
22 April 1659	14	13	27

In the short term, the military Cromwellians struggled on – striving fruitlessly to overcome the civilian contingent in the Other House. In doing so, the grandees even cancelled the meeting of the council of officers scheduled for Wednesday 20 April. It had initially looked as though, despite the Protector’s orders and the Commons’ resolutions, the officers were going to press ahead with this meeting as planned.<sup>207</sup> According to Mabbott, however, the meeting was cancelled, not because it was against Richard Cromwell’s orders, but ‘because the Lord Fleetwood was going to the other House’.<sup>208</sup> After sending the officers away, the grandees made their way to Parliament later that morning. Indeed, the attendance list for the Other House provided in the draft journal confirms that Fleetwood, Desborough, Tichborne and

<sup>207</sup> *Clarke Papers*, v, 284-5; *Thurloe*, vii, 657-8, 662; *CSPV 1659-1661*, pp. 10-12; Guizot, *Richard Cromwell*, i, 366-70.

<sup>208</sup> *Clarke Papers*, iii, 191-2.

Hewson were all late arriving at the House – all four names being written in after the initial register had been taken.<sup>209</sup>

Yet, despite their concerted effort to be there, the grandees' presence had little impact on the flow of debate in the Other House. Once again the votes from the Commons were read 'and afterward the first of them' concerning the council of officers was 'again read and Debate had thereupon'. It seems discussion was lengthy and filled all of the morning's proceedings prompting motions for a brief adjournment before continuing that afternoon. A succession of close votes followed over the question of whether the House should adjourn the debate and continue it at 'three of the Clock'. According to the journal, when the Question was put for the continuation of debate into the afternoon, 'the voices being doubtfull, Lord Viscount Lisle and Lord Hampden were appointed to number them'. Their calculations found, no doubt to the military Cromwellians' dismay, that the resolution did 'passe in the affirmative' and discussion of the Commons' vote was to continue in earnest that afternoon.<sup>210</sup> The military men simply did not have the numbers to control business in the chamber. Of the thirty-five members present that morning, only fifteen were military Cromwellians.<sup>211</sup>

When the Other House resumed its deliberations that afternoon, it was obvious that the military Cromwellians had finally lost their patience. Failing to get their way in the upper chamber, they began to drift away from the house; for instance, Walter

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<sup>209</sup> Mus. of Lon., Tangye MS 11a, fol. 57r. These names are also in a different hand to the rest.

<sup>210</sup> *HMC Lords*, p. 564. Like Lisle and Hampden, the tellers in the earlier vote that day, over whether or not to adjourn, were also from opposite sides of the political divide: Tichborne (military) and Onslow (civilian).

<sup>211</sup> *HMC Lords*, pp. 563-4. The 15 were: Barkstead, Berry, Cooper, Desborough, Charles Fleetwood, George Fleetwood, Hewson, John Jones, Viscount Lisle, Skippon, Sydenham, Walter Strickland, Tichborne, Tomlinson, Wariston.

Strickland (who had attended all but two sittings since the Parliament began) and John Barkstead failed to turn up for the afternoon session and by the following morning Charles Fleetwood was absent as well.<sup>212</sup>

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### **The Other House and the Final Days of the Third Protectorate Parliament**

These were worrying times for the army grandees – unable to control business in the upper chamber, they were powerless to prevent legislation detrimental to their interest from passing through parliament. Following their departure from the Other House that evening, fresh attempts were made to convene a meeting of the General Council at Wallingford House. According to Bordeaux, the officers ‘proceeded to Lieutenant-General Fleetwood’s House’ but ‘there was no business discussed, for he sent them away, saying that for the present there was nothing for them to do or to fear’.<sup>213</sup> Yet, the subsequent actions of the grandee officers betrayed these calm assurances.

Mabbott reports that Fleetwood and Desborough spent most of the evening in a meeting with Richard. Typically, he gives away very little other than the colourless snippet that the army grandees were given ‘full satisfaction in what his Highness had then said’.<sup>214</sup> There are hints, however, that the grandees met with Richard to voice their concern over a fresh bout of anti-military motions made in the Commons earlier that day.

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<sup>212</sup> *HMC Lords*, pp. 564-5.

<sup>213</sup> Guizot, *Richard Cromwell*, i, 366-70; *Burton*, iv, 468-9 (20 Apr.); *Clarke Papers*, iii, 191-2.

<sup>214</sup> *Clarke Papers*, iii, 191-2.

Unfortunately, Burton was absent for most of 20 April and failed to record anything of the substance of the debate in the Commons. Sitting in Grand Committee for most of the morning, the Commons continued to discuss the matter of the ‘revenue and debts of the Commonwealth’.<sup>215</sup> At some point, however, discussion strayed onto ‘the settlement of the militia’.<sup>216</sup> According to Slingsby Bethel, the discussion of ‘the Accompts’ was ‘interrupted... by the Courtiers, who brought on foot the question; Where the right of the *Militia* did reside? with a designe, first, to vote it in the Protector and both Houses of Parliament; And secondly, to vote the Protector General’.<sup>217</sup> These were both highly sensitive issues for the army grandees and it seems they went to Richard on the evening of 20 April to extract a promise that these motions would be suppressed.<sup>218</sup> It was highly symptomatic of their impotence in the Other House: nervous about the prospects of being able to check such legislation in Parliament by themselves they turned to the Lord Protector for relief. In this context, the parliamentary proceedings of 21 April would prove decisive in dictating the nature of the crisis that was to follow.

If the grandees did succeed in extracting those assurances from the Protector, they proved to be illusory. Arriving late at the House on 21 April, Burton ‘found the business of the militia in debate’. Robert Beake had moved that ‘the militia be declared to be in three estates, and that his Highness take care of it’.<sup>219</sup> The anti-military feeling in the Commons throughout this debate from the Presbyterians and civilian Courtiers was palpable. Solicitor-General Ellis was sure that, ‘it was never

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<sup>215</sup> *CJ*, vii, 641-2 (20 Apr. 1659).

<sup>216</sup> Gaunt, *Lansdowne*, pp. 506-7: Mabbott to H. Cromwell, 26 Apr. 1659; See also Guizot, *Richard Cromwell*, i, 366-70.

<sup>217</sup> Bethel, *A true and impartial Narrative*, p. 13.

<sup>218</sup> *Ludlow*, ii, 68-9; *Clarke Papers*, iii, 209-17.

<sup>219</sup> *Burton*, iv, 469, 472 (21 Apr.); Guizot, *Richard Cromwell*, i, 366-70.

disputed’ that the militia ‘was in King, Lords, and Commons... Wherever the legislative is, the militia is’. Yet, what the Commons now had to establish was ‘the case of distribution, as who shall *lead* your army and grant commissions’; that is, ‘who, for the present peace and security, shall *command* your army’.<sup>220</sup> Thomas Higgons warned that this debate had to be decided ‘before you rise’ and was of the opinion that if they were to ‘divide those two powers, general and protector... I had rather have him general than Chief Magistrate’ – without command over the army, Richard’s power would signify as much as the ‘Doges of Genoa and Venice... one cannot stir out of doors without leave, the other is [but] for two years’.<sup>221</sup> Republican attempts to stall the debate were to no avail; a division of the House over whether the debate should be adjourned until the following morning, with Haselrig acting as tellers for the ‘yeas’, was defeated by 152 votes to 115.<sup>222</sup>

When debate resumed that afternoon, Thomas Scot was resigned to the increasingly inevitable outcome; ‘this looks like Hezekiah’s will’, he quipped, “put thy House in order, for thou shalt die and not live”. The Commons were about to ‘give the Chief Magistrate a negative in the militia, and so, his will be an executive power, both on the legislative and the militia. If he would lie down and wish, he could wish no more’.<sup>223</sup> Ostensibly, the majority in Parliament had adopted a ‘do or die’ mentality. If successful, they would eviscerate the military from political influence once and for all. The painfully obvious flaw in this plan, however, was that the army were unlikely to sit back in silence as they were voted out of power. Indeed, the patience of the soldiers who crowded the City’s streets and still awaited satisfaction of both their

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<sup>220</sup> *Burton*, iv, 476.

<sup>221</sup> *Ibid.*, iv, 473.

<sup>222</sup> *CJ*, vii, 644; *Burton*, iv, 472-4: Speeches by Haselrig, Lambert, Neville and Vane.

<sup>223</sup> *Burton*, iv,, 478-9.

material and political grievances, was perilously close to breaking point.<sup>224</sup> For Richard's supporters, fears of a Cavalier plot in London were beginning to give way to the threat of military mutiny as the identity of the true 'enemy within' became less clear-cut.<sup>225</sup>

Only the army grandees could bring the army back under control, but – in light of the continued discussion of the militia and command in the Commons – they had little incentive to do so. The reaction of the Wallingford House officers to news of the Commons' debates can be gauged from scrutiny of their attendance in the Other House. When it reassembled on the morning of 21 April, overall attendance in the chamber was still high with thirty-two members present – albeit Charles Fleetwood was a significant absentee. Once again, the topic in debate was the first of the two votes from the Commons concerning the meeting of the General Council. Tellingly, compared to the previous day there was no need to count votes in order to continue the debate into yet another afternoon session; thus 'the Lord keep[er] Fiennes by Consent of the lords Declared this pr[e]sent Parliam[en]t to be Continued untill three of the Clock this afternoone'.<sup>226</sup> Clearly, the growing absence of military Cromwellians from the Other House, combined with the newfound diligence of the civilians in attending the chamber, had taken their toll. Of the thirty-two members present, only twelve of them were adherents to the military group. The grandees, like the Republicans in the Commons, might be able to drag discussion out but when it came to a test of numbers by a vote, they were certain to lose.

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<sup>224</sup> *CSPV 1659-1661*, pp. 10-12: Giavarina to Doge and Senate, 22 Apr. / 2 May 1659.

<sup>225</sup> *Clarke Papers*, iii, 190-2.

<sup>226</sup> *HMC Lords*, p. 565.

The military Cromwellians had finally had enough. When the Other House reassembled at three, the numbers present in the chamber had plummeted dramatically to just twenty-two. The majority of those missing since the morning session were the leading members of the Wallingford House party and their allies; Desborough, Sydenham, Tichborne, Tomlinson, Hewson, Berry, Cooper and Walter Strickland.<sup>227</sup> No doubt during the adjournment the military Cromwellians had heard that, contrary to their wishes, the debates over the control of the armed forces continued to progress in the Commons. The news can only have compounded their sense of frustration. With their resistance in the upper chamber proving to be nothing more than delaying the inevitable, and with yet more anti-military legislation in the parliamentary pipeline, the grandees and their allies boycotted the Other House.

Indeed, the absence of the leading military Cromwellians from the Other House on the afternoon of 21 April sheds new light on the murky events leading up to the dissolution of the third Protectorate Parliament. It appears to confirm that meetings between the dissatisfied officers and their allies were already under way earlier in the day, before the events of that fateful evening'.<sup>228</sup> Even while the parliament continued to sit, the army grandees were plotting its dissolution. The fresh wave of anti-military legislation twinned with the, by now, all-too-evident impotency of the grandees within the Other House had hurried the Parliament towards its endgame.

Those who remained in the Other House that afternoon cannot have been ignorant of the meetings that were going on outside. As they looked around at the ominous gaps on the benches they would have suspected what was afoot. Interestingly, however,

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<sup>227</sup> *HMC Lords*, p. 566.

<sup>228</sup> *CSPV 1659-1661*, pp. 10-12: Giavarina to Doge and Senate, 22 Apr. / 2 May 1659.

despite having an undisputed majority in the chamber, the civilian Cromwellians did not take the opportunity to press home their advantage. Rather than continuing the debate on the Commons' vote against the General Council as planned, John Lisle instead rose to offer 'a report from the Committee to whom the bill for securing the Nation against the Common enemy was committed'.<sup>229</sup> The House spent the remainder of the afternoon reading numerous amendments to this bill for expelling Cavaliers and Papists from London for six months, after which it was ordered that the 'amended bill be ingrossed'. With this business completed, debate on the Commons' votes was adjourned until the following morning.<sup>230</sup>

Perhaps those remaining in the Other House got cold feet. Aware of a military storm brewing outside, they sought to quell the grandees' anger by shelving discussion of the Commons' votes. Moreover, with only twenty-two members in the Other House that afternoon, five of whom were men with military sympathies, there was a real possibility that the chamber might fall below the quorum should any more members storm out in protest. But, it could also be argued that the bill for removing Royalists from London was actually a necessary measure to prepare the way for the votes against the General Council. One of the General Council's most potent arguments for defending its continued sitting in the Capital was the supposedly imminent Royalist threat. If this could be effectively dealt with by banishing the Cavaliers from London, there would be no plausible reason for the officers to linger. Indeed, with the Royalists expelled to the counties it would arguably be imperative that the officers repair to their commands elsewhere.

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<sup>229</sup> For the origins of this bill see *HMC Lords*, pp. 558-60, 562-3, 565-66.

<sup>230</sup> *HMC Lords*, p. 566 (21 Apr.).

Giving further credence to the latter theory is the intriguing fact that an identical course of action was also taken in the Commons. On 18 April, immediately following the votes against the General Council, the Commons had set up a committee to deal with the issue of Royalists in the Capital; the following day, a draft of ‘a Declaration’, was reported ‘requiring all such Persons to depart the Cities of London and Westminster, and late Lines of Communication, by the Space of Twenty Miles’.<sup>231</sup> In conspicuous imitation of the activities of the Other House, however, this Declaration did not resurface until the afternoon of 21 April when it was read, amended and engrossed. Significantly, according to Burton, it was ordered that the ‘consent of the Other House’ was also ‘to be desired’. This prompted some debate over whether the declaration should be in the name of “the Parliament” or “both Houses of Parliament” – in the end the Commons resolved in favour of the latter.<sup>232</sup>

That both Houses deliberated over and resolved upon the same course of action that afternoon cannot be coincidental. True, the Other House was proceeding by way of a ‘bill’ whereas the Commons passed a ‘declaration’, yet the contents of both were remarkably similar. Both were styled as ‘securing’ the nation from the common enemy and both would have excluded the Cavaliers from London for six months.<sup>233</sup> At the same time, however, it was hardly an example of clearly co-ordinated action between the two Houses. Like the bill of recognition earlier in the session, the overlapping nature of this business meant that the work of one of the Houses would be superfluous – only one bill or declaration needed to be passed to this purpose. Instead, what this episode demonstrates is that, when facing increased pressure from the growing military threat outside, both Houses reacted in the same way. Excluding

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<sup>231</sup> *CJ*, vii, 641-3 (18, 19 Apr.).

<sup>232</sup> *Burton*, iv, 477; *CJ*, vii, 643-44.

<sup>233</sup> *HMC Lords*, p. 566 (21 Apr.); *CJ*, vii, 642-3 (19 Apr.).

the Cavaliers from London was not a measure that showed empathy with the army's plight – it was a warning that they should back down and unite behind Parliament and Protector against the real 'common enemy'.<sup>234</sup>

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It was a futile attempt to reinforce army discipline, however. By now the grandees, having left the Other House to conduct their deliberations elsewhere, had resigned themselves to the dissolution of the third Protectorate Parliament. As Bordeaux would later reflect:

The leaders of the army, finding that they were being deluded by negotiations, whilst the friends of the Protector were pressing the Parliament to adopt resolutions tending to his establishment and their overthrow, thought it advisable to provide for their own safety, and to effect by force that which they had been unable to obtain by fair means.<sup>235</sup>

The events that followed – the attempted arrest of Fleetwood followed by the rendezvous at St James's and counter-rendezvous at Whitehall – are well known and need not be repeated in any detail here.<sup>236</sup>

According to Annesley, the grandees forced Richard to 'consent to a Commission and Proclamation ready prepared giving *Desborough* and others power to dissolve the Parliament'.<sup>237</sup> Rather than force Richard to go through the indignity of personally dissolving the Parliament the following day, Bordeaux notes how the mutinous officers left him 'at liberty to commission some member of his Council to dissolve the

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<sup>234</sup> A number of Royalist correspondents complained that the Courtiers fabricated reports of Royalist plotting to quell disturbances in the army. See Bodl., Clarendon MS 60, fols. 308, 324, 346-8, 354-5.

<sup>235</sup> Guizot, *Richard Cromwell*, i, 370-5; Bordeaux to Mazarin, 25 Apr. / 5 May 1659.

<sup>236</sup> See Woolrych, 'Introduction', pp. 65-66; Davies, *Restoration*, pp. 82-3.

<sup>237</sup> Annesley, *England's Confusion*, pp. 8-9.

Parliament, if he were unwilling to do it in person'.<sup>238</sup> The names of those chosen as commissioners were extremely telling. According to the Other House's journal, when the House assembled on the morning of Friday 22 April, Fiennes informed the Lords that he had received the Protector's commission and that it was directed to himself, his fellow Lord Keepers Lisle and Whitelocke, Lord President Lawrence, Fleetwood, Desborough and John Jones. The first four names are unsurprising as they were the most prominent government officials in the chamber – they represented the Speaker and those who would be expected to deputise in his absence. The latter three names are much more conspicuous, however – especially when it is considered that the commission stated that these lords 'or any *three* or more of them' were empowered to carry out the dissolution of parliament.<sup>239</sup> In effect, these three military Cromwellians had the power to dissolve parliament, even if the other four refused to act or failed to show.

Indeed, the list of attendees in the Other House on the morning of 22 April told its own story. With the exception of William Sydenham, all of the military Cromwellians who were absent the previous afternoon had returned. At the same time, many of Richard's closest civilian advisors were conspicuously missing; these included Lord Broghill, Viscount Fauconberg, Charles Howard, Philip Jones, John Cleypole and Richard Hampden.<sup>240</sup> Fauconberg, for one, was unwilling to stay in the Capital – choosing instead to flee London with his 'wife and family'.<sup>241</sup> No doubt those others

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<sup>238</sup> Guizot, *Richard Cromwell*, i, 370-5.

<sup>239</sup> *HMC Lords*, p. 567.

<sup>240</sup> *Ibid.*, pp. 566-7;

<sup>241</sup> *CSPV 1659-1661*, pp. 10-12: Giavarina to Doge and Senate, 22 Apr. / 2 May 1659.

who had been instrumental in advising Richard to the detriment of his military relations followed suit.<sup>242</sup>

Therefore, it was not until the morning of its dissolution that the military Cromwellians could be truly described as having control over the Other House. Although, numerically, they were still in the slight minority, by now that counted for little.<sup>243</sup> The success of Desborough, Fleetwood and their adherents had been achieved by relying on their ultimate locus of power – the army. Through intimidation and threats, the army grandees had finally taken a brief, but inevitably short-lived, grip over parliamentary proceedings. All that remained for them to complete their bloodless coup was to invite the Commons up to the Other House to hear the Protector’s command for the dissolution of the Parliament. In anticipation, the commissioners rose from their seats on the benches and ‘placed themselves on a forme overthwart the house between the Chaire of State and the Woolsack whereon the Lord keep[er] useth to sit’. There they waited while the ‘Gentlemen Usher was sent for the Commons’.<sup>244</sup>

It was to prove a longer wait than expected. Even with the inevitable looming, the Commons remained defiant. Unfortunately, Burton’s diary breaks off on the evening of 21 April, meaning there is no detailed account of the debate that took place that morning. It would seem, however, that Black Rod’s presence at the door of the Commons was not entirely welcome. Although he managed to send in word ‘by the S[e]r[geant] at Armes attending that house that he was at the door’, there was no

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<sup>242</sup> Both Whitelocke and Broghill left town shortly afterwards, see *Whitelocke Diary*, pp. 512-13 (25, 29 Apr. 1659).

<sup>243</sup> There were 13 military and 14 civilians. See table 1 above.

<sup>244</sup> *HMC Lords*, p. 567; all 7 commissioners were recorded as present.

reply.<sup>245</sup> Ludlow claims that ‘few of the House knew of the resolution taken to put a period to them, or if they did, were unwilling to take notice of it’. As such ‘when the usher of the Black Rod... came to let the serjeant at arms know that it was the pleasure of the Protector that the House of Commons should attend him at the Other House, many of them were unwilling to admit the serjeant into the House to deliver the message’.<sup>246</sup> Feigned ignorance aside, the Commons could claim more technical reasons for ignoring Black Rod’s message. As Bordeaux notes, ‘the Commons had previously determined to receive no message from the other House unless brought by one of its members’, as such they were only following recently established protocol by ignoring a communication from the Other House’s servant.<sup>247</sup>

Growing impatient, the Other House took notice ‘that the Gentleman Usher had stayed very long without returning any answer’. It was therefore ordered that Black Rod should ‘knock at the Doore of the house of Commons and let them know he is required to Desire admittance’.<sup>248</sup> Yet the Commons were unresponsive to the knocks outside and instead ordered that no MP was to leave the chamber without the leave of the House. Moreover, in a clear snub to Black Rod it was also resolved that ‘all Strangers be commanded to depart out of the Lobby, or outward Room, before the Parliament-Door; and that none but such as are Members of the House be suffered to come in’.<sup>249</sup> The French Ambassador reports how the Commons defiantly decided to

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<sup>245</sup> *Ibid.*, p. 567; *Ludlow*, ii, 70-71.

<sup>246</sup> *Ludlow*, ii, 70-1.

<sup>247</sup> Guizot, *Richard Cromwell*, i, 370-5; Bordeaux to Mazarin, 25 Apr. / 5 May 1659; See also *Clarke Papers*, iii, 193; Gaunt, *Lansdowne*, pp. 506-7.

<sup>248</sup> *HMC Lords*, p. 567.

<sup>249</sup> *CJ*, vii, 644 (22 Apr.); *Clarke Papers*, iii, 193; Annesley, *England’s Confusion*, pp. 8-9.

‘take no notice of the summons, and in order to prevent the order of dissolution from being notified to them in any other way, they adjourned’ until Monday 25 April.<sup>250</sup>

Hearing that the ‘House of Commons is risen’ the Gentleman Usher of the Black Rod returned to the Other House to report the news of his inglorious snub. Unperturbed, Lord Keeper Fiennes went ahead with the dissolution anyway despite the absence of the Commons. The Protector’s commission was then delivered to the Clerk of the Parliament, Henry Scobell, who ‘retorning to his accustomed place read it publicly and thereupon the Commissioners Did dissolve the Parliam[en]t’.<sup>251</sup> This farcical end to the third Protectorate Parliament was finally completed when Black Rod ‘by order of the other House brake his black rodde att the doore of the House of Commons in testimonie of their dissolucion’.<sup>252</sup>

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The third Protectorate Parliament had highlighted both the strengths and terminal weaknesses of the Other House. On the positive side, it had demonstrated that it was an effective foil to the religious intolerance of the House of Commons. Its stalling over the proposed declaration for a fast day showed the Other House to be precisely the sort of ‘balance’ that Oliver Cromwell had intended. Yet there were also a number of fundamental problems that it brought into sharp focus. Initially, there was the lingering problem of getting the Commons to agree to transact with the Other House, which meant the upper chamber had to spend the first two months of the Parliament

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<sup>250</sup> Guizot, *Richard Cromwell*, i, 370-5: Bordeaux to Mazarin, 25 Apr. / 5 May 1659; see also *Clarke Papers*, iii, 193: Letters from ‘G.M.’ and T.F.’, 23 Apr. 1659; *CSPD 1659-1659*, pp. 335-6; *Nicholas Papers*, iv, 114-8; Annesley, *England’s Confusion*, pp. 8-9; *Ludlow*, ii, 70-1.

<sup>251</sup> *HMC Lords*, p. 567 (22 Apr.).

<sup>252</sup> *Clarke Papers*, iii, 193; Gaunt, *Lansdowne*, pp. 506-7.

in limbo as it awaited approval. Once this obstacle was removed, however, a more inherent flaw in the composition of the chamber became apparent. The Other House was never perfectly balanced between 'military' and 'civilian' Cromwellians and as the session progressed and legislation detrimental to the army's interests came under discussion, this imbalance became painfully obvious for the army grandees.

Ultimately, the Other House was a white elephant for the Wallingford House group and their allies. Rather than giving them a check over the actions of the Commons, it consigned them to the position of helpless bystanders to the anti-military machinations of the conservative majority in both Houses. As a direct result of their inability to control Parliament's actions, the army were also fearful of losing their grip over the council of officers and – by extension – the army as well. This threat came from two fronts. First, and most obviously, from the Parliament itself, which was preparing legislation to take the army out of their control. Secondly, and perhaps more worryingly, for the grandees, they were also under pressure from the radicalised junior officers, imbued with the rhetoric of the 'Good Old Cause'.<sup>253</sup> Frustrated by Parliament's 'backsliding and looking with suspicion at the inability of those in the Other House to check the Parliament's activities, the grandees were in serious trouble of losing the respect and control of their subalterns. If the grandees' command over the army – the last bastion of their powerbase - were to fall then they would be lost forever. As such, the grandees abandoned the Other House and retreated to the army. Fleetwood, Desborough and their followers forced Richard to dissolve Parliament because they could not control it from within. Once again, a Parliament was sacrificed because it was on a collision course with the army and its interests. The only

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<sup>253</sup> For a detailed discussion of the Good Old Cause and the tactical advantage it gave to the Republicans see A.H. Woolrych, 'The Good Old Cause and the Fall of the Protectorate', *Historical Journal*, 13 (1957), pp. 133-161.

difference being that, this time, the dissolution had been contrary to the Protector's will rather than an expression of it.

Indeed, the grandees' coup came at considerable cost. At a stroke the *Humble Petition and Advice*, and with it the Protectorate regime as a whole, had been destroyed beyond the point of repair. The Protector, having been forced by the army, was exposed as a man of straw. Richard was dejected 'he is now at Whitehall like a prisoner', reported Giavarina on 22 April, 'desolate and unable to leave, respected by no one and with little hope of recovering the authority he enjoyed'.<sup>254</sup> Even though the grandees had released themselves from one predicament they waded straight into a much larger constitutional quagmire. Over the coming weeks and months the grandees and Republicans would debate vigorously over the best way to proceed. While the former struggled to mend the fractured remnants of the Protectoral regime, the latter, backed by a large section of the army, pushed on for the re-establishment of the Commonwealth. Among the many issues up for discussion during this period was the efficacy of continuing with a second chamber in some form or another. Indeed, even though the *Humble Petition and Advice* was defunct, the notion of bicameral parliaments was not totally rejected as a new battle over the constitutional future of Britain raged on.

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<sup>254</sup> *CSPV 1659-1661*, pp. 10-12: Giavarina to Doge and Senate, 22 Apr. / 2 May 1659; *CSPD 1658-1659*, pp. 335-6; *Nicholas Papers*, iv, 122-3. See also Richard Cromwell's letters to his brother: Gaunt, *Lansdowne*, pp. 515-17.

## Conclusion

### I. The Recall of the Rump Parliament and Demands for a Select Senate

Following the dissolution of the third Protectorate Parliament, the army officers set about patching up the constitutional settlement. According to Mabbott, writing on 23 April 1659, the ‘Council of officers mett this day debating what government shall bee settled, whether by the Petition and Advice, the Long Parliament to bee recalled or a new government constituted’.<sup>1</sup> Assuming *de facto* control, this junta was left pondering the implications of their coup. They were not alone in their deliberations, however. According to another newsletter, ‘Sir Henry Vane and Sir Arthur Haselrig met in council with the Lord Fleetwood and Lord Disbrowe’; among the topics debated was that ‘the Long Parliament’ should ‘be returned’ – an issue that divided them ‘two and two’.<sup>2</sup>

Over the coming days the pressure exerted upon the army grandees was immense. There was a significant surge in printed polemic, as the Republicans sought to bring their influence among the junior officers to bear upon their superiors. Only the Rump, they claimed, had the legitimacy necessary to rule; only they could provide the pay and indemnity that was at the core of the army’s demands. Taking a swipe at the Wallingford House officers, one tract warned how ‘some ingaged Persons are still harping upon the *Petition and Advice*, as if that were a thing *Practicable*’. In reality it was ‘a meer *Chimera*, and no way useful since the Dissolution of the late

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<sup>1</sup> *Clarke Papers*, iii, 193.

<sup>2</sup> *Clarke Papers*, v, 285-6: Newsletter, 23 Apr. 1659.

*Parliament*'.<sup>3</sup> It was no good trying to salvage the wreckage of the Protectorate; they must reject 'one Person and his prostituted Parasites, who have pawn'd their souls to propagate his Power'.<sup>4</sup>

Inevitably, the grandees were forced into recalling the Rump for the sake of maintaining army unity. In the coming week a series of meetings would take place between the officers and Republicans as they bartered over the terms of settlement. According to Ludlow there were four key concessions that the army were seeking in return for the Rump's restoration. Two of these demands were easily agreed upon by all sides; the provision of an 'act of indemnity for what was past' and the reformation of 'the law and clergy'. More contentious, however, was the suggestion that 'some provision of power might be made for Mr. Richard Cromwell'.<sup>5</sup> The army grandees were keen to keep Richard in power as a cipher that they could manipulate from behind.<sup>6</sup> According to Ludlow the Republicans stood firm on this issue; they 'could by no means consent to continue any part of his late assumed power to him'.<sup>7</sup>

Most intriguing, however, was the army's fourth and final demand: 'That the government of the nation should be by a representative of the people, and by a select senate'. It was in this 'fourth proposition', Ludlow claims, that 'we found a greater difficulty, not being all of the same opinion with respect to that part of it relating to the senate'. Although his Republican colleagues resolved to keep quiet on this issue

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<sup>3</sup> *Some Reasons Humbly Proposed to the Officers of the Army, For the speedy Re-admission of the Long Parliament* (1659), pp. 3-4, 7.

<sup>4</sup> *An Invocation to the Officers of the Army* (1659), p. 3.

<sup>5</sup> Ludlow, ii, 74-5.

<sup>6</sup> Annesley, *England's Confusion*, p. 9; *Nicholas Papers*, iv, 127-8; Guizot, *Richard Cromwell*, i, 370-5.

<sup>7</sup> Ludlow, ii, 75.

‘to give them hopes of our compliance’, Ludlow could not hold his tongue and let the officers know that:

If by a select senate they understood a lasting power, co-ordinate with the authority of the people’s representative, and not chosen by the people, I could not engage to promote the establishment of such a power, apprehending that it would prove a means to perpetuate our differences.

If, however, it were simply a short term measure, then Ludlow would be willing to countenance it; provided ‘ it was designed to no other end than to prevent them [the Commons] from destroying themselves, and not to enslave them to any faction or party’.<sup>8</sup>

Within a week of the Rump’s restoration, the army continued to apply pressure upon the chamber by presenting parliament with a *Humble Petition and Adresse of the Officers of the Army* in which they restated the army’s fundamental conditions for a settlement. Once again, a key component of this was:

That, in order to the establishing and securing the Peace, welfare and freedom of the People of these Nations... the Legislative Power thereof may be in a Representative of the People, Consisting of a House successively chosen by the People... and a select Senate, Co-ordinate in power, of able and faithful Persons, eminent for godliness, and such as continue adhering to this Cause.<sup>9</sup>

Commenting on this select senate, one Republican author would later quip how ‘if by the Name, we may guess at the Nature of the thing, it is as like the other *House* as an *Ape* is like a *Monkey*’.<sup>10</sup> This jibe misses the point. In reality, the army’s intention in creating a select senate was to construct the institution that they had always hoped the Other House would be. The characterisation of the Other House as a council of officers or a bulwark for the military interests might have been an enduring one but it

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<sup>8</sup> Ludlow, ii, 76.

<sup>9</sup> *The Humble Petition and Adresse of the Officers of the Army, To the Parliament of the Commonwealth of England &c.* (1659), pp. 10-11.

<sup>10</sup> *A Negative Voyce: Or, A Check for your Check: Being A Message (by a Black-Rod) of Non-concurrence, for the Ballancing-House, or Co-ordinate Senate...* (1659), p. 3.

was also apocryphal. As the frantic final few days of the third Protectorate Parliament demonstrated, the military Cromwellians could do nothing to control debate in the Other House or Parliament as a whole; the only way they could prevent the discussion of sensitive issues was to boycott the house and utilise external military pressure upon both Parliament and the Protector.

What the army needed was an upper chamber that would protect the military interest against the changeable nature of the elected representative. The select senate would provide the army officers with the political security for which they had been searching all along; It would have institutionalised their position within the constitutional arrangement and provided them with an unequivocal negative voice over the Commons. The military men would have been made a political estate in their own right, they would no longer have to rely on either the support of the chief magistrate or naked military force to achieve their ends. In short, the select senate was designed to do exactly what Ludlow feared – to ‘enslave’ the representative chamber to the will of the military ‘faction’.

Yet, despite continued pressure upon the Rump Parliament, the army’s plans for a select senate never came to fruition. Leading Rumpers such as Haselrig and Scot would not countenance any demand for a check upon the people’s representatives – be it a Harringtonian senate or an army blockhouse. As the bickering among the Republicans and army officers continued, the Protectorate slid into extinction. On 25 May 1659, a letter from Richard Cromwell was read in the Commons, in which the Protector resigned his title and resolved to ‘acquiesce in the Government of this

Commonwealth'.<sup>11</sup> In effect, however, Richard's power had ceased to exist over a month earlier, when he was forced by the army officers to dissolve the third Protectorate Parliament. What had been unthinkable under Oliver Cromwell had become reality under Richard – the military turned its force against the Lord Protector. In doing so the very fabric of the constitution had been ripped apart. With the military men shifting their focus to a select senate, Richard Cromwell was tossed aside as superfluous to requirement; for both the army and the Republicans, he was collateral damage in the struggle to preserve the 'Good Old Cause'.

## **II. The Other House and the Failure of the Cromwellian Protectorate**

The Other House was a key factor in the constitutional tensions that ultimately led to the Protectorate's demise. Fundamentally, the very foundations of the Other House were significantly flawed. Besides the obvious paradox of the House of Commons both creating and approving the body that was to act as its check, the Other House could only continue to function as a balance provided that the Commons chose to recognise it as such. The result was a series of debilitating, circular debates in 1658 and 1659 over whether the Commons should recognise the Other House as a House of Parliament. For the entire second session of the second Protectorate Parliament and the first two months of Richard Cromwell's Parliament, the Other House was left impotent as the lower house bickered over whether to recognise their existence; the net result was that key parliamentary business was hopelessly delayed .

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<sup>11</sup> *His Late Highnes's Letter To the Parliament of England. Shewing his Willingness to Submit to this Present Government... read in the House on Wednesday the 25<sup>th</sup> of May 1659 (1659).*

In order to overcome this problem, those close to the Court tried a number of different strategies that would have given the Other House a foundation independent of the Commons. In 1658, the Other House sent messages to the Commons asserting positively that they were a House of Lords; in 1659, when asked to defend the foundations of the Other House, the Court lawyers invoked not just the wording of the *Humble Petition*, but claimed it was a qualified restitution of the ancient constitution of King, Lords and Commons. In both parliamentary sessions, there was a conspicuous attempt to claim that the Other House's powers were not solely reliant upon the letter of the *Humble Petition* alone but that it was the natural inheritor of the defunct House of Lords. This was not simply an indicator of the Protectorate regime backsliding into old constitutional forms – it was borne out of a realisation that the only way the Other House could ever work as an effective balance over the Commons was if its powers did not derive solely from a parliamentary grant.

Faced with both legal and procedural difficulties, the regime often retreated to traditional forms; the writs of summons and assistance, the ceremonials at the opening of parliament and the forms of address to the Other House all mimicked a traditional House of Lords. Yet, although harking back to royal forms helped to placate conservative opinion and gave the Protectorate a semblance of stability, it also muddied the constitutional waters further and provided the regime's opponents with plentiful ammunition to dilate upon its backsliding tendencies. Once again, the problem of Oliver Cromwell refusing the Crown in 1657 was made painfully obvious. Had the Protectorate become a monarchy then there would have been no confusion; as the civilian Cromwellians intended, the Other House would simply have assumed the position of a House of Lords and appropriated its ancient foundations. Cromwell,

however, hoped for the best of both worlds: a kingless constitution that retained a semblance of kingly legitimacy. As such, the Other House, like the *Humble Petition* as a whole, was an uneasy mix of old and new; tradition and innovation; civilian and military; conservative and radical.

With the constitutional foundations of the Other House in a state of flux, the composition of the chamber was vital for defining the type of balance it would provide. Indeed, without kingship, the Other House became the focus of both civilian and military Cromwellian aspirations for the future of the settlement. Their crucial mistake, however, was leaving the nominations to that chamber solely in the hands of the Lord Protector. For Oliver Cromwell, the Other House offered a much-needed solution to a problem that had plagued him throughout the Interregnum – safeguarding a minority ‘godly’ interest against that of the conservative majority. It provided a means to keep the conservative majority in the Commons in check without recourse to the sort of unsavoury purges and exclusions witnessed in the late 1640s and 1650s. The problem was, however, that the sort of ‘interest’ that Oliver Cromwell envisaged the Other House to represent did not match that of all of his supporters. The Other House became an extension of the contradictory personality of Cromwell himself; it was weighted slightly in favour of political conservatives but was also dominated by those who shared his belief in ‘liberty of conscience’. The net result left very few totally satisfied. Rather than provide greater definition to the constitutional settlement, Cromwell’s nominations simply clouded the issue further.

For the civilian Cromwellians, and conservative men in general, the biggest disappointment lay in the omission of the old peers. In 1658 their absence from the

Other House left the majority of civilian Cromwellians in the Commons uninterested in recognising the Other House; in 1659, the ultimate success of the transacting vote hinged upon an addition to the question that ostensibly claimed to save the rights of the old peerage. For Oliver Cromwell, however, the old nobility were surplus to requirement. In nominating the Other House, he was clearly uninterested in maintaining the once unimpeachable link between hereditary honours and parliamentary peerage. He sought to create a new life-peerage founded upon merit and godliness rather than birth and privilege. In doing so, he left the chamber open to sneers about the social inferiority of its novel membership. More importantly, however, it left unsatisfied many of those civilian Cromwellians who had hoped that the Other House would offer a route back to monarchy; without the old peerage the extent to which the ancient constitution could ever be rebuilt was much more doubtful.

Moreover, despite the claims of the Protectorate's critics, the composition of the Other House was never entirely dominated by the military Cromwellians either. Throughout the Protectorate, the army had relied on Oliver Cromwell to purge or dissolve Parliament whenever their interest looked to be threatened. Indeed, Cromwell dissolved both the first and second Protectorate Parliaments because parliamentary business was working to undermine army unity. Similarly, the exclusions of 1656, guided by the major-generals, had been orchestrated to remove those men who were seen as enemies to their interest. But with exclusions by the Council prohibited under the *Humble Petition*, the army had to rely on the Other House instead to act as a check upon the anti-military machinations of the freely-elected Commons. In 1658, the army grandees in the Other House never had to put

these powers to the test; the Lord Protector intervened by dissolving the second Protectorate Parliament once it became clear that the sniping and footdragging of the Commons was simply encouraging dissension within the army. In 1659, however, the matter was significantly different. Not only was the House of Commons dominated by a much larger conservative majority than previously, but the Lord Protector was himself a man in whom the army grandees had little confidence.

Under Richard Cromwell, the military were given a frightening reality check of what would happen if the constitution were allowed to slide into the hands of someone less attuned to their needs and much more sympathetic to the civilians. Threatened by a growing conservative trend at Westminster and Whitehall, the army grandees in the Other House looked to apply external pressure on Parliament through the General Council of Officers. When both Richard Cromwell and the Commons turned upon the General Council, however, the army grandees found that they had little means to resist those anti-military motions. Outnumbered and outmanoeuvred in the Other House, and without support from Richard Cromwell, the military Cromwellians retreated to the army instead.

Ultimately, the military power which had brought the Protectorate into being also proved to be its undoing. The problem was that, under the *Humble Petition and Advice*, the position of the army was never truly institutionalised. Prior to Oliver Cromwell's death that was not a problem – he and the leading military Cromwellians were broadly of the same mind. With Richard Cromwell as Protector, however, the army was left at the mercy of the constitutional arrangement. The key to the success of the *Humble Petition and Advice* had been its ability to be all things to all men; as

his nominations to the Other House demonstrated, Cromwell tried to keep the meaning of the constitution as ambivalent and ‘balanced’ as possible. Yet, this only ever worked so long as Oliver Cromwell was Lord Protector, with the power to shield the army from the excesses of civilian anti-militarism.

Indeed, this study permits telling comparison of the two Lord Protectors, which challenge any suggestion that Richard Cromwell was a ‘shrewder politician’ than his father.<sup>12</sup> It can hardly be claimed that Richard was a hostage to the constitutional arrangement; there were ample vacant seats available in the Other House to modify the membership.<sup>13</sup> That he chose not to do so suggests that Richard actually saw little need. Richard took the Protectorate in a conservative direction which his father would never have countenanced; in doing so he was backed by both the conservative majority in the Commons and his civilian advisors in the Other House.

Undoubtedly, the third Protectorate Parliament, and with it the Protectorate as a whole, faltered not because of constitutional weakness but because of its apparent strength.<sup>14</sup> Not only was the bicameral arrangement embodied in the *Humble Petition* finally working effectively, but it also looked as though the regime was about to emancipate itself from its military roots and settle upon foundations more acceptable to the civilian, conservative majority. Yet, it was foolhardy to assume that the army would simply accept being consigned to political oblivion. Their response was to subvert the constitution by forcing the Lord Protector to break Parliament. In the aftermath of their reckless actions, the army grandees tried as best they could to patch

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<sup>12</sup> Little & Smith, *Parliaments and Politics*, pp. 300-1.

<sup>13</sup> Peacey, ‘Protector Humbled’, pp. 34-5.

<sup>14</sup> Little & Smith, *Parliaments and Politics*, pp. 300-1.

up the shattered remains of the Protectorate; in doing so they even advocated building a select senate that would have given them with the sort of institutionalised role within the constitution that they had always hoped the Other House would provide.

It was further proof that, in the final analysis, the Protectorate was totally dependent upon the sword. Without military support the constitution swiftly collapsed. Oliver Cromwell was acutely aware of this and prioritised army unity over all other political considerations. Richard Cromwell failed to observe his father's scrupulous management of the army and put his faith solely in the *Humble Petition and Advice*. But, as he learnt to his cost, the fragile bounds of paper constitutions could never restrain the power of the sword. Once the army realised they could no longer operate within the constitutional arrangement, they simply tossed it aside – a shrewder politician, cognisant of the military's pivotal role in the previous decade of political upheaval, would have been abundantly aware of this danger.

## Appendix: The Membership of the Other House

### Key to Appendix

#### *Name*

The sixty-two members of the Other House have been arranged in alphabetical order by surname.

Sources: *HMC Lords*, pp. 503-4; BL, Sloane MS 3246; TNA, C218/1/34.

#### *Titles*

Any titles held by the members of the Other House at the time of their nomination.

Sources: G.E.C., *Peerage*; *ODNB*; *Perfect Politician*; Noble, *Memoirs of the Protectoral-House*.

#### *Attendance*

Indicates whether the members attended the Other House at any point during the second session of the second Protectorate Parliament (1658) and the third Protectorate Parliament (1659).

‘P’ = Present.

‘X’ = Dead or Removed.

Sources: *HMC Lords*, pp. 503-67 (checked against Mus. of Lon., Tangye MS 11a, fols. 1-61).

#### *Serving Officers in 1657-59*

Rank of those who were serving officers and the number of regiments they commanded.

Sources: Firth & Davies, *The Regimental History of Cromwell’s Army*.

#### *Politics*

‘C’ = Civilian Cromwellian

‘C?’ = Probable Civilian / Conservative

‘M’ = Military Cromwellian

‘M?’ = Probable Military / Radical

‘R’ = Republican

‘?’ = Unknown

A ‘(k)’ has been added to the names of those identified as ‘kinglings... who voted for a King’ in *A Narrative of the late Parliament (so called)*, pp. 22-23. The classification of each member is discussed in more detail in chapter 2, pp. 113-24.

#### *Previous Parliaments*

Lists the membership of each member of the Other House in previous parliaments.

Those old peers who had sat in the House of Lords prior to its dissolution are listed as members of the Long Parliament.

‘LP’ = Long Parliament

‘RP’ = Rump Parliament

‘BP’ = Barebone’s Parliament

‘1PP’ = First Protectorate Parliament

‘2PP’ = Second Protectorate Parliament.

Sources: Underdown, *Pride’s Purge*, pp. 361-98 [Appendix A]; Worden, *Rump Parliament*, pp. 387-94 [Appendix A]; Woolrych, *Commonwealth to Protectorate*, pp.

403-33 [Appendix B]; Little & Smith, *Parliaments and Politics; A List of the Names of the Long Parliament... As also of the Three ensuing Parliaments holden at Westminster in the Years, 1653. 1654. 1656. (And of the Late Parliament Dissolved April 22. 1659.) With a Catalogue of the Lords of the Other House* (1659).

### ***Privy Council***

Those who were members of the Protectoral Privy Council are indicated by a 'YES'.  
Sources: CSPD; Worden, 'Cromwell and the Council'.

### ***Ireland/Scotland***

Those members who can be considered a member for Scotland or Ireland (or both).

'I' = Ireland

'S' = Scotland

'I&S' = Ireland & Scotland

This classification is discussed in more detail in chapter 2, pp. 134-40.

### ***Relation to OC***

Gives relationship (if any) between each member and Oliver Cromwell.

Sources: G.E.C., *Peerage*; ODNB; Noble, *Memoirs of the Protectoral-House; Second Narrative*.

### ***Age in Dec. 1657***

The age of each member at the time of their original writ of summons to the Other House.

Sources: G.E.C., *Peerage*; ODNB.

### Appendix: The Membership of the Other House

See KEY (pp. 345-6) for an explanation of column headings and abbreviations.

Name	Title(s)	Attendance		Serving Officers in 1657-59	Politics	Previous Parliaments	Privy Council	Ireland /Scot'd	Relation to OC	Age in Dec. 1657
		1658	1659							
BARKSTEAD, John	Knight	P	P	Col. of Foot	M	1PP, 2PP				?
BELASYSE, Thomas	Second Viscount Fauconberg	P	P	Col. of Horse	C				Son-in-law	30
BERRY, James		P	P	Col. of Horse	M	2PP				?
BOYLE, Roger	First Baron Broghill	P	P	Lieut-Gen. of the Ordinance	C (k)	1PP, 2PP		I & S		36
CLEYPOLLE, John		P	P		C (k)	1PP, 2PP			Son-in-law	32
COOPER, Thomas		P	P	Col. of 2 Foot Regiments	M	2PP		I & S		?
CREW, John					C?	LP, 1PP				60
CROMWELL, Henry				Col of 1 Horse and 1 Foot	C	BP, 1PP		I	Son	29
CROMWELL, Richard		P	X	Col. of Horse	C	1PP, 2PP	YES		Son	31
DESBOROUGH, John		P	P	Col. of Horse	M	BP, 1PP, 2PP	YES		Brother-in-law	49
EURE, George	Sixth Baron Eure	P	P		M	BP, 1PP, 2PP				?
FIENNES, John		P	P		C	LP				<49
FIENNES, Nathaniel		P	P		C (k)	LP, 1PP, 2PP	YES			50

Name	Title(s)	Attendance		Serving Officers in 1657-59	Politics	Previous Parliaments	Privy Council	Ireland /Scot'ld	Relation to OC	Age in Dec. 1657
		1658	1659							
FIENNES, William	First Viscount Saye and Sele				C?	LP				75
FLEETWOOD, Charles		P	P	Col. of 2 Horse & 2 Foot	M	LP, RP, 1PP, 2PP	YES		Son-in-law	39
FLEETWOOD, George	Knight	P	P		M?	LP, RP, BP, 1PP				34
GERARD, Gilbert	Baronet				C?	LP			Married C's Cousin	70
GLYNNE, John		P	P		C (k)	LP, 1PP, 2PP				54
GOFFE, William		P	P	Col. of Foot	C	1PP, 2PP			Married C's Cousin	?
HAMPDEN, Richard		P	P		C (k)	2PP			Cousin	26
HASELRIG, Arthur	Baronet				R	LP, RP, 1PP, 2PP				56
HEWSON, John	Knight	P	P	Col. of Foot	M	BP, 1PP, 2PP				?
HOBART, John	Baronet	P	P		C	1PP, 2PP			Married C's Cousin	29
HONYWOOD, Thomas	Knight	P	P		C	1PP, 2PP				70
HOWARD, Charles	First Baron Gilsland and Viscount Morpeth	P	P	Col. of Foot	C (k)	BP, 1PP, 2PP		S		29
INGOLDSBY, Richard		P	P	Col. of Horse	C (k)	LP, RP, 1PP, 2PP			Cousin	40
JOHNSTON, Archibald (of Wariston)	Knight		P		M			S		46

Name	Title(s)	Attendance		Serving Officers in 1657-59	Politics	Previous Parliaments	Privy Council	Ireland /Scot'l'd	Relation to OC	Age in Dec. 1657
		1658	1659							
JONES, John		P	P		M?	LP, RP, 2PP			Brother-in-law	60
JONES, Philip		P	P		C (k)	RP, BP, 1PP, 2PP	YES			40
KENNEDY, John	Sixth earl of Cassillis				?			S		56
LAWRENCE, Henry		P	P		C	LP, BP, 1PP, 2PP	YES			57
LENTHALL, William		P	P		C (k)	LP, RP, 1PP, 2PP				66
LISLE, John		P	P		C (k)	LP, RP, 1PP, 2PP				48
LOCKHART, William	Knight			Col. of 1 Horse & 1 Foot	C (k)	BP, 1PP, 2PP		S	Nephew by Marriage	36
MONCK, George				Col. of 1 Horse & 1 Foot	C	BP		S		49
MONTAGU, Edward	Second earl of Manchester				?	LP				55
MONTAGU, Edward		P	P	Col. of Horse (from Sept. '58)	C (k)	LP, BP, 1PP, 2PP	YES			32
ONSLOW, Richard	Knight	P	P		C (k)	LP, 1PP, 2PP				56
PACKE, Christopher	Knight	P	P		C (k)	2PP				58
PICKERING, Gilbert	Baronet		P		M?	LP, RP, BP, 1PP, 2PP	YES			46
PIERREPONT, William					C?	LP, 1PP				50
POPHAM, Alexander					?	LP, RP, 1PP, 2PP				53

Name	Title(s)	Attendance		Serving Officers in 1657-59	Politics	Previous Parliaments	Privy Council	Ireland /Scotl'd	Relation to OC	Age in Dec. 1657
		1658	1659							
PRIDE, Thomas	Knight	P	X	Col. of Foot	M	2PP				?
RICH, Robert	Second earl of Warwick		X		C	LP			R's grandson marry C's daughter	70
ROBERTS, William	Knight	P	P		C (k)	BP, 1PP, 2PP				53
ROUS, Francis			X		C	LP, RP, BP, 1PP, 2PP	YES		R's daughter marry C's son	77
RUSSELL, Francis	Baronet	P	P		C (k)	LP, RP, 1PP, 2PP				41
ST. JOHN, Oliver					C?	LP, RP			Married C's Cousin	59
SHEFFIELD, Edmund	Second earl of Mulgrave		X		C	LP	YES			46
SIDNEY, Philip	Viscount Lisle	P	P		M?	LP, RP, BP	YES			38
SKIPPON, Philip		P	P		M	LP, RP, 1PP, 2PP	YES			?
STEELE, William					M	1PP		I		47
STRICKLAND, Walter		P	P		M	LP, RP, BP, 1PP, 2PP	YES			59
STRICKLAND, William	Knight and Baronet	P	P		M	LP, RP, 1PP, 2PP				61
SYDENHAM, William		P	P		M	LP, RP, BP, 1PP, 2PP	YES			42
THOMAS, Edmond		P	P		C?	1PP, 2PP				24

Name	Title(s)	Attendance		Serving Officers in 1657-59	Politics	Previous Parliaments	Privy Council	Ireland /Scotl'd	Relation to OC	Age in Dec. 1657
		1658	1659							
TICHBORNE, Robert	Knight	P	P		M?	BP				47
TOMLINSON, Matthew	Knight		P		M	BP		I		40
WHALLEY, Edward		P	P	Col. of Horse	C	1PP, 2PP			Cousin	61
WHARTON, Philip	Fourth Baron Wharton				C?	LP				44
WHITELOCKE, Bulstrode	Knight	P	P		C (k)	LP, RP, 1PP, 2PP				52
WOLSELEY, Charles	Baronet	P	P		C (k)	BP, 1PP, 2PP	YES			27

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*A Second Narrative of the Late Parliament... To which is added a Third Narrative; Being a Short View of the Quarrel between the King and Parliament* (London, 1659).

This tract reproduced the majority of the content of *Second Narrative* (1658) but also includes a Royalist 'Third Narrative' (pp. 49-55). This may explain why the *Second Narrative* is sometimes attributed to George Wharton (see Little & Smith, *Parliaments & Politics*, pp. 152-3, 317). Thomason dates his copy of this tract 20 Apr. 1659.

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