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**Conflicts of Conscience:  
English and Scottish Political Thought, 1637-1653**

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Submitted for the degree of Doctor of Philosophy  
March 2018

*Declaration*

I, Calum Summerill Wright, declare that this thesis has been composed by myself and is solely the result of my own work.

Signature: 

Date: 7 March 2018

## *Abstract*

It has long been recognised that the concept of conscience was an important element of seventeenth-century English political and religious culture. However, the use of the concept in Scottish political texts has largely been overlooked. This thesis extends an analysis of the language of conscience to Scottish sources and provides a comparative study of English and Scottish political thought in the period 1637-53. It examines the controversies generated by the claims made for individual and collective conscience during a period in which political and ecclesiastical authorities were subject to challenge in both countries. It focuses on arguments for and against armed resistance; the promulgation and subscription of the Solemn League and Covenant; key ecclesiastical debates at the Westminster Assembly; and the imposition of the Engagement Oath. It shows that institutional and ecclesiastical differences, and the interactions between Scottish and English ideas, played a central role in the development of political thought and that the relationship between belief and action was a key element of many of these debates. Earlier work has either used Scottish examples to supplement an English narrative or, by over-emphasising a shared protestant culture, has stripped important ideas and arguments of the distinctive contexts from which they emerged and in which they were publicised. This thesis provides fresh perspectives on the key religious and political debates of the period by offering a sustained comparative analysis of Scottish and English thought. It demonstrates that though there was widespread agreement about the nature of conscience, the conflicts of the period challenged the belief in a public conscience and generated new claims for individual conscience. Scottish and English political thought did not follow the same trajectory, and this finding challenges assumptions about the relationship between conscience, individualism and toleration.

## *Acknowledgements*

I have accumulated a large number of debts after ten years of academic study. My parents supported me financially and morally and indulged my desire to pursue doctoral studies. My tutors at St Andrews and Uppsala inspired and sustained my interest in the early modern period, and my dissertation and thesis supervisors steered me through the murky waters of seventeenth-century religious and political ideas. The staff at the Scottish archives — in particular, New College Library in Edinburgh — were uniformly helpful. I would not have been able to undertake doctoral research without a generous scholarship from the Department of History, Classics and Archeology. Birkbeck also kindly waived my fees when three years became four. The greatest debt I owe is undoubtedly to my supervisor, Laura Stewart, who believed in this project from the outset when it was but a hazy proposal. Over four years she endured many poorly proofread drafts, continuously challenged me to sharpen and clarify my ideas and offered immensely helpful feedback. This thesis would have been far poorer without her expert guidance, and its faults are the result of my own limitations. I would also like to thank Brodie Waddell for his assistance, and for taking on the role of my institutional supervisor after Laura departed for York. I'm grateful to King's College Library Services for providing a welcoming place to work. I spent many hours in the final stages of my thesis in the conducive surroundings of the cafe at the Institute of Psychiatry, Psychology and Neuroscience. Finally, I would like to thank my friends for providing many welcome distractions from the monotony and solitude of thesis-writing.

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## *Conventions and Abbreviations*

Original spelling, punctuation, and capitalisation are retained in quotations, but the uses of u and v have been modernised. In citations from manuscripts, standard abbreviations and contractions have been silently expanded where necessary.

<i>Acts and Ordinances</i>	<i>Acts and Ordinances of the Interregnum, 1642-1660</i> , ed. C. H. Firth and R. S. Rait (London: His Majesty's Stationery Office, 1911)
Baillie, <i>LJ</i>	Robert Baillie, <i>The Letters and Journals of Robert Baillie</i> , ed. David Laing, 3 vols (Edinburgh: Bannatyne Club, 1841-42)
Balfour, <i>Historical Works</i>	James Balfour, <i>The Historical Works of Sir James Balfour of Denmylne and Kinnaird, Knight and Baronet; Lord Lyon King at Arms to Charles the First, and Charles the Second</i> , 4 vols (Edinburgh: W. Aitchison, 1824)
BL	British Library
<i>Clarendon State Papers</i>	<i>State Papers Collected by Edward, Earl of Clarendon</i> , 2 vols (Oxford: Clarendon Press, 1767-1773)
<i>Constitutional Documents</i>	<i>The Constitutional Documents of the Puritan Revolution 1625-1660</i> , ed. Samuel Rawson Gardiner (Oxford: Oxford University Press, 1979)
CJ	<i>Journal of the House of the Commons</i>
CSPD	<i>Calendar of State Papers, Domestic</i> , 2nd ser., 1625-1702, ed. W.D. Hamilton, et al., 77 vols (London: Public Record Office, 1897-1937)
CU	<i>The Cromwellian Union: Papers Relating to the Negotiations for an Incorporating Union Between England and Scotland 1651-1652 with an Appendix of Papers Relating to the Negotiations in 1670</i> , ed. C.. Sanford Terry (Edinburgh: T. and A. Constable for the Scottish History Society, 1902)
Drummond, <i>Works</i>	William Drummond, <i>The Works of William Drummond of Hawthorden</i> , ed. John Sage and Thomas Ruddiman (Edinburgh: James Watson, 1711)
EUL	Edinburgh University Library
Gillespie, <i>Notes</i>	George Gillespie, <i>Notes of Debates and Proceedings of the Assembly of Divines</i> , ed. David Meek (Edinburgh: Robert Ogle and Oliver and Boyd, 1846)
GNV	1599 Geneva Bible
GUL	Glasgow University Library
Kerr, <i>Covenants</i>	<i>The Covenants and the Covenanters: Covenants, Sermons, and Documents of the Covenanted Reformation</i> , ed. James Kerr (Edinburgh: R. W. Hunter, 1895)

- Kirk Commission* *The Records of the Commissions of the General Assemblies of the Church of Scotland*, ed. Alexander F. Mitchell and James Christie, 3 vols (Edinburgh: T. and A. Constable for the Scottish History Society, 1892-1909)
- Lightfoot, *Works* Lightfoot, John, *The Whole Works of the Rev. John Lightfoot*, ed. John Rogers Pitman, 13 vols, (London: J. F. Dove, 1822-25)
- LJ* *Journal of the House of Lords*
- Minutes and Papers* *The Minutes and Papers of the Westminster Assembly 1643-1652*, ed. Chad van Dixhoorn, 5 vols (Oxford: Oxford University Press, 2012)
- NCL New College Library, Edinburgh
- NLS National Library of Scotland
- NRS National Records of Scotland
- ODNB* *Oxford Dictionary of National Biography*
- OED* *Oxford English Dictionary*
- Puritanism and Liberty* *Puritanism and Liberty: Being the Army Debates (1647-49) from the Clarke Manuscripts*, ed. A. S. P. Woodhouse, 3rd ed. (London: Dent, 1986)
- RKS* *Records of the Kirk of Scotland*, ed. Alexander Peterkin (Edinburgh: Peter Brown, 1843)
- Roths, Relation* John Leslie, Earl of Roths, *A Relation of the Proceedings Concerning the Affairs of the Kirk of Scotland, from August 1637 to July 1638* (Edinburgh: Bannatyne Club, 1830)
- RPCS* *The Register of the Privy Council of Scotland*, ed. J. Burton, et al, 14 vols (Edinburgh: H. M. General Register House, 1878-1908)
- RPCS, 2nd ser.* *The Register of the Privy Council of Scotland, 2nd series*, ed. David Masson, 8 vols (Edinburgh: H.M. General Register House, 1899-1908)
- RPS* *Records of the Parliaments of Scotland*
- Rushworth John Rushworth, *Historical Collections of Private Passages of State*, 8 vols (London: D. Browne, 1721)
- Rutherford, *Lex, Rex* Samuel Rutherford, *Lex, Rex, or The Law and the Prince* (Harrisburg: Sprinkle Publications, 1982)
- Spalding Memorialls* John Spalding, *Memorialls of the Troubles in Scotland and in England, A.D. 1624-A.D. 1645*, 2 vols (Aberdeen: Spalding Club, 1850-51)
- Stevenson, History* Andrew Stevenson, *The History of the Church and State of Scotland, from the Accession of King Charles I to the Year 1649*, (Edinburgh: Thomas Nelson, 1840)
- Stuart Constitution* *The Stuart Constitution: Documents and Commentary*, ed. J. P. Kenyon (Cambridge: Cambridge University Press, 1966)
- Wariston, Diary, i* Archibald Johnston of Wariston, *Diary of Sir Archibald Johnston of Wariston 1632-1639*, ed. George Morison Paul (Edinburgh: T. and A. Constable for the Scottish History Society, 1911)
- Wariston, Diary, ii* Archibald Johnston of Wariston, *Diary of Sir Archibald Johnston of Wariston, 1650-1654*, ed. David Hay

- Wariston, *Diary*, iii
- Fleming (Edinburgh: T. and A. Constable for the Scottish History Society, 1919)
- Archibald Johnston of Wariston, *Diary of Sir Archibald Johnston of Wariston, 1655-1660*, ed. James D. Ogilvie (Edinburgh: T. and A. Constable for the Scottish History Society, 1940)
- Yorke, *State Papers*
- Miscellaneous State Papers. From 1501 to 1726*, ed. Phillip Yorke, Earl of Hardwicke, 2 vols (London: W. Strahan and T. Cadell, 1778)

# 1

## Introduction

Conscience is frequently invoked when individuals and communities seek to reconcile conflicting obligations, and when moral beliefs which are assumed to be absolute clash with complex reality.<sup>1</sup> The concept of conscience was, and is, unavoidably connected to questions about the form of the commonwealth, the authority of rulers to compel obedience and the right of subjects to disobey or resist them.<sup>2</sup> It should not be a surprise, therefore, that the language of conscience was employed by numerous contemporaries throughout the years 1637 to 1653. During this tumultuous period subjects rose in arms against their sovereign, armies marched back and forth across the Tweed, alliances were built and broken, a king was killed, and a British union was established. These events were accompanied by contests over the meaning and application of conscience and attempts to claim the language of conscience for partisan purposes. Conscience was used to justify and provoke, cajole and reassure; to promote radical action and to require passive submission; by those certain in their convictions and those full of doubt.

This thesis argues that a comparative study of the use of the concept of conscience provides important evidence of the similarities and differences between English and Scottish political cultures. In particular, the concept of conscience framed theories of resistance and shaped the peace settlements proposed. I argue that institutional differences between the two countries played a significant role in how conscience was understood and invoked, and that attempts to secure ecclesiastical uniformity brought these differences into sharp relief. These divergent understandings of the role of conscience also contributed to the disintegration of the Anglo-Scottish alliance. This thesis focuses on Scottish thinkers, and I am primarily interested in extending an analysis of conscience to Scottish sources. However, this was a period of significant interaction between the two countries, during which time Scots were exposed to English debates, and individuals and ideas crisscrossed the border. A comparative approach is, therefore, necessary to provide an account of the role of conscience in the conflicts of the period 1637-53.

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<sup>1</sup> Albert R. Johnson and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley: University of California Press, 1988), 92.

<sup>2</sup> Justin A. I. Champion, 'Willing to Suffer: Law and Religious Conscience in Seventeenth-Century England', in John McLaren and Harold Coward (eds), *Religious Conscience, the State, and the Law: Historical Contexts and Contemporary Significance* (Albany: State University of New York Press, 1999), 16.

This analysis focuses on four significant, and successive, moments: armed resistance in Scotland and England; the imposition of the Solemn League and Covenant; attempts at securing a religious settlement at the Westminster Assembly; and the dilemmas caused by the imposition of the Engagement Oath. By focusing on these major public political debates, this thesis shows that Scottish and English authors' ideas were profoundly shaped by the contexts in they were constructed and deployed. The idealised view of conscience as public was upheld by protestants in both countries, but the experience of the British civil wars challenged this belief and provoked new debates about the role of the individual. These conflicts of conscience helped to forge novel ideas about the relationship between church, state and subject.

Unlike other terms and labels which have sometimes been applied anachronistically to seventeenth-century political thought, 'conscience' was a term and a concept used by contemporaries. Political thought is here considered not abstractly, as a repertoire of timeless wisdom, but as the product of particular circumstances and as emerging from specific institutional and constitutional frameworks. Broadly speaking, political culture is understood as what a community takes for granted, and the language of conscience provides evidence of the different assumptions made by Scottish and English thinkers. However, political culture is not static, and it is in the interactions between Scots and Englishmen that ideas were sharpened, challenged and reconfigured. I recognise, too, that there were significant differences within the two kingdoms as well as between them. Using the concept of conscience, it is possible to judge the extent to which Scots and Englishmen were divided or united by language.

What is conscience? Conscience is defined here as *the application of moral knowledge to action*. This simple definition is complicated by the fact that there were significant disagreements about the origin and authority of this moral knowledge, and how and by whom it was to be applied. Though most seventeenth-century thinkers held that conscience was in important respects public, the relationship between conscience, revelation, scripture and law was disputed. Further, though conscience was assumed to be common to all, not everyone had access to the same moral knowledge. I argue that the concept of conscience cannot be separated from the assumed context of its application. That is, when thinkers used this language they had in mind a specific milieu which would structure the individual's actions and limit the range of acceptable responses. This has particular significance for a comparative study of English and Scottish political thought. Earlier work has either used Scottish examples to supplement an English narrative or, by over-emphasising a shared protestant culture, has divorced ideas from the distinctive conditions which produced them. It will be shown that the two countries' differing

reformations, and resultant national churches, were of particular importance to the development and articulation of the concept of conscience.

In this introduction I will begin by expanding upon this definition of conscience and provide a fuller response to the question of what seventeenth-century authors meant when they used the concept. I will then ask if English and Scottish approaches to conscience differed and, if so, why. This analysis will focus in particular on the two nations' reformations and engage with the argument that an 'Anglo-Scottish protestant culture' existed. Following this, I will show how the concept of conscience can contribute to our understanding of the British civil wars. Finally, I will present the methodology and primary sources I have used and provide an outline of the thesis.

## **The concept of conscience**

The definition of conscience I have proposed was stated most clearly in English by the sixteenth-century legal scholar Christopher St. German. He wrote that, 'conscience ... is nothing else but the applying of any science or knowledge to some particular act of man'.<sup>3</sup> However, as the theologian Richard M. Gula has observed, attempting to explain conscience is like to trying to nail jelly to a wall: 'just when you think you have it pinned down, part of it begins to slip away'.<sup>4</sup> The definition I have proposed — that conscience is the application of moral knowledge to action — raises two important questions. What was the basis of this moral knowledge, and how was this knowledge to be applied in specific circumstances? Debates about conscience also intersected with broader questions about the nature and location of authority. Was conscience public or private? Was it grounded in scripture or nature, reason or revelation? Was it bounded by the law and institutional authority? To provide a fuller explanation of how seventeenth-century thinkers understood conscience I will first provide a summary of the development of the concept. It is important to stress here that while catholic doctrine was influential, this is primarily an analysis of the protestant concept of conscience. There were important variances amongst protestants on the issues of the basis of moral knowledge and how it was to be applied, but these were more commonly differences of emphasis.

At its most basic, conscience consists of two primary elements: knowledge of oneself and knowledge of right and wrong. It was at first a conceptualising of self-awareness, and the word continued to mean both 'conscience' and 'consciousness' into the seventeenth

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<sup>3</sup> Christopher St. German, *Doctor and Student: Or, Dialogues Between a Doctor of Divinity, and a Student in the Laws of England* (London, 1761), 41.

<sup>4</sup> Richard M. Gula, *Reason Informed by Faith: Foundations of Catholic Morality* (Mahwah: Paulist Press, 1989), 123.

century.<sup>5</sup> For the Greeks and Romans, it was almost always associated with a sense of being in the wrong.<sup>6</sup> The historian of philosophy Richard Sorabji makes the important point that conscience began as a secular concept: to say that it *became* secular in the seventeenth century is not therefore entirely accurate.<sup>7</sup> New Testament authors developed the concept in new ways. As Sorabji puts it, Paul ‘distinguished the *general* law of right and wrong written by God in our hearts from our *fallible* application of it to our own *particular* case’.<sup>8</sup> C. S. Lewis also identified the New Testament as a significant influence in the shift from conscience as an inner witness to an internal lawgiver, that is an internal voice ‘who tells us what we should or should not do’.<sup>9</sup> Conscience was now not only an emotive response to wrongdoing but a guide showing individuals how to act.

It was in the medieval period that the influential distinction between *synderesis* and *conscientia* appeared, stemming from a passage by Jerome.<sup>10</sup> *Synderesis*, frequently called the ‘spark of conscience’, was the pure part of conscience which had survived the Fall and provided access to divine and natural law.<sup>11</sup> Conscience was the application of the knowledge provided by *synderesis* to particular cases.<sup>12</sup> It was widely held that conscience corresponded to the three parts of a syllogism, with *synderesis* functioning as the major premise and conscience as the minor.<sup>13</sup> Thomas Aquinas believed that all had the power to grasp fundamental moral principles, but that individuals also required the capacity to apply these principles to specific circumstances.<sup>14</sup> Though *synderesis*, the last vestige of conscience in postlapsarian man, was common to all, not all were equipped to apply its laws to everyday life. Further, as Timothy Potts observes, ‘one of the most remarkable features of the medieval treatment of conscience, in view of the central role of the *synderesis/conscientia* distinction’ is that no serious attempt was made to identify these basic

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<sup>5</sup> Don E. Marietta Jr., ‘Conscience in Greek Stoicism’, *Numen*, 17:3 (1970), 177; Wolfhart Pannenberg, *Systematic Theology*, trans. Geoffrey W. Bromiley, 3 vols (Edinburgh: T&T Clark, 1991), i, 111; Edward G. Andrew, *Conscience and its Critics: Protestant Conscience, Enlightenment Reason, and Modern Subjectivity* (Toronto: University of Toronto Press, 2001), 36; Mika Ojakangas, *The Voice of Conscience: A Political Genealogy of Western Ethical Experience* (New York: Bloomsbury Academic, 2013), 30.

<sup>6</sup> Richard Sorabji, *Moral Conscience through the Ages: Fifth Century BCE to the Present* (Oxford: Oxford University Press, 2014), 2.

<sup>7</sup> *Ibid.*, 11-36.

<sup>8</sup> Sorabji, *Moral Conscience*, 2.

<sup>9</sup> C. S. Lewis, *Studies in Words* (Cambridge: Cambridge University Press, 1960), 190-93, 195.

<sup>10</sup> Timothy C. Potts, ‘Conscience’, in Norman Kretzmann, Anthony Kenny and Jan Pinborg (eds), *The Cambridge History of Later Medieval Philosophy: From the Rediscovery of Aristotle to the Disintegration of Scholasticism 1100-1600* (Cambridge: Cambridge University Press, 1982), 687, 688-90.

<sup>11</sup> Robert A. Greene, ‘Synderesis, the Spark of Conscience, in the English Renaissance’, *Journal of the History of Ideas*, 52:2 (1991), 195-219.

<sup>12</sup> Andrew, *Conscience and its Critics*, 18.

<sup>13</sup> John D. Ford, ‘Conformity in Conscience: The Structure of the Perth Articles Debate in Scotland, 1618–38’, *The Journal of Ecclesiastical History*, 46 (1995), 267; Dennis R. Klinck, *Conscience, Equity and the Court of Chancery in Early Modern England* (Farnham: Ashgate, 2010), 125-28; Ojakangas, *Voice of Conscience*, 14.

<sup>14</sup> Nicholas Dent, ‘Conscience’, in E. Craig (ed.), *Routledge Encyclopedia of Philosophy* (London: Routledge, 1998) <<http://www.rep.routledge.com/article/L012>> [31 July 2014].

deontic propositions.<sup>15</sup> The inability to establish, let alone agree upon, moral and religious fundamentals was the central problem facing all those who wrestled with the concept of conscience. Ojakangas argues that conscience at its most formal and universal level exerts ‘the pressure of normativity’ and ‘says nothing but that one “ought” to do something’.<sup>16</sup> What exactly one ought to do in any particular situation, and where this moral imperative originated from, remained open to question.

The reformation witnessed several important conceptual developments. Firstly, an emphasis on the depravity of man led to a revision of the role of reason. Calvin, in particular, argued that although all men were created with a conscience, the Fall had severely limited its operation and reliability.<sup>17</sup> Pessimism about man’s capacity to recognise the dictates of natural law and a belief in the restorative power of grace had existed since at least the time of Augustine.<sup>18</sup> It was only through faith and biblical knowledge that conscience could function properly: the regenerate conscience was capable of reaching conclusions the ungodly could not. Secondly, several reformers emphasised the contrast between guilty and good consciences. The guilty conscience convicted man of his utter sinfulness and his requisite need of salvation, which was the unearned gift of god’s grace. Violent imagery was often employed when describing the emotive element of conscience, for example the metaphor of a gnawing worm.<sup>19</sup> For both Luther and Calvin, however, this was the first stage of the path towards redemption, and they contrasted the catholic church’s ‘terrorising’ of conscience with the ‘joyful conscience’ of the true believer.<sup>20</sup> The righteous man was no longer tormented by guilt, having been freed from the law and sin by faith. However, since man could never become fully righteous in this life, his existence was marked by continual struggle.<sup>21</sup>

Thirdly, the fracturing of Christendom led to new practical dilemmas for conscience. Medieval society had been essentially ethically homogenous, but the reformation witnessed the emergence of competing ‘communities of conscience’, to use Andrew Murphy’s phrase,<sup>22</sup> which undermined the ideal of a shared, public conscience. In countries where ruler and ruled were divided by confession, conflicts arose between the dictates of

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<sup>15</sup> Potts, ‘Conscience’, 704.

<sup>16</sup> Ojakangas, *Voice of Conscience*, 212.

<sup>17</sup> Perry Miller, *The New England Mind: The Seventeenth Century* (Cambridge, Ma.: Harvard University Press, 1954), 29; Thomas Wood, *English Casuistical Divinity During the Seventeenth Century, With Special Reference to Jeremy Taylor* (London: S.P.C.K., 1952), 82-83.

<sup>18</sup> Ojakangas, *Voice of Conscience*, 37-40.

<sup>19</sup> David Bosco, ‘Conscience as Court and Worm: Calvin and the Three Elements of Conscience’, *The Journal of Religious Ethics*, 14:2 (1986), 333-355; Jonathan Wright, ‘The World’s Worst Worm: Conscience and Conformity during the English Reformation’, *The Sixteenth Century Journal*, 30:1 (1999), 113-133.

<sup>20</sup> Sorabji, *Moral Conscience*, 100-12.

<sup>21</sup> Ojakangas, *Voice of Conscience*, 66-69.

<sup>22</sup> Timothy C. Potts, *Conscience in Medieval Philosophy* (Cambridge: Cambridge University Press, 1980), 10, 65; Andrew R. Murphy, *Conscience and Community: Revisiting Toleration and Religious Dissent in Early Modern England and America* (Pennsylvania: Pennsylvania State University Press, 2001), 3.

conscience and the duty of submission to worldly authority. Outward obedience and freedom of conscience within limits had been advocated by both Luther and Calvin, who argued for passive resistance and dutiful suffering. Calvinists, however, would place a greater emphasis on the role of the magistrate in building a Christian society and the perfectibility of the community.<sup>23</sup> Armed resistance was not countenanced by either Luther or Calvin, but the experience of exile and persecution challenged this belief in passive obedience. The Marian exiles, for example, stressed that it was better to obey God than men, and moved towards more individualist and populist implications of the private law argument than their continental co-religionists.<sup>24</sup> In England, Elizabeth I famously refused to ‘make windows into men’s souls’, and the Elizabethan Settlement encouraged the development of religious diversity by demanding only exterior conformity, a visible church consisting of both the elect and the reprobate.<sup>25</sup> Catholics, meanwhile, were forced to hide their allegiances and consequently became associated with the practices of evasion or equivocation when taking oaths.<sup>26</sup> All agreed that the magistrate had no power to compel men’s consciences, but there was disagreement about what public actions could be legitimised by conscience.

By the seventeenth century, it was generally accepted that conscience was the application of moral knowledge to action, both prospectively and retrospectively. As the puritan William Ames put it, conscience was ‘a *practicall* judgement’ of one’s actions.<sup>27</sup> The preacher John Jackson argued that conscience functioned as a law, a witness and a judge. As a law it provided ‘the rule to walk by’, as a witness it gave evidence and as a judge it passed sentence according to the evidence.<sup>28</sup> It was, as Henry Jeanes put it, ‘a *Deputy God* to inform & direct’ individuals, or, as Milton described it, an umpire placed within man by God to act as a guide.<sup>29</sup> A pamphleteer who objected to the imposition of the Solemn League and

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<sup>23</sup> Carlos Eire, ‘Calvinism and the reform of the Reformation’, in Peter Marshall (ed.), *The Oxford Illustrated History of the Reformation* (Oxford: Oxford University Press, 2015), 77.

<sup>24</sup> Dan G. Danner, ‘Christopher Goodman and the English Protestant Tradition of Civil Disobedience’, *The Sixteenth Century Journal*, 8:3 (1977), 60-73; David H. Wollman, ‘The Biblical Justification for Resistance to Authority in Ponet’s and Goodman’s Polemics’, *The Sixteenth Century Journal*, 13:4 (1982), 29-41; Roger A. Mason, ‘Kingship and Commonweal: Political Thought and Ideology in Reformation Scotland’ (PhD thesis, University of Edinburgh, 1983), 260-61; Jane E. A. Dawson, ‘Resistance and Revolution in Sixteenth-Century Thought: The Case of Christopher Goodman’, in J. van den Berg and G. Hoftijzer (eds), *Church, Change and Revolution* (Leiden: E. J. Brill, 1991), 70-74; Ford, ‘Conformity in Conscience’, 261; Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols (Cambridge: Cambridge University Press, 2010), ii, 205-06, 210-11, 227-30; Mika Ojakangas, ‘Thomas Hobbes and Jean-Jacques Rousseau on Liberty and Slavery of Conscience in the Context of Christian Political Theology’, *Redescriptions*, 16 (2012-13), 116.

<sup>25</sup> Alexandra Walsham, ‘Ordeals of Conscience: Casuistry, Conformity and Confessional Identity in Post-Reformation England’, in Harald E. Braun and Edward Vallance (eds), *Contexts of Conscience in Early Modern Europe, 1500-1700* (Basingstoke: Palgrave Macmillan, 2004), 47.

<sup>26</sup> Sorabji, *Moral Conscience*, 118.

<sup>27</sup> William Ames, *Conscience with the Power and Cases Thereof* (London, 1643), i, 2.

<sup>28</sup> John Jackson, *The Booke of Conscience opened and read* (London, 1642), 13, 17.

<sup>29</sup> Henry Jeanes, *A Treatise Concerning A Christians Carefull Abstinence from all appearance of Evill* (Oxford, 1640), 48-49; John Milton, *Paradise Lost* (London: Penguin, 1996), 67.

Covenant cited St. German's definition of conscience, indicating the longevity and popularity of this understanding.<sup>30</sup> Conscience was believed to be shared both in the sense of being common to all and grounded in objective truth. It was, as Sharon Dobbins puts it, 'both a collective and an objective form of applied knowledge ... always ... founded upon some law'.<sup>31</sup> Conscience was believed to have an external origin, whether written on the hearts of man by god or made explicit in scripture. This meant that it was, in principle, accessible to all, and was a matter of knowledge rather than opinion.<sup>32</sup> The subjectivity of conscience was rarely acknowledged in the sixteenth century, and the ideal of an ethnically homogenous commonwealth persisted into the seventeenth century.<sup>33</sup>

Different groups of protestants put different emphases on the origin of this moral knowledge. For anglicans, Christian liberty was understood as the freedom to disagree over matters indifferent, while accepting the judgement of the magistrate in regulating outward forms of worship. Conscience was bound by external and publicly acknowledged laws and was informed not only by scripture but by the law of the land and demarcated by the individual's place in society. J. P. Sommerville and Norman Jones have both argued that for anglicans, obedience to the state was a fundamental moral duty.<sup>34</sup> This view of conscience was shared by episcopalians in Scotland, as we shall see. Anglicans generally had more faith in the powers of reason and because of this casuists such as Henry Hammond, Robert Sanderson and Jeremy Taylor seem to have placed less emphasis on the tender or scrupulous conscience, which was more closely associated with the hotter sort of protestant.<sup>35</sup> The traditions of the church, the law of the land and the authority of the prince were seen as important foundations of conscience. Though these were all subject to divine law, scripture only gave general rules in many cases.<sup>36</sup> Ideally, these laws would not be in conflict, but when they were English casuists generally agreed that it was best to follow the most probable opinion concerning the obligation of a law.<sup>37</sup>

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<sup>30</sup> *The Mirror of Allegiance* ([London], 1647), 40.

<sup>31</sup> Sharon K. Dobbins, 'Equity: The Court of Conscience or the King's Command, the Dialogues of St. German and Hobbes Compared', *Journal of Law and Religion*, 9:1 (1991), 127.

<sup>32</sup> Heinz-Dieter Kittsteiner, 'Kant and casuistry', in Edmund Leites (ed.), *Conscience and Casuistry in Early Modern Europe* (Cambridge: Cambridge University Press, 1988), 201; Edmund Leites, 'Introduction', in Leites (ed.), *Conscience and Casuistry*, 7; Klinck, *Conscience, Equity and the Court of Chancery*, 114, 194.

<sup>33</sup> Alexandra Walsham, 'Ordeals of Conscience', 33.

<sup>34</sup> Johann Sommerville, 'Conscience, Law, and Things Indifferent: Arguments on Toleration from the Vestiarian Controversy to Hobbes and Locke', in Braun and Vallance (eds), *Contexts of Conscience*, 179; Norman Jones, *The English Reformation: Religion and Cultural Adaptation* (Oxford: Blackwell, 2002), 197.

<sup>35</sup> John S. Wilks, *The Idea of Conscience in Renaissance Tragedy* (London: Routledge, 1990), 4; David Martin Jones, "'Dissolving Allegiance to the Acknowledged Power Supreme": Milton, Casuistry and the Commonwealth', *History of Political Thought*, 32:2 (2011), 338, n. 94.

<sup>36</sup> Hammond, *Of Conscience* (Oxford, 1645), 11.

<sup>37</sup> Harald E. Braun and Edward Vallance, 'Introduction', in Braun and Vallance (eds), *Contexts of Conscience*, xviii.

Puritan thinkers argued that the conscience of the regenerate was guided by god and could reach moral conclusions that the ungodly could not.<sup>38</sup> It was only the ‘illuminated’ conscience of the godly which operated correctly, and its proper functioning provided evidence of their election.<sup>39</sup> This elevation of the regenerate conscience coupled with the doctrine of predestination challenged both church discipline and the socio-political hierarchy of the early modern state. However, whilst conscience could be a source of assurance, it could also produce intense feelings of guilt and fear.<sup>40</sup> The strain of constant vigilance was so intense that it could lead to physical illness and even suicidal thoughts.<sup>41</sup> However, the purpose of such introspection was, in one author’s words of advice, to ‘produce a pious humiliation, but never any impious Dejection’.<sup>42</sup> Rather than directing believers away from god, the daily exercise of examining one’s conscience was intended to convince the individual of his or her utter dependence on the grace of god. Puritans, following Calvin, were also generally more skeptical about the powers of conscience and human reason. The dictates of conscience consequently had to be measured against the standard of god’s word. They stressed that conscience could only be bound by scripture, not by tradition, the church or civil magistrates.<sup>43</sup> This accorded a significant role to those who claimed authority to interpret scripture.

Puritans and more radical protestants overwhelmingly focused on the sovereignty of god, not the agency of the individual.<sup>44</sup> Amongst those who advocated religious toleration many saw it as only temporary, in the belief that in time god would guide consciences towards unity.<sup>45</sup> Further, whilst protestants put different emphases on the sources which informed and regulated the conscience, it was widely believed that ordinary people were unable to moderate themselves and required external constraints of the law and the magistrate.<sup>46</sup> Conscience, though common to all, was in a constant struggle with man’s

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<sup>38</sup> William Fenner, *The Soules Looking-glasse, Lively representing its Estate before God: with A Treatise of Conscience* (Cambridge, 1640), 44-45; Jackson, *The Booke of Conscience*, 14; John Coffey, *Politics, Religion and the British Revolutions: The Mind of Samuel Rutherford* (Cambridge: Cambridge University Press, 1997), 153-54; James Tully, ‘Governing conduct’, in Leites (ed.), *Conscience and Casuistry*, 19; Kittsteiner, ‘Kant and casuistry’, 201.

<sup>39</sup> David Martin Jones, *Conscience and Allegiance in Seventeenth-Century England: The Political Significance of Oaths and Engagements* (Rochester: University of Rochester Press, 1999), 83; John Spurr, ‘“The Strongest Bond of Conscience”: Oaths and Limits of Tolerance in Early Modern England’, in Braun and Vallance (eds), *Contexts of Conscience*, 153.

<sup>40</sup> For a vivid account of the despair conscience could engender see: Wright, ‘The World’s Worst Worm’, 121-26.

<sup>41</sup> David G. Mullan, *Scottish Puritanism, 1590-1638* (Oxford: Oxford University Press, 2000), 102.

<sup>42</sup> Thomas Riley, *Trial of a Conscience in a Quotidian Exercise* (London, 1639), sig. C10r.

<sup>43</sup> Mullan, *Scottish Puritanism*, 89.

<sup>44</sup> J. C. Davis, ‘Living with the living God: radical religion and the English Revolution’, in Christopher Durston and Judith Maltby (eds), *Religion in Revolutionary England* (Manchester: Manchester University Press, 2006), 31-35; Glenn Burgess, ‘Radicalism and the English Revolution’, in Glenn Burgess and Matthew Festenstein (eds), *English Radicalism 1550-1850* (Cambridge: Cambridge University Press, 2007), 78-79.

<sup>45</sup> Davis, ‘Living with the living God’, 23.

<sup>46</sup> Ethan Shagan, ‘Beyond Good and Evil: Thinking with Moderates in Early Modern England’, *The Journal of British Studies*, 49:3 (2010), 497.

unruly passions, and the fear of the ‘many-headed monster’ would agitate elite opinion through the civil wars. Anabaptists and brownists, though few in number, were invoked as examples of the danger of the unregulated and individualistic conscience. It was recognised that conscience could be suppressed, ignored or disingenuously invoked, and that by so doing it could become debased. Fears about the propriety of engaging the consciences of the people were regularly raised during the civil wars. Hammond, for example, feared that the explosion of print contributed to the misinforming of conscience: ‘mens consciences being resolved more by the Diurnall then the Bible, by the Inteligencer then the Divine’.<sup>47</sup> This is representative of the widespread concern that conscience, idealised as objective, public truth, was being supplanted by misinformed opinion.

The ordinary man or woman in the seventeenth century was not expected either to have complete moral knowledge or the ability to apply it correctly. Consciences, therefore, needed instruction, discipline and constraint. Casuistry, the church and oaths primarily provided these functions. Because protestants were no longer obliged to confess past sins, resolving forward-looking cases of conscience came to be particularly significant.<sup>48</sup> Casuistry, or practical divinity, as some puritans preferred to term it, was a means to provide assurance to the troubled conscience. Casuistry has been described as ‘the science of instructing a pre-obliged conscience where its duties lie’ and was predicated on the belief that in complex cases of morality individuals had to rely on the guidance of others.<sup>49</sup> Following the scholastic model of conscience, cases were resolved as syllogisms: general laws were applied to specific circumstances. The number of printed casuistic treatises is small, with the English divines William Perkins and William Ames amongst the most influential.<sup>50</sup> In contrast to earlier casuists, who wrote in Latin for ministers, English casuists wrote in English for a godly audience.<sup>51</sup> Casuistical works were intended to guide troubled souls and were often lengthy treatises, designed to be referred to in times of conflict. Albert R. Johnson and Stephen Toulmin have argued that though the dilemmas of conscience might be ‘intensely personal’, the purpose of casuistry was ‘to place the individual agent’s decision into its larger context at the level of actual choice: namely, the moral dialogue and debate of a community’.<sup>52</sup>

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<sup>47</sup> Henry Hammond, *Of Resisting the Lawfull Magistrate under Colour of Religion* (London, 1643), 27.

<sup>48</sup> Sorabji, *Moral Conscience*, 117.

<sup>49</sup> Andrew Sharp, ‘Introduction’, in *Political Ideas of the English Civil Wars 1641-1649*, ed. Andrew Sharp (London: Longman, 1983), 18; Edmund Leites, ‘Casuistry and character’, in Leites (ed.), *Conscience and Casuistry*, 124.

<sup>50</sup> William Perkins, *A Discourse of Conscience* (London, 1596); *idem*, *The Whole Treatise of the Cases of Conscience* (London, 1606); William Ames, *De conscientia, et eius jure, vel casibus* (London, 1630), published in English as *Conscience with the Power and Cases Thereof* (London, 1643); Braun and Edward, ‘Introduction’, xii.

<sup>51</sup> Thomas Wood, *English Casuistical Divinity During the Seventeenth Century, With Special Reference to Jeremy Taylor* (London: S.P.C.K., 1952), 47.

<sup>52</sup> Johnson and Toulmin, *Abuse of Casuistry*, 335.

Church discipline played an important role in maintaining a public conscience and correcting private consciences. Alexandra Walsham argues that for catholics, conscience ‘was a mental machine which had to be supervised by the priesthood to ensure that it did not stray from the orthodoxies laid down by the papacy’.<sup>53</sup> This ‘supervision’, exercised in part through the confession box, was condemned as tyrannical and legalistic by protestants in England and Scotland. They sought rather to foster the practice of continuous self-examination and to develop a system in which the unregenerate majority would internalise the moral teachings of the church. Both private guilt and public shame played a significant role in the regulation of conscience, with the aim being behavioural change rather than simply outward conformity.<sup>54</sup> For those protestants committed to the ideal of a national church, exclusion and excommunication were used as instruments of reconciliation.<sup>55</sup>

Beyond the discipline of the church and the guidance of casuistical works, state oaths were widely used as both symbolic and practical devices which defined the political community and fixed the rights and responsibilities of its members.<sup>56</sup> The oath also acted as ‘a bond of conscience’, uniting society in a period when Christendom had fractured and the diversity of the world was becoming increasingly apparent.<sup>57</sup> Oaths were taken seriously in the early modern period and were to be sworn freely and with a good conscience. By bringing god in as a witness, oaths carried far more weight than other promises, and potentially carried the threat of eternal damnation.<sup>58</sup> By binding those who swore them together, and harnessing the authority of the community, oaths also functioned to bypass the accusation that their subscribers were acting as private individuals.

So we have seen that though the definition of conscience as moral knowledge applied to action was widely accepted, the basis, content and application of moral knowledge were disputed. Some saw conscience as regulated by the authority and traditions of the church, and believed that obedience was to be given to the magistrate for conscience sake. Others put a greater emphasis on scripture, viewed as inerrant and self-interpreting, and believed that in the last resort god must be obeyed rather than men. More radical protestants focused on revelation and the superiority of the illuminated conscience, challenging the ideal of a national church. All recognised that the consciences of ordinary men and women required supervision and guidance. Casuistry was a method which structured the

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<sup>53</sup> Alexandra Walsham, *Catholic Reformation in Protestant Britain* (Farnham: Ashgate, 2014), 105.

<sup>54</sup> David Warren Sabean, *Power in the Blood: Popular Culture and Village Discourse in Early Modern Germany* (Cambridge: Cambridge University Press, 1984), 50-51, 172-73.

<sup>55</sup> Alexandra Walsham, ‘Supping with Satan’s Disciples: Spiritual and Secular Sociability in Post-Reformation England’, in Nadine Lewycky and Adam Morton (eds), *Getting Along? Religious Identities and Confessional Relations in Early Modern England — Essays in Honour of Professor W. J. Sheils* (Farnham: Ashgate, 2012), 40.

<sup>56</sup> David Martin Jones, *Conscience and Allegiance in Seventeenth-Century England: The Political Significance of Oaths and Engagements* (Rochester: University of Rochester Press, 1999), 1.

<sup>57</sup> *Ibid.*, 61.

<sup>58</sup> Edward Vallance, “‘An Holy and Sacramentall Paction’: Federal Theology and the Solemn League and Covenant in England”, *The English Historical Review*, 116 (2001), 51-52.

application of general moral truths to particular circumstances, and which shaped the contours of political argument. The discipline of the church was viewed as a means to maintain a public conscience and to rectify the erring conscience. Oaths were used to make the private public and employed the threat of eternal damnation to exert a degree of control over individual consciences. Though the protestant reformations produced a greater emphasis on the individual, ordinary men and women were not expected to have sufficient access to moral knowledge. Nor were they expected to apply the moral knowledge they did possess as isolated individuals, but as part of communities. In the seventeenth century, then, conscience was inextricably bound up both with the exercise of authority and the lived experience of parish life. At the same time, we must recognise that the view of conscience as public and objective was an ideal, and one which came under increasing strain during the British civil wars. This overview has suggested some of the important themes which will recur throughout this thesis. It is now necessary to focus in more detail on the particular contexts in which conscience was invoked, and to ask whether or not an ‘Anglo-Scottish conscience’ can be said to have existed in the seventeenth century.

### **Conscience and Anglo-Scottish protestant culture**

Having provided an account of the concept of conscience, it is important to consider if English and Scottish approaches to conscience were the same. Historians such as Alec Ryrie, Jane Dawson and Edward Vallance have, to varying degrees, argued for the existence of an ‘Anglo-Scottish protestant culture’.<sup>59</sup> Dawson, for example, writes that that ‘their overall cultural and linguistic unity permitted the English-reading peoples of the British Isles ... to “speak the same language” in the widest sense of that term’.<sup>60</sup> The work done by John D. Ford and David Mullan has also established that puritan divines in England and Scotland were in agreement about the nature of conscience.<sup>61</sup> The concept could be used with the assurance of mutual comprehension by authors in both kingdoms. Given that there was no vernacular Scottish bible, scripture was an important basis of ‘British’ linguistic unity. Scottish texts had become increasingly anglicised from 1540 onwards, and English printing models strongly influenced the smaller Scottish printing industry. Religious

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<sup>59</sup> Jane Dawson, ‘Anglo-Scottish protestant culture and integration in sixteenth-century Britain’, in Steven G. Ellis and Sarah Barber (eds), *Conquest and Union: Fashioning a British State, 1485-1725* (London: Longman, 1995), 87-114.

<sup>60</sup> Dawson, ‘Anglo-Scottish protestant culture’, 113.

<sup>61</sup> John D. Ford, ‘The Lawful Bonds of Scottish Society: The Five Articles of Perth, The Negative Confession and the National Covenant’, *The Historical Journal*, 37 (1994), 45-64; *idem*, ‘Conformity in Conscience’, 275-76; Mullan, *Scottish Puritanism*, 5, 17, 89-90, 263.

treatises, in particular, showed signs of anglicisation and this suggests that they were intended for cross-border audiences.<sup>62</sup> English case divinity clearly influenced Scottish authors, and there were important links between puritans in both countries. These were to gain a new significance when the Scots first intervened in English affairs in the late 1630s.<sup>63</sup>

On the other hand, Conrad Russell suggests that England and Scotland were ‘two nations divided by a common language’.<sup>64</sup> He made this observation in reference to the Scottish commissioners’ perplexity that the Treaty of London negotiations were interrupted in 1640 by the celebration of Christmas. Allan I. MacInnes has also argued that historians must take account of the different meanings of words within the three kingdoms.<sup>65</sup> Laura Stewart, meanwhile, has made the more subtle point that English parliamentarians and Scottish covenanters ‘possessed a shared political vocabulary ... which acquired different meanings depending on context’.<sup>66</sup> To expand upon this observation, we should consider that English and Scottish protestants *thought* they were speaking the same language. It is clear that while there were significant similarities between how protestants in both England and Scotland approached the concept of conscience, there were important differences too. Though the view of the English reformation as imposed from above and the Scottish reformation as arising from below is simplistic, the kingdoms’ distinctive reformations and the national churches which they produced influenced how conscience was understood.

The elevation of interiority over exteriority, religion as reflection rather than religion as action, has been seen as a consequence of the reformation, broadly conceived. It has been argued that the doctrines of *sola fide* and predestination weakened the motivational grounds for moral action, whilst persecution pushed some protestants to make new claims for interior liberty and to a devaluation of ceremonies.<sup>67</sup> James F. Keenan suggests that while in catholicism the confessor was the judge, in protestantism the individual conscience fulfilled this role. This emphasis on self-reliance and the belief that this internalised practice of confession and judgement was continual rather than occasional came with no little psychological cost.<sup>68</sup> The reformation conscience, in the judgement of Paul Strohm,

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<sup>62</sup> Amy J. Devitt, *Standardising written English: Diffusion in the case of Scotland, 1520-1659* (Cambridge: Cambridge University Press, 1989), 58, 59, 63-65.

<sup>63</sup> Joseph Black, ‘“Pikes and Protestations”: Scottish Texts in England, 1639-40’, *Publishing History*, 42 (1997), 5-19; Joad Raymond, *Pamphlets and Pamphleteering in Early Modern Britain* (Cambridge: Cambridge University Press, 2003), 162-201; Sarah Waurechen, ‘Covenanter Propaganda and Conceptualisations of the Public during the Bishops’ Wars, 1638-1640’, *The Historical Journal*, 52:1 (2009), 63-86.

<sup>64</sup> Conrad Russell, *The Fall of the British Monarchies 1637-1642* (Oxford: Clarendon Press, 1991), 183-84.

<sup>65</sup> Allan I. MacInnes, *The British Revolution, 1629-1660* (Basingstoke: Palgrave Macmillan, 2005).

<sup>66</sup> Laura A. M. Stewart, *Rethinking the Scottish Revolution: Covenanted Scotland, 1637-1651* (Oxford: Oxford University Press, 2016), 218.

<sup>67</sup> James F. Keenan, ‘William Perkins (1558-1602) and the Birth of British Casuistry’, in James F. Keenan and Thomas A. Shannon (eds), *The Context of Casuistry* (Washington: Georgetown University Press, 1995), 111; Walsham, *Catholic Reformation*, 113.

<sup>68</sup> Keenan, ‘Perkins’, 111-13.

was profoundly alone and unsupported.<sup>69</sup> However, this case has arguably been overstated, as conscience is co-opted into a narrative of rising individualism. While there certainly was a greater emphasis on individual moral responsibility, in neither England nor Scotland was the individual completely detached from wider communities of conscience.

The English reformation was marked by change until the Elizabethan settlement, which itself only prescribed outward conformity. The participation of the lesser magistrates in the restoration of papal authority under Mary Tudor in the 1550s meant that it was the people at large who were left to defend protestantism.<sup>70</sup> Jones argues that the compromises Englishmen and women were forced to make during the reformation encouraged a reliance on the individual conscience and hardened into custom.<sup>71</sup> There was disagreement over whether conscience was bound by none but god, or whether the traditions of the church or the authority of parliament functioned as arbiters of a public conscience. It is possible to discern different emphases between puritan, anglican and erastian thought following these lines. Puritans came to emphasise individual conscience and saw it as actively engaged with moral questions of all sorts.<sup>72</sup> Because the English church remained, as they saw it, only part reformed, this led to an interiorised and pietistic religion to a degree not seen in Scotland.<sup>73</sup> This caused some to agitate for further reformation and others to advocate that the godly should establish their own congregations, independent of the national church. Although they used a language which could be construed as individualistic, they saw themselves as agents of god's will and as part of communities of conscience.

Jones argues that one of the most significant consequences of the English reformation was a political culture which 'recognised religious difference as a matter of conscience but insisted that order be the first priority'.<sup>74</sup> This translated into an anglican message, as Jonathan Wright puts it, of 'believe what you want, but obey the law'.<sup>75</sup> Christian liberty meant the freedom to hold and exercise personal beliefs within the limits established by the church and secular authority working in tandem. The magistrate could never exercise power over individual conscience, but had the authority to pronounce on matters indifferent such as religious ceremonies. As the head of the Church of England, the

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<sup>69</sup> Paul Strohm, *Conscience: A Very Short Introduction* (Oxford: Oxford University Press, 2011), 27.

<sup>70</sup> Glenn Burgess, 'Regicide: The Execution of Charles I and English Political Thought', in Robert Von Friedeburg (ed.), *Murder and Monarchy: Regicide in European History, 1300-1800* (Basingstoke: Palgrave Macmillan, 2004), 214.

<sup>71</sup> Jones, *English Reformation*, 133.

<sup>72</sup> *Ibid.*, 187.

<sup>73</sup> Bruce Lenman, 'The Limits of Godly Discipline in the Early Modern Period with Particular Reference to England and Scotland', in Kaspar Von Greyerz, (ed.), *Religion and Society in Early Modern Europe 1500-1800* (London: George Allen & Unwin, 1984), 138-42; Jones, *English Reformation*, 183.

<sup>74</sup> Jones, *English Reformation*, 133.

<sup>75</sup> Wright, 'The World's Worst Worm', 133.

monarch had a particular responsibility to embody the public conscience of the realm, regulate the behaviour of his subjects and bring erring consciences to the truth.<sup>76</sup>

The Scottish reformation took quite a different form and consequently produced distinctive ecclesiastical institutions and modes of thought. Chief amongst these was a kirk which continuously asserted its independence from secular authority, and which exercised a broadly effective discipline. Mary was deposed in 1567 by an alliance of nobles known as the Lords of the Congregation, and her one-year-old son James VI was installed as monarch. Whether or not the Scottish reformation was truly popular is disputed, but the involvement of the lesser magistrates in establishing protestantism set an important precedent. Further, whilst in England the reformation was dependent on the crown, in Scotland the reformation occurred despite, and in opposition to, the crown.<sup>77</sup> Roger Mason has shown that the idea of a godly commonwealth was a powerful element of Scottish reformation thought. He argues that for John Knox the visible church was ‘co-extensive with the nation’ but wielded authority independently of the civil magistrate.<sup>78</sup> This was the context in which Scottish presbyterians assumed conscience would be exercised. The discipline of the church was the means by which erring consciences would be corrected, and presbyteries were the forums where public cases of conscience were resolved. The kirk, not the prince or the parliament, was the guardian of the nation’s conscience, and all were subject to its jurisdiction. Rather than being the head of the church, the monarch was but a member of the kirk.

For John Coffey, the fundamental difference between English and Scottish puritanism was the strength of Scottish presbyterianism.<sup>79</sup> Some Scottish puritans did attend private meetings, known as conventicles, and establish field communions in the years before 1637, but they were nevertheless committed to remaining within the established church.<sup>80</sup> These were strategies designed to support godly communities in the belief that the church would be restored to its reformed perfection, not rivals to the ideal of a national church. Scottish laypersons were not as involved in debates about the form of church government, and the kirk’s position as moral arbiter was relatively secure. Because there were fewer catholics in

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<sup>76</sup> Kevin Sharpe, ‘Private Conscience and Public Duty in the Writings of James VI and I’, in John Morrill, Paul Slack and Daniel Woolf (eds), *Public Duty and Private Conscience in Seventeenth-Century England: Essays Presented to G. E. Aylmer* (Oxford: Clarendon Press, 1993), 77-100; *idem*, *Remapping early modern England: The culture of seventeenth-century politics* (Cambridge: Cambridge University Press, 2000), 175-98.

<sup>77</sup> Michael Graham, ‘The Scottish Reformation’, in Robert Tittler and Norman Jones (eds), *A Companion to Tudor Britain* (Chichester: Wiley Blackwell, 2004), 289-306.

<sup>78</sup> Roger A. Mason, ‘Knox, Resistance and the Royal Supremacy’, in Roger A. Mason (ed.), *John Knox and the British Reformations* (Aldershot: Ashgate, 1998), 172.

<sup>79</sup> John Coffey, ‘The Problem of “Scottish Puritanism”, 1590-1638’, in Elizabethanne Boran and Crawford Gribben (eds), *Enforcing Reformation in Ireland and Scotland, 1550-1700* (Aldershot: Ashgate, 2006), 87.

<sup>80</sup> David Stevenson, ‘The Radical Party in the Kirk, 1637-45’, *The Journal of Ecclesiastical History*, 25 (1974), 137.

Scotland toleration was less of an issue too.<sup>81</sup> Lowland Scotland was overall more religiously homogenous than England for these reasons, and the ideal of a common conscience was, therefore, easier to uphold. Disciplinary structures, which were intended to regulate the outward, public man and foster individuals' private consciences, were relatively uniform and appeared to command a significant degree of public support.<sup>82</sup>

Were national differences the only factors at play here? Though it is clear that the countries' differing reformations shaped assumptions and moulded identities, there were significant overlaps between protestants in both countries. Scottish and English episcopalians had much in common when it came to questions of obedience and the relationship between the church and the magistrate. A defence of episcopacy was associated with a defence of hierarchy, and a rejection of the view which gave the individual conscience the prerogative to challenge custom, law and authority.<sup>83</sup> More radical Scottish presbyterians, it now seems apparent, had much in common with congregationalists in England.<sup>84</sup> Furthermore, the example of the New England churches was to prove an attractive model for some English puritans, and Scots thought at times in European terms. This raises the question of who we elevate as representatives of national distinctiveness. Barry Robertson has observed that the neglect of royalism has much to do with a focus on those movements which are perceived as coming closest to embodying national sentiment, namely the parliamentarians in England and the covenanters in Scotland.<sup>85</sup> While the labelling of political thought as 'English' or 'Scottish' has been imprecise in the past, often with the effect of subsuming Scottish authors into an English narrative, it is also important to question whether these national descriptors are the best way to characterise ideas.

Conscience, considered abstractly, was conceived in the same way in England and Scotland, but the two kingdom's distinctive reformations produced different emphases on the relationship between public and private conscience. It might be said that they were speaking the same language, but with different accents. Broadly speaking, Scottish puritans believed that their reformed church needed defending. English puritans thought that the Church of England required further reformation, but did not necessarily agree on what form this reformation should take. Consequently, when Scottish covenanters used the concept of conscience, they had in mind its exercise within the constraints of the discipline

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<sup>81</sup> Mullan, *Scottish Puritanism*, 264.

<sup>82</sup> Michael F. Graham, *The Uses of Reform: 'Godly Discipline' and Popular Behaviour in Scotland and Beyond, 1560-1610* (Leiden: Brill, 1996), 148-49.

<sup>83</sup> David Scott, 'Rethinking Royalist Politics', in John Adamson (ed.), *The English Civil War: Conflict and Contexts, 1640-49* (Basingstoke: Palgrave Macmillan, 2009), 59-60.

<sup>84</sup> Hunter Powell, *The Crisis of British Protestantism: Church Power in the Puritan Revolution, 1638-44* (Manchester: Manchester University Press, 2015), 35-53.

<sup>85</sup> Barry Robertson, *Royalists at War in Scotland and Ireland* (Farnham: Ashgate, 2014), 1.

of the kirk. When English puritans used it, they did not necessarily have a particular ecclesiastical system in mind. Those of a congregational persuasion rejected the ideal of a national church; English presbyterians were often more clerical than their Scottish counterparts; and a tradition of erastianism meant that some invested parliament with the role as arbiter of conscience rather than an independent church. While the importance of self-discipline was a feature of puritan thought in both countries, this was situated within different ecclesiastical systems and ritual practices. Episcopalians in England and Scotland, meanwhile, adhered to the belief that the magistrate's role was to correct erring consciences, and that Christian liberty consisted of the freedom to disagree on matters indifferent. In Scotland, the discipline of the church was the means by which public conscience was internalised by the population at large, and the kirk was the arbiter of that public conscience. In England, on the other hand, whilst the church played a similarly important role in the maintenance of public conscience, it was ultimately the king who was to act as the conscience of the commonwealth.

These differences help to explain how and why conscience was invoked by English and Scottish thinkers during the British civil wars. These conflicts also challenged assumptions and created new dilemmas for conscience. The ideal of a national church was questioned, and the relationship between public and private conscience reconfigured by the strains of war. John Coffey has recently described the English Revolution as 'a theological crisis, a struggle over the identity of British Protestantism'.<sup>86</sup> This struggle was, in part, a clash between ideal and reality, between how conscience was conceived and how it was experienced. English and Scottish protestants clearly thought they had much in common, but the attempts to construct ecclesiastical and political unity tested this belief. While they thought they were speaking the same language, the conflicts demonstrated that there was ample room for miscommunication and misunderstanding.

### **Conscience and the British civil wars**

It has long been recognised that conscience was central to early modern political thought and culture. It has been the focus of work by historians of renaissance and reformation

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<sup>86</sup> John Coffey, 'Religious Thought', in Michael Braddick (ed.), *The Oxford Handbook of the English Revolution* (Oxford: Oxford University Press, 2015), 447.

England,<sup>87</sup> philosophy,<sup>88</sup> and seventeenth-century Europe.<sup>89</sup> New conceptual histories have recently been published which emphasise that the conscience accumulated different emphases over time rather than experiencing dramatic shifts in meaning.<sup>90</sup> Those who have studied conscience have been divided about whether conscience was a means of liberation, and a vehicle for liberalism,<sup>91</sup> or whether it was a means of social control.<sup>92</sup> As Mika Ojakangas puts it, the voice of conscience ‘empowers us and authorises us to rebel against all laws and authorities, but at the same time these laws and authorities maintain their power through this voice’.<sup>93</sup> Historians, however, have been much more skeptical about

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<sup>87</sup> Robert A. Greene, ‘Synderesis, the Spark of Conscience, in the English Renaissance’, *Journal of the History of Ideas*, 52:2 (1991), 195-219; *idem*, ‘Whichcote, the Candle of the Lord, and Synderesis’, *Journal of the History of Ideas*, 52:4 (1991), 617-64; *idem*, ‘Instinct of Nature: Natural Law, Synderesis, and the Moral Sense’, *Journal of the History of Ideas*, 58:2 (1997), 173-198; Wright, ‘The World’s Worst Worm?’, Lowell Gallagher, *Medusa’s Gaze: Casuistry and Conscience in the Renaissance* (Stanford: Stanford University Press, 1991); Christopher Tilmouth, ‘Shakespeare’s open consciences’, *Renaissance Studies*, 23:4 (2009), 501-515; Harald E. Braun and Edward Vallance (eds), *The Renaissance Conscience* (Chichester: Wiley-Blackwell, 2011).

<sup>88</sup> Edward, *Conscience and its Critics*; Karen S. Feldman, *Binding Words: Conscience and Rhetoric in Hobbes, Hegel, and Heidegger* (Evanston: Northwestern University Press, 2006); Robert K. Vischer, *Conscience and the Common Good: Reclaiming the Space Between Person and State* (Cambridge: Cambridge University Press, 2010); Gerald Gaus, *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (Cambridge: Cambridge University Press, 2011); Elizabeth Reddish, *The Petrified Ego: A New Theory of Conscience* (London: Karnac, 2014).

<sup>89</sup> Leites (ed.), *Conscience and Casuistry*; John Morrill, Slack and Woolf (eds), *Public Duty and Private Conscience*; Jones, *Conscience and Allegiance*; Murphy, *Conscience and Community*; Braun and Vallance (eds), *Contexts of Conscience*; Klinck, *Conscience, Equity and the Court of Chancery*; Mark Hanin, ‘Thomas Hobbes’s Theory of Conscience’, *History of Political Thought*, 33:1 (2012), 55-85; Christopher Haigh, ‘Conscience and Conformity: Some Moral Dilemmas in Seventeenth-Century England’, *Journal of Anglican Studies*, 11:1 (2013), 65-83; Walsham, *Catholic Reformation*.

<sup>90</sup> Strohm, *Conscience*; Ojakangas, *Voice of Conscience*; Sorabji, *Moral Conscience*; Martin van Creveld, *Conscience: A Biography* (London: Reaktion Books, 2015).

<sup>91</sup> L. John van Til, *Liberty of Conscience: The History of a Puritan Idea* (Nutley, N.J.: Craig Press, 1972), 85-107; Ian Adams, *Political Ideology Today* (Manchester: Manchester University Press, 1993), 13-14; J. B. Schneewind, *The Invention of Autonomy: A History of Modern Moral Philosophy* (Cambridge: Cambridge University Press, 1998), 4; Quentin Skinner, *Liberty Before Liberalism* (Cambridge: Cambridge University Press, 1998); Andrew, *Conscience and its Critics*, 32; Gordon J. Schochet, ‘Persuading the Heart: Appeals to “Conscience” in the English Revolution’, in Anthony T. Grafton and J. H. M. Salmon (eds), *Historians and Ideologues: Essays in Honor of Donald R. Kelly* (Rochester, NY: University of Rochester Press, 2001), 154-180; John Gray, *Liberalism*, 2nd ed. (Minneapolis: University of Minnesota Press, 2003), 9-10; Lana Cable, ‘Secularising Conscience in Milton’s Republican Community’, in Sharon Achinstein and Elizabeth Sauer (eds), *Milton and Toleration* (Oxford: Oxford University Press, 2007), 271, 277; Jeffrey Collins, ‘The Early Modern Foundations of Classic Liberalism’, in George Klosko (ed.), *The Oxford Handbook of the History of Political Philosophy* (Oxford: Oxford University Press, 2011), 258-281; Klinck, *Conscience, Equity and the Court of Chancery*, 217; Ryan, Alan, *The Making of Modern Liberalism* (Princeton: Princeton University Press, 2012); Larry Siedentop, *Inventing the Individual: The Origins of Western Liberalism* (London: Penguin, 2015).

<sup>92</sup> Erich Fromm, *Man for Himself: An Enquiry into the Psychology of Ethics* (London: Routledge & Kegan Paul, 1949), 143-44, 159, 165; James Tully, ‘Governing conduct’, in Leites (ed.), *Conscience and Casuistry*, 40; Leites, ‘Casuistry and character’, 129; Ford, ‘The Lawful Bonds of Scottish Society’, 62; Avihu Zakai, ‘Religious Toleration and Its Enemies: The Independent Divines and the Issue of Religious Toleration during the English Civil War’, *Albion*, 21 (1989), 1-33; Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (London: Penguin, 1991), 194, 201; Louis Althusser, *Lenin and Philosophy and Other Essays*, trans. Ben Brewster (New York: Monthly Review Press, 2001), 96, 101-02, 123; Nataša Tučev, ‘The Grammatical Fiction: Self vs. Subject in Arthur Koestler’s *Darkness at Noon*’, *Linguistics and Literature*, 4:1 (2006), 6.

<sup>93</sup> Ojakangas, *Voice of Conscience*, 211.

claims made for increasing individualism and secularism.<sup>94</sup> Nevertheless, the tension between individual and public conscience, internal and external authority, was at the heart of the concept, and conscience was central to the major dilemmas of the age: the location of authority and the limits of obedience.<sup>95</sup>

However, there have been few attempts to study how conscience was understood and employed during the British civil wars. A chapter by Gordon J. Schochet provides a broad overview of the most significant moments when conscience was invoked and lays the ground for further research.<sup>96</sup> Kevin Sharpe's work on James VI and I and Charles I has demonstrated the centrality of conscience to both monarchs' self-perception and public presentation.<sup>97</sup> Most recently, Giuseppina Iacono Lobo has focused on the etymology of the word conscience to argue that it provided a language and way of thinking which connected the individual to the nation.<sup>98</sup> In general, though, the Scottish experience has been overlooked, despite the fact that the covenanters explicitly claimed conscience as a justification of their actions.<sup>99</sup> Many works focus on exceptional individuals at the expense of more popular sources, and Scottish thinkers have often been co-opted into an English narrative with little appreciation for differences in outlook or background.<sup>100</sup> The lack of comparative studies of English and Scottish political thought in the period 1637-53 has been noted,<sup>101</sup> and the work to fill this lacuna is ongoing.<sup>102</sup> By focusing on the concept of conscience and using it to compare Scottish and English political thought, this thesis therefore makes an original contribution to the field.

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<sup>94</sup> J. C. Davis, 'Religion and the Struggle for Freedom in the English Revolution', *The History Journal*, 35 (1992), 507-530 (516); John Coffey, 'Puritanism and Liberty Revisited: The Case for Toleration in the English Revolution', *The Historical Journal*, 41:4 (1998), 981; Davis, 'Living with the living God', 31-35; Glenn Burgess, 'Royalism and Liberty of Conscience in the English Revolution', in John Morrill and Jonathan Scott (eds), *Liberty, Authority, Formality: Political Ideas and Culture, 1600-1900: Essays in Honour of Colin Davis* (Exeter: Imprint Academic, 2008), 10; Shagan, 'Thinking with Moderates', 488-513; Haigh, 'Conscience and Conformity', 81.

<sup>95</sup> Theodore K. Rabb, *The Struggle for Stability in Early Modern Europe* (New York: Oxford University Press, 1975), 33; Russell, *Fall*, 86.

<sup>96</sup> Schochet, 'Persuading the Heart'.

<sup>97</sup> Sharpe, 'Private Conscience and Public Duty in the Writings of James VI and I', 77-100; *idem*, *Remapping early modern England*, 175-98.

<sup>98</sup> Giuseppina Iacono Lobo, *Writing Conscience and the Nation in Revolutionary England* (Toronto: University of Toronto Press, 2017). This work is not due to be published in the UK until November 2017, meaning I have been unable to give a full account of its contents or how it intersects with my own research.

<sup>99</sup> Ford, 'Lawful Bonds', 45-64; *idem*, *Law and Opinion in Scotland during the Seventeenth Century* (Oxford: Hart, 2007), *passim*. Margaret Steele touched upon some aspects of conscience in 'The "Politick Christian": The Theological Background to the National Covenant', in John Morrill (ed.), *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1990), 31-67. David's Mullan's *Scottish Puritanism* addresses conscience in some depth but his analysis ends in 1638. Mullan, *Scottish Puritanism*, 5, 17, 89-90, 102, 151, 258-63.

<sup>100</sup> In particular Samuel Rutherford. See Coffey, *Rutherford*, 9-15.

<sup>101</sup> J. G. A. Pocock, 'Two kingdoms and three histories?', in Roger A. Mason (ed.), *Scots and Britons: Scottish political thought and the union of 1603* (Cambridge: Cambridge University Press, 1994), 311.

<sup>102</sup> Notable examples include: Morrill (ed.), *Scottish National Covenant*; Ronald G. Asche (ed) *Three Nations—A Common History? England, Scotland, Ireland and British History, c.1600–1920* (Bochum: Bockmeyer, 1993); Coffey, *Rutherford*; MacInnes; *British Revolution*; Robertson, *Royalists at War*; Stewart, *Rethinking*.

The language of conscience was central to debates about the legitimacy of resistance to authority throughout the period 1637-53. This is because appeals to conscience are common when moral obligations are in conflict. Johnson and Toulmin have identified the tension between Romans 13, which counsels obedience to authority for conscience sake, and Acts 5:29, which instructs believers to obey god rather than men, as amongst the most crucial of such conflicts.<sup>103</sup> This dilemma has been identified by a number of historians. Jones, for example, has argued that there were two important strands within English protestant thought. One ‘empowered conscience and transcended rank, class, and order’ and the other ‘identified the highest virtue with obedience to God’s ordained state and system’. The impossibility of reconciling these two positions, he argues, ‘was to be at the heart of the civil war’.<sup>104</sup> Or, as Condren Conal puts it, ‘one man’s rebellion is another’s obedience to higher authority’.<sup>105</sup> However, other than Schochet’s work, there has not been a systematic treatment of how the language of conscience was used in these crucial debates, and how these arguments shifted over the course of the 1640s and early 1650s. Scottish resistance theory has largely been studied through the works of George Buchanan and John Knox, with Samuel Rutherford also receiving some attention. Studies of non-canonical works are more limited in number and have rarely sought to compare English and Scottish texts. By focusing on how English and Scottish authors reconciled the conflict between obedience to man and obedience to god, such a comparative approach becomes achievable.

Using the concept of conscience also helps us to think about toleration and liberty of conscience in more nuanced ways. Andrew Murphy argues that in England the political aspects of the toleration debate were largely about ‘whom to tolerate, and on what conditions, *alongside* the Anglican Church’.<sup>106</sup> In Scotland, where the question was less pressing, the debate focused instead on how to accommodate more radical elements *within* the national church. In both cases, the issue was not solely or primarily heterodox belief, but the actions flowing from such beliefs. It is also important to examine not only liberty of conscience but liberty *and* conscience, exploring the relationship between the two and the differing ways in which liberty and conscience were understood. The starting point must be to ask, liberty for whom, and to do what? As Lawrence Kaplan points out, it was never a question of complete toleration versus none at all.<sup>107</sup> The concept of conscience, and the idea that the godly possessed illuminated consciences, necessitated theories of moderation and intolerance. It is important to recognise that advocates of religious

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<sup>103</sup> Johnson and Toulmin, *Abuse of Casuistry*, 92.

<sup>104</sup> Jones, *English Reformation*, 187.

<sup>105</sup> Conal Condren, *The Language of Politics in Seventeenth-Century England* (Houndsmills: Macmillan, 1994), 118.

<sup>106</sup> Murphy, *Conscience and Community*, xii.

<sup>107</sup> Lawrence Kaplan, *Politics and Religion during the English Revolution: The Scots and the Long Parliament 1643-1645* (New York: New York University Press, 1976), 134.

toleration were in the minority, and consideration must be given to the widely held view that coercion was legitimate and that complete freedom of conscience would lead to anarchy.

In the seventeenth century, liberty did not necessarily mean freedom from rules or negation of obedience. Liberty of conscience, as J. C. Davis points out, ‘meant submission to God ... and not to self’, and freedom was perceived in terms of discipline and self-control.<sup>108</sup> Christopher Haigh argues therefore that a primary difference between present day and early modern conceptions of conscience was that in the seventeenth century conscience had ‘obligations rather than rights’.<sup>109</sup> Schochet may be right, therefore, to suggest that concerns about the potential for conscience to be employed to control and coerce may be largely modern conceits.<sup>110</sup> It was generally held that liberty and constraint were not inimical, and that freedom depended upon regulation. This was the freedom to practice right religion, not freedom from restraint. Intolerance was seen as a virtue and liberty of conscience as an excuse for immorality.<sup>111</sup>

There was, as we have seen, a strain of thought which relegated some beliefs to the private sphere; opinions which were permitted so long as the holder of them did not trouble the public peace. This view of conscience was embodied in the Elizabethan settlement and articulated by James VI and I, amongst others.<sup>112</sup> However, the concept of conscience, understood as the application of moral knowledge to action, brings this into question. The legal scholar Robert Vischer, for example, has written that ‘Conscience is not just a belief, passively held by the individual. It is belief applied to conduct, an act’, and that to exclude action from our understanding of conscience ‘cuts the connection between conscience and personal integrity’.<sup>113</sup> Similarly, Bernard Wand suggests that instead of seeing conscience as a bridge between belief and action we must recognise that the very appeal to conscience represents a commitment on the part of the individual to act morally.<sup>114</sup> Richard Sorabji also argues that conscience ‘concerns *action* as well as belief’, and, indeed, it would be wrong not to act on some beliefs.<sup>115</sup>

If conscience is understood as belief applied to action then our understanding of liberty of conscience, and its distinction from liberty of practice, must be reconsidered. This is especially important, if a behavioural definition of religion is employed, as Richard

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<sup>108</sup> Davis, ‘Religion and the Struggle for Freedom’, 516; Coffey, ‘Puritanism and Liberty Revisited’, 981.

<sup>109</sup> Haigh, ‘Conscience and Conformity’, 81.

<sup>110</sup> Schochet, ‘Persuading the Heart’, 172.

<sup>111</sup> Robert S. Paul, *The Assembly of The Lord: Politics and Religion in the Westminster Assembly and the ‘Grand Debate’* (Edinburgh: T. & T. Clark, 1985), 440.

<sup>112</sup> James VI and I, ‘Basilicon Doron’, in *Political Writings*, ed. Johann Sommerville (Cambridge: Cambridge University Press, 1994), 7; Walsham, ‘Ordeals of Conscience’, 47.

<sup>113</sup> Vischer, *Conscience and the Common Good*, 3, 99.

<sup>114</sup> Bernard Wand, ‘The Content and Function of Conscience’, *The Journal of Philosophy*, 58:24 (1961), 772.

<sup>115</sup> Sorabji, *Moral Conscience*, 47.

C. Trexler has advocated. He has argued that the most pressing task facing protestant churches was ‘was not the articulation of clear intellectual differences from catholicism and among each other, but the establishment of new sacred times, spaces and objects for meaningful behaviour’.<sup>116</sup> Trexler contends that the triumph of the modern definition of religion as reflection, and the uncritical portrayal of this as progress by some historians, is linked to both the triumph of the state ‘which controls the ritual stage and says faith is private but behaviour is a public matter’.<sup>117</sup> For early modern thinkers, however, conscience was inextricably bound up with public actions.<sup>118</sup>

Alexandra Walsham has made the point that though sects and minority religious groups might practice dissimulation in the short-term, in the long-term ‘a schizophrenic split between belief and behaviour’ could not be sustained.<sup>119</sup> A. S. Woodhouse has also identified a tension in puritan thought between a desire for liberty and a zeal for reform which, if necessary, could be imposed on the ungodly. The active temperament of puritanism meant that a distinction between belief and action was hard to sustain.<sup>120</sup> For example, the covenanters held that it was lawful to submit to the magistrate’s commands regarding matters indifferent. However, as Jonathan Gray observes, ‘Few and far between were the practices that were so indifferent that they could be equally approved or disapproved depending on the conscience of a particular individual’.<sup>121</sup> Given that the standard protestant view held that scripture was self-interpreting and self-authenticating, the space left for the practice of individual judgement was small.<sup>122</sup>

The relationship between oaths, covenants and conscience is particularly important given the widespread use of such devices during the period 1637-53. Any account of the political thought of this era must engage with the Scottish National Covenant, the Protestation Oath, the Solemn League and Covenant and the Engagement, to name only the most obvious examples. These oaths were each conceived of as ‘cases of conscience’ and were consequently accompanied by a flurry of pamphlets claiming to guide those who were asked to subscribe them. Whilst oaths can be seen as a tool of coercion, the putative moral equality of individuals inherent in Christian doctrine and the insistence that belief cannot be compelled suggested that political association must be founded on consent and choice. The use of oaths throughout the period under investigation drew more people into

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<sup>116</sup> Richard C. Trexler, ‘Reverence and Profanity in the Study of Early Modern Religion’, in Kaspar Von Greyerz (ed.), *Religion and Society in Early Modern Europe 1500-1800* (London: George Allen & Unwin, 1984), 253.

<sup>117</sup> Trexler, ‘Reverence and Profanity’, 251, 256.

<sup>118</sup> *Ibid.*, 245-69.

<sup>119</sup> Walsham, *Catholic Reformation*, 123.

<sup>120</sup> A. S. P. Woodhouse, ‘Introduction’, in *Puritanism and Liberty: Being the Army Debates (1647-49) from the Clarke Manuscripts*, ed. A. S. P. Woodhouse, 3rd ed. (London: Dent, 1986), 51, 60.

<sup>121</sup> Jonathan Michael Gray, ‘Conscience and the Word of God: Religious Arguments against the *Ex Officio* Oath’, *Journal of Ecclesiastical History*, 64:3 (2013), 507.

<sup>122</sup> Noel Malcolm, *Aspects of Hobbes* (Oxford: Clarendon Press, 2002), 420.

the political nation than ever before and, unintentionally or not, brought into question the nature of political authority.<sup>123</sup> The imposition of oaths and covenants also raised new issues. Were they articulations of pre-existing obligations, or a means to claim new rights? Was their sense delineated by the authority imposing them, or was individual conscience the guide to their meaning? Were they intended to divide, or to unite? The concept of conscience was at the heart of these issues, and it shaped how oaths were taken, interpreted and opposed. The struggle to reconcile the various oaths which were imposed on the people also produced novel ideas and arguments. These debates circled around the application of moral knowledge to action. Oaths were not simply to be sworn, but had to be performed; they were also used to circumscribe action, under pain of damnation or civil censure. The concept of conscience deepens our understanding of these debates and also contributes towards a greater appreciation of the conflicts between and within England and Scotland over the use of oaths.

Discourses about conscience were also unavoidably linked to questions about the nature of government and theories of resistance.<sup>124</sup> Those who emphasise the repressive and authoritarian aspects of conscience have argued that it functioned as a means of social control. As Edmund Leites puts it, the state could increase its power by invoking conscience and thereby have people ‘control *themselves* with values that suit the state’s interest’.<sup>125</sup> The church has been seen as an important tool in this respect. The Marxist philosopher Louis Althusser, for example, identified the church as the foremost ‘Ideological State Apparatus’ in the pre-modern world. Through its domination of the politics, education and culture of society the church was able to inculcate its doctrines into the populace so that ‘the vast majority of (good) subjects work all right “all by themselves”’.<sup>126</sup> More recently the historian Philip Gorski has made a similar point, arguing that it was through the discipline of the church that the early modern state was able to create ‘more obedient and industrious subjects with less coercion and violence’.<sup>127</sup>

This view of one of the functions of conscience being the internalisation of moral beliefs has validity but must be balanced against the liberating aspects of conscience. Ethan Shagan has recently argued that ‘the question of when moderation meant the internal bridle of conscience and when moderation required the external bridle of the magistrate’ was ‘a crucial battlefield in English religion’.<sup>128</sup> This relationship between internal and

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<sup>123</sup> Walter, *Covenanting Citizens*, 80, 81.

<sup>124</sup> Justin A. I. Champion, ‘Willing to Suffer: Law and Religious Conscience in Seventeenth-Century England’, in John McLaren and Harold Coward (eds), *Religious Conscience, the State, and the Law: Historical Contexts and Contemporary Significance* (Albany: State University of New York Press, 1999), 16.

<sup>125</sup> Leites, ‘Casuistry and character’, 129.

<sup>126</sup> Althusser, *Lenin and Philosophy*, 96, 101-02, 123.

<sup>127</sup> Philip S. Gorski, *The Disciplinary Revolution: Calvinism and the Rise of the State in Early Modern Europe* (Chicago: University of Chicago Press, 2003), xvi.

<sup>128</sup> Shagan, ‘Thinking with Moderates’, 488-513.

external, inherent in the concept of conscience, was at the heart of civil war debates about the relationship between church, state and individual. As James F. Childress observes, appeals to conscience are made when we are faced with temptation or indecision, and in cases of societal breakdown and an absence of authority.<sup>129</sup> It was because the authority of both the state and the church were in question that conscience was so frequently invoked in political literature, and the tensions inherent in the concept were explored in new ways and in new contexts.

The ubiquity of this language led to renewed attempts to explain the basis of conscience and delineate its functions. These inquiries were centred on the issues of resistance and obedience, and undertaken for partisan purposes, with the aim of claiming the language of conscience for a particular cause. The interaction of English and Scottish traditions produced novel ideas. It was in England that the Scots witnessed and reacted to sectarianism and made their contribution to the toleration debate. So conscience can also provide a means to measure how Scottish and English interacted and adapted. It has been argued that before the civil wars, in Kevin Sharpe's words, 'ideas of conscience ... were less individualistic'.<sup>130</sup> A comparative study of English and Scottish political thought centred on the concept of conscience contributes to this debate. The trends which have putatively been identified in England in this regard can helpfully be contrasted with the development of Scottish ideas over the same period.

## Sources and methodology

I have explained what seventeenth-century men and women meant when they used the concept of conscience, and suggested what this might tell us about the political cultures of England and Scotland. This provides the context for the main focus of this thesis, which is on how the concept of conscience shaped theories of resistance and obedience and how it framed the nature of the settlements proposed. This investigation places a greater emphasis on Scottish sources, which have been unduly neglected in comparative studies. Schochet identifies three main moments in which conscience was invoked and debated: the outbreak of civil war in England; the discussion surrounding liberty of conscience, primarily in the mid-1640s; and the Engagement Controversy, which followed the regicide and the establishment of the English Commonwealth.<sup>131</sup>

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<sup>129</sup> Childress, 'Appeals to Conscience', 326.

<sup>130</sup> Sharpe, 'Private Conscience and Public Duty in the Writings of James VI and I', 78.

<sup>131</sup> Schochet, 'Persuading the Heart', 159.

This thesis adopts and expands this chronological and thematic approach, and adds the missing element of comparison. As a means of analysis, focusing on the concept of conscience brings coherency and structure to a comparative study of English and Scottish political thought during a period which produced more printed texts than any age preceding it. This approach recognises that the differing contexts in which ideas were framed and articulated shaped how conscience was understood. Studying these conflicts of conscience, between and within England and Scotland, helps us to understand the similarities and differences between the countries' political cultures. More specifically, conscience deepens our understanding of several key debates and ideas: the lawfulness of armed resistance; the relationship between church and state; religious and political toleration; and the use of oaths and covenants. Exploring these issues further contributes towards an understanding of why it was so hard for the English and the Scots to reach a settlement.

This analysis centres on four significant moments: armed resistance in Scotland and England; the promulgation and subscription of the Solemn League and Covenant; ecclesiological debates at the Westminster Assembly; and the dilemmas caused by the imposition of the Engagement Oath in England and Scotland. I focus on the political texts which engaged with the issue of resistance to authority, and the constitutional documents and institutional records produced by the attempts to reach an Anglo-Scottish settlement. The cases of conscience discussed here were public, and consequently the primary sources I have chosen to study are those which engage with these crises of authority. Because I am interested in comparing English and Scottish political thought, and how it changed over time, I have chosen to focus on the debates which involved participants from both countries and moments which produced comparable literatures. I am primarily interested here in conscience as a public and political language, used for particular purposes in specific circumstances.

The common criteria for the range of primary sources here is that they spoke to particular crises of conscience. The specific contexts in which I am interested has necessarily reduced the range of sources used. Further, Scottish printed and archival sources are more limited than for England in this period, though there are relatively good institutional records. The relative lack of popular sources and the fact that there was not a similar explosion of print in Scotland means that a greater emphasis has been placed on public documents and manuscript material. I am interested in the use of conscience in polemical material about practical political dilemmas, in particular debates centred on the issues of resistance to authority, church-state relations, toleration and the swearing of oaths. Therefore I have focused on the pamphlets and treatises, both print and manuscript,

produced in response to particular political crises; the major oaths and covenants tendered during this period; and constitutional documents and institutional records.

Of primary interest are the political and polemical tracts which were used, as Jason Peacey argues, ‘in order to mobilise public opinion, and to justify political actions’.<sup>132</sup> The concept of conscience was an important part of this effort. Many political texts were casuistical in structure, providing resolutions to public cases of conscience. They often followed a similar model, characterised by a reliance on paradigms and analogies; appeals to maxims; an analysis of circumstances; the establishing of degrees of probability; and the use of cumulative arguments, before a final resolution was presented.<sup>133</sup> These invocations of conscience represented claims to moral authority, with the aim of guiding individual behaviour and situating personal dilemmas within a public context.<sup>134</sup> Harald Gustafsson has argued that early modern thinkers used a range of what he calls ‘arguments for action’,<sup>135</sup> and it is important to remember that conscience was one of a number of justifications which were deployed to persuade and motivate audiences.

Public documents performed different functions. For example, covenanter declarations intended for an English audience were intended to present Scotland as unified. This rhetoric of consensus, though masking the real divisions within Scottish society, nevertheless provides evidence of the ideals to which the covenanters aspired. Polemical texts and political treatises were designed to persuade and influence and existed in a dialogue with other published documents. Oaths and covenants were used in this fashion too but were also recognised as cases of conscience in themselves, and consequently generated significant polemical debates. Authorial intention is, of course, important, but does not delimit the meanings of texts, and how these documents were repurposed and reinterpreted is of particular interest.<sup>136</sup> The reception of the Solemn League and Covenant provides an important example of these processes, and I also show that English readings of Scottish texts played an important role in the Engagement Controversy. Conscience was invoked both to legitimise divergent readings of texts and to attempt to limit the range of possible interpretations and sustain consensus.

Manuscript circulation continued to play an important role during this period, both as a source of news and by providing a space for divergent opinions.<sup>137</sup> The manuscript sources

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<sup>132</sup> Jason Peacey, *Politicians and Pamphleteers: Propaganda During the English Civil Wars and Interregnum* (Aldershot: Ashgate, 2004), 303.

<sup>133</sup> Johnson and Toulmin, *Abuse of Casuistry*, 251-57.

<sup>134</sup> *Ibid.*, 355.

<sup>135</sup> Harald Gustafsson, ‘The Eighth Argument. Identity, Ethnicity and Political Culture in Sixteenth-Century Scandinavia’, *Scandinavian Journal of History*, 27:2 (2002), 95-110.

<sup>136</sup> Peacey, *Politicians and Pamphleteers*, 16.

<sup>137</sup> Ian Atherton, ‘“The Itch Grown a Disease”: Manuscript Transmission of News in the Seventeenth Century’, in Joad Raymond, (ed.), *News, Newspapers, and Society in Early Modern Britain* (London: Frank Cass, 1999), 40.

I use here supplement the print debates by providing evidence of Scottish royalist constitutional thought; debates occurring within the covenanting movement in the late 1640s; and the development of Scottish political thought in the early 1650s. These documents were most likely circulated amongst sympathetic audiences and presented arguments which did not always accord with public pronouncements or which would have been unsuitable for public dissemination. The very personal crises of conscience which we find evidence of in diaries and private correspondence are also of interest, but there is not enough material to sustain a meaningful comparison of how individuals in Scotland and England reacted to these dilemmas. However, diaries, letters and journals provide important evidence of the relationship between the public texts which form the basis of my study, and how these texts were interpreted by individuals.

I have also used institutional records, primarily the minutes and papers of the Westminster Assembly, to study debates occurring between Scottish and English thinkers. These documents were not intended for public consumption; indeed, members of the Assembly were prohibited from reporting on its proceedings without permission from the English parliament, although Baillie and others did not respect this rule.<sup>138</sup> Private debates amongst the self-identifying godly had a different tenor than public print disputations, and give us access to a range of opinion thought to be dangerous for the wider populace to have knowledge of. As with parliamentary records, when read alongside the letters, diaries and journals of members, we can have confidence that we are getting at least the gist of what was said.<sup>139</sup>

The decision to focus on a comparison between English and Scottish political thought means that some sources have been omitted. Exceptional actors such the levellers and religious radicals, and singular events such as the Putney Debates, do not feature prominently in this investigation. England was in this regard exceptional: Scotland in the 1640s produced ‘no levellers, no republicans, no demands for extension of the franchise, no advocates of religious tolerance’.<sup>140</sup> However, the reaction of Scottish thinkers to these English developments is an important element of this study. It is impossible to study Scottish participation in English public affairs; the covenanters’ attempts to secure a peace settlement in partnership with English parliamentarians; and responses to the Solemn League and Covenant without examining the Scots’ interactions with English thinkers and responses to English material.

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<sup>138</sup> Chad van Dixhoorn, ‘Summoning an assembly’, in *The Minutes and Papers of the Westminster Assembly 1643-1652*, 5 vols, ed. Chad van Dixhoorn (Oxford: Oxford University Press, 2012), i, 9.

<sup>139</sup> John Morrill, ‘Reconstructing the History of Early Stuart Parliaments’, *Archives*, 21:91 (1994), 67-72.

<sup>140</sup> David Stevenson, *Revolution and Counter-Revolution in Scotland, 1644-1651* (London: Royal Historical Society, 1977), 232.

My approach to these primary sources is consequently twofold. First, why did contemporaries use the concept of conscience, and what did they hope to accomplish by doing so? Second, how did the conflicts over the origins of moral knowledge and the means of its application shape political thought? By taking seriously the distinctive contexts from which these ideas emerged and in which they were promulgated I seek to investigate the assumptions which shaped contemporaries' thinking. These were political texts designed to resolve particular cases, and debates which occurred within specific contexts. By considering conscience as the application of moral knowledge to action, I recognise that these works were designed to shape behaviour, not simply influence opinion. I also acknowledge that this language was contested and that authorial intent does not delineate the meaning of texts. Indeed, the tensions and ambiguities inherent in the concept of conscience made it particularly unstable.

The themes of the first two chapters are resistance and obedience, encompassing the arguments made by covenanters, parliamentarians and royalists during the period 1637-42. The first chapter, 'Conscience and Resistance', examines public justifications of resistance to Charles I in Scotland and England. Political propaganda, particularly that of the covenanters, has been seen as innovative and influential, but the content of these declarations has not been examined in great detail. This analysis explores how the language of conscience was used to justify resistance and mobilise public support. It uses constitutional documents, pamphlets, declarations and political treatises to investigate how and why conscience was invoked and deployed. In particular, it examines how a public conscience was articulated and maintained through the 1638 National Covenant and the 1641 Protestation Oath, the claims made for the authority of representative institutions and the adjudicatory role ascribed to individual conscience.

The second chapter, 'Conscience, Royalists and the King', argues that although royalism was in certain respects a 'British' ideology, the problems of multiple monarchy complicated this picture. It was Charles's compromised conscience which hampered the development of a royalist party or ideology in Scotland and impeded the emergence of a coherent 'British royalism'. However, English and Scottish royalists used a shared language of conscientious obedience, a vocabulary which was related to key constitutional and ecclesiastical debates. This analysis is based on a comparative study of the key pamphlets, treatises and proclamations published in England and Scotland during the period 1637-43 and the writings of James VI and I and Charles I. Of particular significance is a manuscript which is part of the Laing collection held at Edinburgh University Library.<sup>141</sup> It is catalogued under the title 'Observations on the Divine Right of Kings' and dated from the seventeenth century. The authorship of the manuscript is uncertain, but I will suggest that

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<sup>141</sup> Edinburgh University Library, La.Ms.III.737.

Archibald, first Lord Napier is the most plausible candidate. It provides substantial new evidence of Napier's political thought and Scottish royalist ideology and is also highly notable as a post-1641 secular critique of the covenanter state and of Scottish military intervention in England in opposition to Charles I.

The next two chapters focus on the problem of achieving a political and religious settlement. In the third chapter I examine the Solemn League and Covenant, a religious, military and civil alliance between the English parliament and the Scottish covenanters, was imposed, interpreted and opposed in both countries. Using the public print debate which accompanied its promulgation, I show that the concept of conscience was integral to the interpretation and reinterpretation of the Solemn League in both England and Scotland. A recognition that performance, both personal and public, was an essential part of covenanting raises questions about the relationship between intent, belief and action. To more fully investigate the debates the Solemn League provoked in Scotland, the analysis is extended to cover the Scottish Engagement crisis of 1648. Manuscript sources provide crucial evidence of how the language of conscience supported divergent views within Scotland, and the tensions which were emerging within the covenanting movement.

The Westminster Assembly is the focus of the fourth chapter and provides evidence of both unity and discord between the Scottish commissioners and the various 'parties' who attended. The minutes and records of the assembly have recently been published in five volumes under the editorship of Chad van Dixhoorn. This edition reproduces all of the assembly's known records for the first time, bar five of its largest texts, and runs to over one million words. Though the *Minutes and Papers of the Westminster Assembly* undoubtedly represents an incredibly rich resource for historians of the 1640s and 1650s, we should be aware of its limitations. The earliest records of the Assembly are missing and many of the minutes of debates are sparse and rarely provide reasons for the decisions which were reached.<sup>142</sup> The *Minutes and Papers* must, therefore, be read alongside the notes, diaries and letters of John Lightfoot, Robert Baillie and George Gillespie, the major texts not included in this edition, and the public print debates which accompanied its deliberations.<sup>143</sup> I use ecclesiological debates to compare how the various groupings within the Assembly thought about the relationship between church and people, the sacrament of the Lord's Supper and the issues of liberty of conscience, broadening the enquiry to touch on the wider debate on toleration.

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<sup>142</sup> *Minutes and Papers*, i, 21, 60, 62.

<sup>143</sup> Robert Baillie, *The Letters and Journals of Robert Baillie*, 3 vols, ed. David Laing, (Edinburgh: Bannatyne Club, 1842); George Gillespie, *Notes of Debates and Proceedings of the Assembly of Divines*, ed. David Meek (Edinburgh: Robert Ogle and Oliver and Boyd, 1846); John Lightfoot, *The Whole Works of the Rev. John Lightfoot*, 13 vols, ed. John Rogers Pitman (London, 1824), xiii.

The themes of the first four chapters are revisited in the final chapter, which examines the dilemmas caused by the imposition of the Engagement Oath in England and Scotland. Having executed Charles I, king of both countries, the English Commonwealth sought to secure itself from internal threats through the imposition of an oath of allegiance. Following the invasion and conquest of Scotland, this oath was extended to Scots as part of the process of incorporating Scotland into the new Commonwealth. The literature of the English Engagement controversy has been examined from a number of perspectives, but the language of conscience has not featured prominently, and the influence of Scottish texts has been largely overlooked. No detailed comparison has been made with the literature produced in Scotland in reaction to the Tender of Union, which required Scots to assent to the English conquest and the incorporation of Scotland into the Commonwealth. This analysis is focused on three groups of primary sources: the returns of Scotland's shires and burghs; the small number of petitions and pamphlets purportedly written by Scots in the period 1651-52; and two manuscript treatises. These documents, taken together, offer significant insights into the dilemmas posed by the English invasion and conquest, and the strategies used by Scots to negotiate between conflicting obligations.

## 2

## Conscience and Resistance

The Scottish Troubles and the outbreak of the English Civil Wars can both be interpreted as conflicts of conscience. In 1637, Charles I's attempts to impose religious innovation on the Scottish church and bring it more into line with English custom provoked a furious backlash. Also driven in part by resentment at the king's absence from the kingdom and fears about his absolutist tendencies, an alliance of nobles and divines drafted and promulgated a National Covenant in 1638. Composed by the minister Alexander Henderson and the lawyer Archibald Johnston of Wariston, this Covenant was intended to unite the people of Scotland behind a religious and political programme which both drew on traditional beliefs and contained potentially revolutionary ideas. Faced with this brazen challenge to his authority and a humiliating lack of power in Scotland, Charles mustered an army in England and engaged the Scots in a series of skirmishes known as the Bishops' Wars. The covenanters were now engaged in arms against their sovereign, and this self-proclaimed defensive war would lead them to invade England in 1640. Their justifications of these extraordinary actions drew on the concept of conscience to construct and maintain national unity but raised questions about the relationship between the individual and the commonwealth.

Charles's ignominious defeat in the Bishops' Wars forced him to acquiesce to the Scots' religious and political revolution, which had been enacted in representative assemblies meeting without and against his authority. The covenanters' innovative use of propaganda, published in England in collaboration with sympathetic supporters, stimulated an explosion of print.<sup>1</sup> The presence of a Scottish army in the north of the country also supplied English parliamentarians with a means to exhort Charles to settle the litany of political and religious complaints which had accumulated over the Personal Rule.<sup>2</sup> Rapidly loosening censorship meant that challenging subjects were broached and debate flourished as never before. This was a markedly different context from that which prevailed in Scotland. Rumours and conspiracies contributed to a febrile environment, and rebellion in Ireland coupled with the discovery of a series of plots in which Charles was complicit seemed to

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<sup>1</sup> Joad Raymond, *Pamphlets and Pamphleteering in Early Modern Britain* (Cambridge: Cambridge University Press, 2003), 162-81; Sarah Waurechen, 'Covenanter Propaganda and Conceptualisations of the Public during the Bishops' Wars, 1638-1640', *The Historical Journal*, 52:1 (2009), 63-86.

<sup>2</sup> Conrad Russell, *The Fall of the British Monarchies 1637-1642* (Oxford: Clarendon Press, 1991), 275-76.

confirm that a grand scheme to subvert England's liberties and British protestantism was afoot. The Scots and their allies identified Archbishop Laud and the Earl of Strafford as central to these conspiracies, and in 1641 the former was imprisoned and the latter executed. The Protestation Oath was framed in this environment of poisonous suspicion, intended to unite the people of England against the spectre of catholicism and in defence of the rights of subject and parliament. Bold claims about the authority of parliament, and the origins of this power, seemed to many more threatening than the king's own claimed prerogatives and contributed towards the emergence of a royalist party. How these tensions escalated into outright war remains disputed, but when Charles planted his standard at Nottingham on 22 August 1642 it was clear that Englishmen and women faced the greatest case of conscience of their lives.

Context profoundly shaped how resistance was justified in both countries. The Scottish Revolution began and largely concluded before the outbreak of hostilities in England; there was also not in any meaningful sense a civil war in Scotland; and war did not play a role in precipitating the conflict.<sup>3</sup> Further, the revolt did not originate in representative institutions, and neither parliament nor the general assembly of the kirk sat continuously. On the other hand, wars and external threats, namely from Scotland and Ireland, were important contributors to the outbreak of conflict in England. The English Civil Wars began when parliament was sitting, and it was the focus of resistance to Charles I. Unlike their Scottish counterparts, English parliamentarians had to justify taking up arms against a king resident in their own country. These conflicts were in part struggles over who embodied and interpreted the public conscience. The Scottish kirk had long claimed this authority to itself, a role which would put it in conflict with both king and parliament. In England, claims for the authority of parliament, and the House of Commons, in particular, rested on that of the community and entailed a rejection of the view that the king was the conscience of the commonwealth. English and Scottish thinkers drew on similar ideas about the nature of conscience, but the countries' different histories and institutions and the differing contexts in which resistance was justified produced particular responses to the issue of armed resistance.

These separable yet overlapping and intersecting conflicts, to adapt Glenn Burgess's phrase,<sup>4</sup> raised new and significant questions about conscience and resistance. Conscience was invoked by covenanters and parliamentarians to explain and justify their actions, and to rally support for their causes. In challenging Charles's authority, they instigated a struggle over the nature and location of public conscience. In this chapter, I will explore three key

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<sup>3</sup> Russell, *Fall*, 27; Maurice Lee, Jr., *The Road to Revolution: Scotland under Charles I, 1625-37* (Urbana: University of Illinois Press, 1985), 242.

<sup>4</sup> Glenn Burgess, *British Political Thought, 1500-1660: The Politics of the Post-Reformation* (Basingstoke: Palgrave Macmillan, 2009), xii.

questions. Firstly, could public conscience be expressed and maintained through constitutional documents? Secondly, was it embodied in representative institutions? And thirdly, what role did individual conscience play, if any? These questions did not produce a monolithic response from ‘parliamentarians’ or ‘covenanters’, and arguments for armed resistance were not always consistent or coherent. The argument that the community was authorised to defend itself when true religion and civil liberties were threatened was made by covenanters and parliamentarians, but there was disagreement over how this was to be accomplished. In England, the fact that the conflict between king and parliament degenerated into civil war meant that both the role of parliament as the embodiment of the kingdom and the rights of individual conscience were simultaneously elevated. In Scotland, the authority of the National Covenant and later the country’s representative institutions were used to construct an ostensible national unity, and attempts were made to suppress dissent.

### **The National Covenant and the Protestation Oath**

The National Covenant of 1637 and the Protestation Oath of 1641 were both, in part, attempts to articulate, and assert control over, the public consciences of the two kingdoms. They directly challenged the authority of Charles I and rested on the claim that the community was empowered to defend itself in times of necessity. This analysis demonstrates that context is central to how the National Covenant and the Protestation were conceived and interpreted. While the National Covenant had been tendered before either the general assembly of the kirk or the Scottish parliament had been called, the Protestation was the first ever item printed by parliamentary instruction.<sup>5</sup> There were important differences, therefore, between how the relationship between oaths and public conscience was understood, and how the Covenant and Protestation were employed to justify resistance.

That the community, united as one, had a duty to defend itself and true religion was an argument advanced by John Knox and George Buchanan amongst others.<sup>6</sup> Indeed, James VI and I had argued that it was widely agreed that ‘when either their Religion, their King, or their countrey was in any extreme hazard, no good countreyman ought then to withhold

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<sup>5</sup> David Cressy, ‘The Protestation Protested, 1641 and 1642’, *The Historical Journal*, 45 (2002), 254.

<sup>6</sup> J. W. Allen, *A History of Political Thought in the Sixteenth Century* (London: University Paperbacks, 1961), 113; J. H. Burns, *The True Law of Kingship: Concepts of Monarchy in Early Modern Scotland* (Oxford: Oxford University Press, 1996), 150; Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols (Cambridge: Cambridge University Press, 2010), ii, 342; J. H. Burns, ‘Pro Me Si Mereor In Me: Kingship and Tyranny in Scotland, 1437-1587’, in Robert von Friedeburg (ed.), *Murder and Monarchy: Regicide in European History, 1300-1800* (Basingstoke: Palgrave Macmillan, 2004), 154.

either his tongue or his hand' and that the threatening of any of these three should 'stirre the whole body of the Common-wealth, not any more as divided members', but as 'a solide and individuall lumpe'.<sup>7</sup> This was also key to the covenanters' justifications for resisting the king's authority, and the widespread subscription of the National Covenant allowed them to claim that they represented the Scottish nation.<sup>8</sup> It was because, as John Leslie, the Earl of Rothes, put it, 'a more full number not ever was joyned formerlie in any of the greatest and most publict actiones' that the covenanters felt able to declare upon their march into England that they were 'not a few private persons but a whole Kingdome'.<sup>9</sup>

According to a contemporary observer, the National Covenant was subscribed 'in a very short time by almost the whole Kingdom'.<sup>10</sup> However, we should not imagine that it was subscribed by all Scots willingly, or even that it was widely popular.<sup>11</sup> That the Covenant was initially known as the Nobleman's Covenant indicates that it was a vehicle for the political aspirations of an elite as well as a popular expression of unity.<sup>12</sup> All kings, the Covenant declared, swore to rule their people 'according to the lowable laws and constitutions received in this realm, no ways repugnant to the said will of the Eternal God'. Its subscribers pledged to defend the king 'in the defence and preservation of the ... true religion, liberties and laws of the kingdom'.<sup>13</sup> The issue, as the covenanters saw it, was that subjects had either to accept what their consciences condemned, namely the Service Book and Book of Canons, or oppose the king's will as expressed in his proclamations and declarations.<sup>14</sup> In matters of worship, the ministers Alexander Henderson, George Hamilton and James Bruce argued in 1637, the Christian was not bound to give blind obedience.<sup>15</sup> The obedience due to magistrates was therefore conditional, but the only resistance countenanced at this stage was passive.

Though it has not received much attention from historians, conscience was central to the covenanters' justifications of their actions. They protested that all their demands proceeded 'from conscience', and that they could not abandon the National Covenant

<sup>7</sup> James VI and I, *The Workes of the Most High and Mightie Prince, James* (London, 1616), 223.

<sup>8</sup> Alexander Henderson and David Dickson, *The Answeres of Some Brethren of the Ministerie* (Aberdeen, 1638), 5, 10, 26.

<sup>9</sup> John Leslie, Earl of Rothes, *A Relation of the Proceedings Concerning the Affairs of the Kirk of Scotland, from August 1637 to July 1638* (Edinburgh: Bannatyne Club, 1830), 184; *The Intentions of the Army of the Kingdome of Scotland declared to their Brethren in England* (Edinburgh, 1640), 15.

<sup>10</sup> Quoted in James King Hewison, *The Covenanters: A History of the Church in Scotland from the Reformation to the Revolution*, 2 vols (Glasgow: John Smith and Son, 1913), i, 270.

<sup>11</sup> Murray G. H. Pittock, *The Invention of Scotland: The Stuart Myth and the Scottish Identity, 1638 to the Present* (London: Routledge, 1991), 49.

<sup>12</sup> Glenn Burgess, 'Scottish or British? Politics and Political Thought in Scotland, c. 1500-1707', *The Historical Journal*, 41:2 (1998), 582.

<sup>13</sup> *The Constitutional Documents of the Puritan Revolution, 1625-1660*, ed. Samuel Rawson Gardiner (Oxford: Oxford University Press, 1979), 130-31; 133.

<sup>14</sup> Rothes, *Relation*, 58; *RPCS*, 2nd ser., vi, 699-715.

<sup>15</sup> Rothes, *Relation*, 45-46.

‘without sinning against God and our consciences’.<sup>16</sup> The National Covenant was itself framed as an act of conscience, founded on the ‘the knowledge and love of God’s true religion’ printed on individuals’ hearts by the holy spirit.<sup>17</sup> Following the form of the 1581 national confession of faith, subscribers declared that ‘after long and due examination of our own consciences in matters of true and false religion, we are now thoroughly resolved in the truth by the word and Spirit of God’, that ‘we willingly agree in our conscience in all points’, and that ‘we are not moved with any worldly respect, but are persuaded only in our conscience’.<sup>18</sup> In this schema, individual examination of conscience led to a reaffirmation of the public conscience. This suggests that at the outset of the Scottish Troubles, understandings of conscience were still rooted in traditional assumptions.

Wariston and David Calderwood argued that the authority of the National Covenant was divine, not absolutely but in so far as the truth contained in it ‘is Gods eternall Trueth’.<sup>19</sup> The community affirmed the truth of the covenant; common consent stemmed from its divine authority rather than its authority stemming from common consent. The Covenant, Alexander Henderson declared in a sermon at St Andrews in 1638 ‘requires nothing of you but that whilk ye are bound to perform’.<sup>20</sup> In this sense the covenant can be understood as a national casuistic treatise, instructing the common people’s pre-obliged consciences what their duties were. When conscience was invoked by the covenanters, it was invariably in reference to duties, and not individual rights, and as the expression of an already established collective will.

The National Covenant thus served to maintain the Scottish polity in opposition to religious and political innovations and negated any resort to individual resistance. The influential continental theorists Johannes Althusius and Francisco de Suarez had made the case that the commonwealth preserved itself in the face of tyranny.<sup>21</sup> The Covenant allowed the community to act as one in the absence of a parliament or a general assembly of the church. It bound ‘the multitude’ to perform certain duties in response to the grace

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<sup>16</sup> *News from Scotland* (Amsterdam, 1638), 4; *Answeres to the Particulars Propounded by his Majesties Commisionar* (Edinburgh, 1638), 3.

<sup>17</sup> *Constitutional Documents*, 126.

<sup>18</sup> *Ibid.*, 124, 125, 126.

<sup>19</sup> [David Calderwood and Archibald Johnston of Wariston], *An Anwer to Mr. J. Forbes of Corse his Peaceable Warning* ([Edinburgh], 1638), sig. B<sup>v</sup>-B<sup>2r</sup>, B<sup>3r</sup>.

<sup>20</sup> *The Covenants and the Covenanters: Covenants, Sermons, and Documents of the Covenanted Reformation*, ed. James Kerr (Edinburgh: R. W. Hunter, 1895), 67. See also Archibald Johnston, of Wariston, *A Short Relation of the State of the Kirk of Scotland since the Reformation of Religion, to the Present Time* (Edinburgh, 1638), sig. B<sup>4r</sup>.

<sup>21</sup> Andrew Stevenson, *The History of the Church and State of Scotland, from the Accession of King Charles I to the Year 1649* (Edinburgh: Thomas Nelson, 1840), 358; David Wootton, ‘Introduction’, in *Divine Right and Democracy: An Anthology of Political Writing in Stuart England*, ed. David Wootton (London: Penguin, 1986), 45-46; Edward J. Cowan, ‘The Making of the National Covenant’, in John Morrill (ed.), *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1990), 81; Hugh Dunthorne, ‘Resisting monarchy: the Netherlands as Britain’s school of revolution in the late sixteenth and early seventeenth centuries’, in Robert Oresko, G. C. Gibbs and H. M. Scott (eds), *Royal and Republican Sovereignty in Early Modern Europe: Essays in memory of Ragnbild Hatton* (Cambridge: Cambridge University Press, 1997), 139-40.

of god even though not all were members of the elect.<sup>22</sup> The maintenance of true religion involved elect and reprobate as it concerned the visible church and the state itself. The Covenant united all in collective self-discipline, spanning the bridge between private and public conscience. The consciences of all members of the political community were united on an equal basis: a plurality of private consciences willingly became one and swore to uphold the same confession of faith.

It is important to remember that early modern political thinkers widely assumed that the people possessed a natural corporate unity.<sup>23</sup> This ideal would, however, become increasingly hard to sustain over the coming years. Who constituted the community was also disputed: royalist authors argued that the king could not be separated from the commonwealth and that there was no public without a monarch.<sup>24</sup> James's call for national self-defence was written in the aftermath of the Gunpowder Plot, indicating that the threat to the kingdom had to be extraordinary in order to justify the kind of action he advocated. He did not envisage a situation where his subjects would act without his authority. Therefore the covenanters also had to argue that Scotland faced an existential threat to mobilise the community behind their political agenda and to counter the accusation that they were acting as private individuals. The office of kingship sometimes needed protecting from the abuse of individual kings.<sup>25</sup>

Charles's decision to reimpose his authority through force of arms allowed the covenanters to justify resistance based on the inalienable right of self defence and to claim necessity as the only law. Having been declared rebels and traitors by their king, the Scots issued a lengthy vindication of their actions. This *Remonstrance* concluded with a summary of nine justifications for resistance, derived from a more extended exposition in Henderson's *Instruction for Defensive Arms*:

Whither in this case, and matters so standing, wee shall stand to our own defence, we are taught by the light and law of nature, by the word of God in the old and new testament, by the Covenant betwixt the people and God, by the end for which Magistrates are ordained of God, by our standing in our order and line of subordination under God, the great Superiour, when our immediate Superiours go out of their line & order, by the testimonies of the best divines and sound politicians and

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<sup>22</sup> See: John D. Ford, 'The Lawful Bonds of Scottish Society: The Five Articles of Perth, The Negative Confession and the National Covenant', *The Historical Journal*, 37 (1994), 64; John Coffey, *Politics, Religion and the British Revolutions: The Mind of Samuel Rutherford* (Cambridge: Cambridge University Press, 1997), 167.

<sup>23</sup> J. H. M. Salmon, *The French Religious Wars in English Political Thought* (Oxford: Clarendon Press, 1959), 165-66

<sup>24</sup> Henry Valentine, *God save the King* (London, 1639), 17; [Walter Balcanquhall], *A Large Declaration concerning the Late Tumults in Scotland* (London, 1639), 378 [margin note]; *An Exact Collection of all Remonstrances, Declarations, Votes, Orders, Ordinances, Proclamations, Petitions, Messages, Answers, and other Remarkable Passages betwene the Kings most Excellent Majesty, and his High Court of Parliament* (London, 1643), 283-84; W. J., *Obedience Active and Passive Due To The Supream Power* (Oxford, 1643), 18, 24.

<sup>25</sup> Burns, *True Law of Kingship*, 285, 288, 294; Roger A. Mason, *Kingship and the Commonwealth: Political Thought in Renaissance and Reformation Scotland* (East Linton: Tuckwell Press, 1998), 33.

Lawyers ... by the mutuall contract betwixt the King and the people at the Coronation, by acts of Parliament, and by the example of our own predecessours.<sup>26</sup>

The radical interpretation of Romans 13 — that obedience was qualified by the fact that magistrates were ordained for a particular purpose — is part of this justification,<sup>27</sup> but what is striking is the number of arguments deployed, from natural and divine law theories to constitutional, legal and historical precedents. Though, as Vallance has argued, religion played a central role in covenanter justifications of resistance,<sup>28</sup> the most important common theme is that of a united, and hierarchical, community. The covenanters did not envisage the people, acting as individuals, to resist authority. It was for this reason that they based their arguments for resistance on multiple sources of external authority, not individual conscience.

Sarah Waurechen has argued that when the covenanters invaded England, they forwarded the notion that ‘in extreme cases, public consensus could legitimate any action demanded by necessity’.<sup>29</sup> It is also the case that they believed that necessity — here primarily the defence of true religion — required public consensus. ‘No man needeth to plead by positive Law for necessity: it is written in every mans heart by Nature’, the Scots declared in *The Intentions of the Army of the Kingdome of Scotland*, the metaphor seeming to give necessity a moral legitimacy and force equivalent to that of conscience. It continued, ‘necessity is a Sovereignty, a Law above all Lawes’, a law which ‘hath place sometimes to excuse, sometimes to extenuat, and sometimes to justifie and warrand actions otherwayes questionable’.<sup>30</sup> It was necessity which, for the covenanters, justified and compelled the step from passive to armed resistance. The situation Scotland found itself in was a particular case of conscience, one which ordinary people could not resolve for themselves. Necessity provided a justification for normally dubious actions and in this sense acted as a salve for conscience.

Central to this effort was the identification of an insidious catholic plot to undermine the state and embroil the two Protestant nations in a mutually destructive civil war. In their *Remonstrance* to the English parliament, the covenanters wrote that they were ‘perswaded that neither the invincible Armado of the *eighty-eight*, nor the Gunpowder plot, nor any other Royall Navie from thence ... needs to be *attempted* any more for the ruin of this Ile,

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<sup>26</sup> *The Remonstrance of the Nobility, Barrones, Burgesses, Ministers and Commons within the Kingdome of Scotland, Vindicating them and their proceedings from the crymes, wherewith they are charged by the late Proclamation in England, Feb. 27 1639* (Edinburgh, 1639), 25-26. See Alexander Henderson, ‘Instruction for Defensive Arms’, in Stevenson, *History*, 358-59.

<sup>27</sup> See Jane E. A. Dawson, ‘Resistance and Revolution in Sixteenth-Century Thought: The Case of Christopher Goodman’, in J. van den Berg and P. G. Hoftijzer (eds), *Church, Change and Revolution* (Leiden: E. J. Brill, 1991) 74-75 for an account of the development of this interpretation of Romans 13.

<sup>28</sup> Edward Vallance, ‘Preaching to the Converted: Religious Justifications for the English Civil War’, *Huntington Library Quarterly*, 65 (2002), 401.

<sup>29</sup> Waurechen, ‘Covenanter Propaganda’, 76.

<sup>30</sup> *Intentions of the Army*, 14-15.

but onely that the fire of this civile warre ... may be once kindled'.<sup>31</sup> The reality of these historical threats and Charles's policies meant that claims of a popish plot were taken seriously.<sup>32</sup> The coupling of consensus and necessity were key themes of covenanter propaganda and served to reduce the role of individual conscience. The danger they identified was so great that individual qualms and differences of opinion ought to be suppressed for the greater good. However, unlike in Scotland, where they were able to quiet rival voices, including even the king's own, the covenanters' intervention in England sparked an explosion of print and a cacophony of opinions.<sup>33</sup>

It was in this context, with the existence of a popish plot seemingly confirmed, that the Protestation Oath was conceived and drafted. It was compared to the National Covenant by contemporaries, and historians have also noted the similarities between the two oaths.<sup>34</sup> In the debate following John Pym's call for drafting the Protestation Sir John Wray implicitly drew on the example of the Scottish National Covenant, and Baillie wrote that he hoped it was 'in substance our Scottish Covenant'.<sup>35</sup> Conrad Russell and John Adamson both argue that the Protestation was a declaration of conditional obedience akin to that found in the National Covenant.<sup>36</sup> For Russell, it paralleled the Covenant in that 'it identified loyalty with a cause, rather than with a person'.<sup>37</sup> However, John Walter argues that this interpretation is based in part on the version of the Protestation recorded in the Commons' *Journal*, which was not the same as that which was sworn by members and the nation. His analysis of the text of the Protestation as sent by the House of Commons to the Lords shows that while at some stage it may have made obedience to the king subordinate to the defence of true religion, as in the National Covenant, this was later omitted.<sup>38</sup> Though there was certainly radical intent behind the Protestation, he concludes,

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<sup>31</sup> *A Remonstrance concerning the present Troubles*, 9 [i.e. 8]. See also: Thomas Abernathie, *Abjuration of Poperie* (Edinburgh, 1638), 43-47; Andrew Ramsay, *A Warning to Come out of Babylon* (Edinburgh, 1638), 19, 34-37; *An Information to all good Christians within the kingdome of England* (Edinburgh, 1639), 6-9, 12.

<sup>32</sup> Caroline M. Hibbard, *Charles I and the Popish Plot* (Chapel Hill, N.C.: University of North Carolina Press, 1983), 90-109; Peter Lake, 'Anti-poperie: the Structure of a Prejudice', in Richard Cust and Ann Hughes (eds), *Conflict in Early Stuart England: Studies in Religion and Politics 1603-1642* (London: Edward Arnold, 1986), 72-106; Alastair Bellany, *The Politics of Court Scandal in Early Modern England: News Culture and the Overbury Affair* (Cambridge: Cambridge University Press, 2002), 200; Waurechen, 'Covenanter Propaganda', 77.

<sup>33</sup> Raymond, *Pamphlets and Pamphleteering*, 172-81.

<sup>34</sup> Ann Hughes, *The Causes of the English Civil War*, 2nd ed. (Basingstoke: Macmillan, 1998), 52; Russell, *Fall*, 294-96; John Adamson, *The Noble Revolt: The Overthrow of Charles I* (London: Weidenfeld & Nicolson 2007), 289-92; Stewart, *Rethinking*, 87.

<sup>35</sup> John Wray, *Occasionall Speeches, made in the house of Commons this Parliament, 1641* (London, 1641), 12-13; Robert Baillie, *The Letters and Journals of Robert Baillie*, ed. David Laing, 3 vols (Edinburgh: Bannatyne Club, 1841-42), i, 351; John Walter, *Covenanting Citizens: The Protestation Oath and Popular Political Culture in the English Revolution* (Oxford: Oxford University Press, 2017), 18-19, 36.

<sup>36</sup> Russell, *Fall*, 294-96; Adamson, *Noble Revolt*, 289-92; Walter, *Covenanting Citizens*, 2.

<sup>37</sup> Russell, *Fall*, 295.

<sup>38</sup> Walter, *Covenanting Citizens*, 38-40, 41.

the final text was tempered by opponents in the House of Commons, ‘precisely in an attempt to deny the comparisons with the Scottish Covenant’.<sup>39</sup>

Nevertheless, the National Covenant and the Protestation Oath were, in many respects, very similar. They were defensive pacts motivated by fears of a popish plot and were viewed by contemporaries as both oaths and covenants. They were taken individually and collectively, sometimes publicly displayed, and seen as sacred promises which had to be performed. Pym framed the Protestation as for ‘the performance of those duties to God and King which they were obliged to as good Christians and good subjects’.<sup>40</sup> This echoes arguments made in Scotland which presented the National Covenant as a duty required of subjects, and as containing only political commonplaces. However, the Protestation, drafted through debate in the House of Commons, was a work of compromise. Its wording meant that bishops were amongst those who took the oath, which caused consternation amongst the Scottish commissioners then present in London.<sup>41</sup>

The Protestation was tendered to the adult male population, though there is evidence that some women took it. It was promulgated in Scotland as well as England, and a version was taken by members of the Scottish parliament in 1641.<sup>42</sup> Though this oath differed from the Protestation, notably omitting a defence of the Church of England, it was cited as evidence that the kingdoms shared a common cause.<sup>43</sup> The Protestation was, in essence, an anti-catholic pact which bound its swearers to ‘maintain and defend ... the true reformed Protestant religion ... against all popery and popish innovation within this realm’.<sup>44</sup> This threat was luridly articulated by Pym in his speech at Strafford’s impeachment. He described Strafford’s treason ‘as a universal, a Catholic treason’ into which ‘the venom and malignity of all other treasons are abstracted, digested, sublimated’ and which ‘would have dissolved the frame and being of the Commonwealth’.<sup>45</sup> The emphasis on extraordinary circumstances which is to be found in most parliamentary tracts was a means both to diminish the potential radicalism of their arguments and to imply that a restoration of the body politic, rather than its refashioning, was required.<sup>46</sup> Resistance was only justified in specific situations and solely to protect the existing government, not overturn it. As in Scotland, necessity was claimed as a means to unify the nation against a well-known foe.

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<sup>39</sup> Walter, *Covenanting Citizens*, 44.

<sup>40</sup> *Proceedings in the Opening Sessions of the Long Parliament*, iv, 180.

<sup>41</sup> Baillie, *LJ*, i, 352; Walter, *Covenanting Citizens*, 34.

<sup>42</sup> John Spalding, *Memorials of the Troubles in Scotland and in England, A.D. 1624-A.D. 1645*, 2 vols (Aberdeen: Spalding Club, 1850-51), ii, 25; Walter, *Covenanting Citizens*, 249.

<sup>43</sup> *CJ*, ii, 521; *LJ*, v, 707.

<sup>44</sup> *Constitutional Documents*, 156.

<sup>45</sup> *The Stuart Constitution: Documents and Commentary*, ed. J. P. Kenyon (Cambridge: Cambridge University Press, 1966), 206.

<sup>46</sup> William M. Lamont, *Marginal Prynne, 1600-1669* (London: Routledge & Kegan Paul, 1963), 102.

The Protestation was in part designed to identify and ostracise catholics and recusants. For this reason, Walter describes it as ‘an act of *disassociation*’ as much as association.<sup>47</sup> It was viewed as a ‘shibboleth’ whose purpose was to separate as well as to unify. Though the National Covenant fulfilled a similar function in Scotland, the two kingdoms had different experiences of catholic persecution. No catholic priests had been executed in Scotland before 1603, and there was only one Scottish catholic martyr.<sup>48</sup> The fact that there were fewer catholics in Scotland meant both that religious toleration was less of a pressing issue,<sup>49</sup> and that the National Covenant was seen more as an affirmation of a pre-existing unity than as a means to divide. The National Covenant was not described as a shibboleth by the Scots, but English writers were to describe the Solemn League and Covenant in the same way.<sup>50</sup>

While the National Covenant had listed parliamentary legislation to support its legitimacy, it was tendered without the authority of parliament. The Protestation, on the other hand, was issued in the name of the English parliament. A pamphlet defending the legitimacy of the Protestation declared that the parliament had ‘an innate capacity, and trusts as to doe such acts as may unite the whole’ and that it was ‘blame-worthy’ for individuals to refuse to demonstrate that they were ‘for the body ... against the intestine vipers bred in the bosome of this Church and Nation’.<sup>51</sup> Both John Bond and Richard Ward similarly emphasised the ‘president and approbation’ of parliament’s subscription of the Protestation. Doubting consciences could be reassured by the fact that the ‘supreme Court (that represents us all)’ had already taken the oath.<sup>52</sup>

In Scotland, the Covenant’s supporters claimed that its authority came from god and public consensus, not from private human authority.<sup>53</sup> No such assertion could be made of the Protestation, given that it was tendered by a parliament whose authority was questioned to a nation already divided. Perhaps the most significant difference between these oaths in this regard is that the Protestation was framed in the first-person singular (‘I A. B.’) whereas the National Covenant was framed in the first-person plural (‘We’). This has not been remarked upon by historians, who have largely studied the oaths in relative isolation. Further, while the National Covenant invoked a public conscience, the Protestation did not use the language of conscience at all. Though both documents were personal and public,

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<sup>47</sup> Walter, *Covenanting Citizens*, 184.

<sup>48</sup> John Coffey, *Persecution and Toleration in England 1558-1689* (London: Longman, 2000), 101.

<sup>49</sup> David George Mullan, *Scottish Puritanism, 1590-1638* (Oxford: Oxford University Press, 2000), 264.

<sup>50</sup> Joseph Caryl, *The Nature, Solemnity, Grounds, Property, and Benefits, of a Sacred Covenant* (London, 1643), 22; *The Covenanters Catechisme* (1644), 1, 3, 5, 15; Richard Vines, *The Posture of Davids Spirit* (London, 1644), 15.

<sup>51</sup> *Annotations upon Certain Quarries of (As they call it) tender conscienced Christians concerning the late Protestation* (London, 1642), 1-2 [margin note].

<sup>52</sup> John Bond, *A Doore of Hope, also Holy and Loyall Activity* (London, 1641), 101; Richard Ward, *The Principall Duty of Parliament-Men* (London, 1641), 47, 48.

<sup>53</sup> [Calderwood and Wariston], *An Answer to Mr. J. Forbes*, sig. Bv-B2r, B3r; Henderson and Dickson, *Answers*, 5.

there was a greater emphasis on the individual in the framing, swearing and performing of the Protestation. In a sermon given in 1641 Thomas Case argued that the Protestation was not sworn ‘in a lump, but distinctly, every man in his own person’.<sup>54</sup> John Gere, meanwhile, argued that the Protestation should be seen as ‘being *personall*, not for *posterity*’.<sup>55</sup> This contrasts with the Scottish covenanters’ argument in the late 1630s that it was only as a united body that the commonwealth was authorised to defend itself.

In England, the importance of individual subscription of the Protestation was emphasised as part of an effort to generate what Walter describes as an ‘active citizenry’.<sup>56</sup> The opposite trajectory can be observed in the Scottish Revolution. Though the radical, albeit unintended, consequences of popular subscription should not be overlooked, the covenanters sought to channel and contain these impulses. This was, as Stewart argues, a process which involved Scottish institutions claiming the National Covenant, a process which was not complete until 1641.<sup>57</sup> Throughout, the covenanters were concerned to defuse the accusation that they were private individuals, consistently adopting the first-person plural to speak on behalf of a united nation. It was those who refused to take the National Covenant, they argued, who were private individuals with private interests. Though the subscription of the National Covenant had involved the unprecedented involvement of the people in public politics, they had acted not as individuals, but under the direction of civil and ecclesiastical authorities.

In part because of the greater emphasis it placed on the individual swearer, and also because of a burgeoning public print culture, the Protestation was interpreted in radical ways by some English authors. Though it had been intended to bind subscribers in a defensive pact within the constraints of the law, an emphasis on conscience served to undermine this limitation.<sup>58</sup> Henry Burton, for example, argued that any human laws contrary to the word of god were ‘invalid and void *ipso facto*’, and that Christians were ruled by the law of Christ.<sup>59</sup> Thomas Robinson wrote that he understood ‘lawfully’ to mean ‘according to conscience’, which was ruled by scripture.<sup>60</sup> These arguments elevated the individual conscience over the collective authority of parliament.

In both England and Scotland, oaths were used to mobilise individual consciences for the common good. The Protestation was a promise to perform; the National Covenant was a promise to forswear judgement until Scotland’s representative institutions could meet. The Protestation was seen as a case of conscience, and consequently was the subject of

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<sup>54</sup> Case, *Second Sermon*, 24.

<sup>55</sup> John Gere, *Judah’s Joy at the Oath* (London, 1641), sig. D4<sup>v</sup>.

<sup>56</sup> Mullan, *Scottish Puritanism*, 297; Walter, *Covenanting Citizens*, 91, 197, 199, 200, 229, 250, 253-54.

<sup>57</sup> Stewart, *Rethinking*, 29-121.

<sup>58</sup> Walter, *Covenanting Citizens*, 93.

<sup>59</sup> Henry Burton, *The Protestation Protested* (London, 1641), sig. A3<sup>r</sup>, C4<sup>r</sup>.

<sup>60</sup> Thomas Robinson, *The Petitioners Vindication from Calumnie and Aspersion* (London, 1642), 16.

sermons and pamphlets seeking to resolve it.<sup>61</sup> The National Covenant, however, was generally presented not as a case of conscience but as a conscientious duty. When conscience was invoked, it was that of the community. Though the National Covenant's authority did not come directly from representative institutions, its legitimacy rested in large part upon the authority of parliaments and general assemblies. These oaths shared significant similarities, but their differences reflect the contexts in which they were conceived and promulgated. Whilst in Scotland a constitutional and religious settlement was secured by 1641, England was by this time on the verge of civil war.

### **Public conscience and representative institutions**

In both England and Scotland, the authority of the community was invoked to justify resistance to Charles I. Who represented the conscience of the community was, however, disputed. The National Covenant, as have seen, was presented as a defence of the Scottish church and state. Once the general assembly and parliament convened, however, they enacted radical reforms. In England, the Protestation fostered an active citizenry, but its authority was bound up with that of parliament. How and if public conscience could be regulated by representative institutions, and what the role of the king was in this process, were vexed issues. The claims made for representative institutions by their supporters in England and Scotland created a tension between public and private conscience.

The Scottish parliament was unicameral with four estates: titled peers, bishops, shire commissioners and burgh commissioners. The bishops and peers can be seen as roughly equivalent to the English House of Lords and the shire and burgh commissioners, who were the only elected element in the Scottish parliament, to the House of Commons.<sup>62</sup> Shire electors were freeholders with land valued at 40 shillings of old extent. This meant they were usually a substantial landed proprietor. They were often termed 'barons', an imprecise but more formal title than the usual 'lairds'. The burgh estate consisted of representatives from the royal burghs, towns liable to pay royal taxation, and were chosen by burgh councils.<sup>63</sup> In England the electorate sometimes ran into the thousands: Suffolk, for example, had an electorate of around 3,000 in 1640.<sup>64</sup> In Scotland, it was far more

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<sup>61</sup> For example, John Ley, *A Comparison of the Parliamentary Protestation with the late Canonick Oath, and the difference betwixt them* (London, 1641); Henry Parker, *A Political Catechism* (London, 1643).

<sup>62</sup> Julian Goodare, 'Scotland's Parliament in its British context, 1603-1707', in H. T. Dickinson and Michael Lynch (eds), *The Challenge to Westminster: Sovereignty, Devolution and Independence* (East Linton: Tuckwell Press, 2000), 22; Alan MacDonald, 'Voting in the Scottish Parliament before 1639', *Parliaments, Estates & Representation*, 30:2 (2010), 152.

<sup>63</sup> Julian Goodare, 'The Parliament of Scotland to 1707', in Clive Jones (ed.), *A Short History of Parliament: England, Great Britain, the United Kingdom, Ireland and Scotland* (Woodbridge: Boydell Press, 2009), 303-06.

<sup>64</sup> J. H. Plumb, 'The Growth of the Electorate in England from 1600 to 1715', *Past & Present*, 45 (1969), 111.

limited and what little role the wider community had was purely symbolic.<sup>65</sup> It is also important to remember that neither the parliament nor the general assembly met continuously, as did the Long Parliament and, from 1643, the Westminster Assembly, in England.<sup>66</sup> Rather, executive committees undertook the business of governing when parliaments and assemblies were not sitting.

Before the calling of the Glasgow Assembly at the end of 1638 much emphasis had been placed on the means by which the collective body could act outwith parliament, with the covenanters advocating the forbearance of innovations until they could be tried in representative assemblies. This had led to some radical claims for the authority of the community, but it was evident that the covenanters' long-term hopes rested in parliaments and general assemblies. Subscribers to the National Covenant swore 'to endeavour to keep ourselves within the bounds of Christian liberty'.<sup>67</sup> Nicholas Tyacke has recently suggested that this 'Christian liberty' had civil aspects to it. It was as part of a covenanted commonwealth, which imported obligations on rulers and ruled, that Christian subjects were authorised to defend themselves.<sup>68</sup> However, this language was also used to assert the rights of representative institutions. The 'holding of assemblies' was a 'necessary part' of the 'Christian liberty' of the kirk, the covenanters declared in 1638. When the magistrate either forbade or declined to call a general assembly in a time of necessity, the kirk was 'left to her own libertie, and must provide for her own safetie'.<sup>69</sup> A protestation from the same year declared that general assemblies derived their authority from god and their power from 'the whole collective body of the Kirk'.<sup>70</sup> In attempting to persuade those reticent to take the National Covenant, Wariston explicitly denied that it could be taken with reservations. To seek to put glosses on the Negative Confession, he argued, would be 'temeritie and disobedience to the General Assemblies and Acts of Counsel'.<sup>71</sup> Similarly, in their 1638 *Protestation*, the covenanters had denied that there was any latitude for individual interpretation of the Confession of Faith.<sup>72</sup> In this way, institutional authority was elevated over personal interpretation.

The Glasgow Assembly sat without the consent of the king; annulled the proceedings of several previous assemblies; condemned the service book, book of canons and High Commission; deposed and excommunicated the bishops; and abjured the Perth Articles

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<sup>65</sup> Alan R. MacDonald, *The Burghs and Parliament in Scotland, c. 1550–1651* (Aldershot: Ashgate, 2007), 33–34.

<sup>66</sup> Stewart, *Rethinking*, 23.

<sup>67</sup> *Constitutional Documents*, 134.

<sup>68</sup> Nicholas Tyacke, 'Revolutionary Puritanism in Anglo-American Perspective', *Huntington Library Quarterly*, 78:4 (2015), 761–62.

<sup>69</sup> *Reasons for a Generall Assemblie* (Edinburgh, 1638), 9.

<sup>70</sup> *The Protestation of the Noblemen, Barrons, Gentlemen, Borrowes, Ministers, and Commons* (Edinburgh, 1638), sig. B<sup>r</sup>.

<sup>71</sup> Archibald Johnston of Wariston, *Diary of Sir Archibald Johnston of Wariston 1632–1639*, ed. George Morison Paul (Edinburgh: T. and A. Constable for the Scottish History Society, 1911), 368–69.

<sup>72</sup> *Protestation of the Noblemen*, C4<sup>r</sup>.

and episcopacy.<sup>73</sup> The vacant estate in parliament passed to the commissioners of the shires, whose voting power was doubled.<sup>74</sup> When Charles ordered the dissolution of the Assembly in November 1638, the covenanters refused and issued a protestation, clearly articulating their presbyterian doctrine whilst drawing analogies to secular governance. Averring that the Assembly was the only remedy for the church's current malaise, they asserted that the king's prerogative did not extend to church government and declared that the General Assembly was 'the highest Ecclesiastical judicatorie' in the kingdom and could not be dissolved without the consent of its members.<sup>75</sup> The following year they went further and declared that if the king refused to call a general assembly, the kirk could hold an assembly regardless, should necessity require it, for 'in this case' the king 'differeth not from the unbeliever'.<sup>76</sup> The Roman law maxim *quod omnes tangit ab omnibus approbetur* was cited to justify the authority and composition of both the general assembly and parliament. Translated as 'That which concerneth all should be handled and approved by all' it was used to defend the inclusion of laymen in the Glasgow Assembly, drawing a comparison with parliament, where 'persons of all sort and ranks' had a voice.<sup>77</sup>

Parliamentary sovereignty has been called 'a very English absolutism', but the authority the covenanters attributed to parliament was as significant, though of a different degree.<sup>78</sup> They did not articulate a theory of parliamentary sovereignty as Henry Parker was to do, and were determined to vest sovereignty in the king-in-parliament.<sup>79</sup> However, given that Charles had been, and was likely to continue to be a largely absentee monarch, in practice this would allow for a greater degree of parliamentary autonomy. As early as May 1638 the leading nobles of the covenanting movement had reached the conclusion that general assemblies and parliaments 'wer the law makers [and] ar only competent judges for interpreting their owne acts'.<sup>80</sup> The general assembly and parliament, the covenanters argued, were 'the only supream nationall Judicatories competent, to judge of nationall causes and proceedings'.<sup>81</sup> The General Assembly 'representeth the whole Kirk of the

<sup>73</sup> *The Principall Acts of the Solemne Generall Assembly at Glasgow the xxi of November 1638* (Edinburgh, 1639), 7-11, 12-13, 14-19, 19-31.

<sup>74</sup> Scally, 'Rise and Fall of the Covenanter Parliaments', 140.

<sup>75</sup> *The Protestation of the Generall Assemblie of the Church of Scotland, and the Noble-men, Barrons, Gentlemen, Burrowes, Ministers, and Commons* (Glasgow, 1639), sig. A4r, Br, B2v.

<sup>76</sup> *The Declinatour and Protestation Of the ... some-times Pretended Bishops, Presented in Face of the Last Assembly, Refuted and Found Futile, but Full of Insolent Reproaches, and Bold Assertion* (Edinburgh, 1639), 5.

<sup>77</sup> *Declinatour and Protestation*, 39.

<sup>78</sup> Allan I. Macinnes, 'The "Scottish Moment" 1638-45', in John Adamson (ed.), *The English Civil War: Conflict and Contexts, 1640-49* (Basingstoke: Palgrave Macmillan, 2009), 126-27; Michael Mendle, 'Parliamentary sovereignty: a very English absolutism', in Nicholas Phillipson and Quentin Skinner (eds), *Political Discourse in Early Modern Britain* (Cambridge: Cambridge University Press, 1993), 97-119.

<sup>79</sup> Allan I. Macinnes, 'The Scottish Constitution, 1638-1651. The Rise and Fall of Oligarchic Centralism', in John Morrill (ed.), *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1990), 109.

<sup>80</sup> Rothes, *Relation*, 111.

<sup>81</sup> *Protestation of the Noblemen*, sig. D<sup>r</sup>; *Large Declaration* (London, 1639), 104.

nation' and the parliament represented 'the Body of this Kingdom'; neither represented the interests of private individuals.<sup>82</sup>

Representative assemblies were, for the covenanters, empowered by the supreme laws: that the safety of the people and the kirk were paramount. They also believed that these institutions were simultaneously best placed to be the interpreters of what constituted the safety and health of people and church.<sup>83</sup> This built upon an assertion of the authority of the collective body but ultimately emphasised the sovereignty of representative assemblies at the expense of the represented. In 1638 Rothes, Cassilis and Montrose signed articles which, amongst other proposals to settle the kingdom, called for the calling of a parliament so that 'mens minds now so awakened might be easily pacified'.<sup>84</sup> As argued above, whilst the covenanting movement harnessed the power of the community, it was not the intention of its leaders to offer a new role for the people in political society. The version of the Protestation oath sworn by members of the Scottish parliament committed them to 'faithfully and freely speak, answer and express ourselves upon all and every thing which is or shall be proposed so far as we think *in our conscience* may conduce to the glory of God'.<sup>85</sup> This language more closely mirrors that of the Protestation than the National Covenant. Members of the Scottish parliament saw their role and responsibilities as materially different from that of the people. As they asserted in 1638, 'free voycing or reasoning' was amongst the liberties of the estates.<sup>86</sup> As with the kirk, this institutional liberty was voiced in opposition to the interference of the king.

The people were not envisaged as having a role in government, but the position of the king in the covenanted state was uncertain. Famously, at the 1641 parliament Charles's offer to touch with his sceptre all the acts passed since 1639 was declined; the covenanters claimed that they were already laws.<sup>87</sup> Though this was not an unprecedented innovation,<sup>88</sup> it reflected an ambiguity about the precise role of the king. It had been during the Scottish reformation that, as Roger Mason argues, a conceptual split between king and commonwealth developed. In asserting the right of parliament to enact laws, the covenanters were drawing on a heritage which prioritised the duties owed to the commonwealth over allegiance to the king.<sup>89</sup> The covenanters sought to present the royal conscience as personal and fallible, though they focused their attacks on the deception of

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<sup>82</sup> *Declinatour and Protestation*, 60; [William Kerr, Earl of Lothian], *A True Representation of the Proceedings of the Kingdome of Scotland since the late Pacification By the Estates of the Kingdome against mistakings in the late Declaration* ([Edinburgh], 1640), 54.

<sup>83</sup> *Reasons for a Generall Assemblie*, 9.

<sup>84</sup> *Records of the Kirk of Scotland*, ed. Alexander Peterkin (Edinburgh: Peter Brown, 1843), 64.

<sup>85</sup> RPS, 1641/8/4. Emphasis added.

<sup>86</sup> *Protestation of the Noblemen*, sig. B<sup>r</sup>.

<sup>87</sup> Robert S. Rait, *The Parliaments of Scotland* (Glasgow: Maclehose, 1924), 68-69.

<sup>88</sup> Conrad Russell, 'Divine Rights in the Early Seventeenth Century', in Morrill, Slack and Woolf (eds), *Public Duty and Private Conscience*, 115-116.

<sup>89</sup> Mason, *Kingship and the Commonweal*, 2, 33.

the bishops and other incendiaries to maintain the fiction that Charles was merely misinformed and poorly counselled.<sup>90</sup> In such a situation, it was the duty of the kingdom's leading men to provide the moral and political leadership the king could not. It is perhaps because of this tradition that the replacement of the rule of the crown by the rule of parliament did not alarm moderate opinion to the same extent in Scotland as it was to do in England.<sup>91</sup>

By emphasising the authority of representative institutions, the covenanters diminished the role of the king in them. For example, George Gillespie denied that the king possessed a negative voice. He argued in 1637 that 'in a Councill, no mans voice hath any greater strength, then his reasons and probations have', and declared that those 'who give their Will for a Law, and their Authority for a Reason' ruled 'over the Lords flocke *with force and crueltie*'.<sup>92</sup> Henderson praised the Glasgow Assembly wherein 'every man is heard patiently till he speak his mind; and then is a contribution of every gift in a nation joining together'.<sup>93</sup> The consensus which the covenanters sought to construct in Scotland's representative institutions was in part an attempt to confer legitimacy on their proceedings, and lay claim to the public conscience, but this unanimity was threatened by an uncovenanted king. The king was, as Melvillian presbyterians argued, a member of the kirk, not its head, and was therefore subject to its rulings: he did not have the authority to overrule it.

This ambiguity about the role of the king and his relationship with the community of the realm was not a recent development. Walter Makey has argued that the difference between *Rex Humanitas* and *Correction* in David Lindsay's sixteenth-century play *Ane Satyre of the Thrie Estaitis* was between 'the King as he so often actually was' and 'the King as he always ought to have been', a distinction implicit in the National Covenant. To the former, who was 'abstract perfection', the subject owed unquestioning and simple obedience, and to the latter, 'fallible reality', the subject's allegiance was highly qualified.<sup>94</sup> In *Ane Satyre*, the character of Divyne Correctioun declares that 'I will do nocht, without the conveyning / Ane Parliament of the Estaitis all', arguing that the king, who is 'bot ane officiar', cannot accomplish his role without sound counsel.<sup>95</sup> In this schema, the office of the king was instrumental, the person of the king was corruptible, and the three estates must act as wise

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<sup>90</sup> *A Remonstrance concerning the present Troubles, from the meeting of the Estates of the Kingdome of Scotland, Aprill 16 unto the Parliament of England* (Edinburgh, 1640), 5; Peter Donald, *An Uncounselled King: Charles I and the Scottish Troubles, 1637-1641* (Cambridge: Cambridge University Press, 1990), 42.

<sup>91</sup> Rait, *Parliaments of Scotland*, 69.

<sup>92</sup> George Gillespie, *A Dispute against the English-Popish Ceremonies* (Leiden, 1637), 19, 179, 19.

<sup>93</sup> RKS, 177-78.

<sup>94</sup> Walter Makey, *The Church of the Covenant 1637-1651: Revolution and Social Change in Scotland* (Edinburgh: John Donald, 1979), 26.

<sup>95</sup> David Lindsay, *The Poetical Works of Sir David Lyndsay of the Mount, Lyon King of Arms*, 2 vols (Edinburgh: William Paterson, 1900), ii, 181-83.

counsellors. The godly king commanded and was obeyed, but an uncovenanted monarch had a far less certain role.

The belief that the good of the commonwealth took precedence over the king's private interest was widespread well before the civil wars. Erasmus famously argued that 'the prince was made for the good of the commonwealth, not the commonwealth for the good of the prince', a maxim invoked by many thinkers of varying persuasions, and which rivalled Cicero's *salus populi est suprema lex* in popularity.<sup>96</sup> A conceptual division between the king and his kingdom and between the person and the authority of the king, though nascent, was available to seventeenth-century thinkers. The maxim *rex singulis major, universis minor* was frequently invoked in the 1640s to justify the authority of parliament at the expense of the person of the king. Jeremiah Burroughs argued that people must distinguish 'between a man in authority and the authority of that man'.<sup>97</sup> Such a distinction allowed the author or authors of *Maximes Unfolded*, a complex puritan political tract, to argue that the king's authority remained in parliament though his person had departed and that when Charles had attempted to gain entry to Hull he had been opposed by his own authority.<sup>98</sup> Echoing Henderson's argument in *Instructions for Defensive Arms*, which itself was lifted from Althusius's *Politica Methodice Digesta*, it concluded that 'a body politick never dieth'.<sup>99</sup> The community, for both Scottish and English writers, could be separated from the head and survive, though this was only envisaged as a temporary measure.

In England, the political nation had seemed relatively united in November 1640, though a deeper analysis suggests that this was a negative rather than positive unity focused on shared grievances and not on agreed solutions.<sup>100</sup> Over the coming months parliamentarians, claiming necessity as their prerogative, advanced radical constitutional innovations, which startled moderate opinion and ultimately contributed towards the development of a royalist party. Ideological divisions were apparent before the outbreak of conflict, but it was Charles's erection of his royal standard at Nottingham Castle which represented the greatest case of conscience faced by Englishmen and women. As Henry Ferne put it, 'Every mans Conscience now is solicited to adhere either to the King in this great cause, or to joyn with Subjects in making resistance'.<sup>101</sup> Parliamentary defences of armed resistance, many of them direct responses to Ferne's work, repeated several of the

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<sup>96</sup> Burns, *True Law of Kingship*, 284; James VI and I, *Political Writings*, ed. Johann P. Sommerville (Cambridge: Cambridge University Press, 1994), 20, 65, 84; Whitney R. D. Jones, *The Tree of Commonwealth, 1450-1793* (London: Associated University Press, 2000), 26; George Buchanan, *A Dialogue on the Law of Kingship Among the Scots: De Iure Regni apud Scotos Dialogus*, trans. and ed. Martin S. Smith and Roger A. Mason (Edinburgh: The Saltire Society, 2006), 51.

<sup>97</sup> Jeremiah Burroughs, *The glorious Name of God* (London, 1643), 28.

<sup>98</sup> *Maximes Unfolded* ([London, 1643]), 11, 37.

<sup>99</sup> *Ibid.*, 47.

<sup>100</sup> Conrad, *Fall*, 210; Barry Coward, *The Stuart Age: England, 1603-1714*, 2nd edn (Harlow: Longman, 1994), 189-90.

<sup>101</sup> Henry Ferne, *The Resolving of Conscience* (Cambridge, 1642), 46.

arguments used by the covenanters. However, because England was on the verge of a civil war both the rights of parliament and the role individual conscience were invoked in a manner not seen in Scotland. Broadly speaking parliamentary writers fell into two camps: those who invested parliament with the right to arbitrate, and those who believed that this was a case of conscience in which public opinion and individual judgement must play a significant role.

The argument that a united community could and should defend itself was articulated by several defenders of parliament in much the same way as it had been by the covenanters. The success of the Scots in resisting the king had been noted in England. It was the fact that the community had been united and individual consciences mobilised by the National Covenant which was seen as the key to the revolt's success.<sup>102</sup> There was, however, a greater emphasis on the particular role of parliament in uniting the community. William Prynne argued that the supreme power to which Romans 13 commanded obedience was not the king, but parliament.<sup>103</sup> *The General Resolution Of the two Kingdoms of England and Scotland* concluded that parliaments were 'more knowing than any other privadoes', that 'in regard of their publike interest ... are more responsible than any other' and that they had 'no private interest'.<sup>104</sup> It has been argued that the association between the people and parliament in effect transmuted theories of popular sovereignty into theories of parliamentary sovereignty, though Herle and Parker both denied that parliamentary sovereignty was premised on popular sovereignty.<sup>105</sup>

According to John Watts, the belief that 'the common weal was attested most finally and completely by the commons' was widespread in England, an association not found in Scotland, where the term 'commons' was not a familiar part of the political vocabulary.<sup>106</sup> In Scotland parliament met only infrequently and, though not as weak as some historians suggest, it nevertheless did not embody the nation in the same manner as the English parliament. There was only a limited common law tradition, and though there had been resistance to the crown's attempts to raise taxes without calling a full parliament in the 1620s, these skirmishes had not escalated into constitutional crises. In England Edward

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<sup>102</sup> Edward Vallance, 'Oaths, Covenants, Associations and the Origins of the *Agreements of the People*: The Road to and from Putney', in Philip Baker and Elliot Vernon (eds), *The Agreements of the People, the Levellers and Constitutional Crisis of the English Revolution* (Basingstoke: Palgrave Macmillan, 2012), 34.

<sup>103</sup> William Prynne, *The Sovereigne Power of Parliaments and Kingdomes* (London, 1643), iii, 62, 67, 73.

<sup>104</sup> *The General Resolution Of the two Kingdoms of England and Scotland* ([London], 1642), sig. A4r.

<sup>105</sup> Charles Herle, *A Fuller Answer to a Treatise Written by Doctor Ferne* (London, 1642), 2, 25; Henry Parker, *Observations upon some of his Majesties late Answers and Expresses* ([London], 1642), 8; Michael Mendle, *Henry Parker and the English Civil War: The political thought of the public 'privado'* (Cambridge: Cambridge University Press, 1995), 87.

<sup>106</sup> Johann P. Sommerville, *Royalists and Patriots: Politics and Ideology in England, 1603-1640*, 2nd edn (London: Longman, 1999), 90; John Watts, 'Public or Plebs: The Changing Meaning of "the Commons", 1381-1549', in Huw Pryce and John Watts (eds), *Power and Identity in the Middle Ages: Essays in Memory of Rees Davies* (Oxford: Oxford University Press, 2007), 252; Stewart, *Rethinking*, 155.

Coke famously argued that though members represented different constituencies, ‘yet when he is returned and sits in parliament, he serveth there for the whole realm’, and for Thomas Smith ‘every Englishman is entended to be there present’.<sup>107</sup> Smith declared that ‘The most high and absolute power of the realme, consisteth in the Parliament’, arguing that the consent of parliament was to be understood to represent the consent of every Englishman.<sup>108</sup> However, though they were represented in parliament, the commons remained the governed. As Rachel Foxley observes, political theorists such as Parker thought that ‘once a government was established, and the governors chosen by the people, there would never again be a role for the exercise of that individual conscience in politics’.<sup>109</sup>

The distinction between private individuals taking up arms and subjects ‘united and joyned in the representative Body of the Kingdom’ was key to William Bridge’s defence of parliament’s actions.<sup>110</sup> Parliament was, for Bridge, a better judge of the law than the prince, and the people were ‘bound to stand to [its] arbitrement’ since they elected its members.<sup>111</sup> Herle argued that the final judgement concerning the identification of dangers to the commonwealth which could necessitate resistance, even against the king’s express command, resided in the two houses of parliament. In a later treatise, he argued that it was the House of Commons’ particular privilege to ‘bind all the Commons of *England*’.<sup>112</sup> Henry Parker believed that arbitrary power was dangerous if entrusted to one or a few, but argued that parliament was ‘neither one nor few, it is indeed the State itself’.<sup>113</sup> This was an assertion without parallel in Scotland, and which reflected the distinct and powerful place parliament held in the English imagination. These arguments stemmed from the fact that the English parliament sought to use its authority to unite the people against the king. In Scotland, on the other hand, the people had already been united by the National Covenant, and the primary concern of the country’s representative institutions was to assert their independence from the crown.

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<sup>107</sup> Quoted in David Harris Sacks, ‘Parliament, Liberty, and the Commonweal’, in J. H. Hexter (ed.), *Parliament and Liberty from the Reign of Elizabeth to the English Civil War* (Stanford: Stanford University Press, 1992), 91; Thomas Smith, *De Republica Anglorum* (London, 1583), 35.

<sup>108</sup> Thomas Smith, *De Republica Anglorum* (London, 1583), 34-35.

<sup>109</sup> Rachel Foxley, ‘Freedom of Conscience and the *Agreements of the People*’, in Baker and Vernon (eds), *Agreements of the People*, 132.

<sup>110</sup> William Bridge, *The Wounded Conscience Cured* (London, 1643), 31-32, 33-34.

<sup>111</sup> *Ibid.*, 36-37.

<sup>112</sup> Charles Herle, *An Answer to Mis-led Doctor Fearnie* ([London], 1642), 30, 38.

<sup>113</sup> Parker, *Observations*, 34.

## Individual conscience and resistance

In his tract on presbyterianism, Rutherford affirmed ‘the necessity of consent of believers in all acts of Government’ and advocated a democratic aspect of church rule ‘in respect of some things that concerneth the whole members of the visible Church’.<sup>114</sup> However he distinguished between ‘popular’ and ‘judicial’ consent, the former being given quietly and tacitly by the majority of the congregation. An element of popular consent was permissible in church government, but not judicial, ‘els they are all made judges’.<sup>115</sup> He believed that presbyterianism, which contained all three forms of government, represented a ‘midline’ between the absolute monarchy of catholicism and the ‘unorderly confusion’ of democracy.<sup>116</sup> This distinction between popular and judicial consent can be seen as the key to the covenanters’ view of the authority of the community. Individual consciences were not asked to adjudicate in the controversy between the king and the kingdom, but rather to add their consent to a unifying religious and constitutional document and accept the decisions of legitimate representative assemblies. The covenanters justified resistance, in part, on the authority of the community but at the same time limited the final authority of the community and minimised the role of individual conscience. The people were to exercise their consciences within the constraints and under the guidance of the visible church.<sup>117</sup>

The potential radicalism of the covenanters’ appeals to the authority of the community was limited by the hierarchical assumptions of most of the movement’s leaders. As Henderson and Dickson argued, Christian magistrates did not have an absolute and unbounded power, and the defence of true religion was the duty of ‘Authoritie ... the Communitie of the Faythfull, and to everie one in his owne Place, & Order’.<sup>118</sup> Resistance was, therefore, a duty in this case, not simply a right, but one which could not be exercised outwith societal constraints.<sup>119</sup> The radical interpretation of Romans 13 was intimately linked with the ‘line of subordination’, a doctrine most clearly and repeatedly articulated by Henderson. Both the *Instructions for Defensive Arms* and the *Remonstrance* drew a distinction between ‘some private persons taking arms for resistance’ and the ‘inferior magistrates, counsellors, nobles, peers of the land, parliament-men, barons, burgesses, and the whole body of the kingdom ... standing to their own defence’.<sup>120</sup> The *Instructions* was printed in England as *Some Speciall Arguments for the Scottish Subjects lawfull defence of their Religion and*

<sup>114</sup> Samuel Rutherford, *A Peaceable and Temperate Plea for Pauls Presbyterie in Scotland* (London, 1642), 34, 63.

<sup>115</sup> *Ibid.*, 49.

<sup>116</sup> *Ibid.*, sig. A3<sup>r</sup>, 63.

<sup>117</sup> Stewart, *Rethinking*, 161.

<sup>118</sup> Henderson and Dickson, *Answers of Some Brethren*, 27, 30.

<sup>119</sup> Samuel Rutherford, *Lex, Rex, or The Law and the Prince* (Harrisburg: Sprinkle Publications, 1982), 56.

<sup>120</sup> Stevenson, *History*, 357; *Remonstrance of the Nobility*, 24.

*Liberty*, and Russell has identified it as the only tract justifying resistance in print in England in the month that civil war broke out.<sup>121</sup>

Henderson's invocation of the line of subordination, most famously in the *Instructions*, though potentially radical, was framed in the context of a united polity. The line of subordination was an argument Henderson had deployed in a sermon at St Andrews in 1638 and before the Glasgow Assembly in 1639, indicating that Henderson had been considering these issues for some time.<sup>122</sup> If the magistrate commanded anything contrary to god, Henderson argued, he 'goeth out of his order and line' and God becomes the subjects' 'immediate superior'.<sup>123</sup> However, the *Instructions* also advised that the 'people of God' should 'submit themselves obediently to follow their leaders, whom God at this time hath raised up', clearly affirming the hierarchical ideal.<sup>124</sup> Argyll had expressed a similar sentiment in his speech at the dissolution of the Glasgow Assembly when he called on the people to have 'due regard for those whom God hes sett over them; for we must not thinke that because we want Bishops, therefore may live as we will'.<sup>125</sup> The claim to be representing the whole community was not an appeal to individual consciences, but an affirmation of a pre-existing and indissoluble public conscience. Indeed, Henderson admitted that 'in general' the wicked magistrate should be obeyed, though only 'so far as their commandments are not contrary to God's commandments'.<sup>126</sup> Only extraordinary circumstances could justify resistance, namely 'our own defence and safety', and it was not the people who were judges of such circumstances.<sup>127</sup> Royalists, of course, denied that the commonwealth was in danger.<sup>128</sup> Henderson's apparent desire to limit the radical potential of his arguments for defensive resistance is a reflection of the covenanters' commitment to traditional social hierarchies. They adopted a position similar to that which David Hume was to later propound. Exceptions to the doctrine of obedience were so rare, he argued, that they 'ought seldom or never to be mentioned in popular reasonings and discourses' and that when the exception does occur 'it must, from its very nature, be so obvious and undisputed'.<sup>129</sup>

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<sup>121</sup> Alexander Henderson, *Some Special Arguments For the Scottish Subjects lawfull defence of their Religion and Liberty* (London, 1642); Conrad Russell, *The Causes of the English Revolution: The Ford Lectures Delivered in the University of Oxford* (Oxford: Oxford University Press, 1990), 133; John Sanderson, 'Conrad Russell's Ideas', *History of Political Thought*, 14:1 (1993), 88.

<sup>122</sup> Kerr, *Covenants*, 58; RKS, 66; Baillie, *LJ*, i, 190.

<sup>123</sup> Stevenson, *History*, 358.

<sup>124</sup> *Ibid.*, 357.

<sup>125</sup> RKS, 193.

<sup>126</sup> Stevenson, *History*, 357.

<sup>127</sup> *Ibid.*

<sup>128</sup> *Generall demands concerning the late covenant propounded by the ministers and professors of divinitie in Aberdene* (Aberdeen, 1638), 12, 13.

<sup>129</sup> David Hume, *Political Essays*, ed. Knud Haakonssen (Cambridge: Cambridge University Press 1994), 250.

The covenanters were concerned about the potentially radical implications of their reliance on the authority of the community, but so long as that community was united and retained its hierarchical structure, this danger was minimised. It is worth remembering that the covenant was subscribed first by the nobility, and afterwards by the burgesses, barons and ministers in their names and in the name of those that adhered to them.<sup>130</sup> Further, it must be recalled that though conscience was common to all, not all consciences were equal. The covenanters, for all their excitement about the unexpected success of the covenant, did not believe that all subscribers were godly. As Henderson put it in 1639, ‘the commons of the land are so ignorant that they know not God, and from that proceeds such wickedness’.<sup>131</sup> The conscience of the godly individual was often described as an ‘illuminated conscience’, as opposed to the ‘natural conscience’ of the ungodly.<sup>132</sup> The consciences of the degenerate could not adjudicate such important matters, but were bound to obey those in authority over them, in this case the lesser magistrate.

In March 1639 the covenanters defended themselves from the accusations made against them in a royal proclamation made in the previous month. They desired the reader to distinguish between ‘a people pleading for their owne phantasies and fooleries, or inventions’ and a people who had suspended ‘their judgement and practise about things controverted, till they should be determined by a nationall Assembly’.<sup>133</sup> The people were not taking judgements about religious controversies upon themselves, but rather were affirming a common conscience and submitting disputes to the authority of representative institutions. In Shagan’s terms, the godly could moderate themselves, but ungodly subjects had to be moderated because the unregenerate could not control their sinfulness.<sup>134</sup>

The covenanters argued for the forbearance of disputed practices and religious innovations until they could be tried in the representative institutions of the Scottish state. They repeatedly insisted that all matters ecclesiastical must be determined by general assemblies of the kirk and all matters civil by parliament.<sup>135</sup> In this way, though the authority of the community was invoked, the final judgement was reserved for representative assemblies. To the complaint that it was unlawful to call for the forbearance of practises established in statute by parliament, Rothes argued that ‘the law had lost its force, the reason therof being taken away’. Laws were supposed to be for ‘the good of all subjects’ and therefore ‘when thrie parts of the subjects at least finds the prejudice of

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<sup>130</sup> James Balfour, *The Historical Works of Sir James Balfour of Denmylne and Kinnaird, Knight and Baronet; Lord Lyon King at Arms to Charles the First, and Charles the Second*, ii (Edinburgh: W. Aitchison, 1824), 265.

<sup>131</sup> RKS, 238.

<sup>132</sup> For example, Fenner, *The Soules Looking-glasse*, 44-45; John Jackson, *The Booke of Conscience opened and read* (London, 1642), 14.

<sup>133</sup> *Remonstrance of the Nobility*, 25.

<sup>134</sup> Ethan Shagan, ‘Beyond Good and Evil: Thinking with Moderates in Early Modern England’, *The Journal of British Studies*, 49:3 (2010), 509.

<sup>135</sup> *True Representation*, 10, 11, 101.

lawes, they may justlie abstain from practise whyll a Parliament is called'.<sup>136</sup> Rothes was perhaps echoing Buchanan's argument that legislation instituted by the crown and estates should then 'be submitted to the people's judgement', but the mechanism by which the subjects would assent or otherwise to laws was, in both cases, unclear.<sup>137</sup> The 'reason and lyfe of the Law', Henderson and Dickson contended, could be interpreted following the maxim *salus populi suprema lex esto*.<sup>138</sup> However it was not the people themselves who had the authority to judge what constituted *salus populi*; that role was reserved to representative assemblies. Though Scotland was a covenanted kingdom it was not a godly nation, and the consciences of the unregenerate could not have an adjudicatory role.

Any dissent challenged the argument that Scotland was a united community. Those who refused to subscribe did so not out of conscience but because of worldly fears or hidden motives. In a sermon in Edinburgh in June 1638, Andrew Cant declared that there were three groups of responders to the covenant: well-wishers, evil-wishers and neutrals. It was the neutrals' scrupulous consciences which prevented them from subscribing: they dared not 'cry grace, grace for fear of authority'.<sup>139</sup> In another sermon in the same year, Cant proclaimed that he 'never saw a man staying back from the covenant, but from some by-respects; either some respect to the world, or to men, or to the court, or some bastard by-respects to some statesmen, or to a prelate, or to the King himself'.<sup>140</sup> This was a radical position, implying that deference to worldly authority was misplaced and that the rightly informed conscience would freely assent to the Covenant. Henderson declared that 'all the atheists, all the papists, and all the profane rogues in the country; they draw to that side, and it is only they who hate this cause'.<sup>141</sup> This was a means by which covenanters could reconcile dissent with their conceptions of the public: a shared conscience based on the authority of god could only be rejected by those with ulterior motives and who placed their private interests above the common good.

In December 1638 the Glasgow Assembly prohibited the printing of any acts of the Assembly, covenants, papers concerning present controversies or treatises concerning the kirk without a warrant signed by Wariston, the Clerk of Assembly. By so doing the Assembly laid claim to epistemic authority within Scotland, usurping the power of the king and quieting dissenting voices. The act declaring episcopacy to have been abjured by the 1580 Confession of Faith expressed the hope that the king's subjects 'may be of one

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<sup>136</sup> Rothes, *Relation*, 76, 77.

<sup>137</sup> Quoted in Arthur H. Williamson, *Scottish National Consciousness in the Age of James VI: The Apocalypse, the Union and the Shaping of Scotland's Public Culture* (Edinburgh: John Donald, 1979), 116. Mason, 'Rex Stoicus', 19-20, 23, 24; Mason, *Kingship and the Commonweal*, 2, 34.

<sup>138</sup> Henderson and Dickson, *Answers of Some Brethren of the Ministerie*, 10.

<sup>139</sup> Kerr, *Covenants*, 125.

<sup>140</sup> *Ibid.*, 99.

<sup>141</sup> *Ibid.*, 66.

minde, and of one heart, and have full satisfaction to all their doubts'.<sup>142</sup> The General Assembly proclaimed that 'the publick and judicall interpretation of the confession of Faith' belonged to it alone, and declared that nobody was permitted to write or speak against its judgements.<sup>143</sup> The public conscience had been determined by a representative assembly and its decision was to be accepted without dispute. Robert Baillie expressed misgivings about the abjuration of episcopacy, but thought it was not safe to make 'any publick dispuitt ... myself alone, and fearing, above all evils, to be the occasion of any division, which was our certain wrack'.<sup>144</sup> He was content, he later wrote to Wariston, to keep his reservations to himself whilst 'the common enemy was greedilie gapeing for all occasions of discord among us' and in the belief that the conclusions of the assembly could 'never be pressed on our consciences'.<sup>145</sup> Necessity required that individual qualms be suppressed in the name of the greater good.

In England, the parliament's decision to publish the *Grand Remonstrance* was a significant moment in the development of political polarisation. Issued by the authority of the House of Commons alone it went over, or under, the king's head and appealed to the people directly. It contained more than one hundred and twenty grievances and was 'held together by the binding force of a belief in a conspiracy to subvert the religion of England'.<sup>146</sup> It exposed divisions between parliamentarians about the adjudicating role of the public. A remonstrance against Charles I was first proposed by George Digby and was taken up by Pym and his supporters. However, earlier in the year, Digby had warned that 'there is no Man of the least Insight into Nature, or History, but knows the Danger, when either true, or pretended Stimulation of Conscience hath once given a Multitude Agitation'.<sup>147</sup> He was speaking in the context of popular petitions against bishops and episcopacy and expressed a fear that 'activated' consciences might be hard to subdue. As the Lords of Session had earlier warned Charles, arms often only had a counterproductive effect in matters of conscience. The *Grand Remonstrance* was passed by a slender majority on 22 November 1641, and subsequently debate turned to the issue of whether or not it should be printed. Sir Edward Dering urged caution, explaining that when he had first heard of a remonstrance he imagined 'that like faithful Counsellors, we should hold up a Glass unto His Majesty ... I did not dream that we shou'd remonstrate downward, tell Stories to the People'.<sup>148</sup> This tallied with the belief that parliament's role was to represent the people's grievances to the king, not re-engage the consciences of those they represented.

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<sup>142</sup> RKS, 29.

<sup>143</sup> *Ibid.*, 37, 40.

<sup>144</sup> Baillie, *LJ*, i, 158.

<sup>145</sup> *Ibid.*, 177.

<sup>146</sup> Russell, *Fall*, 425.

<sup>147</sup> Rushworth, iv, 165-202.

<sup>148</sup> *Ibid.*, 421-436.

The role left for unregenerate consciences, which constituted most of the population, was generally perceived as limited. The author of *The Subject of Supremacie*, somewhat unusually, attempted to define conscience. 'I cannot tell,' he wrote, 'whether Conscience reads the Law, or hath it read unto it' but 'it is certaine that the Law must be in it' though 'not the will of the King, but the Lawgiver' which in England was parliament.<sup>149</sup> If conscience was guided by law, as interpreted by parliament, what freedom did individuals have to adjudicate for themselves? Further, how was it to be guided in a time when necessity was held to be the supreme law? Herle vested the power of resistance in 'the Magistrates and established Courts of the Kingdom' because of the great inconvenience caused if disobedience could be justified by 'every private mans opinion'.<sup>150</sup> The contrast drawn between private opinion and individual conscience had been applied to Charles himself, challenging his role as the conscience of the commonwealth. William Prynne wrote that monarchy was 'the best of governments, whiles it keepes within the bounds which Law and Conscience have prescribed'.<sup>151</sup> Whilst royalists would have agreed in principle with this sentiment, Prynne and others like him believed that parliament was the best interpreter of the law, and limited the public role of private conscience. This was a position put forward by John Ley who argued that the interpretation of laws belonged to public persons and that to rely on the judgement of private men would lead to 'mutuall contradictions'.<sup>152</sup> In contrast, the English radical Samuel How argued in 1640 that if the pope and his bishops and cardinals were 'destitute of the *Spirit*' they could only give 'but a *private interpretation*'. On the other hand, 'if a Man have the *Spirit of God*, though he may be a *Pedler, Tinker, Chimney-Sweeper, or Cobler*, he may by the helpe of *Gods Spirit*, give a more *publique interpretation*, then they all'.<sup>153</sup> Such ideas were unusual at the time but presaged both the radicalism of groups like the levellers and those who came to argue for the rule of the saints.

The belief that the king was superior to individual subjects but inferior to the people collectively considered also suggested a suspicion of individual conscience in general and Charles's in particular. It was Charles's behaviour which brought the royal conscience into question and made it a political issue. Austin Woolrych argues that Charles's refusal to assent to the bill of attainder against Strafford meant 'he was in effect claiming that his royal conscience was a bar to the will of parliament'.<sup>154</sup> This conflict set the conscience of an individual man against the authority of the community, as represented in parliament. In

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<sup>149</sup> *The Subject of Supremacie. The Right of Caesar. Resolution of Conscience* (London, 1643), 3.

<sup>150</sup> Herle, *An Answer*, 6.

<sup>151</sup> Prynne, *Soveraigne Power*, iv, sig. A2r.

<sup>152</sup> John Ley, *Defensive Doubts, Hopes, and Reasons, For refusall of the Oath, imposed by the sixth Canon of the late Synod* (London, 1641), 100-01.

<sup>153</sup> Samuel How, *The Sufficiencie of the Spirits Teaching without Humane Learning* ([London], 1640), sig. E.

<sup>154</sup> Rushworth, iv, 239-279; Woolrych, *Britain in Revolution*, 179.

Scotland, Gillespie had argued that common sense taught that the king ‘being but a man, and so subject to errour’, and being distracted by the affairs of state and unversed in religious controversies, was more likely ‘to faile & miscarry, in his judgement about things Ecclesiastical, then a whole Synond, wherein there are many of the learned, judicious and godly Ministers of the Church’.<sup>155</sup> There were similar expressions of misgiving about vesting too much authority in the judgement of individual men in England as well. Nathaniel Fiennes, for example, in a speech on the power of the bishops, stated that he ‘did not think it safe, that such a Power should be in any *one* Man, tho’ you suppose him to be a *very good Man*’.<sup>156</sup> The demand in the *Nineteen Propositions* for parliamentary control over who the king’s children were governed and educated by suggests a concern for the conscience of England’s future king coupled with an acknowledgement that Charles I was a lost cause.<sup>157</sup>

Whilst in Scotland direct criticism of Charles was largely avoided, in England some more radical authors were less favourably inclined to the king. In *Englands Complaint to Jesus Christ against the Bishops Canons*, for example, the judgement of the king was directly questioned. The author asked whether or not God might have ‘for a time at least, for our humiliation ... given him up to be Seduced by the Prelates and their Romish faction’.<sup>158</sup> Palmer also expressed ambivalence about individual conscience which extended to the person of the king, who as but a man, he argued, could be misled, unlike parliament which could never be a faction.<sup>159</sup> Parker, meanwhile, affirmed that it was more likely ‘that Princes may erre and have sinister ends, then such generall conventions of the Nobility, Gentry, and Commonalty so instituted, and regulated as ours are in England’.<sup>160</sup> In reference to Scotland, Parker repeatedly made the point that the king had ignored the body of the kingdom and favoured the advice of a popish faction. In a damning attack on the king, he argued that Charles attributed too much ‘to his own conscience and understanding’, both in Scotland and England, and too little to ‘the publike Votes’ of either kingdom. What the king called conscience and reason, Parker continued, ‘can be nothing else but meere private opinion’.<sup>161</sup> If the king preferred his own private opinion over the counsel of his parliament, what law then remained but the king’s will?<sup>162</sup> Samuel Rutherford was later to argue that the covenanters and English parliamentarians resisted ‘the king’s private will, as a man’ and at the same time obeyed ‘his public legal will’.<sup>163</sup> In this sense parliament, as the

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<sup>155</sup> *Reasons for a Generall Assemblie*, 10.

<sup>156</sup> Rushworth, iv, 165-202.

<sup>157</sup> *Stuart Constitution*, 245.

<sup>158</sup> *Englands Complaint to Jesus Christ against the Bishops Canons* ([London], 1640), sig. A3<sup>v</sup>.

<sup>159</sup> Herbert Palmer, *Scripture and Reason Pleaded for Defensive Armes* (London, 1643), 79-80.

<sup>160</sup> Parker, *Observations*, 21.

<sup>161</sup> *Ibid.*, 25.

<sup>162</sup> *Ibid.*, 47.

<sup>163</sup> Rutherford, *Lex, Rex*, 146.

interpreter of the law, laid claim to the king's public conscience by regulating his legal will, and reduced his private conscience to the status of mere opinion. This challenged Charles's belief that he represented the conscience of the commonwealth, an issue which will be explored in greater depth in the next chapter.

The assertion that parliament embodied the public conscience was, however, challenged by the breakdown of civil order. Many people were already engaged in the political debates of the time, and the outbreak of civil war necessitated further appeals to their consciences. Herbert Palmer opened his contribution to the debate by lamenting the terrible confusion ordinary people found themselves in, 'wherein not onely *Armes* are engaged against *Armes*, but *Bookes* written against *Bookes*, and *Conscience* pretended against *Conscience*'.<sup>164</sup> He expounded Romans 13 analytically so that conscience could be the judge of its meaning.<sup>165</sup> Palmer's reasoning set up the people as the final judges in the dispute between the king and parliament. The people, he argued, must use 'their understanding and consciences to judge who is in the right' and then take up arms to defend the correct side.<sup>166</sup> The civil war was a grand case of conscience which required that men engage with the arguments of both sides and reach a rational conclusion.

Notably, Palmer defined a body politic as 'a company of reasonable men' who could exist separately to the head and continue to exercise their reason.<sup>167</sup> Though in theory conscience was not a gendered concept and was therefore potentially levelling, there was a widespread fear of women judging cases of conscience themselves, vividly expressed during the civil wars in numerous pamphlets and treatises.<sup>168</sup> It would seem likely that Palmer did not envisage all the individual members of the political community taking it upon themselves to judge in such a contentious case of conscience. 'Reasonable men' would exclude not only women but potentially vast swathes of the population, including, but not limited to, the uneducated and the ungodly. Palmer's appeal to individual consciences was not therefore as radical as it might at first appear. He also expressed a suspicion of the claims made for conscience, admitting that 'There is nothing more easy then to pretend conscience in all controverted points', though this was a deception he unsurprisingly attributed only to parliament's enemies.<sup>169</sup> That he refused to endorse the authority of the parliament over that of the king, as Bridge had done, was significant. He emphasised the private law argument, namely that self-defence was an inalienable right, and

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<sup>164</sup> Palmer, *Defensive Armes*, sig. A2r.

<sup>165</sup> *Ibid.*, 6.

<sup>166</sup> *Ibid.*, 53-54.

<sup>167</sup> *Ibid.*, 14-15.

<sup>168</sup> Patricia Crawford, 'Public Duty, Conscience, and Women in Early Modern England', in John Morrill, Paul Slack and Daniel Woolf (eds), *Public Duty and Private Conscience in Seventeenth-Century England: Essays Presented to G. E. Aylmer* (Oxford: Clarendon Press, 1993), 68, 74, 76; Mullan, *Scottish Puritanism*, 151.

<sup>169</sup> Palmer, *Scripture and Reason*, 67.

though the consent of parliament to armed resistance was preferable, it was not necessary.<sup>170</sup>

Philip Hunton followed a similar line of reasoning in *A Treatise of Monarchy*. When government and liberty were threatened an appeal should be made ‘*ad conscientiam generis humani*’ and ‘every man ... must follow the evidence of Truth in his owne soule, to oppose, or not oppose’.<sup>171</sup> In a case which ‘transcends the frame and provision of the Government,’ he argued, ‘the People are unbound, and in a state as if they had no Government; and the superiour Law of Reason and Conscience must be judge’. Every individual must, in such circumstances, ‘proceed with the utmost advice and impartiality’.<sup>172</sup> This was because in limited, mixed governments there could be no authoritative judge when controversies arose between the three estates, and therefore an appeal must be made to the conscience of the community.<sup>173</sup> He denied that parliament had the authority to bind consciences, stressing that it was ‘evidence, and not the power of their Votes’ which must ‘bind our Reason and Practice’.<sup>174</sup> In this way, William Lamont argues, ‘he had incidentally destroyed the formal authoritative case for Parliament’.<sup>175</sup> Though he believed force could be used against ‘inferiour officers’, Hunton refused to countenance active resistance to the person of the king, and believed that Palmer had laid out ‘new and over-large grounds for resistance’.<sup>176</sup> He argued that Romans 13 only authorised passive submission and that allowing for conscientious resistance would justify papists and heretics taking up arms.<sup>177</sup> However, if the fundamental religion and laws of the commonwealth were threatened, armed resistance was justified.<sup>178</sup> The key question, therefore, was whether or not the kingdom was in imminent danger, as parliament attested and the king denied.<sup>179</sup> This was the issue with which English subjects had to wrestle.

In one sense Palmer and Hunton were simply stating the obvious and describing what was already happening: men and women were forced to take sides or attempt to remain neutral. The problem, as both authors recognised, was that disparate opinions publicised in print divided and confused the people. However, with print controls weakened and a ‘paper war’ being fought there was no clear alternative. It has been argued that parliamentary political culture fostered the emergence of a so-called ‘revolutionary reader’. Authors envisaged their readers as active agents in the construction of meaning who were capable

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<sup>170</sup> Palmer, *Scripture and Reason*, 61.

<sup>171</sup> Philip Hunton, *A Treatise of Monarchy* (London, 1643), 18.

<sup>172</sup> *Ibid.*

<sup>173</sup> *Ibid.*, 29, 73.

<sup>174</sup> *Ibid.*, 73.

<sup>175</sup> Lamont, *Marginal Prynne*, 87.

<sup>176</sup> Hunton, *Treatise of Monarchy*, 15, 50, 63.

<sup>177</sup> *Ibid.*, 66.

<sup>178</sup> *Ibid.*, 67.

<sup>179</sup> *Ibid.*, 74.

of critical thought and judging between rival interpretations.<sup>180</sup> The exchange of pamphlets, proclamations, declarations and protestations not only brought questions of legitimacy and authority before the public but also undermined the king's claim to interpretative sovereignty. Such a line of reasoning had been earlier presented by William Fenner. He interpreted the apostle's challenge to the Jewish authorities in Acts 4:19 — 'Whether it be right in the sight of God to hearken unto you more than unto God, judge ye' — as an invitation for the reader to employ his or her own conscience.<sup>181</sup> By affirming the right of individual consciences to adjudicate, in effect making the people the arbiter, parliamentarian authors weakened the traditional belief that conscience, as grounded in the word of god, was external, public and objective. Indeed, some authors stressed that the bible could only offer general and historically specific advice which was not necessarily applicable to the situation in which Englishmen and women found themselves during the 1640s.<sup>182</sup>

## Conclusion

Chronology and political expediency significantly shaped Scottish and English justifications of resistance. The contexts in which resistance took place created particular dilemmas for conscience. In Scotland, there had been an appeal to the conscience of the community in the form of the National Covenant before armed resistance became a necessity. This embodying of the conscience of the commonwealth in a popularly subscribed document enabled the covenanters to claim with plausibility that they represented the whole kingdom and not a faction. Their swift assumption of authority in Scotland, and Charles's corresponding lack of it, and their control over the kingdom's small publishing industry meant that the question of individual conscience was settled relatively quickly. The initial appeal to the consciences of Scots in the National Covenant, admittedly reportedly accompanied by threats and extortions in some cases, was not followed by subsequent appeals. Indeed, the Covenant was presented as the settled will of the Scottish people since the reformation and as binding for eternity. Though there was no civil war Scots were forced to decide between obeying the king's commands or recognising the authority of the covenanters. However, because the king lacked power in Scotland, and he struggled to

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<sup>180</sup> Sharon Achinstein, *Milton and the Revolutionary Reader* (Princeton: Princeton University Press, 1994), 155, 161; Victoria Kahn, 'The metaphorical contract in Milton's *Tenure of Kings and Magistrates*', in David Armitage, Armand Himy and Quentin Skinner (eds), *Milton and Republicanism* (Cambridge: Cambridge University Press, 1998), 97; Jerome de Groot, *Royalist Identities* (Basingstoke: Palgrave Macmillan, 2004), 61, 89; Walter, *Covenanting Citizens*, 194, 197, 200, 227, 228.

<sup>181</sup> Acts 4:19 (GNV); Fenner, *The Soules Looking-glasse*, 69.

<sup>182</sup> Herle, *Answer*, 2-3.

create a party there, the decision was not as far-reaching a one as Englishmen and women faced. There was no breakdown of church or civil authority

The belief that the magistrate's actions were to be judged by conscience, as guided by scripture, opened the door to reconsiderations of the magistrate's role. Charles I was an uncovenanted king and pushed the covenanters into developing political and constitutional theories which could accommodate both his ungodliness and his absenteeism. Consent was central to this programme, rather than any clear articulation of popular sovereignty; the people remained subjects rather than emerging as citizens. The National Covenant, representing the common conscience of the commonwealth, authorised and legitimised the actions of the covenanters, leading them from passive disobedience to armed resistance. It reconciled public and private conscience, consent and command, and acted as a constitutional vehicle to preserve the Scottish polity. Those who refused to subscribe were outwith the community of the realm; indeed, subscription to the covenant later became a requirement for those sitting in parliament or holding office. However, unlike in England in the 1640s, the covenanters never clearly articulated a theory of popular sovereignty in which the people as individuals could reclaim their original power in the face of tyranny. The godly conscience was superior to the ungodly conscience and there could be no parity of judgement attributed to all individuals. Popular consent, as expressed through subscription to the Covenant, legitimised actions, but popular judgement was never countenanced.

The argument that the body of the people as 'a solide and individuall lumpe', in James VI and I's words, or 'conjunctively considered State-wise' in Bridges', was an important element of both Scottish and English defences of armed resistance. However, whilst in Scotland the community had been authoritatively and decisively bound together by the National Covenant in the absence of representative assemblies, in England parliament was seen by its supporters as both embodying the commonwealth and as the means by which the people could be united. However, as other authors realised, in a dispute between the king and his parliament, to give final arbitration to one party would be to give that party absolute power. These authors, most significantly Palmer and Hunton, argued that in such extraordinary circumstances an appeal to individual consciences was the only recourse. This involved a more positive view of the capacities of the people to search for the truth and reach reasoned conclusions. The reader was empowered to interpret and judge, a situation encouraged by the flourishing of print debate. The covenanters, on the other hand, actively sought to control and suppress debate and dissent at home. The consent they sought was popular, not judicial, a distinction which minimised the role of individual conscience; it was the difference between affirmation and adjudication. They instructed

pre-obliged consciences where their duties lay, rather than empowering them to make moral judgements for themselves.

In Scotland, the danger came from outside the nation, from Charles's English armies and a popish menace with continental roots. When they marched into England, they sought to mobilise an English public and emphasised internal corruption and the external popish menace in order to justify their invasion. The real threat, they argued, was not from them but from foreign conspirators. They went as far as to compare this existential danger to the Gunpowder Plot and the threat of the Spanish Armada. Parliamentarians concurred with this assessment and in particular identified Strafford's offer to bring a catholic Irish army into England as proof of this conspiracy. However, because England descended into civil war the argument of the self-defence of the whole kingdom became difficult to sustain. This led parliamentarian authors in two directions: either to emphasise parliament's role as the representative institution of the whole community, or to appeal directly to the individual consciences of subjects. Nascent theories of parliamentary and popular sovereignty, therefore, emerged in England to an extent not seen in Scotland. However, appeals to the people were qualified by suspicion of the abilities of unregenerate conscience. Individuals were not envisaged as acting alone but as part of a community.

Scotland's relative religious homogeneity and the influence of the kirk meant that, from the outset, conscience was contained and its latent radicalism neutralised. Casuistical arguments limited the revolutionary nature of the conflict, stressing that this was a particular case which required extraordinary actions. Appeals to the people took place in a controlled environment where rival opinions, including those of the king, were suppressed and a consensus could be constructed. The covenanters' use of the rhetoric of unanimous consent was used to legitimise their actions. When this was not feasible, the community was reframed to exclude any dissenters, though they hoped for repentance and reconciliation. Those who demurred must have some ulterior motive for doing so, or were never truly part of the community to begin with. This was possible when the number of dissenters was manageable, but as dissent grew and divisions within the covenanting movement became apparent, it became far harder to sustain. When the covenanters collectively invoked conscience as a motive for resisting the king, they were signalling that they were acting after sincere reflection, upholding a shared, public belief system and defending the religious practices of a community.

English authors recognised that the Scots' success was in large part based upon this projection of unanimity and its expression through a National Covenant. The Protestation of 1641 was an attempt to solidify support for parliament around anti-catholic sentiment. Such an appeal by parliament to the people alarmed some observers, whilst other authors recognised that the dispute between king and parliament required an adjudicator. The

outbreak of civil war in England produced complex responses to the issue of the role of individual conscience. Because the country was at war, it was impossible to replicate the covenanters' success and, indeed, the Scots' invasion and occupation of England was itself divisive. A collective conscience could not be expressed because though those who opposed the king were able to agree on what they were *against*, they were not able to agree on what they were *for*. The purity of the Scottish kirk was a powerful and unifying myth without parallel in England. Further, Charles I remained as a rival embodiment of the conscience of the commonwealth, refusing to concede as he had done in Scotland to the covenanters' demands.

For its supporters, the National Covenant was the reaffirmation of a pre-existing public conscience which individuals were pre-obliged to give their assent to, as part of a national community. This unity was both assumed and projected through the use of the first-person plural, 'we'. The public conscience envisaged by the covenanters was based on popular consensus, as constructed and maintained by the covenanting state. In England, as Walter has argued, the Protestation, framed in response to fears of a royal coup, was designed to engender an active citizenry who would come to parliament's defence. It was, then, predicated on the authority of parliament and the assumption that a conflict with the king was highly likely. To enlist the support of people, parliamentarians crafted an oath which, though taken collectively, emphasised individual responsibility and acted to differentiate as much as unite. It was in England that a radical language of individual conscience emerged, drawing on notions of Christian liberty and reflecting the dilemmas caused by the outbreak of civil war. Some began to question Charles's conscience, others to attribute greater authority to the illuminated conscience. These arguments foreshadowed the debates about toleration which emerged in the mid-1640s in England. What is clear is that the language of conscience was capable of sustaining varying justifications of armed resistance.

## 3

## Conscience, Royalists and the King

The Scottish Troubles and the outbreak of civil war in England provoked similar reactions amongst supporters of Charles I. However, as with parliamentarians and covenanters, the contexts in which these individuals found themselves shaped the arguments they made. In Scotland, many royalists and bishops were forced to flee south of the border, and those who did remain were unable to provide an effective opposition to the covenanter movement. There was only a short window during which royalist literature could be published and dispersed, and consequently the number of such pamphlets is limited. Charles's proclamations were challenged and his royal voice muted. In England, however, Charles was able to lay claim to languages of liberty and constitutionalism, defining his cause in opposition to the seemingly arbitrary power parliament was asserting for itself. A royalist party coalesced around this vision, bolstered by the instinctive loyalty of many nobles and peers. Though the parliamentarians and covenanters could draw on the familiar trope of a popish plot, royalists could equally draw on fears of a puritan conspiracy to undermine the monarchy.<sup>1</sup>

The fact that England, Ireland and Scotland shared one king means that seventeenth-century royalism has been viewed by a number of historians as essentially British.<sup>2</sup> Adherence to the crown necessarily entailed a commitment to this regnal union. Edward J. Cowan put this most forcefully when he argued that '[t]o be British was to be royalist; to be royalist was to be British'.<sup>3</sup> It is also clear that, as John Morrill has recently argued, '[f]or the king and for his supporters in each of his kingdoms, this was a single conflict in at least three theatres'.<sup>4</sup> Nevertheless, the peculiarities of the Scottish and English contexts make it hard to generalise about the royalist mindset or experience, and any identifiable 'British

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<sup>1</sup> Peter Lake, 'Anti-popery: the Structure of a Prejudice', in Richard Cust and Ann Hughes (eds), *Conflict in Early Stuart England: Studies in Religion and Politics 1603-1642* (London: Edward Arnold, 1986), 91.

<sup>2</sup> Edward J. Cowan, 'The Solemn League and Covenant', in Roger A. Mason (ed.), *Scotland and England 1286-1815* (Edinburgh: John Donald, 1987), 197; Conrad Russell, 'The Anglo-Scottish Union 1603-1643: a success?', in Anthony Fletcher and Roberts, Peter (eds.) *Religion, Culture, and Society in Early Modern Britain: Essays in Honour of Patrick Collinson* (Cambridge: Cambridge University Press, 1994), 250-52; Jane Dawson, 'The Gaidhealtachd and the emergence of the Scottish Highlands', in Brendan Bradshaw and Roberts, Peter (eds.), *British consciousness and identity: The making of Britain, 1533-1707* (Cambridge: Cambridge University Press, 1998), 298.

<sup>3</sup> Cowan, 'Solemn League and Covenant', 197.

<sup>4</sup> John Morrill, 'The English Revolution in British and Irish Context', in Michael Braddick (ed.), *The Oxford Handbook of the English Revolution* (Oxford: Oxford University Press, 2015), 568.

royalism' must by consequence be centred around a fairly minimal set of beliefs and attitudes. It must also be recognised that there were significant differences amongst and between royalists in both countries on ecclesiastical and constitutional issues.

The variety of labels which have been suggested to resolve the problem of who actually was a royalist indicates how difficult it is to agree on what criteria to include in any definition. The most recent historian of Scottish royalism, Barry Robertson, has pointed out that we lack any established framework for deciding who should be considered a royalist in Scotland. His proposed distinction between 'royalists' and 'monarchists' has merits,<sup>5</sup> but arguably the former category is too narrow and the latter too broad. Jason McElligott has defined royalists as those 'who, by thought or deed, identified himself or herself as a supporter of the king's cause and was accepted as such by other individuals who so defined themselves'.<sup>6</sup> The distinction between thought and deed is an important one, for not all those who supported the king were in a position to provide him with practical assistance. Other work on royalism has emphasised that it was not static or monolithic; that individual's loyalties depended much on contingency; and that it is perhaps more useful to think of royalism as a spectrum of belief rather than as a rigid ideological position.<sup>7</sup> With this in mind, I am interested here in the political thought of those in England and Scotland who believed that resistance to kings was unlawful. Not all the authors studied here took up arms for Charles I, but all agreed that obedience was due to the king for conscience sake.

This chapter is focused on royalist reactions to rebellion in Scotland and the outbreak of civil war in England. It is not an attempt to reconstruct 'popular royalism', which is difficult given a lack of Scottish sources, or a study of the personal crises of conscience evidenced in diaries and private writings. Given the lack of royalist sources for Scotland, I have broadened the enquiry beyond 1642 to incorporate other significant royalist tracts, including a hitherto overlooked manuscript treatise. This allows for a fuller comparison of how English and Scottish royalists understood conscience, and how it relates to constitutional and ecclesiastical issues. I have used Charles's public and private writings from across his reign to reconstruct how the king thought about conscience, as well as the

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<sup>5</sup> Robertson, Barry, *Royalists at War in Scotland and Ireland* (Farnham: Ashgate, 2014), 21.

<sup>6</sup> Jason McElligott, *Royalism, Print and Censorship in Revolutionary England* (Woodbridge: Boydell Press, 2007), 2.

<sup>7</sup> Jerrilyn Greene Marston, 'Gentry Honor and Royalism in Early Stuart England', *Journal of British Studies*, 13:1 (1973), 21-43; G. E. Aylmer, 'Collective Mentalities in mid Seventeenth-Century England: II. Royalist Attitudes', *Transactions of the Royal Historical Society*, 37 (1987), 1-30; David L. Smith, *Constitutional Royalism and the Search for Settlement, c. 1640-1649* (Oxford: Oxford University Press, 1994), 208-09; John Morrill, *Revolt in the Provinces: The People of England and the Tragedies of War, 1630-1648*, 2nd ed. (London: Longman, 1999), 68, 123; Jason McElligott and David L. Smith, 'Introduction', in Jason McElligott and David L. Smith (eds), *Royalists and Royalism during the English Civil Wars* (Cambridge: Cambridge University Press, 2007), 8, 14-15; David Scott, 'Rethinking Royalist Politics', in John Adamson (ed.), *The English Civil War: Conflict and Contexts, 1640-49* (Basingstoke: Palgrave Macmillan, 2009), 58; Robertson, *Royalists at War*, 33-37, 151, 193.

works of his father, drawing on Kevin Sharpe's important work on the subject.<sup>8</sup> My focus is on Scottish royalist writings, and this analysis is not intended as a comprehensive account of English royalist thought.

I argue that conscience was an important element of royalist writings and self-perception during this period for three main reasons. Firstly, Romans 13, which taught Christians that 'every soul be subject to the higher powers ... not only for wrath, but also for conscience sake',<sup>9</sup> was understood as imposing a duty of obedience on subjects. This was a central argument of treatises and pamphlets issued during the late 1630s and early 1640s and constitutes a significant point of consensus between Scottish and English royalists. Secondly, given Charles's repeated invocations of the concept, conscience must be seen as an integral element of royalism as a political identity. Indeed, Conrad Russell and Richard Cust argue that it was Charles's adherence to the dictates of his conscience that made him both a successful party leader and an ineffectual leader of the country.<sup>10</sup> Further, Charles's policies differed markedly in Scotland and England, and this hindered the development of Anglo-Scottish royalist thought. Finally, the relationship between conscientious obedience and the king's position as conscience of the commonwealth fed into constitutional and ecclesiastical debates. These were made more complex by the differences between the two countries, but a common language can be discerned.

I will begin by examining the importance of 'conscientious obedience' to royalists. J. P. Sommerville has argued that for anglicans obedience to the state was 'a central moral precept',<sup>11</sup> but more broadly this belief in the moral necessity of subjection can be seen as a key feature of royalist thought. This position limited the role of subjects in political affairs and challenged the arguments for resistance made by parliamentarians and covenanters. I will then analyse Charles's conceptions of conscience. That the king should function as the conscience of the commonwealth was a view articulated by both James VI and I and Charles I. Since the crown was the focal point of loyalty, the performance of conscience by the monarch was an important aspect of royalist identity, but was complicated by the problems of multiple monarchy. Finally, I will explore how these ideas related to questions about the relationship between church and state. The belief that the king embodied the collective conscience clearly had implications for the relationship

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<sup>8</sup> Kevin Sharpe, 'Private Conscience and Public Duty in the Writings of James VI and I', in John Morrill, Paul Slack and Daniel Woolf (eds), *Public Duty and Private Conscience in Seventeenth-Century England: Essays Presented to G. E. Aylmer* (Oxford: Clarendon Press, 1993), 77-100; *idem*, *Remapping early modern England: The culture of seventeenth-century politics* (Cambridge: Cambridge University Press, 2000), 175-98.

<sup>9</sup> Romans 13:1, 5 (GNV).

<sup>10</sup> Conrad Russell, *The Causes of the English Civil War: The Ford Lectures Delivered in the University of Oxford* (Oxford: Oxford University Press, 1990), 187, 210; Richard Cust, *Charles I: A Political Life* (Harlow: Pearson Longman, 2007), 355, 441, 465.

<sup>11</sup> Johann Sommerville, 'Conscience, Law, and Things Indifferent: Arguments on Toleration from the Vestiarian Controversy to Hobbes and Locke', in Harald E. Braun and Edward Vallance (eds), *Contexts of Conscience in Early Modern Europe 1500-1700* (Basingstoke: Palgrave Macmillan, 2004), 179.

between monarch, constitution and church. In Scotland, the main rival to Charles's position as the conscience of the commonwealth was the kirk, whilst in England it was the parliament. This difference coloured royalist thought, though there was still important common ground between English and Scottish supporters of the king.

### **Royalists and conscientious obedience**

Traditional ideas of obedience, honour and moderation were common to supporters of Charles I in both kingdoms. So too were fears about the consequences of parliamentary and covenanter justifications of resistance based on popular sovereignty. This flowed from a belief in the duty of obedience based on a conventional interpretation of Romans 13. This verse was widely believed to teach that obedience to rulers was a Christian duty, and that active resistance to authority could never be justified. This position was taken up by royalists in both England and Scotland and used to denounce those who justified and engaged in armed resistance to Charles I.<sup>12</sup> As John M. Wallace observes, they 'had the advantage of a plain reading of the words which did not rely on the subtleties of exposition'.<sup>13</sup> The tension between Romans 13 and Acts 5:29, where the apostles asserted that 'We ought rather to obey God than men', encapsulated the dilemmas of conscientious obedience. However, royalists writers insisted that passive obedience was still due to rulers who issued unlawful commands.

A clear exposition of this doctrine of conscientious obedience was given by John Maxwell, Bishop of Ross, in his *Sacro-sancta Regum Majestas*. He argued that obedience was a religious duty which must be 'not ... outward with eye service, but sincere for conscience sake, as in the sight of the Lord'.<sup>14</sup> Paul had made it explicit, he continued, that 'our Obedience to Kings is not arbitrary, conditional, or by compact; but necessary, and imposed upon us by God'.<sup>15</sup> Royalists generally upheld the belief that Christian liberty was the freedom to disagree over matters indifferent and accept the judgement of the magistrate in regulating outward forms of worship. Conscience was bound by external and publicly acknowledged laws and was informed not only by scripture but by the law of the land and demarcated by the individual's place in society. For example, in his defence of the Church of England, *A Remonstrance, Against Presbitery*, Thomas Aston, wrote that his liberty was dependent upon

<sup>12</sup> Henry Ferne, *The Resolving of Conscience* (Cambridge, 1642), sig. 1r-2v; Edward Fisher, *An Appeale to thy Conscience: As thou wilt answere it at the great and dreadfull Day of Christ Jesus* ([London], 1643), 2.

<sup>13</sup> John M. Wallace, *Destiny His Choice: The Loyalism of Andrew Marvell* (Cambridge: Cambridge University Press, 1968), 15.

<sup>14</sup> John Maxwell, *Sacro-sancta Regum Majestas: Or; The Sacred and Royall Prerogative of Christian Kings* (Oxford, 1644), sig. A2v.

<sup>15</sup> *Ibid.*, 190.

the preservation of Charles's 'regulated order and Legall Government'.<sup>16</sup> Within this framework, there was latitude for individuals to hold divergent views, as long as they did not threaten the peace of the commonwealth. If the magistrate became tyrannical, it was the duty of subjects to have faith and suffer rather than challenge god's ordained government. As Robert Filmer argued, 'according to the quality of the thing commanded an active or passive obedience is to be yielded, and this is not to limit the prince's power, but the extent of the subject's obedience'.<sup>17</sup> Royalists had precedent on their side: the history of Christianity, particularly the primitive church, was one of suffering, persecution and martyrdom, not armed resistance.<sup>18</sup>

The assumption that the people must give obedience to the king was tested in Scotland by the National Covenant, which was subscribed and disseminated in defiance of Charles's authority. Despite the covenanters' claims, it was not, however, subscribed universally and without opposition. In July 1638 a group of gentlemen and ministers travelled to Aberdeen to persuade the magistrates and council to sign the Covenant. They met with formidable intellectual resistance in the form of the Aberdeen Doctors, William Leslie, John Forbes, Alexander Scroggie, Alexander Ross, Robert Baron and James Sibbald. The Scottish diarist Robert Baillie noted with some surprise that until this time the covenanters had not been troubled with any writings from their opponents, either at home or from England, leaving the covenanters' assertions unchallenged.<sup>19</sup> The subsequent exchange of pamphlets between the Doctors and the covenanters Alexander Henderson and David Dickson is notable for being an uncommon example of a Scottish public print debate.

The Aberdeen Doctors devoted a section to the issue of the obedience due by subjects to authority in their *Duphyes*, citing a range of protestant theologians to demonstrate that the question was settled.<sup>20</sup> They reiterated the standard belief that though 'active obedience' was not required when the king commanded 'thinges unlawfull' the people were still subject to his laws and required to 'suffer under them'.<sup>21</sup> The Doctors argued that obedience to superiors was 'an exercise of a moste eminent and necessarie vertue' and that disobedience 'directlie procureth the peturbation and confusion of humane societie' and was therefore 'a cryme greater than the violation of other particular Præcepts of the second Table'.<sup>22</sup> Having sworn obedience to public laws, the Doctors continued, it was

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<sup>16</sup> Thomas Aston, *A Remonstrance against Presbitery* ([London], 1641), 1.

<sup>17</sup> Robert Filmer, *Patriarcha and Other Writings*, ed. J. P. Sommerville, (Cambridge: Cambridge University Press, 1991), 4.

<sup>18</sup> Henry Leslie, *A Full Confutation of the Covenant, Lately Sworne and Subscribed by many in Scotland* (London, 1638), 14; Thomas Morton, *The Necessity of Christian Subjection* (Oxford, 1643), 8; Maxwell, *Sacro-sancta*, 157.

<sup>19</sup> Robert Baillie, *The Letters and Journals of Robert Baillie*, ed. David Laing, 3 vols (Edinburgh: Bannatyne Club, 1841-42), i, 94.

<sup>20</sup> *Duphyes of the Ministers* (Aberdeen, 1638), 23-34.

<sup>21</sup> *Generall Demands Concerning the late Covenant Propounded by the Ministers and Professors of Divinitie in Aberdene* (Aberdeen, 1638), 28.

<sup>22</sup> *Duphyes*, 73-74.

their duty to continue to obey them for so long as they remained in force, rather than ‘upon private conceptions of Scandals ... to breake off our due obedience to that Authoritie which GOD hath set over us’.<sup>23</sup> They concluded that ‘It belongeth not to the People, or communitie of the Faythfull, to contemne Authoritie’.<sup>24</sup> That the people and the church both lacked the right or the means to judge the monarch was a common theme of royalist works, and of Charles’s writings. As Henry Ferne argued, it was impossible for subjects to know the king’s heart or intentions. Resistance could not, therefore, be justified on the unstable basis of what the king did or did not intend.<sup>25</sup> Since subjects could not know whether or not the king would keep his promises it was better to trust to providence than to rely on arms.<sup>26</sup>

The Doctors declared that any covenant or band of association made without the consent of the king was illegal and, even if the framers’ intentions were laudable, they could not in conscience take a covenant which bound its subscribers to mutual defence against ‘all persons whatsoever’.<sup>27</sup> They followed scholastic reasoning, citing Thomas Aquinas, in arguing that affirmative precepts bind ‘onlie as place and time requyre’. For example, a man is not obliged to speak the truth at all times, as he may remain silent, but he can never lawfully lie.<sup>28</sup> Circumstances might mean that some affirmative duties could be omitted, for example to preserve the public peace or to avoid schism.<sup>29</sup> A greater good could supersede other moral considerations, but only when they were considered to be matters indifferent or not fundamental. Negative precepts, on the other hand, could never be transgressed, and the Doctors singled out armed resistance to authority as a clear example.<sup>30</sup> Obedience was required by god for conscience sake, and rebellion could for his reason never be justified.

To take another example, William Drummond of Hawthorden, regarded as the leading Scottish poet of the seventeenth century, argued that obedience was ‘the first law of states’ without which there would be ‘a Confusion of every Thing’. Disobedience would beget more disobedience and bring about the ruin of the state.<sup>31</sup> We find similar arguments about the necessity of obedience in England. Ferne, for example, argued that obedience to higher powers was a divine command and Edward Fisher noted that this command was not qualified in any manner.<sup>32</sup> It was dangerous for royalists to admit to any exception to this

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<sup>23</sup> *Duphyes*, 122.

<sup>24</sup> *Generall demands*, 37.

<sup>25</sup> Ferne, *Resolving of Conscience*, 41, 42-44, 45, 47-48.

<sup>26</sup> *The Grand Question Concerning Taking up Armes against the King Answered* ([Oxford], 1643), 2.

<sup>27</sup> *Generall demands*, 10, 11.

<sup>28</sup> *Duphyes*, 124.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*, 127.

<sup>31</sup> William Drummond, *The Works of William Drummond of Hawthorden*, ed. John Sage and Thomas Ruddiman (Edinburgh: James Watson, 1711), 165, 166.

<sup>32</sup> Ferne, *Resolving of Conscience*, sig. 1<sup>r</sup>-2<sup>v</sup>; Fisher, *An Appeale to thy Conscience*, 2.

rule, any circumstance in which this moral duty was not binding. Ferne, though admitting that man's 'naturall inclination ... to Liberty' made it seem reasonable that subjects should have some remedy to a tyrannical government, concluded that he could find no warrant for it in scripture.<sup>33</sup> It was a common theme of royalist writings that liberty and restraint were not inimical. The *Large Declaration* contended that it was an error to think that 'libertie and limitation are destructive one of another', since freedom without bounds or limits 'is not libertie but licentiousnesse'.<sup>34</sup> Edward Symmons argued that was because untrammelled liberty was so destructive that god had established kings to rule over Israel.<sup>35</sup> For Maxwell, if all were empowered to question the laws that governed their behaviour and the rulers who exercised authority over them, there would be no end to confusion.<sup>36</sup> Of course, a belief that the common people in particular required moderation was not restricted to royalists.<sup>37</sup> The danger posed by those who advocated resistance, as royalist writers saw it, was that rebellion broke this bridle.

English royalists, like their Scottish counterparts, frequently cited Romans 13 to demonstrate that obedience to magistrates was a duty required by god.<sup>38</sup> Amongst the most famous of these was the series of tracts published by Henry Ferne, beginning with *The Resolving of Conscience* in 1642. Gordon Schochet argues that 'the resort to conscience in the Civil War debates seems to have been started' by this pamphlet.<sup>39</sup> However, Scottish royalists had made use of the language of conscience in their printed works already, most notably the Aberdeen Doctors, who had appealed to 'the Consciences of all impartiall Readers' in their first tract.<sup>40</sup> The Doctors' pamphlets were published in London, approved of by Charles and favourably cited by English authors throughout the 1640s.<sup>41</sup> That they invoked conscience in this manner speaks to the assumptions that royalists shared about

<sup>33</sup> Henry Ferne, *A Reply unto Severall Treatises Pleading for the Armes now taken up by Subjects in the pretended defence of Religion and Liberty* (Oxford, 1643), 6.

<sup>34</sup> [Walter Balcanquhall], *A Large Declaration concerning the Late Tumults in Scotland* (London, 1639), 311.

<sup>35</sup> Edward Symmons, *A Loyall Subjects Beliefe* (Oxford, 1643), 40.

<sup>36</sup> Maxwell, *Sacro-sancta*, 163.

<sup>37</sup> Shagan, Ethan, 'Beyond Good and Evil: Thinking with Moderates in Early Modern England', *The Journal of British Studies*, 49:3 (2010), 488-513.

<sup>38</sup> *An Appendix to the late Answer, Printed by His Majesties Command: Or, Some seasonable Animadversions upon the late Observator, and his seaven Anti-monarchicall Assertions* ([London], 1642), 9; *A Complaint and Petition of The whole Kingdome of England, For satisfaction of Conscience, and avoiding Rebellion* ([Oxford], 1643), 2-3; Fisher, *An Appeale to thy Conscience*, 2-3; Morton, *Necessity of Christian Subjection*, 1-2; *The Grand Question Concerning Taking up Armes against the King Answered* ([Oxford], 1643).

<sup>39</sup> Gordon Schochet, 'Persuading the Heart: Appeals to Conscience in the English Revolution', in Anthony T. Grafton and J. H. M. Salmon (eds), *Historians and Ideologues: Essays in Honor of Donald R. Kelly* (Rochester, NY: University of Rochester Press, 2001), 160.

<sup>40</sup> *Generall demands*, 5. See also: *The Declinator and Protestation of the Arch-bishop, and Bishops, of the Church of Scotland, and others their Adherents within that Kingdom: Against the Pretended General Assemblie* (Aberdeen, 1639), 16.

<sup>41</sup> Peter H. Donald, *An Uncounselled King: Charles I and the Scottish Troubles, 1637-1641* (Cambridge: Cambridge University Press, 1990), 187; Rushworth, John, *Historical Collections of Private Passages of State*, 8 vols (London: D. Browne, 1721), ii, 745-804; John Leslie, Earl of Rothes, *A Relation of the Proceedings Concerning the Affairs of the Kirk of Scotland, from August 1637 to July 1638* (Edinburgh: Bannatyne Club, 1830), 185, 186; Henry Guthry, *The Memoirs of Henry Guthry*, 2nd ed. (Glasgow: Robert Urie, 1747), 38.

the nature of the relationship between conscience and obedience. Addressing himself to ‘all Misse-led People in this Land’, Ferne argued that ‘the clear light of Divine Scripture and rectified Reason’ were ‘the onely rules of Conscience’ and that obedience to higher powers was a divine command.<sup>42</sup> It may be argued that Ferne’s appeal to the consciences of subjects reflected a faith in the reasonableness of the people, but it was rather the case that his approach was grounded in a steadfast belief that truly informed consciences would clearly perceive the unlawfulness of resistance to authority.<sup>43</sup> Other royalist authors, indeed, denied the ability of individual consciences to adjudicate between king and parliament. Spelman, for example, argued that private men were not competent judges of the state of the church or of the circumstances which could make resistance necessary.<sup>44</sup>

The centrality of religion to the exercise of royal authority and the inculcation of the duty of obedience were also emphasised by royalists from both countries. John Spelman, a moderate royalist famous for the four political tracts he published in 1642 and 1643, argued that sovereignty ‘both of the frame of the State and positive Lawes of the Kingdome’ were ‘fixed in the person of the King’ and the allegiance of the subject was assigned by law. Religion subsequently ‘fortifies, and enforces all those bonds of duty and obedience, and that under the severe menace of damnation’.<sup>45</sup> Disobedience was a mortal sin, and obedience was the fundamental basis of society, without which there could be no political community. The Scottish minister John Corbet criticised the covenanters for using the word ‘people’ rather than ‘subjects’, arguing that ‘the King and the Subjects are relative, and they are for each other’.<sup>46</sup> There could not be subjects without a king, nor a king without subjects: obedience was the fulcrum of political society.

There was also a mutual suspicion of those who claimed conscience or religion in order to justify active resistance to authority. In a speech given in 1638 in Lisnagarvey Henry Leslie, the Bishop of Down and Connor, expressed an awareness that his audience may have some sympathy with the covenanters’ arguments. It was easy to accept their claim, as he admitted he too once did, ‘that they did all out of conscience, or the least thought of disloyalty’.<sup>47</sup> This was a recognition of the rhetorical power of the covenanters’ many public declarations, which used the language of conscience and loyalty. ‘But now behold their proceedings’, Leslie continued, ‘and judge them by their fruits’.<sup>48</sup> Ferne repeatedly alleged that the parliamentarians’ concern for religion was feigned. Because Romans 13 so

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<sup>42</sup> Ferne, *Resolving of Conscience*, sig. 1<sup>v</sup>-2<sup>v</sup>.

<sup>43</sup> *Ibid.*, 4.

<sup>44</sup> John Spelman, *Certain Considerations upon the Duties both of Prince and People* (Oxford, 1642), 10, 16-18.

<sup>45</sup> John Spelman, *The Case of our Affaires, in Law, Religion, And other Circumstances briefly examined, and Presented to the Conscience* (Oxford, 1643), 17.

<sup>46</sup> John Corbet, *The Ungirding of the Scottish Armour* (Dublin, 1639), 29.

<sup>47</sup> Leslie, *Full Confutation*, 5.

<sup>48</sup> *Ibid.*

clearly required Christians to submit to their rulers, any justifications for resistance which invoked conscience must be disingenuous.<sup>49</sup>

English royalists were confident that their readers needed only to be reminded of their duties and warned of the dangers of sinning against their consciences in order to prevent further conflict. Spelman, for example, questioned whether any individual could go ‘against the thousand witnesses of his conscience’ and ‘recede from the duty which all his life, till now, hath both by Law and Christian Religion been inculcate to him’.<sup>50</sup> This reflects what might be called a descending view of conscience, in which morality largely originated in external authorities and was internalised by individuals. Where there was doubt, it was prudent to follow these established norms and traditions. As Ferne put it, ‘*In doubtful things the safer way is to be chosen; Conscience it will find cause to forbear and suffer, rather than resist*’.<sup>51</sup> Similarly, Thomas Morton, the Bishop of Durham, argued that ‘authority must turne the Scale of [a] doubting conscience, and weigh down ... judgement to Active obedience’.<sup>52</sup> The conclusion that in dubious cases the safer way was always to be chosen drew on established casuistical arguments which limited the adjudicatory role of individuals.<sup>53</sup> The burden of proof was placed on those who argued that necessity demanded resistance.

In order to reclaim the language of conscience from the covenanters, Charles sought to reveal their real motives.<sup>54</sup> The issuing of the *Large Declaration* in Scotland in 1639 as an attack on the covenanters’ invocations of conscience has been identified as a significant moment in the development of royal authority.<sup>55</sup> Authored by Walter Balcanquhal, a Scottish clergyman who had been one of James’s chaplains, it alleged that the covenanters only pretended religion and were in fact motivated by base private and material interests.<sup>56</sup> The repeated use of a theatre metaphor in the *Large Declaration* contributed to the framing of the covenanters’ movement as a front for sinister and factional motives. For Balcanquhall the Scottish Troubles were a carefully stage-managed ‘Tragedie’ in three acts.<sup>57</sup> The initial riots were decried by all, but ‘within a verie few daies’ those who had

<sup>49</sup> Ferne, *Resolving*, 38; *idem*, *Reply*, 96-97; *idem*, *Conscience Satisfied. That there is no warrant for the Armes now taken up by Subjects* (Oxford, 1643), sig. A<sup>r</sup>, 2, 7, 76.

<sup>50</sup> Spelman, *Case of our Affaires*, 22.

<sup>51</sup> Ferne, *Resolving of Conscience*, 4.

<sup>52</sup> *Ibid.*, 17; Morton, *Necessity of Christian Subjection*, 15.

<sup>53</sup> Albert R. Johnson and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley: University of California Press, 1988), 335.

<sup>54</sup> Charles I, *A Proclamation declaring those of Scotland who have entred, or shall enter this Kingdom in a Warlike manner, and their Adherents, to be Rebels and Traitors to His Majestie* (London, 1639), 3-4; *idem*, *A Proclamation and Declaration to inform Our loving Subjects of Our Kingdom of England of the seditious practices of some in Scotland, seeking to overthrow Our Regall Power under the false pretences of Religion* (London, 1639); [Francis Windebanke], *His Majesties Declaration Concerning his Proceedings with his Subjects of Scotland Since the Pacification in the Camp neere Berwick* (London, 1640), 2-3.

<sup>55</sup> Sharpe, *Remapping Early Modern England*, 145-46.

<sup>56</sup> *Large Declaration*, 1-2, 6, 11, 15, 403.

<sup>57</sup> *Ibid.*, 40.

condemned the tumultuous multitudes entered ‘upon the same Stage, repeating and acting over againe the parts of that madd Multitude’ though this time ‘the Stage you shall see a little better hanged, and the Scenes better set out, and the Play having a more specious name of Pietie and Religion’.<sup>58</sup> Finally, the nobles, gentlemen and magistrates, who had ‘hissed’ at the first ‘and seemed to dislike the second’, performed the third act.<sup>59</sup> According to Edward Hundert, the theatrical metaphor was ‘a rhetorical device employed to unmask worldly ambition and pretence’ and ‘served the traditional and essentially conservative function of recalling to individuals the fact that they are subject to the scrutiny of a higher power into whose care their souls were entrusted’.<sup>60</sup> Addressing an English audience generally more familiar with the theatre than most Scots, Balcanquhall used the metaphor to unmask the covenanters as a discontented few who had misled and exploited the people for their own private ends.

The emphasis on conscientious obedience found in English and Scottish royalist writing reflects the belief that Romans 13 imposed an absolute duty on subjects. Conscience gave the relationship between sovereign and subject a moral basis. Subjection was to be given not out of fear of civil punishment, but because it was commanded by god. Royalist feared that if this assumption was challenged, the bonds tying together all the members of the body politic would fatally loosen. The appeal to individual conscience, which we find in Scotland as well as England, therefore represented not a recognition of a role for private judgement, but the conviction that the people had been misled under pretences of religion. The effort to reveal this deception was consequently an important element of royalist propaganda and of Charles’s public declarations.

### **The king’s conscience and the public**

Kevin Sharpe has argued that both James VI and I and Charles I believed that ideally they represented the conscience of the commonwealth and that it was their duty, by example and deed, to guide their subjects towards this true conscience. Both men were aware that there were those who claimed individual conscience or who acted against their consciences, but these facts only served to reinforce the belief that the king’s role was to reconcile

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<sup>58</sup> *Ibid.*, 30-31.

<sup>59</sup> *Ibid.*, 40.

<sup>60</sup> Edward Hundert, ‘Performing the Passions in Commercial Society: Bernard Mandeville and the Theatricality of Eighteenth-Century Thought’, in Kevin Sharpe and Steven N. Zwicker (eds), *Refiguring Revolutions: Aesthetics and Politics from the English Revolution to the Romantic Revolution* (Berkeley: University of California Press, 1998), 151.

public and private consciences in his person and, if necessary, to discipline those who deceitfully went against their consciences.<sup>61</sup> The notion that government should act as the conscience of a Christian society was not new,<sup>62</sup> but in the civil wars the tension between the public and private conscience of the king was exacerbated as never before. When considering how Charles conceived of his role as the conscience of the commonwealth the political writings of his father, James VI and I, are a necessary starting point. Both *Basilikon Doron* and *The Trew Law of Free Monarchies* were written before James became king of England, and they are consequently primarily concerned with the problems he faced in his native Scotland. He was particularly keen to assert the authority of the king in a relatively decentralised state in which monarchy vied with Melvillian claims to the independence of the kirk.<sup>63</sup> However, as Ronald G. Asche has noted, the crown had few weapons to use in Scotland apart from words, and the rhetoric of absolutism did not, and could not, translate into practice.<sup>64</sup> I will begin by considering how Charles understood conscience, before going on to explore how this influenced his perception of the public, and finally, the difficulties multiple monarchy posed for the development of Anglo-Scottish royalist thought.

James articulated a standard protestant understanding of conscience in *Basilikon Doron*. It was, he wrote, ‘the light of knowledge that God hath planted in man’ and which informed the individual whether they had done right or when they had sinned.<sup>65</sup> This work was intended as a guide for the king’s son, and James emphasised that conscience had an important and particular role in the exercise of kingship. I will focus on one important aspect here: that it was to act as a bulwark against public opinion and as such could not be compelled or overruled. Kings, James wrote, were ‘publike persons ... as it were set ... upon a publike stage, in the sight of all the people’, and his subjects were only able to judge his outward actions and appearance.<sup>66</sup> The monarch should, therefore, frame his actions according to the law and make his life ‘a law-booke and a mirrour’ to his people.<sup>67</sup> This was an ideal, of course, and in practice James’s use of the written word and the set speech to establish his image of kingship served to establish a dialogue with his subjects despite his

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<sup>61</sup> Sharpe, ‘Private Conscience and Public Duty in the Writings of James VI and I’, 77-100; *idem*, *Remapping early modern England*, 175-98.

<sup>62</sup> Whitney R. D. Jones, *The Tree of Commonwealth, 1450-1793* (London: Associated University Press, 2000), 16.

<sup>63</sup> Conrad Russell, ‘Divine Rights in the Early Seventeenth Century’, in John Morrill, Paul Slack and Daniel Woolf (eds), *Public Duty and Private Conscience in Seventeenth-Century England: Essays Presented to G. E. Aylmer* (Oxford: Clarendon Press, 1993), 115-16.

<sup>64</sup> Ronald G. Asche, *Sacral Kingship between Disenchantment and Re-enchantment: The French and English Monarchies 1587-1688* (New York: Berghahn, 2014), 46.

<sup>65</sup> James VI and I, *Political Writings*, ed. Johann Sommerville (Cambridge: Cambridge University Press, 1994), 17-18.

<sup>66</sup> James VI and I, *Political Writings*, 4, 49.

<sup>67</sup> *Ibid.*, 34, 75.

claims to absolute sovereignty.<sup>68</sup> By arguing that he was subject to god's judgement alone, he sought to deny the adjuratory role of his subjects. However, by casting himself as a monarch accountable to god, as all men and women were, he incidentally provided his subjects with a means to judge him.

Although he hoped that, 'honest Actions at last will best interpret themselves',<sup>69</sup> Charles followed his father in seeking to explain his actions to his subjects. In his 1629 declaration following the dissolution of the English parliament, he asserted that he was under no obligation to justify himself, but thought it necessary to make 'the truth and sincerities' of his actions apparent, and to challenge the narrative promulgated by 'some turbulent and ill affected Spirits'.<sup>70</sup> As Sharpe argues, Charles believed that his subjects were required to trust in the word of a king, and he could not understand their failure to do so.<sup>71</sup> Though he used proclamations and declarations in an attempt to explain his actions, these were understood as authoritative statements, not opinions up for debate. In the *Eikon Basilike* Charles attacked the inclusion of ordinary people in politics, writing that they had been taught 'first to petition, then to protest, then to dictate, at last to command and overawe the Parliament'.<sup>72</sup>

However, he was to find that his actions were widely misinterpreted. In Scotland, he attempted to construct a royalist public through the authority of the word, but the covenanters left no proclamation unchallenged and usurped the king's role as the mediator of the public conscience. By early 1639 Hamilton was struggling to get the king's declarations published there.<sup>73</sup> He complained that the king's opponents 'are afraid that His Majesties good Subjects should see His clear mind through any other Glasses or Spectacles, than those they have tempered and fitted for them'.<sup>74</sup> Jerry de Groot has argued that for royalist writers the subject was 'constructed through concurrence with the law' and the king's proclamations 'legally constructed a loyal populace of Royalist sympathisers'.<sup>75</sup> However, in Scotland, rather than a 'loyal populace' being constructed, Laura Stewart has argued that it was in this dialogue between the king's declarations and covenanter proclamations that a distinctive Scottish public was created.<sup>76</sup> This represented a

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<sup>68</sup> Asche, *Sacral Kingship*, 51.

<sup>69</sup> Gilbert Burnet, *The Memoirs of the Lives and Actions of James and William, Dukes of Hamilton and Castle-Herald* (London, 1677), 325.

<sup>70</sup> Charles I, *His Maiesties Declaration to all His louing Subiects, Of the cause which moved him to dissolve the last Parliament* (London, 1629), 4.

<sup>71</sup> Sharpe, *Remapping*, 180.

<sup>72</sup> Charles I, *Eikon Basilike* (London, 1649), 14-15.

<sup>73</sup> *The Hamilton Papers: Being Selections from Original Letters in the Possession of his Grace the Duke of Hamilton and Brandon, Relating to the Years 1638-1650*, ed. Samuel Rawson Gardiner (London: Camden Society, 1880), 71, 77.

<sup>74</sup> *Records of the Kirk of Scotland*, ed. Alexander Peterkin (Edinburgh: Peter Brown, 1843), 107.

<sup>75</sup> Jerome de Groot, *Royalist Identities* (Basingstoke: Palgrave Macmillan, 2004), 28, 30.

<sup>76</sup> Stewart, *Rethinking*, 32.

fundamental challenge to Charles's belief, rooted in his father's instructions, that as king he should act as an anchor against the vicissitudes of public opinion.

For royalists, the king was essential to the well-being and proper functioning of the commonwealth. Henry Valentine, in a sermon preached on the occasion of Charles's departure for Scotland in March 1639, compared the king to the soul, animating and informing the whole collective body of the people.<sup>77</sup> He believed that the covenanters' sermons and public writings deliberately misinterpreted Charles's intentions with the aim of undermining 'both the Person and Authority of the King'.<sup>78</sup> For William Drummond of Hawthornden the 'Suspensions, Doubts, false Fears, Misrepresentations' which he witnessed thriving in Scotland came 'all from our selves, and remain amongst our selves' like mists and fog which hid the fens and mountains, but never approached 'the clear Body of the Sun, which is the Prince'.<sup>79</sup> The use of the metaphor of the king as the sun was particularly common during the Bishops' Wars: the Scots were likened to a mist which would dissipate upon encountering the presence of the king.<sup>80</sup> Such figurative language variously preserved the king as essential and unsullied by corruptions, ascribing misgovernment to other agents, poor counsel and deficient communication.

Finding his subjects taking up arms against him, Charles prayed for their forgiveness and that their hearts might be restored to their natural obedience to god and king.<sup>81</sup> He believed that god had, for a time, shut the eyes of his people, and prayed for them to be opened: it was his role as king to 'undeceive' his subjects.<sup>82</sup> Charles's desire to come to London and conclude a personal treaty was part of an effort to reclaim the public stage. In late December 1646, he wrote that any response he could make 'would be subject to mis-information and mis-constructions', concluding 'tis your King who desires to be heard'.<sup>83</sup> It was his isolation, Charles believed, which was preventing him from fulfilling his duties as conscience of the commonwealth. '[L]et Me be heard, with Freedom, Honor and Safety', he wrote in a letter left at Hampton Court, 'and I shall instantly break through this Cloud of Retirement, and shew My self really to be *Pater Patriæ*'.<sup>84</sup>

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<sup>77</sup> Henry Valentine, *God save the King* (London, 1639), 17.

<sup>78</sup> *Ibid.*, 33.

<sup>79</sup> Drummond, *Works*, 163.

<sup>80</sup> Mark Charles Fissel, *The Bishops' Wars: Charles I's campaigns against Scotland, 1638-1640* (Cambridge: Cambridge University Press, 1994), 37-38; BL Add. MS 5753, f. 23<sup>r</sup>-24<sup>r</sup>.

<sup>81</sup> Charles I, *Basilika: The Workes of King Charles the Martyr: With a Collection of Declarations, Treaties, And other Papers concerning the Differences Betwixt His said Majesty and His Two Houses of Parliament* (London: 1662), 193.

<sup>82</sup> *An Exact Collection of all Remonstrances, Declarations, Votes, Orders, Ordinances, Proclamations, Petitions, Messages, Answers, and other Remarkable Passages betwene the Kings most Excellent Majesty, and his High Court of Parliament* (London, 1643), 450; *Basilika*, 205.

<sup>83</sup> Charles I, *Basilika* (1662), 242.

<sup>84</sup> Charles I, *Basilika* (1662), 253.

Richard Cust argues that a fear of ‘popularity’ is one of the keys to understanding Charles’s policies.<sup>85</sup> This flowed from his view of his role as the conscience of the commonwealth, and shaped his conduct throughout the 1640s. The *Large Declaration* emphasised the centrality of obedience to royalist perceptions of the public. The people were variously described as ‘the multitude’, ‘a base multitude’, ‘that madd Multitude’, ‘the promiscuous and vulgar multitude’, and ‘the barbarous multitude’. They were, in this estimation, a rabble devoid of authority who had been deceived by the covenanters under pretences of religion and who were essentially uncontrollable.<sup>86</sup> On the other hand, in the same document Charles declared that ‘We, and Our Councell, and Our Judges, and the rest of Our loyal subjects are the publike’, and that: ‘mutineers and rebels are but a private and schismaticall part, though never so many.’<sup>87</sup>

There was no English equivalent to the *Large Declaration*, and Charles did not use the same explicit language about the public there. He did, however, deny the association between numerical superiority and moral authority, declaring that those who dissented from the parliament’s *Remonstrance* of 1642 were ‘in Honour, Fortune, Wisdom, Reputation and Weight (if not in number) much superior’ to its ‘Contrivers’.<sup>88</sup> The author of an English royalist pamphlet similarly argued that those who opposed the king were by definition private persons.<sup>89</sup> However, the description of the public employed in the *Large Declaration* was specifically written in response to the covenanters’ claim in a protestation issued in 1638 that the safety of the public was the supreme law.<sup>90</sup> This suggests that Charles, or Balcanquhal, may have been attempting to use the covenanters’ language against them. By making obedience central to the definition of the public, the king sought to undermine the authority the covenanters had attributed to consensus and unity. Charles instructed Hamilton after the Pacification of Berwick that ‘you will be necessitated to speak that language, which, if you were called to an account for by us, you might suffer for it’.<sup>91</sup> This was an admission that different vocabularies were being used and that he lacked the authority to interpret and impose meaning upon his Scottish subjects. The *Large Declaration* can be interpreted as another attempt at this strategy, aimed at challenging the covenanters’ claims to be the public conscience of the nation.

Charles’s insistence that his misinformed people could be reclaimed was coupled with a belief that his conscience could not be forced. Charles’s exchange of letters with the

<sup>85</sup> Cust, *Charles I*, 19-20, 24.

<sup>86</sup> *Large Declaration*, 15, 25, 29, 30-31, 35-39.

<sup>87</sup> *Ibid.*, 378 [margin note].

<sup>88</sup> *An Exact Collection*, 283-84.

<sup>89</sup> W. J., *Obedience Active and Passive Due To The Supream Power* (Oxford, 1643), 18, 24.

<sup>90</sup> *The Protestation of the Generall Assemblie of the Church of Scotland, and the Noble-men, Barrons, Gentlemen, Burrowes, Ministers, and Commons* (Edinburgh, 1639), sig. A4<sup>v</sup>.

<sup>91</sup> *Miscellaneous State Papers. From 1501 to 1726*, ed. Phillip Yorke, Earl of Hardwicke, 2 vols (London: W. Strahan and T. Cadell, 1778), ii, 142.

Scottish covenanter Alexander Henderson in 1646 provide important — and often overlooked — evidence of this position. ‘[W]hat can I expect’, the king asked, ‘if I should, not onely give way knowingly to My Peoples sinning, but likewise be perjured My self?’.<sup>92</sup> As king, he was not to confuse popularity or supposed consensus with the truth. The essential question, as Charles saw it, was whether there was any warrant in scripture for subjects to endeavour to force their king’s conscience.<sup>93</sup> This was a position he had asserted in 1642 when he declared that ‘We require no other Liberty to Our Will, then the meanest of them do ... not to consent to anything evidently Contrary to Our Conscience’.<sup>94</sup> As Edward Hyde saw it, this was the central dilemma of the civil wars: ‘that the King bee not by force compelled to any thing contrary to his conscience’.<sup>95</sup> *Eikon Basilike* was also in large part an attempt to reframe the civil wars as a conflict raised to force Charles’s conscience.<sup>96</sup> If he was to embody the conscience of the commonwealth, the king could not submit to the judgement of any, least of all his subjects.

Henderson skirted the question of whether the king’s conscience could be forced in his first response, and when pressed by Charles to address the issue he conceded that since an even erroneous conscience obliged there was no easy answer. The only solution ‘to escape out of this labyrinth’, he argued, was ‘to lay aside such a Conscience; it being part of the Old Man’.<sup>97</sup> Henderson was, in essence, suggesting that Charles’s conscience was not an illuminated one and that it was only through error that he did not recognise that that which he was urged to do was good and lawful.<sup>98</sup> Charles was unconvinced by this argument and desired Henderson to demonstrate that episcopacy was unlawful and could in good conscience be abjured. Although he thought Henderson ‘for the present, the best *Preacher* in *New-Castle*’ he still believed he could err. In the absence of any rule to judge between them when they differed ‘upon the *interpretation* of the selfe-same text’, the king held that the consent of the church fathers and practice of the primitive church offered the best rules to guide him.<sup>99</sup> He gave the same response in an exchange of papers with divines of the Westminster Assembly. In his final answer, he dismissed their attempt to provide scriptural grounds for presbyterianism because of ‘the frailties Arguments drawn from Names and Words and Conjectural Expositions of Scripture are subject’.<sup>100</sup>

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<sup>92</sup> *The Papers Which Passed at New-Castle Betwixt His Sacred Majestie and Mr Al. Henderson: Concerning the Change of Church Government* (London, 1649), 3-4.

<sup>93</sup> *Papers Which Passed at New-Castle*, 4.

<sup>94</sup> *An Exact Collection*, 253.

<sup>95</sup> Bodl. Lib. MS Clarendon 31, fos. 208<sup>v</sup>-209<sup>r</sup>, quoted in Smith, *Constitutional Royalism*, 215.

<sup>96</sup> Charles I, *Eikon Basilike*, 44, 45, 53, 138.

<sup>97</sup> *Papers Which Passed at New-Castle*, 35

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*, 54, 56, 58.

<sup>100</sup> Charles I, *Basilika: The Workes of King Charles the Martyr: With a Collection of Declarations, Treaties, And other Papers concerning the Differences Betwixt His said Majesty and His Two Houses of Parliament*, 2nd ed. (London: 1687), 636.

James VI and I had been an author of several biblical exegeses and, as Sharpe argues, portrayed himself as ‘a mediator of God’s word’.<sup>101</sup> He seems to have hoped that his son would follow a similar path, advising him that conscience must be grounded in scripture alone and that he should not rely on the opinions of other men, no matter ‘how great doctors of Diuinitie that euer they be’.<sup>102</sup> In counselling him against either believing ‘with the Papists, the Churches authority, better then your own knowledge’ or ‘to leane with the Anabaptists, to your owne conceits and dreamed reuelations’,<sup>103</sup> James figured the royal conscience as independent and subject to none but god. This tension between ecclesiastical authority and individual interpretation was central to the protestant understanding of conscience. It was more acute, however, for a king who was meant to embody the conscience of the commonwealth. By rejecting the authority of others to interpret scripture, but not claiming a particular right to do so himself, Charles struggled to embody his father’s view of kingship.

The realities of multiple monarchy also undermined Charles’s belief that he represented the conscience of the commonwealth. His pursuit of different policies in his kingdoms meant that an Anglo-Scottish public, conceived of as encompassing all obedient subjects, could not coalesce. In particular, his abandonment of episcopacy in Scotland troubled his conscience and limited the development of a coherent royalist ideology there. In a letter to Traquair in 1639, he wrote that he had allowed many things to be done in the General Assembly of that year ‘for establishing Peace, contrary to Our Own Judgment’.<sup>104</sup> The Scottish constitutional and religious revolution, which was to inspire English reforms, had largely been completed by 1641 and was premised on the assumption of an absentee and uncovenanted monarch.<sup>105</sup> Charles and some of his supporters seemed to have viewed this as a temporary setback. Colepeper argued that all of the covenanters’ demands were ‘a trifle in respect of the price of a Crown’.<sup>106</sup> Charles’s concessions to the covenanters weighed upon his conscience, but he was adamant that the abjuration of episcopacy in Scotland did not mean that it should be declared unlawful elsewhere.<sup>107</sup>

However, some royalists expressed misgivings about the situation. The Earl of Nithsdale, for example, wrote that he had believed that Charles’s policies in Scotland were designed to spread discord amongst the covenanters but that,

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<sup>101</sup> Sharpe, *Image Wars*, 20.

<sup>102</sup> James VI and I, *Political Writings*, 18.

<sup>103</sup> *Ibid.*, 18-19.

<sup>104</sup> Burnet, *Memoires*, 159.

<sup>105</sup> Allan I. Macinnes., ‘The Scottish Constitution, 1638-1651. The Rise and Fall of Oligarchic Centralism’, in John Morrill (ed.), *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1990), 106-133; John R. Young, *The Scottish Parliament 1639-1661: A Political and Constitutional Analysis* (Edinburgh: John Donald, 1996), 22-47.

<sup>106</sup> David Scott, ‘Counsel and cabal in the king’s party, 1642-46’, in McElligott and Smith (eds), *Royalists and Royalism*, 132.

<sup>107</sup> Charles I, *Eikon Basilike*, 110-11, 186.

finding episcopacy extinguished by the King's consent, and they bragging to have way given them in all their unlawful proceedings, and to have the King's authority joined by his consent to it, I think it strange, how a prince of his understanding should suffer his judgment to be so over-ruled.<sup>108</sup>

Moderate opinion in Scotland was concerned by the fact that the Glasgow Assembly had declared episcopacy unlawful, rather than merely removing it.<sup>109</sup> The abjuration of episcopacy had a wider significance, implying that it was unlawful everywhere, not just in Scotland. As Sir James Douglas expressed it in a letter to Francis Windebank: 'Episcopacy orthodox in England, heretical in Scotland. Lord God have mercy on my soul!'<sup>110</sup> That Charles was eventually forced to sacrifice episcopacy in Scotland is a reflection both of his dramatic lack of authority there and the fact that his smaller and poorer northern kingdom mattered less than England. Necessity had compelled Charles to act pragmatically, and perhaps duplicitously as well, damaging his position as the conscience of the commonwealth and undermining his place as a monarch worthy of honour. In obedience to his sovereign, Hamilton later confessed, he had 'strained my conscience in some points'.<sup>111</sup>

It was widely recognised that Scotland and England were different and presented particular problems for conscience. Bishop Hall, for example, contrasted the English and Scottish reformations and attributed to the latter's perceived popular roots the current troubles.<sup>112</sup> It was also the case that ignorance of Scottish affairs was widespread. Edward Hyde, for example, wrote that 'there was little curiosity either in the court or country to know anything of Scotland or what was done there'.<sup>113</sup> At the negotiations at Ripon in 1640 Hamilton noted that whilst the Scots were 'well versed in their laws' the English lords were not.<sup>114</sup> Even the king, according to Spalding, 'wes not weill acquent with our Scottis lawies'.<sup>115</sup> Similarly, the Scottish commissioners were warned by Charles not to meddle in English affairs because they had 'not the Knowledge of the Lawes and Policy' of

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<sup>108</sup> *CSPD*, 1639, 464.

<sup>109</sup> David Stevenson, *The Scottish Revolution 1637-1644: The Triumph of the Covenanters* (Newton Abbot: David & Charles, 1973), 125, 126.

<sup>110</sup> *CSPD*, 1639, 454.

<sup>111</sup> Yorke, *State Papers*, ii, 113.

<sup>112</sup> Joseph Hall, *Episcopacy by Divine Right Asserted* (London, 1640), pt. 1, 21-22.

<sup>113</sup> Edward Hyde, Earl of Clarendon, *The History of the Rebellion and Civil Wars in England Begun in the Year 1641*, ed. W. Dunn Macray, 6 vols (Oxford: Clarendon Press, 1849), i, 145-46.

<sup>114</sup> Yorke, *State Papers*, ii, 239.

<sup>115</sup> Spalding, John, *Memorialls of the Troubles in Scotland and in England, A.D. 1624-A.D. 1645*, (Aberdeen: Spalding Club, 1850-51), i, 345.

England.<sup>116</sup> These practical differences limited the formation of a ‘British’ or ‘Anglo-Scottish’ royalist ideology, though they were united on broad principles.

If there was a British royalism, it had to be centred on the person and authority of the king. In his declaration to his English subjects in 1639, Charles argued that the question at stake in Scotland ‘is not now, whether a Service Book to be received or not; nor whether Episcopal government shall be continued, or Presbyteriall admitted, but whether We are their King or not’.<sup>117</sup> Here we can see the articulation of a minimal British royalism. By reframing the conflict in this manner, Charles sought to reduce the complexities of the situation to a simple clash between those opposed to kingly authority and those who supported it. For an English audience largely ignorant of Scottish history and laws this approach simplified the debate to one of obedience or disobedience. While this might have been effective in England, in Scotland disobedience to the king’s commands carried few penalties. Charles’s proclamation that he liberated and freed his subjects from obedience to and censure from the Glasgow Assembly could not be put into practice. Nor could his threat to punish those who interpreted the confession of faith in a contrary manner to that which he had authorised.<sup>118</sup>

Smith argues that honour and conscience were not only royal attributes to be defended but also motives which inspired adherence to the king.<sup>119</sup> English royalists, Daly contends, looked to the king to ‘maintain, symbolise, perhaps even sacralise their hierarchical society’.<sup>120</sup> Charles certainly fulfilled a similar role for Scottish royalists. Following his imprisonment for refusing to take the National Covenant, George Gordon, Marquis of Huntly, is reputed to have declared: ‘I stand before you a prisoner, accused of *Loyalty* ... You may take my Head from my shoulders, but not my Heart from my Sovereigne’.<sup>121</sup> There is also evidence that Charles’s commitment to defending episcopacy in England inspired Scottish royalists as well as English ones. A 1647 tract ascribed to James Graham, 1st Marquess of Montrose, for example, lauded Charles’s commitment to his English coronation oath as evidence of the king’s moral uprightness.<sup>122</sup> These public pronouncements of loyalty suggest the importance of performance to royalist identity. However, the construction of a British royalism was complicated by the fact that obedience to the king meant different things at different times. Charles, humiliated by the Bishops’ Wars, was forced to concede to the covenanters’ demands and their programme of

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<sup>116</sup> NRS, PA 13/1/28.

<sup>117</sup> Charles I, *Proclamation and Declaration*, 3.

<sup>118</sup> James Hamilton, Marquis of Hamilton, *His Majesties Proclamation in Scotland: with an Explanation of the Meaning of the Oath and Covenant* (London, 1639), 11, 13.

<sup>119</sup> Smith, *Constitutional Royalism*, 210.

<sup>120</sup> James W. Daly, ‘The Implications of Royalist Politics, 1642-1646’, *The Historical Journal*, 27:3 (1984), 755.

<sup>121</sup> George Gordon, Marquess of Huntly, *The Character of a True Subject* (London, 1640); *idem*, *Reply*, 4.

<sup>122</sup> *The Scotch Souldiers Speech Concerning the Kings Coronation-Oath* ([London], 1647), 1-15.

religious and civil reform was enshrined in law. Scottish royalists, then, learned early on that principle must sometimes be sacrificed to pragmatism.

The vision of kingship presented by James VI and I in his political writings was centred on the performance of conscience. It was through example and deed that the monarch was to guide his subjects; he was not to be guided by them. However, Christopher Tilmouth makes the point that the king's conscience was by shaped the public gaze as much as he shaped his subjects' consciences.<sup>123</sup> Living on a public stage meant that Charles's actions were scrutinised and his intentions misconstrued. The authority of his word was not enough to construct a loyal populace in Scotland, and his attempt to define who constituted the public was a reaction to the covenanters' success. He questioned Henderson's biblical exegesis, but did not provide his own, undermining his position as conscience of the commonwealth. Though an emphasis on the integrity of his own conscience inspired his supporters in both countries, his policies hampered the development of a truly Anglo-Scottish royalism.

### **Episcopacy, parliament and absolutism**

The issue of episcopacy cannot be separated from debates about the constitution and the king's place in it. For both English and Scottish royalists at the heart of the issue was whether or not episcopacy could be abjured in defiance of the king. The fundamental question was where authority lay, both in the church and the state. However, the dynamics of church-state relations were historically quite different in Scotland. As Alan MacDonald puts it, the kirk 'felt it had the right to act as the state's spiritual conscience, while the king believed that he had the right to intervene in any ecclesiastical matters which particularly concerned him'.<sup>124</sup> The tussle was, at its heart, over who was the conscience of the commonwealth: the church or the king. In England, however, this struggle played out between parliament and monarch. I will begin by outlining the role of bishops in Scotland's constitution, before arguing that Scottish royalists were more concerned to attack presbyterianism than defend episcopacy. In England, on the other hand, royalist writings were centred on the dangers posed by parliament's claim to legislative sovereignty. Finally, I will suggest that absolutism represented a key shared language, focusing on a recently discovered Scottish manuscript.

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<sup>123</sup> Tilmouth, 'Shakespeare's open consciences', 502.

<sup>124</sup> Alan R. MacDonald., *The Jacobean Kirk, 1567-1625: Sovereignty, Polity and Liturgy* (Ashgate: Aldershot, 1998), 40.

It was Charles's attempt to increase the powers of the bishops that had provoked widespread opposition in Scotland.<sup>125</sup> Suspicion of the bishops was in large part motivated by the fear that they threatened the polity by undermining the two main counterweights to the central authority of the crown: the kirk and the nobility. In this view, as Williamson argues, two-kingdoms presbyterianism 'did not menace the Scottish polity, but underwrote it'.<sup>126</sup> Several sixteenth-century Scottish political thinkers had ascribed to the estates a particular role in checking the abuses of a tyrannical ruler, a function which the inclusion of bishops in parliament was perceived to challenge. There was controversy, as in England, about who constituted the estates, but the term 'three estates' had first been used in the 1350s, referring to the nobility, barons and representatives of the burghs.<sup>127</sup> However, the nobility dominated the privy council, the parliament and the conventions to such an extent that none of these institutions came to develop a similar level of self-awareness as the English parliament.<sup>128</sup>

James VI and I had been particularly keen to counter the Melvillian theory of church-state relations. His assumption of the English throne offered possibilities to promote episcopacy, and Michael Mendle argues that the congruity between the English and Scottish churches which James VI and I sought above all, was 'conformity in acknowledging the royal supremacy'.<sup>129</sup> He identifies James's insistence that the bishops were an estate of parliament as an extension of an anti-presbyterian policy originating in Scotland and argues that this constitutional position was to hold sway in England until the early 1640s. It was only when parliamentary writers abandoned the positions to deny the king a legislative role that it was adopted by the king's supporters and famously articulated in the *Answer to the XIX Propositions*.<sup>130</sup>

The defence of episcopacy was linked to that of stable government, social order and the rule of law.<sup>131</sup> The rule of bishops was seen as necessary to the exercise of royal authority by many of the king's supporters. Edward Hyde argued that since the clergy 'have an extraordinary influence upon the people' there had to be a way to govern the clergy, and

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<sup>125</sup> Stevenson, *Scottish Revolution*, 23.

<sup>126</sup> Arthur H. Williamson, *Scottish National Consciousness in the Age of James VI: The Apocalypse, the Union and the Shaping of Scotland's Public Culture* (Edinburgh: John Donald, 1979), 84, 87, 88, 134-35.

<sup>127</sup> J. H. Burns, *The True Law of Kingship: Concepts of Monarchy in Early Modern Scotland* (Oxford: Oxford University Press, 1996), 69, 211, 288-89; *idem*, 'Institution And Ideology: The Scottish Estates And Resistance Theory' (Paper, History of Political Thought seminar, Institute of Historical Research, 1997), <<http://sas-space.sas.ac.uk/4626/>> [21 May 2014].

<sup>128</sup> Roger Mason, 'Rex Stoicus: George Buchanan, James VI and the Scottish Polity', in Dwyer, John, Roger A. Mason and Alexander Murdoch (eds), *New Perspectives on the Politics and Culture of Early Modern Scotland* (Edinburgh: John Donald, 1982), 25.

<sup>129</sup> Michael Mendle, *Dangerous Positions: Mixed Government, the Estates of the Realm, and the Answer to the six propositions* (Alabama: University of Alabama Press, 1985), 97.

<sup>130</sup> Charles I, *His Majesties Answer to the XIX Propositions of Both Houses of Parliament* (London, 1642); Mendle, *Dangerous Positions*, 3, 41, 64, 111, 127.

<sup>131</sup> Scott, 'Rethinking', 59-60.

this could only be done with bishops.<sup>132</sup> Charles's claim to be the conscience of the commonwealth rested on an episcopalian system of which he was the supreme head. In 1645 he argued that the church's authority was so bound up with his own that the two could not be separated. For that reason, he wrote, his predecessors had been careful 'to keep the dependency of the Clergy intirely upon the Crown; without which it will scarcely fit fast upon the King's Head'.<sup>133</sup> Not all royalists shared this view, with some adopting a more pragmatic position and arguing that royal authority was dependent on the sword. On the assumption that Scotland could eventually be regained for the king, they believed that the temporary abandonment of episcopacy was a price worth paying.<sup>134</sup>

In Scotland, however, royalists generally held that the authority of crown was in large part moral and reliant upon the pulpit. In a letter to the Archbishop of Canterbury, a group of Edinburgh baillies complained that 'such things' have been 'suggested to our poor ignorant people' by the ministers and laymen who had gathered in the city that 'they have razed, what we by great and continuall pains had imprinted in their minds'.<sup>135</sup> Henry Guthry was concerned that the covenanters sought to consolidate their hold over the universities by appointing sympathetic professors and so raise a new generation of covenanter ministers through whom the people of Scotland would be controlled.<sup>136</sup> The *Large Declaration* singled out ministers as the prime movers of discontent, the 'common people' being 'well perswaded of the pietie of their Preachers' and their sermons working 'so strongly with Our good but simple and seduced people'.<sup>137</sup> It mocked the inclusion of lay elders in the Glasgow Assembly, observing that if he had attended the Assembly, he would have had no more power 'then *Thomas Patterson* a Taylor of Edinburgh had, who sate Commissioner there'.<sup>138</sup> That 'every illiterate person should be able to be a judge of faith and religion' was, he later argued, 'ridiculous', but 'very convenient and agreeable' to the covenanters' disposition, 'for by that means they might chuse their own religion'.<sup>139</sup>

However, it is arguable that Scottish royalists were not as wedded to episcopacy as their English counterparts. The Aberdeen Doctors believed that episcopacy and presbyterianism could both be warranted by scripture and that the form of church government was a matter of convenience. If ceremonies were not explicitly condemned in scripture, they might be allowed. They sought unity of faith in all substantial points and worried about the implications of bitter public disputes about things indifferent. What they resisted was the

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<sup>132</sup> *Clarendon State Papers*, ii, 365-66.

<sup>133</sup> Charles I, *Basilika* (1662), 324-25.

<sup>134</sup> Scott, 'Rethinking', 58-59; *idem*, 'Counsel and cabal', 132.

<sup>135</sup> *Large Declaration*, 29.

<sup>136</sup> Guthry, *Memoirs*, 63.

<sup>137</sup> *Large Declaration*, 183-84.

<sup>138</sup> *Ibid.*, 306.

<sup>139</sup> *Miscellaneous State Papers*, 136.

covenanters' usurpation of the king's authority and the threat the National Covenant posed to consciences.<sup>140</sup> William Drummond thought it was not worth shedding Christian blood for either presbyterianism or episcopacy.<sup>141</sup> When Robert Leighton, the archbishop of Glasgow, wrote in defence of the reestablishment of episcopacy at the Restoration of Charles II it was for 'moderate episcopacy', which included elements of presbyterianism.<sup>142</sup>

For many Scottish royalists, it was the presbyterianism of the covenanters which threatened the commonwealth by challenging the authority of the king. Henry Leslie, for example, argued that a dislike of episcopacy had turned to contempt, which led to disobedience and finally to rebellion.<sup>143</sup> This description of the widening of covenanter grievances and escalation into violence was not inaccurate, but Leslie was more concerned to condemn the consequences of his opponents' doctrines than to defend episcopacy.<sup>144</sup> He drew parallels between ecclesiastical and secular government to bring into question the ambitions of the covenanters. He claimed that the presbyterians preferred 'the government of Geneva' to the Church of England, but pointed out that Geneva was a republic and 'being popular, could brook no other government of the Church, but that which is popular'.<sup>145</sup> Leslie believed that the presbyterians would introduce a new despotism: kings, instead of being under one pope, 'must be subject unto a thousand'.<sup>146</sup>

Such comparisons were not confined to Scottish royalist writings. Joseph Hall's defence of episcopacy, for example, though clearly not written for a Scottish audience — Scotland was described as a 'fagge-end of the world' and a 'mole-hill' — repeated the common royalist trope of linking presbyterianism to democracy.<sup>147</sup> However Scottish royalists' critiques were more precisely focused on the covenanters' tactics and their theories of popular consent and the implications these had for monarchical authority and liberty of conscience. The Aberdeen Doctors objected 'to a Covenant produced by those who resisted the Perth Articles on conscientious grounds but not leaving liberty of conscience to others'.<sup>148</sup> *The Declinator and Protestation of the Arch-Bishop, and Bishops, of the Church of Scotland*, shortly before they were deposed by the Glasgow Assembly, criticised their opponents for 'averring That all *Authoritie Soveraygne*, is *Orginallie* in the *Collective bodie*, derived from thence to the Prince' and that the people could consequently refuse

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<sup>140</sup> *Generall Demands*, 3, 5, 16, 27; *Duphes*, 150, 154, 155; David Stewart, 'The "Aberdeen Doctors" and the Covenanters', *Records of the Scottish Church History Society*, 12, pt. 1 (1984), 44.

<sup>141</sup> Drummond, *Works*, 180.

<sup>142</sup> Robert Leighton, *The Whole Works of Robert Leighton, D. D. Archbishop of Glasgow* (Edinburgh: Thomas Nelson, 1837), 637-39.

<sup>143</sup> Leslie, *Full Confutation*, 5-6.

<sup>144</sup> Stevenson, *Scottish Revolution*, 23, 85, 300.

<sup>145</sup> Leslie, *Full Confutation*, 5.

<sup>146</sup> *Ibid.*

<sup>147</sup> Hall, *Episcopacy by Divine Right Asserted*, pt. 1, 25, 27-28; pt. 2, 7-8; pt. 3, 3, 35.

<sup>148</sup> G. D. Henderson, *The Burning Bush: Studies in Scottish Church History* (Edinburgh: Saint Andrews Press, 1957), 77.

obedience to the king.<sup>149</sup> Charles, like his father, was equally concerned about the implications of presbyterianism for his authority. Indeed, in a letter to Henrietta Maria, he admitted that ‘a congregation of men that hath form and calls themselves a church disagrees less with my conscience than the Presbyterians’.<sup>150</sup>

In England, on the other hand, there was a particular focus on the dangers posed by parliament’s assumption of power. In his response to Parker’s *Observations* Spelman put forward the common royalist argument that a parliament without the presence of the king was ‘not truly a Parliament’.<sup>151</sup> This meant that it had no power to act unilaterally and no authority over subjects. The author of *A New Creed* argued that whilst the 1640 parliament had been ‘lawfull and consciencious’ he denied that the present parliament had ‘any power obligatory to binde the Conscience of any Subject, to yeeld either active or passive obdience’.<sup>152</sup> For Spelman, only the king, Lords and Commons in conjunction represented the whole kingdom. He sounded the alarm over the assumption of power by the Commons alone, fearing that subjects would be forced to ‘subjugate our understandings and opinions to whatsoever they already have or hereafter shall declare’.<sup>153</sup> In response to the common parliamentary refrain that the judgement of many was to be preferred over the arbitration of one, he observed that committees too could exercise tyranny, giving the example of the Council of Trent. He warned of the dangers to laws, liberties and lives posed by the tyranny of a parliamentary majority.<sup>154</sup>

Ferne bemoaned the fact that ‘so many good people’ were ‘carried away by a strange implicate faith to believe, that whatsoever is said or done in the name of a Parliament, and in the pretended defence of Religion, Liberties, Laws, to be infallibly true, and altogether just’.<sup>155</sup> The author of another reply to Parker’s *Observations* who argued that the people could use force to regain their liberty was dangerous to all forms of government. What would happen if the majority of the people wanted to convert to Islam, or become anabaptists or Brownists? Could the people not withdraw the power they had granted to parliament and exercise it themselves?<sup>156</sup> Though he affirmed ‘the Justice and Wisedome of Parliaments’ they were not, he argued, ‘the Universall, unerring and unpervertibly just body of the Kingdome’ and could exercise arbitrary government.<sup>157</sup> Further, the king had no

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<sup>149</sup> *The declinator and protestation*, 12.

<sup>150</sup> Charles I, *Charles I in 1646: Letters of King Charles the First to Queen Henrietta Maria*, ed. John Bruce (London: printed for the Camden Society, 1856), 27.

<sup>151</sup> Spelman, John, *A View of a Printed Book intituled Observations upon his Majesties Late Answers and Expresses* (Oxford, 1642), 5.

<sup>152</sup> *A New Creed. Consisting of XII. Articles for every true Protestant and Loyall Subject within the three Kingdomes of England, Scotland and Ireland to make Profession of* ([London], 1642), 5.

<sup>153</sup> Spelman, *View of a Printed Book*, 24, 25.

<sup>154</sup> *Ibid.*, 37.

<sup>155</sup> Ferne, *Resolving of Conscience*, 1.

<sup>156</sup> *An Appendix to the late Answer*, 10-11, 22.

<sup>157</sup> *An Appendix to the late Answer*, 13-14, 15, 20.

power to destroy the kingdom by himself: he would require the support of the majority of the people and would, therefore, by the Observator's logic, possess sovereignty.<sup>158</sup> Similarly, Ferne argued that once the people had been taught that they had a right to reclaim their original power they would be wont to do so again if and when parliament encroached upon their estates and liberties.<sup>159</sup>

While Scottish and English royalists emphasised different threats to Charles's authority, they were equally concerned that the king's position in the commonwealth needed to be defended from internal rivals. In England, this effort produced the *Answer to the XIX Propositions*, written by the moderates Sir John Colepeper and Lucius Cary, Viscount Falkland. It has been identified as the key text of 'constitutional royalism'. The usefulness of the term is disputed, but Glenn Burgess has argued that in essence the ideas known collectively as constitutional royalism sought to reconcile the principles that sovereign kings were not accountable to their subjects and that kings were obliged to respect the rule of law.<sup>160</sup> The *Answer* advocated a mixed and balanced constitution and repeated warnings about the House of Commons assuming an arbitrary power.<sup>161</sup> Allan Macinnes has argued that the 1640 Cumbernauld Band anticipated the position of the constitutional royalists in England by advocating 'the maintenance of a constitutional equilibrium' in which parliament would act as a safeguard rather than a permanent check on the monarchy.<sup>162</sup>

However, there is a more striking similarity between English and Scottish royalists: their use of absolutist ideas. According to Sommerville, absolutist thinkers, 'held that the prince is accountable to God alone for his actions within his realm, that his commands ought to be obeyed by his subjects provided that they do not conflict with divine positive or natural law, and that he ... ought never to be resisted actively by his subjects'. Sommerville takes umbrage with a revisionist redefinition of absolutism which renders even figures such as Bodin constitutionalists.<sup>163</sup> This shared vocabulary stemmed in part from the beliefs that monarchy had a moral foundation and that Romans 13 required conscientious obedience from subjects.

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<sup>158</sup> *Ibid.*, 22.

<sup>159</sup> Ferne, *Conscience Satisfied*, 74-75.

<sup>160</sup> Glenn Burgess, 'Royalism and Liberty of Conscience in the English Revolution', in John Morrow and Jonathan Scott (eds), *Liberty, Authority, Formality: Political Ideas and Culture, 1600-1900: Essays in Honour of Colin Davis* (Exeter: Imprint Academic, 2008), 11.

<sup>161</sup> *The Struggle for Sovereignty: Seventeenth-Century English Political Tracts*, i, ed. Joyce Lee Malcolm (Indianapolis: Liberty Fund, 1999), 155, 167-68.

<sup>162</sup> Allan I. Macinnes, *The British Revolution, 1629-1660* (Basingstoke: Palgrave Macmillan, 2005), 137.

<sup>163</sup> J. P. Sommerville, 'Absolutism and royalism', in J. H. Burns, and Mark Goldie (eds), *The Cambridge History of Political Thought 1450-1700* (Cambridge: Cambridge University Press, 1991), 348-49.

The ‘Letter about the soveraigne and supreme power’ has until now been seen as the most novel articulation of royalist political theory in Scotland.<sup>164</sup> Robert Wodrow ascribed it to Montrose, an attribution followed by subsequent historians until David Stevenson demonstrated convincingly that it was more than likely the work of Archibald, first Lord Napier. Stevenson argues that the Letter was essentially a summary of Jean Bodin’s *Six Books of the Commonwealth*, and places it within the context of French influence on Scottish political thought. He argues that its absolutism made it unsuitable as a propaganda piece and so it was rejected by the Plotters.<sup>165</sup> However, a hitherto overlooked political treatise held in the Laing collection and catalogued under the title ‘Observations on the Divine Right of Kings’ bears a striking resemblance to the Letter in both subject matter and form. If Napier is indeed the author, as seems likely, this manuscript sheds important new light on his political thought and the influence of Bodin in Scotland. Internal evidence suggests it was composed sometime after 1643, at least two years after the Letter was written, and possibly before or around Montrose’s uprising in April 1644. It seems probable that the ‘Observations’, like the Letter, was intended for circulation amongst the largely familial circle centred on Napier’s brother-in-law Montrose. Although the ‘Observations’ is written in a singular voice, we cannot discount the possibility that it was the work of more than one author. At points, it echoes Drummond’s *Irene*, which was also circulated in manuscript amongst sympathetic friends.<sup>166</sup> The ‘Observations’ may provide further evidence of the importance of scribal communities and manuscript circulation amongst royalists living under the covenanting regime of the 1640s.<sup>167</sup> It is also possible that the ‘Observations’ was intended to be published to support Montrose’s royalist uprising (1644-45) given that we know he actively sought monarchist propaganda to accompany his military efforts.<sup>168</sup>

As a work of political philosophy, the ‘Observations’ lacks any real originality. It is one of a number of Scottish political texts directly or indirectly influenced by Bodin. William Drummond and John Maxwell both emphasised the obligation of obedience in order to avoid chaos, and Samuel Rutherford drew on Althusius’s interpretation of Bodin.<sup>169</sup> On the question of the government of Scotland, the Aberdeen Doctors simply referred to James’s

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<sup>164</sup> NLS, Wodrow MSS, Quarto XL, no. 2 fos. 3r-5v. See David Stevenson, ‘The “Letter on Sovereign Power” and the Influence of Jean Bodin on Political Thought in Scotland’, *The Scottish Historical Review*, 61 (1982), 25-43.

<sup>165</sup> Stevenson, “‘Letter on Sovereign Power’”, 25-43.

<sup>166</sup> In particular, the phrases ‘The pretext for the cause, the mask for the face’ and ‘is lick the Camell that cannot drink the water till he first trubl it’ (La.III 737, 2-3, 35) echo similar wordings in Drummond’s *Irene*: ‘like Camels, refuse to drink but in troubled Waters’ and ‘take the Shadow for the Body, the Mask for the Face, the Smoke for the Fire, Lies for Verity, Verity for Lies’ (Drummond, *Works*, 167, 168).

<sup>167</sup> R. Scott Spurlock, ‘State, Politics, and Society in Scotland, 1637-1660’, in Michael Braddick (ed.), *The Oxford Handbook of the English Revolution* (Oxford: Oxford University Press, 2015), 465.

<sup>168</sup> Drummond, *Works*, 157.

<sup>169</sup> Stevenson, “‘Letter on Sovereign Power’”, 35, 41-42.

*True Law of Free Monarchies* and declared that the king had no superior.<sup>170</sup> The author of the ‘Observations’ joined together the widespread belief in the great chain of being with Bodin’s secular concept of sovereignty. He wasn’t even the first Scot to do so: two Gallicised Scots, Adam Blackwood and William Barclay, had done so in the sixteenth century.<sup>171</sup> A Bodinian view of sovereignty as indivisible is found in a range royalists works by English authors such as Henry Hammond, John Spelman and Thomas Hobbes.<sup>172</sup> Few, however, adopted Bodin’s theory of sovereignty in such a wholesale manner as the ‘Observations’.

The author of the ‘Observations’ condemned the exclusion of ministers from the Scottish parliament, where they had been the third estate, and the subsequent elevation of the commissioners of the shires to replace them. This had unbalanced the polity, he claimed, and would lead to the oppression of the common people.<sup>173</sup> This mirrors the fears of the covenanters that it was the bishops who, being dependent on the king, undermined the independence of the parliament. The ‘Observations’ argued instead that the danger came from the domination of the parliament by the nobility. The ‘Observations’ is also notable for its anti-clericalism, attacking some young ministers ‘as mear pedants, without all practicall knowlidg’, and accusing divines of twisting and misinterpreting scripture. This attack on the meddling of covenanter ministers contrasts with the role ascribed to bishops, who, being ‘religious, wise and learned’, did not interfere with state affairs.<sup>174</sup> The role of parliaments was only to advise the king; it was the monarch alone who gave laws their force.<sup>175</sup>

It is also significant in that the ‘Observations’ is largely secular. With the notable exception of George Buchanan’s *De jure regni apud Scotos*, early modern political thought was characterised by the routine citation of scripture.<sup>176</sup> Napier, however, based his ‘positive groundes of governement’ on ‘that littell experience I have in princes affairs’, along with natural reason and history. His basic political premise was that in a monarchical state god placed sovereignty immediately in the person of the king, and this sovereignty was

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<sup>170</sup> *Duplyes*, 107.

<sup>171</sup> Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols. (Cambridge: Cambridge University Press, 2010), ii, 301; J. W. Allen, *A History of Political Thought in the Sixteenth Century* (London: University Paperbacks, 1961), 377-78, 386-393.

<sup>172</sup> Spelman, *Certain Considerations*; *idem*, *Case of our Affaires*; Henry Hammond, *Of Resisting the Lawfull Magistrate under Colour of Religion* (London, 1643); Thomas Hobbes, *De Corpore Politico. Or the Elements of Law, Moral & Politick* (London, 1650); J. H. M. Salmon, ‘The Legacy of Jean Bodin: Absolutism, Populism or Constitutionalism?’, *History of Political Thought*, 17:4 (1996), 518; Glenn Burgess, ‘Bodin in the English Revolution’, in Lloyd, Howell A. (ed.), *The Reception of Bodin* (Leiden: Brill, 2013), 387-407.

<sup>173</sup> La.III 737, 54.

<sup>174</sup> *Ibid.*, 4.

<sup>175</sup> *Ibid.*, 55-56.

<sup>176</sup> Martin Dzelzainis, ‘Anti-monarchism in English Republicanism’, Van Gelderen, Martin and Quentin Skinner (eds.), *Republicanism: A Shared European Heritages*, 2 vols (Cambridge: Cambridge University Press, 2002), i, 36.

inalienable, incommunicable and indivisible. Resistance was unlawful because it was against god's express prohibition in Romans 13. Echoing Ferne's appeal to individual conscience, the reader was challenged to 'lay aside all passion, prejudice and pa[r]tiality' and consider that god had not given 'the least ... shadow of warrand or countenance to resist soveraigne princes by armes for any cause whatsoever'.<sup>177</sup>

England was repeatedly used in the 'Observations' to warn of the dangers of rebellion. England's example showed that resistance would lead to civil war and the needless shedding of protestant blood. Scottish constitutionalism, if we can take this document as evidence of it, was arguably shaped more by the example of England than of Scotland. Indeed, though he speaks of Scotland as 'our nation', The author appears to have envisaged a British audience for this treatise.<sup>178</sup> He argues that it was the questioning of sovereignty which led to the breakdown of order in both kingdoms, and posits a Bodinian absolutism as the resolution to this conflict. He does not engage in any great depth with the constitutions of either nation and conflates and simplifies the grounds of resistance to Charles I. Sovereignty is discussed largely separate from its form. As in the king's declaration, the issue was fundamentally one of obedience and disobedience. 'A subject doth not obey lawes for the reason or equity that is in them for then reason being doubtfull he wer not to obey who thinkes it unreasonable. Bot he doeth obey because it is the command of the soveraigne who will judge & punish him if he disobey'.<sup>179</sup> Like Drummond, Napier argued that to question authority or to doubt its lawfulness would lead to the unravelling of the state.

In both England and Scotland conscience was seen both as integral to the functioning of authority and as central to the limiting of that authority. For Ferne 'the restraint of a limited Monarch is Legall and Morall, nor forcible and military'. Laws and oaths were 'not a vaine limitation of Government' but bound 'the conscience of the Monarch ... more powerfully, then by a contrary power or force in the people'.<sup>180</sup> Scottish royalists made similar arguments. John Corbet, for example, wrote that the king's power was not absolute and unlimited 'in respect of God ... but in respect of men'.<sup>181</sup> It is important to recognise the limits that god and conscience were understood to put on the power of the king. Though the king was to act as the final arbiter, he was not to act arbitrarily. A pamphlet entitled *A Petition to the People*, and subtitled 'For a Christian and unbloudy Decision of Cases of Conscience', admonished those who did not trust god 'with regulating the heart

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<sup>177</sup> La.III 737, 5, 26, 84 [i.e 74].

<sup>178</sup> *Ibid.*, 66.

<sup>179</sup> *Ibid.*, 60-61.

<sup>180</sup> Ferne, *A Reply*, 93.

<sup>181</sup> Corbet, *Ungirding of the Scottish Armour*, 18-19.

of the King', perhaps a reference to the critiques of the king in radical and parliamentary tracts.<sup>182</sup>

This absolutism relates to a conception of conscience that prioritised stability over individual scruples and gave the civil magistrate latitude to make an authoritative judgement in doubtful cases. If the sovereignty of the civil magistrate was divided or questioned, there could be no basis for a public conscience and consequently no lasting peace. Hammond, for example, argued that law was the only rule of conscience, and therefore accorded the lawgiver power to determine matters indifferent. Where there was uncertainty, the authority of the civil magistrate was sufficient to supersede any doubts.<sup>183</sup> Hobbes, meanwhile, argued in *The Elements of Law* that 'where every man is his own *Judge*, there properly is no Judge at all', and that 'if every man were allowed this Liberty of following his Conscience ... they would no live together in peace an hour'. In part because of this, he reasoned that an indivisible sovereignty was required, and that individual conscience be transferred to the civil magistrate.<sup>184</sup> As F. H. Hinsley has argued, for Hobbes the '[t]he holder of sovereign power was a mortal god absorbing ... the personality, the property rights and the conscience of his subjects'.<sup>185</sup> This absolutism was predicated on the belief that the king had no equals within the state, whether individual consciences or institutions which laid claim to the public conscience.

## Conclusion

Charles seems to have eventually tacitly accepted that a public, shared conscience was no longer viable. In 1647, whilst a prisoner on the Isle of Wight, Charles argued that since he was 'willing to give ease to the Consciences of others, He sees no reason why He alone and those of His Judgement should be pressed to a violation of theirs'.<sup>186</sup> This can be read as an acknowledgement that he was a member of one community of conscience, no longer the conscience of the commonwealth. Charles's refusal to allow his conscience to be forced cheered his supporters and infuriated his opponents, and led to him being both branded a 'man of blood' and celebrated as a martyr. Whilst ideally he saw himself as embodying the conscience of the commonwealth, in practice this duty was complicated by the realities of multiple monarchy. His bitterly regretted capitulations undermined his position in Scotland but led him to be an effective party leader in England. Though never as confident in his

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<sup>182</sup> *Proquiritatio Parainetike, or, A Petition to The People: For a Christian and unbloudy Decision of Cases of Conscience* ([London], 1642), 4.

<sup>183</sup> Hammond, *Of Resisting the Lawfull Magistrate*; *idem, Of Conscience* (Oxford, 1645), 8-11.

<sup>184</sup> Hobbes, *De Corpore Politico*, 35, 72, 111, 140-41.

<sup>185</sup> F. H. Hinsley, *Sovereignty*, 2nd ed. (Cambridge: Cambridge University Press, 1986), 143.

<sup>186</sup> Charles I, *Basilika* (1662), 255.

own beliefs as his father, Charles nevertheless came to insist on the inviolability of his conscience. For Charles, and royalists more generally, the greater good of the commonwealth justified courses of action which would otherwise be questionable.

There was less of an association between royalism and episcopacy in Scotland, in part due to the nature of the Scottish reformation, but also as a result of Charles's policies. Rather, it was the consequences of presbyterianism which were denounced, and its alleged association with democracy and anarchy. In England, the threat to liberty was perceived to come from parliament and its assumption of power. A constitutional royalism, focused on the *Answer to the XIX Propositions*, emerged and defences of freedom of conscience and notions of honour and duty were centred on the person of Charles to an extent not seen in Scotland. It seems apparent that absolutist thinking represents the most substantive area of agreement between English and Scottish defenders of the king. It was a coherent set of ideas that could be drawn upon by thinkers in both kingdoms and applied to their differing circumstances and traditions. The emphasis on conscientious obedience, the denial that active resistance was lawful, and agreement that these attributes defined the public are all aspects of absolutist thought. In practice, these ideals might be compromised, but they provided a coherent system of thought common to royalists in both countries.

English and Scottish royalists were also united on the question of where authority lay and to whom obedience was due. Obedience was necessary for the functioning of the state, a precursor to liberty and defined who constituted the public. Arguments derived from Romans 13 were used by authors in both kingdoms and could be repurposed in different contexts. There was a suspicion of those who used religion or conscience to justify disobedience. Such doctrines were seen as inimical to public peace and as undermining the duties inculcated into the commonalty, with bloody consequences. There was a tension between an appeal to individual conscience and a dim view of the rational faculties of the majority. It was through obedience that subjects demonstrated that they possessed enlightened consciences and were not guided by their passions or misled under pretences of piety. This emphasis on conscientious obedience was related both to theories of divine right kingship and defences of episcopacy.

Though royalists drew upon a common language and shared ideals, they were divided when it came to policies and possible settlements. Charles was forced to resort to using an English army in an attempt to re-impose his authority in Scotland whilst his supporters there were only able to offer limited practical support. Conversely, in 1648 it was a Scottish army which invaded England in support of the monarch. In their reactions to rebellion, English and Scottish royalists drew upon similar ideas and languages and, at this stage, voiced a similar commitment to conscientious obedience. Appeals to individual judgement were a recognition of the dilemmas which subjects faced, but were designed to remind

them of their duties rather than empower them to arbitrate between the king and his opponents. It was by focusing on the abstract that a common response to resistance in Charles's kingdoms could be articulated. This entailed minimising constitutional differences and emphasising a shared Christian morality. An indivisible sovereignty could supply the focal point of British loyalties, though this absolutism was not shared by all royalists.

## 4

## The Solemn League and Covenant

The civil war had been going poorly for the English Parliament since the beginning of 1643 and the threat of an Irish catholic army coming to the assistance of the king loomed. In Scotland, Argyle and his supporters were in a position of strength and, encouraged by remonstrances from the commission of the kirk, they were ready to begin negotiations to send help to the English parliament.<sup>1</sup> However, there were significant doubts about joining in an aggressive war against their king. Both Hamilton and Argyle were sincere about defending the interests of the Solemn League and the rights of the king but differed over which was to be given precedence. This debate also provoked significant dissent within the kirk, and would form the backdrop to the crisis provoked by the Engagement of 1648.<sup>2</sup> A convention of estates was summoned in May 1643, but commissioners from the English parliament were slow in arriving due to divisions between the House of Lords and the House of Commons over the possibility of an alliance with the Scots. The goal of greater ecclesiastical and religious unity had been a consistent aim of the covenanters since at least the Bishops' Wars — and a desire of sixteenth-century Scottish reformers before them — and now they were able to pursue it.<sup>3</sup> Though the English parliament has traditionally been seen as more interested in a military alliance, there was a significant presbyterian interest in England keen to advance the cause of ecclesiastical reform.

The English commissioners eventually arrived on 7 August, along with the ministers Stephen Marshall and Philip Nye. It has been observed that the Solemn League was proposed by the erastian John Pym with the support of Henry Vane, later a political independent, and the congregationalist Nye.<sup>4</sup> However, as Hunter Powell argues, leading

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<sup>1</sup> David Stevenson, *The Scottish Revolution 1637-1644: The Triumph of the Covenanters* (Newton Abbot: David & Charles, 1973), 277-78; Edward J. Cowan makes the case that Argyll, along with Vane, played a major role in the creation of the Solemn League. Edward J. Cowan, 'The Solemn League and Covenant', in Roger A. Mason (ed.), *Scotland and England 1286-1815* (Edinburgh, 1987), 183-9.

<sup>2</sup> David Stevenson, *Revolution and Counter-Revolution in Scotland, 1644-1651* (London: Royal Historical Society, 1977), 86.

<sup>3</sup> *The Lawfulness of our Expedition into England Manifested* (Edinburgh, 1640), sig. A4v; *Arguments Given in by the Commissioners of Scotland unto the Lords of the Treaty perswading Conformitie of Church government* ([London], 1641); G. D. Henderson, 'Tercentenary of the Solemn League and Covenant', *Evangelical Quarterly*, 15:3 (1943), 188; David G. Mullan, "'Uniformity in Religion": The Solemn League and Covenant (1643) and the Presbyterian Vision', in W. Fred Graham (ed.), *Later Calvinism: International Perspectives* (Kirksville, Mo.: Sixteenth Century Journal Publishers, 1994), 249.

<sup>4</sup> Lawrence Kaplan, 'Presbyterians and Independents in 1643', *The English Historical Review*, 84:341 (1969), 246.

covenanters were personally familiar with Marshall and Nye, ‘had worked with them, and knew their ecclesiological leanings’, which were closer to the Scottish view of church government than clerical English presbyterians.<sup>5</sup> Within ten days a draft league and covenant, prepared mainly by Alexander Henderson, was agreed to and subsequently approved unanimously by the convention and the general assembly.<sup>6</sup> Subscribers of the Solemn League pledged to preserve reformed religion in Scotland, reform religion in England and to extirpate popery and other heresies.<sup>7</sup> As in the Scottish National Covenant, the defence of the king was qualified, in this instance ‘in the preservation and defence of the true religion and liberties of the kingdoms’.<sup>8</sup> Finally, those who took the Solemn League swore not to be divided and to uphold the ends of the covenant for the rest of their lives.<sup>9</sup> The Scots hoped that their soldiers would prove decisive in ending the civil war and that consequently they would be in a strong position to impose their form of presbyterianism on their neighbouring kingdoms.

However, the covenanters’ intervention in England provoked a royalist revolt in Scotland.<sup>10</sup> Beginning in the summer of 1644 Montrose achieved a string of significant victories over covenanting forces before he was finally defeated in September 1645. Despite its successes this campaign failed to either engender popular support or seriously challenge the regime; indeed, it may have reinforced support for the covenanting movement.<sup>11</sup> Its significance lay in the fact that it undermined the covenanters’ claims to represent an undivided Scotland; harmed the prestige of their armies; and, by drawing troops away from England, lessened the influence of their forces south of the border. In England, meanwhile, the rise of the New Model Army was to sideline the Scots and elevate the independents. Consequently, the covenanters did not have the ability to enforce their interpretation of the Solemn League, whilst their opponents had no desire to affix a definitive meaning to it.

The narrative of the creation of the Solemn League and Covenant and the context in which it was promulgated has been well-established, though specialised studies are

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<sup>5</sup> Hunter Powell, *The Crisis of British Protestantism: Church Power in the Puritan Revolution, 1638-44* (Manchester: Manchester University Press, 2015), 63.

<sup>6</sup> *Records of the Kirk of Scotland*, ed. Alexander Peterkin (Edinburgh: Peter Brown, 1843), 353; *RPS*, 1643/6/75

<sup>7</sup> *The Constitutional Documents of the Puritan Revolution, 1625-1660*, ed. Samuel Rawson Gardiner (Oxford: Oxford University Press, 1979), 268-69.

<sup>8</sup> *Ibid.*, 269.

<sup>9</sup> *Ibid.*, 270.

<sup>10</sup> Allan I. Macinnes, ‘The Scottish Constitution, 1638-1651. The Rise and Fall of Oligarchic Centralism’, in John Morrill (ed.), *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1990), 124.

<sup>11</sup> Stevenson, *Revolution and Counter-Revolution*, 212.

limited.<sup>12</sup> The topic has received the most attention from Scottish historians, but there has been a tendency to conflate the National Covenant and the Solemn League and Covenant, or to focus on the former at the expense of the latter.<sup>13</sup> Some Scottish historians have emphasised its British dimensions, arguing that it was central to the covenanters' commitment to a 'federal union'.<sup>14</sup> Allan Macinnes argues that it 'represented a British endeavour to achieve common spiritual and material aims while maintaining distinctive national structures in church and state'.<sup>15</sup> However, the repercussions of this endeavour — and the opposition it provoked — have not received sufficient attention. There is some disagreement amongst Scottish historians about the motivations of the covenanters. David Stevenson, for example, questions those who see the Solemn League as a failure, pointing out that there was not a clear alternative strategy to intervention in England: it was 'a matter of rational political calculation, not blind religious zeal'.<sup>16</sup> David Mullan, however, rejects what he sees as the revisionist view, forwarded to varying degrees by Stevenson, Edward J. Cowan and William Ferguson, that the Scots were not religious zealots intent on imposing their form of presbyterianism on England.<sup>17</sup>

The reception of the Solemn League and Covenant in England has been studied most fruitfully by Edward Vallance.<sup>18</sup> He has shown that English supporters of the Solemn League and Covenant viewed it as 'the renewal of a national covenant previously embodied in the Protestation and Vow and Covenant'.<sup>19</sup> However, he does not explore the tension

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<sup>12</sup> Michael J. Braddick, *God's Fury, England's Fire: A New History of the English Civil Wars* (London: Allen Lane, 2008), 309-22; S. W. Carruthers, 'The Solemn League and Covenant: its text and translators', *Records of the Scottish Church History Society*, 6:3 (1938), 232-51; Cowan, 'Solemn League and Covenant', 182-202; S. R. Gardiner, *History of the Great Civil War*, i (London: Longmans, Green and Co., 1886), 271; Henderson, 'Tercentenary of the Solemn League and Covenant', 188-98; Walter Makey, *The Church of the Covenant 1637-1651: Revolution and Social Change in Scotland* (Edinburgh: John Donald, 1979), 69-70; Stevenson, *Scottish Revolution*, 276-98.

<sup>13</sup> Cowan, 'Solemn League and Covenant', 182; Charles J. Guthrie, 'The Solemn League and Covenant of the Three Kingdoms of England, Scotland, and Ireland', *Scottish Historical Review*, 15:60 (1918), 293-94.

<sup>14</sup> Arthur H. Williamson, *Scottish National Consciousness in the Age of James VI: The Apocalypse, the Union and the Shaping of Scotland's Public Culture* (Edinburgh: John Donald, 1979), 141; David Stevenson, 'The Early Covenanters and the Federal Union of Britain', in Roger A. Mason (ed.), *Scotland and England 1286-1815* (Edinburgh: John Donald, 1987), 163-181; Allan I. Macinnes, 'Covenanting ideology in seventeenth-century Scotland', in Jane H. Ohlmeyer, *Political Thought in Seventeenth-Century Ireland: Kingdom or Colony* (Cambridge: Cambridge University Press, 2000), 210; Colin Kidd, *Union and Unionisms: Political Thought in Scotland, 1500-2000* (Cambridge: Cambridge University Press, 2008), 63.

<sup>15</sup> Macinnes, 'Covenanting ideology', 210.

<sup>16</sup> Stevenson, *Revolution and Counter-Revolution*, 211.

<sup>17</sup> Mullan, David G., "'Uniformity in Religion'", 250-51. For the 'revisionist' view he opposes see: Cowan, 'The Solemn League and Covenant', 191; William Ferguson, *Scotland's Relations with England: A Survey to 1707* (Edinburgh: John Donald, 1977), 124-25; Stevenson, *Revolution and Counter-Revolution*, 121. For an example of the basis for this 'revisionist' position see: *Arguments Given in by the Commissioners of Scotland unto the Lords of the Treaty perswading Conformitie of Church government* ([London], 1641), 1-2, 5-6.

<sup>18</sup> Edward Vallance, "'An Holy and Sacramentall Paction": Federal Theology and the Solemn League and Covenant in England', *The English Historical Review*, 116 (2001), 50-75; *idem*, 'Protestation, Vow, Covenant and Engagement: swearing allegiance in the English Civil War', *Historical Research*, 75 (2002), 408-424; *idem*, *Revolutionary England and the National Covenant: State Oaths, Protestantism, and the Political Nation, 1553-1682* (Woodbridge: Boydell Press, 2005).

<sup>19</sup> Vallance, 'Federal Theology and the Solemn League and Covenant', 51.

between a vision of a united protestant Britain which was invoked by several authors and the frequent descriptions of the Solemn League as an English national covenant.<sup>20</sup> Building on Vallance's work and combining it with her own textual and linguistic study of scripture and society, Naomi Tadmor argues that the notion of the covenant as understood in the 1640s owed much to the processes of translation. 'League and covenant' was a collocation borrowed from the Geneva bible which joined the temporal and the divine, and the legal and the biblical.<sup>21</sup> The dichotomy Robert Baillie and Gilbert Burnet drew between an English desire for a civil league and a Scottish desire for a religious covenant, oft-quoted by historians, should, therefore, be interrogated more thoroughly.<sup>22</sup>

Other historians have focused on the divisiveness of the Solemn League and Covenant, and the problems the entry into England of another Scottish army posed to Anglo-Scottish unity.<sup>23</sup> It is clear that an aggressive Scottish presbyterianism coupled with the presence of Scottish soldiers in northern England exacerbated pre-existing hostilities.<sup>24</sup> The role the Solemn League played in the failure to reach a peaceful settlement requires further investigation. Though the historiography on the Solemn League and Covenant is not insubstantial, it is not as fully developed as it might be. A comparative approach has been undertaken only by a few historians, and only to a limited extent.<sup>25</sup> Important questions about the purpose of the Solemn League and how it was imposed, interpreted and opposed remain to be explored.

The Solemn League created particular dilemmas for conscience. It tested the consciences of those in Scotland who were prepared to consent to the 1641 settlement but who opposed a military alliance against Charles, and those in England who rejected the presbyterian settlement the Scots and their allies sought to impose. We lack sufficient evidence to reconstruct how the Solemn League and Covenant was taken in the localities, or to sustain a detailed comparison of the diaries and correspondence of individuals who

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<sup>20</sup> Vallance, *Revolutionary England*, 93-100.

<sup>21</sup> Naomi Tadmor, 'People of the covenant and the English Bible', *Transactions of the Royal Historical Society*, 22 (2012), 95-110. See also, Naomi Tadmor, *The Social Universe of the English Bible: Scripture, Society, and Culture in Early Modern England* (Cambridge: Cambridge University Press, 2010).

<sup>22</sup> Robert Baillie, *The Letters and Journals of Robert Baillie*, ed. David Laing, 3 vols (Edinburgh: Bannatyne Club, 1841-42), ii, 85; Gilbert Burnet, *The Memoirs of the Lives and Actions of James and William, Dukes of Hamilton and Castle-Herald* (Oxford: Oxford University Press, 1852), 235.

<sup>23</sup> John Morrill, 'The Puritan Revolution', in John Coffey and Paul C. H. Lim (eds), *The Cambridge Companion to Puritanism* (Cambridge: Cambridge University Press, 2008), 74; Valerie Pearl, 'Oliver St. John and the "middle group" in the Long Parliament: August 1643-May 1644', *English Historical Review*, 81 (1966), 498; Conrad Russell, *The Fall of the British Monarchies 1637-1642* (Oxford: Clarendon Press, 1991), 523.

<sup>24</sup> David Scott, 'The "Northern Gentlemen", the Parliamentary Independents, and Anglo-Scottish Relations in the Long Parliament', *The Historical Journal*, 42:3 (1999), 347-375; Mark Stoyle, *Soldiers and Strangers: An Ethnic History of the English Civil War* (New Haven: Yale University Press, 2005), *passim*; Austin Woolrych, *Britain in Revolution 1625-1660* (Oxford: Oxford University Press, 2002), 272.

<sup>25</sup> Cowan, 'Solemn League and Covenant'; Vallance, *Revolutionary England*; Chad van Dixhoorn, 'Scottish influence on the Westminster assembly: A study of the synod's summoning ordinance and the Solemn League and Covenant', *Records of the Scottish Church History Society*, 37 (2007), 55-88.

scrupled at taking it in England and Scotland. Instead, I am interested here in how it was imposed, interpreted and opposed in both countries. This chapter focuses on the print debate which accompanied the imposition of the Solemn League, supplemented by manuscript sources and official publications. These debates about the meaning and legitimacy of the Solemn League were centred on the question of conscience and highlight divergent views about compulsion, interpretation and authority.

I begin by examining the imposition of the Solemn League in England and Scotland. Unlike either the Scottish National Covenant or the Protestation Oath before it, non-subscription of the Solemn League carried heavy civil penalties. This section is focused on the pressures individuals were put under by church and state, and what this tells us about the assumptions which lay behind its imposition. The nature of the oath itself, seen as both personal and national, sheds further light on the purposes it was intended to fulfil. This analysis introduces the key questions which the imposition of the Solemn League raised, which are explored in greater depth in the following sections. I first examine how it was interpreted, with a particular focus on the first article's qualifying clause 'according to the Word of God'. I show that the language of conscience was central to reinterpretations of the Solemn League, and that the Westminster Assembly's explanation of the oath played a significant role in legitimising these readings. By incorporating the debates which accompanied the Scottish Engagement crisis of 1648, I demonstrate that these struggles over meaning were not confined to England. Finally, I argue that conscience was central to the arguments of those who opposed the imposition of the Solemn League, namely royalists in both countries and English religious radicals.

## **Imposing the Solemn League and Covenant**

The Solemn League and Covenant was imposed by the authority of the parliament in England and the convention of estates and general assembly in Scotland. The pamphlets, sermons and official justifications which accompanied its imposition show that from the outset there were significant differences between the two countries. The contexts in which the Solemn League was enforced, and the institutional structures in place to control interpretation and discern intention, profoundly shaped how it was understood. These differences reflect the contrasting assumptions which lay behind its imposition and the difficulty of mediating public conscience in a time of conflict. My focus here is on England and Scotland, but it is worth noting that for the British population who took the

Solemn League in Ulster it represented ‘a means of survival against the Irish’, and for this pragmatic, rather than religious, motivation, it appears to have been widely subscribed.<sup>26</sup>

In Scotland, the Solemn League was printed and sent to ministers with blank pages left for signatures, a practice dating back to the 1590 Confession and Band.<sup>27</sup> Those who refused to take the Solemn League were issued summonses to appear before the Scottish estates to publicly swear and subscribe it.<sup>28</sup> If they declined to do so, they would be ‘declared & punished as enemies to religion & the peace of the kingdoms’, and barred from holding any public office in the kingdom.<sup>29</sup> However, Stewart notes that critics of the Solemn League ‘who expressed a willingness to repent ... were treated with magnanimity and encouraged to return to public life’.<sup>30</sup> This reflects a desire to preserve national unity in the face of the spectre of separatism.<sup>31</sup> In contrast, though members of parliament were required to swear the 1638 National Covenant before they could take their seats, there were no civil penalties for non-subscribers.<sup>32</sup>

The process of ensuring that prominent individuals swore the Solemn League in a prescribed fashion is illustrated in a surviving report concerning James Douglas, Lord Mordington. Douglas was the second son of William Douglas, Earl of Angus, and had been made Lord Mordington by Charles I in 1641.<sup>33</sup> His elder brother, William, Marquess of Douglas, signed the Solemn League in 1644, but his commitment to it was ‘half-hearted’, and in 1645 he sided with the royalists, becoming a lieutenant under Montrose.<sup>34</sup> There was concern, therefore, about Mordington’s loyalties, and a summons was issued to him on 20 April 1644 to publicly swear and subscribe the Solemn League. A visitation was made to the kirk of Mordington to this end shortly thereafter.<sup>35</sup> Lord Mordington was ordered to conform to the ordinance of the commissioners of the General Assembly that he should ‘in the face of Gods Kirk ... Renounce all Poperie ... Conforme to the negative Confession of this Kirk and ... sweare and subscribe the samine, as also the late league, and Covenant of the three Kingdomes’.<sup>36</sup> The report records that following an exhortation by the moderator and the reading of the Negative Confession, Mordington was questioned

<sup>26</sup> M. Perceval-Maxwell, ‘The adoption of the Solemn League and Covenant by the Scots in Ulster’, *Scotia*, 2 (1978), 9-10, 13-14; *idem*, ‘Ireland and Scotland 1638 to 1648’, in John Morrill (ed.), *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1990), 204.

<sup>27</sup> Laura A. M. Stewart, *Rethinking the Scottish Revolution: Covenanted Scotland, 1637-1651* (Oxford: Oxford University Press, 2016), 96.

<sup>28</sup> NRS, GD220/3/69-74, 79, GD220/1/H/4/4/1, sig. A3<sup>v</sup>.

<sup>29</sup> NRS, GD220/3/73.

<sup>30</sup> Stewart, *Rethinking*, 245-46.

<sup>31</sup> *A Necessary Warning to the Ministerie of the Kirke of Scotland, From the meeting of the Commissioners Of the Generall Assembly* (Edinburgh, 1643), 3 5, 11-12.

<sup>32</sup> RPS, 1640/6/37; 1641/7/96.

<sup>33</sup> Herbert Maxwell, *A History of the House of Douglas from the Earliest Times Down to the Legislative Union of England and Scotland*, ii (London: Freemantle & Co., 1902), 180.

<sup>34</sup> J. R. M. Sizer, ‘Douglas, William, first marquess of Douglas (1589–1660)’, *ODNB*.

<sup>35</sup> NRS, GD220/3/74, 75.

<sup>36</sup> NRS, GD220/3/78.

by the brethren and elders of the kirk and, having provided satisfactory answers, swore and subscribed the negative confession, the confession of faith and the Solemn League.<sup>37</sup> Two ministers affirmed that he regularly partook of the word and sacrament as further evidence of his probity.<sup>38</sup> This report demonstrates both the levelling aspects of covenanting, and also that sincerity of intention was highly valued by those who imposed the Solemn League. This process of interrogation was possible because the kirk's structures remained intact.

James Hamilton, now a duke, and his brother, the Earl of Lanark, present examples of the dilemmas caused by the imposition of the Solemn League for Scots who supported the king. Along with other supporters of Charles, they had both left the convention of estates on 26 June 1643 in protest at Argyll and his faction's policy to intervene in English affairs. Hamilton and Lanark subsequently fled to Oxford to avoid taking the Solemn League, where they were arrested and Hamilton accused of treason. Lanark was able to escape and returned to Scotland via London. Hamilton, however, was imprisoned for two years but never brought to trial, and was released from prison by the forces of Sir Thomas Fairfax in April 1646.<sup>39</sup> The treatment of the brothers by the king angered their supporters in Scotland, many of whom signed the Solemn League in protest.<sup>40</sup>

In April 1644, Lanark came before the convention and 'gave such evidences of his deep sorrow for adhering to the king for so long, with such malicious reflections upon his sacred majesty ... as made his conversion to be unfeigned', and subscribed the Solemn League.<sup>41</sup> The convention reversed the act which had divested him of his estate and public office, and declared that he was 'to be held in repute as a good patriot and covenanter'.<sup>42</sup> Hamilton, meanwhile, took the Solemn League in London in June 1646 and declared his intention to retire from public affairs, though the intervention of Charles and his brother Lanark later caused him to change his mind. In a declaration presented to the commission of the general assembly, he pronounced himself sorry for not having subscribed the Solemn League, an omission he ascribed to his absence from the kingdom and subsequent imprisonment.<sup>43</sup> That the commission accepted his account, without the public repentance demanded of others, perhaps suggests that the kirk was eager to offer forgiveness to so prominent a figure, or that it believed that Hamilton's future actions would be constrained by its interpretation of the Solemn League. However, though he had taken the Solemn

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<sup>37</sup> NRS, GD220/3/78.

<sup>38</sup> *Ibid.*

<sup>39</sup> Gilbert Burnet, *The Memoires of the Lives and Actions of James and William, Dukes of Hamilton and Castle-Herald* (London, 1677), 250-70; John J. Scally, 'Hamilton, James, first duke of Hamilton (1606-1649)', ODNB.

<sup>40</sup> Stevenson, *Revolution and Counter-Revolution*, 10.

<sup>41</sup> Henry Guthry, *The Memoirs of Henry Guthry*, 2nd ed. (Glasgow: Robert Urie, 1747), 151.

<sup>42</sup> RPS, 1644/1/123.

<sup>43</sup> *The Records of the Commissions of the General Assemblies of the Church of Scotland*, ed. Alexander F. Mitchell and James Christie, 3 vols (Edinburgh: T. and A. Constable for the Scottish History Society, 1892-1909), i, 24-25.

League himself, Hamilton adamantly opposed those who thought that the king must be made to subscribe it. He declared it ‘inhumane and unchristian ... to force the Kings Conscience’, and that ‘it savoured of the Violence they had lately condemned in the Bishops’.<sup>44</sup>

How are we to understand the shifting attitudes of the Hamilton brothers towards the Solemn League? In part, their acceptance of the Solemn League illustrates the extent to which its meaning became disputed within Scotland. Though sincerity of intention was sought by those who imposed it, it was open to interpretation. Hamilton appears to have taken the Solemn League in a personal capacity, with the intention to leave the public stage, but he nevertheless found his commitment compatible with continuing allegiance to the king. On the scaffold in 1649, he declared that regarding religious matters he was ‘not of a rigid opinion’, and that all his actions had been in pursuance of peace.<sup>45</sup> This has been interpreted as a sign of his pragmatism,<sup>46</sup> which might indeed be the defining characteristic of Scottish royalists. In Scotland, then, while efforts were taken to ensure that those of questionable allegiances demonstrated their loyalties, the Solemn League was taken by a range of individuals, including those who valued monarchy over a particular religious settlement. Disagreements about what the Solemn League engaged its subscribers to and how these ends might best be accomplished would form the basis of the 1648 Engagement crisis.<sup>47</sup>

In England, the Solemn League and Covenant was signed by both houses of parliament, the Scottish commissioners and members of the Assembly at a special service held at St Margaret’s Church, adjacent to Westminster Abbey, on 25 September 1643.<sup>48</sup> The English parliament issued an Ordinance on 5 February 1644 enjoining the taking of the Solemn League and Covenant. It was to be tendered to all men over the age of eighteen, and the names of those who refused to take it were to be noted and returned to the House of Commons. The Solemn League was to be read to the congregation by the minister, following which parishioners would assent to it collectively by the raising of hands and then individually by signing or marking the document.<sup>49</sup> The practice of the raising of hands to signal assent was described by one opponent as ‘uncouth and strange’, suggesting that it was a novelty or a custom associated with the hotter sort of protestant.<sup>50</sup> Unlike the

<sup>44</sup> Guthry, *Memoirs*, 284.

<sup>45</sup> *The Severall Speeches of Duke Hamilton Earl of Cambridg, Henry Earl of Holland, and Arthur Lord Capel, Upon the Scaffold* (London, 1649), 11, 12.

<sup>46</sup> Barry Robertson, *Royalists at War in Scotland and Ireland* (Farnham: Ashgate, 2014), 155-56.

<sup>47</sup> Laura A. M. Stewart, ‘Scottish Politics, 1644-51’, in Michael Braddick (ed.), *The Oxford Handbook of the English Revolution* (Oxford: Oxford University Press), 124.

<sup>48</sup> *The Minutes and Papers of the Westminster Assembly 1643-1652*, ed. Chad van Dixhoorn, 5 vols (Oxford: Oxford University Press, 2012), ii, 150.

<sup>49</sup> *Acts and Ordinances of the Interregnum, 1642-1660*, ed. C. H. Firth and R. S. Rait, (London: His Majesty's Stationery Office, 1911), 376-78.

<sup>50</sup> *A Briefe Discourse, Declaring the Impiety and Unlawfulness of the new Covenant* ([Oxford], 1643), 9.

Protestation, the Solemn League and Covenant was accompanied by statutory compulsion.<sup>51</sup> The penalties for non-subscription were heavy and linked to the compounding of royalists' estates.<sup>52</sup> In both England and Scotland, then, refusal to take the Solemn League could have severe consequences, but these warnings were also coupled with the promise of forgiveness for those who repented.<sup>53</sup>

Unlike in Scotland, where it was primarily the duty of ministers to ensure subscription of the Solemn League and Covenant, in England it was deemed necessary for the Westminster Assembly to issue an exhortation to convince those who might have scruples. This was a reflection of the fact that a covenanting public already existed in Scotland, and that the kirk had maintained its structures of control. In Scotland, the imposition of the Solemn League was largely an issue of discipline, not persuasion. Copies of the Solemn League were prefaced with declarations of unanimous approbation from the general assembly and the convention of estates but were not accompanied by exhortations or detailed explanations. Both institutions declared it to be the best means for securing protestantism, propagating it to the other kingdoms and for establishing the king and his throne.<sup>54</sup>

Because of the instability of the polity and a more febrile print culture, the imposition of the Solemn League was supported in England by a far greater range of publications and sermons. What is notable about the Westminster Assembly's *Exhortation* is that it deployed a range of arguments in support of taking the Solemn League. It listed 'the power of Religion, or solid Reason ... Loyalty to the King, and piety to their Native Country, or love to themselves, and naturall affection to their posterity' as valid justifications, taken individually or collectively, for subscription.<sup>55</sup> It argued that it was the same in substance to the 1641 Protestation, assuaging fears of perjury, and framed the swearing of the Solemn League as a conscientious duty. It explained that the extirpation of popery, prelacy and heresy was to be done by lawful means by each in his own place and calling.<sup>56</sup> The Solemn League was presented as a vehicle for a range of aspirations, with the clear intention to consolidate the anti-royalist party.

The few historians that have studied the reception of the Solemn League in England have struggled to find evidence of widespread evasion, though it was not universally

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<sup>51</sup> John Walter, *Covenanting Citizens: The Protestation Oath and Popular Political Culture in the English Revolution* (Oxford: Oxford University Press, 2017), 113.

<sup>52</sup> *CJ*, iv, 327; Valance, 'Protestation, Vow, Covenant and Engagement', 410.

<sup>53</sup> *The Declaration of the Kingdomes of England and Scotland, Joyned in Armes for the vindication and defence of their Religion, Liberties, and Lawes* (London, 1643), 6-10.

<sup>54</sup> *A Sollemne League and Covenant for Reformation and Defence of Religion, The Honour and Happinesse of the King, and the Peace and Safety of the three Kingdomes of Scotland, England, and Ireland* (Edinburgh, 1643), sig. A2<sup>r</sup>-A3<sup>r</sup>.

<sup>55</sup> *An Exhortation to the taking of the Solemn League and Covenant* (London, 1644), 1.

<sup>56</sup> *Ibid.*, 2, 4.

subscribed and could not be enforced in royalist areas.<sup>57</sup> The London parishes were the first to subscribe, and the records of the Westminster Assembly detail attempts to ensure that members would preach in favour of the Solemn League in churches where the ministry was least inclined to promote it.<sup>58</sup> The ministers Thomas Wilson and George Gibbs reported that less than a tenth and less than half of the parishioners respectively in the London churches they had visited had subscribed.<sup>59</sup> Though London was an exceptional case, this suggests that even the best efforts of the Westminster Assembly could not ensure widespread subscription. In both England and Scotland subscription to the Solemn League was supported by the state and used to identify the disloyal, but in neither country could the apparatus of church and state ensure entirely effective subscription.

Unlike in Scotland, however, the Solemn League created particular dilemmas for those in England who recognised the necessity of Scottish military assistance but who objected to a presbyterian church settlement. An early sign of these tensions occurred in March 1644 when Major-General Edward Crawford, a presbyterian Scot, had a certain Lieutenant Packer arrested for apparently refusing to subscribe the Solemn League.<sup>60</sup> Whether or not soldiers should be obliged to take the Solemn League had been a matter of some dispute amongst parliamentarians, but it had been ordered that army officers must subscribe it.<sup>61</sup> In defence of Packer, Oliver Cromwell asserted that ‘the State, in choosing men to serve them, takes no notice of their opinions’.<sup>62</sup> As Peter Gaunt has observed, this was ‘wishful thinking’, not the actual policy of parliament.<sup>63</sup> Nevertheless, Cromwell’s vision contrasted with the view of the Scottish covenanters that to be a good patriot was to be a good covenanter, and vice-versa.

Whilst the Scots came to favour a negotiated settlement, a religiously diverse coalition, of which Cromwell was a leading figure, sought to advance their cause through comprehensive military victory.<sup>64</sup> The victory at Marston Moor on 2 July 1644 saw Cromwell and his party elevated, much to the chagrin of the Scots. With the defeat of the

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<sup>57</sup> Morley Claude, ‘Solemn League and Covenant in Suffolk’, *East Anglian Miscellany* (1945), 30-5; Anthony Fletcher, *A Country Community in Peace and War: Sussex 1600-1660* (London: Longman, 1975), 107; David Cressy, *Literacy and the Social Order* (Cambridge: Cambridge University Press, 2006), 69; Vallance, ‘Federal Theology and the Solemn League and Covenant’, 58; *idem*, *Revolutionary England*, 119-129.

<sup>58</sup> *Minutes and Papers*, ii, 196-97.

<sup>59</sup> *Ibid.*, 207-09.

<sup>60</sup> *The Quarrel Between the Earl of Manchester and Oliver Cromwell: An Episode of the English Civil War*, ed. David Masson (London: Nichols and Sons, for the Camden Society, 1875), 59; Austin Woolrych, *Britain in Revolution 1625-1660* (Oxford: Oxford University Press, 2002), 299-300; Martyn Bennett, *Oliver Cromwell* (London: Routledge, 2006), 76-77.

<sup>61</sup> *CJ*, iv, 47-48.

<sup>62</sup> Oliver Cromwell, *The Letters and Speeches of Oliver Cromwell*, ed. S. C. Lomas, 2nd ed. (London: Methuen & Co., 1904), iii, 171.

<sup>63</sup> Peter Gaunt, *Oliver Cromwell* (Oxford: Blackwell, 1997), 55.

<sup>64</sup> Stevenson, *Revolution and Counter-Revolution*, 12-15; *idem*, ‘Cromwell, Scotland and Ireland’, in John Morrill (ed.) *Oliver Cromwell and the English Revolution* (London: Longman, 1990), 151-52.

king seeming more likely, those who sought a compromise settlement with Charles became increasingly worried.<sup>65</sup> This tension played out publicly in the quarrel between the Earl of Manchester and Cromwell in late 1644. They had each taken the Solemn League, though Cromwell had only done so after a long delay, and were members of the Committee for Both Kingdoms. Cromwell was accused of undermining Crawford's authority, promoting the interests of his own 'godly' faction, and harbouring a dislike of Scottish presbyterians. This narrative is believed to have been supplied by Crawford himself, so it was not an impartial account.<sup>66</sup> Another opponent of Cromwell supplied a statement in which he alleged that after he had asserted that 'if any nation in the world were in the ready way to Heaven it was the Scots', he was shunned and told that 'they thought I had been a godly man, but now they perceive what I was'.<sup>67</sup>

Cromwell's brand of toleration offended the Scots, and, further aggravated by his recent acrimonious and public dispute with Manchester, they sought to have him impeached as an incendiary. However, they were persuaded that it would be impossible to prosecute such a charge.<sup>68</sup> These clashes illustrate the differences between how the Solemn League was imposed in Scotland and England. In the former, the kirk and the state sought to control its meaning by subjecting recalcitrant prominent figures to public interrogation. There were, of course, those who could not be forgiven, but those whose cooperation was required, and who appeared suitably repentant, were allowed to retake their positions within the state. In England, there does not appear to have been the same effort to control meaning, and a greater latitude was given to those whose skills were seen as necessary, given the most pressing concern was the war against the king.

The sermons and tracts which accompanied the imposition of Solemn League provide further evidence of such differences. A significant theme of these works was the argument that the Solemn League had to be performed, not simply sworn. In a sermon at Westminster on 6 October 1643, Joseph Caryl declared: 'When you have done taking the Covenant, then you must proceede to acting the Covenant'.<sup>69</sup> Similarly, George Gillespie told the House of Commons that 'Reformation ends not in contemplation, but in action', and Philip Nye asserted that taking the Solemn League was not 'the lifting up of the hand for a day; but an honest and faithfull endeavouring after the contents of this Covenant all our dayes'.<sup>70</sup> Any interpretation of the meaning and significance of the Solemn League and

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<sup>65</sup> Gaunt, *Cromwell*, 58.

<sup>66</sup> *Quarrel*, lxxxii, 59-70, 72.

<sup>67</sup> *Ibid.*, 75.

<sup>68</sup> Woolrych, *Britain in Revolution*, 301.

<sup>69</sup> Joseph Caryl, *The Nature, Solemnity, Grounds, Property, and Benefits, of a Sacred Covenant* (London, 1643), 41.

<sup>70</sup> George Gillespie, *A Sermon Preached before The Honourable House of Commons At their late solemn Fast, Wednesday March 27. 1644* (London, 1644), 39; Philip Nye, *The Excellency and Lawfulness of the Solemn League and Covenant* (London, 1646), 5.

Covenant must account for its performative nature and consequently its relationship with identity. As the sociologist Richard Jenkins argues, identity is ‘something that one *does*’.<sup>71</sup> The Solemn League was not simply to be contemplated, but to be acted and continuously lived. Covenants were often taken collectively by the congregation, hands raised in affirmation. The performative aspect of Solemn League taking extended beyond public subscribing though. Conscience, as the application of moral beliefs to actions, blurred the distinction between public and private. Mullan has identified a tension between the absolute sovereignty of God and a view of society and salvation as necessitating a human contribution as inherent in Calvinism in general and covenanter thought in particular.<sup>72</sup> Those who took the Solemn League were promising to take action, and it was for this reason that the struggle over who controlled its meaning was so intense.

The Solemn League stated that it was to be taken corporately and individually and that subscribers were to commit to reform their lives, ‘both in public and private’.<sup>73</sup> Thomas Case preached that the ‘welfare of the Kingdom and of thy soul, is bound up now in this Covenant’.<sup>74</sup> Several authors emphasised that the personal and the political were intimately bound up together so that an individual’s failure to perform the Solemn League would not only jeopardise his or her salvation but threaten the country itself.<sup>75</sup> National and personal reformation, Humphrey Chambers preached, ‘should always go together’.<sup>76</sup> Ezekias Woodward believed that those who refused the Covenant did so ‘because it all ends in a Personall Reformation of all that is amisse; he will never take it, for he is amisse’.<sup>77</sup> The Solemn League and Covenant bound together individual piety with national holiness. To take the Solemn League was not simply to swear an oath but to commit to personal reformation and perform the duties it required in daily life.<sup>78</sup> Consequently, it was only to be taken after intense soul-searching. This emphasis on individual reflection accords with early modern literature on conscience, particularly puritan guides for troubled believers.

If, as Vallance suggests, Scots tended to see the covenants as more national than personal,<sup>79</sup> we should expect to find evidence of this difference in sermons and pamphlets encouraging subscription of the Solemn League. It is apparent that the Scottish commissioners’ calls to action were specifically given with the work of the Westminster

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<sup>71</sup> Richard Jenkins, *Social Identity*, 3rd ed. (London: Routledge, 2008), 5.

<sup>72</sup> David Mullan, ‘Masked Popery and Pyrrhonian Uncertainty: The Early Scottish Covenanters on Arminianism’, *The Journal of Religious History*, 21:2 (1997), 175-77.

<sup>73</sup> *Constitutional Documents*, 268, 270.

<sup>74</sup> Thomas Case, *The Quarrell of the Covenant* (London, 1643), 100.

<sup>75</sup> Daniel Cawdrey, *The Good Man a Publick Good* (London, 1643), 37, 39; George Smith, *The Three Kingdomes Healing-Plaister* (London, 1643), 3.

<sup>76</sup> Humphrey Chambers, *A Divine Ballance to Weigh the Religions Fast in* (London, 1643), 42.

<sup>77</sup> Ezekias Woodward, *The Solemne League and Covenant of Three Kingdomes*, 12.

<sup>78</sup> Michael Walzer, *The Revolution of the Saints: A Study in the Origins of Radical Politics* (London: Weidenfeld & Nicolson, 1966), 169.

<sup>79</sup> Vallance, ‘Federal Theology and the Solemn League and Covenant’, 58.

Assembly in mind. Though they did not downplay the importance of personal reformation,<sup>80</sup> public reformation took precedence, even before the settling of the state.<sup>81</sup> This difference in emphasis points towards differing conceptions of the relationship between the personal and the public. William Dell, for example, contrasted what he called a ‘Gospel Reformation’ with a ‘Civil-Ecclesiastical Reformation’. The former began in inward change and led to outer change; it was not possible for forced external conformity to engender personal renewal.<sup>82</sup> For the covenanters, however, the establishing of an effective system of church discipline, wherein the individual’s conscience could be guided and regulated, was an essential component of the Solemn League.

In England, however, there was a particular emphasis on the authority of parliament as the interpreter of the Solemn League. Thomas Case, for example, argued that the clause ‘in our several vocations’ meant that individuals were not bound by ‘the same *degree* of *knowledge*, nor the same *way* of *preservation*’.<sup>83</sup> In the case of ignorance, he continued, ‘if at any time any particular shall be in question, What the Parliament shall make *appear* to be their *right*, or the *liberty* of the *Subject*, we promise to contribute such *assistance* for the preservation or reparation thereof’.<sup>84</sup> In 1646 the parliament affirmed that ‘in case of any Doubt arising’ the Solemn League was ‘only to be expounded by them, by whose Authority it was established in this Kingdom’.<sup>85</sup> Case also argued that it was parliament who determined what the meaning of the Solemn League was, discharging the individual from concerning themselves with questions about how it ought to be interpreted.<sup>86</sup> This subordinated the individual conscience to the authority of parliament. It was also a means to resist the imposition of presbyterianism, and to reject the Scots’ claim to mediate the Solemn League’s meaning. As Lawrence Kaplan has argued, the erastianism of many English parliamentarians was rooted in anticlerical sentiment, and suspicion of a church independent of parliament.<sup>87</sup> This contrasts with the kirk’s view of itself as moderator of the public conscience of the nation.

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<sup>80</sup> For example, *Good Counsell come from Scotland: Or, A Solemn and Seasonable Warning To all Estates and Degrees of Persons throughout the Land* (Edinburgh, 1646), 2.

<sup>81</sup> Robert Baillie, *Satan the Leader in chief to all who resist the Reparation of Sion* (London, 1644), sig. A2v; George Gillespie, *A Sermon Preached before The Honourable House of Commons At their late solemn Fast, Wednesday March 27. 1644* (London, 1644), 40-41; Alexander Henderson, *A Sermon Preached to the Honourable House of Commons At their late soleme Fast, Wesnesday, December 27. 1643* (London, 1644), 35-36; Samuel Rutherford, *A Sermon Preached before the Right Honorable House of Lords, In the Abbey Church at Westminster, Wednesday the 25. day of June, 1645* (London, 1645), 20.

<sup>82</sup> William Dell, *Right Reformation: or, The Reformation of the Church of the New Testament, Represented in Gospell-Light* (London, 1646), 5-6, 9.

<sup>83</sup> Case, *Quarrell of the Covenant*, 53.

<sup>84</sup> *Ibid.*, 53.

<sup>85</sup> *CJ*, iv, 512-14.

<sup>86</sup> Case, *Quarrell of the Covenant*, 53.

<sup>87</sup> Lawrence Kaplan, *Politics and Religion during the English Revolution: The Scots and the Long Parliament 1643-1645* (New York: New York University Press, 1976), 126.

Though the English parliament asserted the right to control the meaning of the Solemn League, an emphasis on personal reformation focused attention on individual piety rather than larger questions about the reformation of the church. The Scottish kirk, however, sought to control the interpretation of the Solemn League, and its commissioners stressed that the reformation of the church in England was the priority. As this discussion shows, the imposition of the Solemn League raised several key questions. Who controlled interpretation: the authority imposing the oath, or the individuals who subscribed it? Could the Scottish understanding of the Solemn League be sustained in the midst of conflict? How could the true intentions of those who subscribed be discerned? Was it possible to reconcile the Solemn League's commitments to monarchy and reformation of religion? What was the right relationship between the personal and the public obligations it imposed? Was compulsion justified? These were the issues which shaped how the Solemn League and Covenant was interpreted and which animated opposition to it.

### Interpreting the Solemn League

For the Scottish covenanters 'the chief aime' of the Solemn League and Covenant, as Baillie put it, was 'the propagation of our Church discipline to England and Ireland'.<sup>88</sup> They believed that the Scottish army would be instrumental in deciding the outcome of England's civil war and that consequently they would be in a strong position to secure their reading of the Solemn League. In England, however, the document was interpreted in quite different ways as rival groupings within both the parliament and the Westminster Assembly sought to assert their own reading of the Solemn League. Given that it was subscribed by a wide range of individuals, including erastians, political independents and religious radicals, it is unsurprising that there was a struggle over its meaning. However, debates about who had the authority to interpret the Solemn League, and how best to secure its ends, were not confined to England. It was during the Engagement crisis of 1648 that such disputes were publicly aired in Scotland. This analysis shows that interpretation of the Solemn League was a process, not an event, shaped by the circumstances in which its subscribers found themselves, and in which the language of conscience played a significant role.

When debated in the Westminster Assembly, the clause which, according to Lightfoot, 'bred all the doubting',<sup>89</sup> was:

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<sup>88</sup> Baillie, *LJ*, ii, 103.

<sup>89</sup> John Lightfoot, *The Whole Works of the Rev. John Lightfoot*, ed. John Rogers Pitman, 13 vols, (London: J. F. Dove, 1822-25), xiii, 10.

we shall ... endeavour ... the preservation of the reformed religion in the Church of Scotland, in doctrine, worship, discipline and government, against our common enemies; the reformation of religion in the kingdoms of England and Ireland, in doctrine, worship, discipline and government, according to the Word of God, and the example of the best reformed Churches ...<sup>90</sup>

The issue was whether ‘according to the Word of God’ was intended as a limitation or for approbation. Bishop Burnet credited Henry Vane with getting the phrase entered into the text, while John Saltman thought it ‘most providentially inserted’.<sup>91</sup> William Ferguson, however, suggests it may have in fact been the work of Henderson,<sup>92</sup> and the expression had been used in other covenanting documents advocating unity between England and Scotland.<sup>93</sup> The insertion of the same phrase to qualify the reformation in England and Ireland has been seen as an attempt by religious independents to resist the Scots’ efforts to impose their form of church government on England.<sup>94</sup> Woolrych, however, describes these changes as ‘small amendments’ and the addition of ‘according to the Word of God’ as ‘the narrowest of loopholes’.<sup>95</sup> In the original draft of the Solemn League and Covenant there was a similar qualifying phrase: the reformation of the Church of England was to be ‘according to the same holy word’.<sup>96</sup> The Scots reportedly found ‘all the alterations to be for the better’, and the commissioners of the General Assembly ‘did all in one voice heartily receive and embrace the same’.<sup>97</sup> This can be read as a strategic capitulation, based on the assumption that their army would play a decisive role and ensure that the reformation would be along Scottish lines. It can also be understood as an indication of the Scots’ firm belief in the correctness of their interpretation of scripture and the perfection of their church.

Arguably of more significance than the clause itself was the explanation which the Westminster Assembly provided of it. This was written in response to the House of Commons’ request for the Assembly’s opinion on the lawfulness of the Solemn League.<sup>98</sup> On 31 August 1643, it reported that ‘the Clause in the First Article of the Covenant “according to the Word of God,” we understand; “So far as we do or shall in our

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<sup>90</sup> *Constitutional Documents*, 268.

<sup>91</sup> Burnet, *Memoirs*, 25.

<sup>92</sup> William Ferguson, *Scotland’s Relations with England: A Survey to 1707* (Edinburgh: John Donald, 1977), 127.

<sup>93</sup> Mullan, ““Uniformity in Religion””, 254.

<sup>94</sup> Henderson, ‘Tercentenary of the Solemn League and Covenant’, 190; Lawrence Kaplan, ‘Presbyterians and Independents in 1643’, *The English Historical Review*, 84:341 (1969), 244-56; Van Dixhoorn, ‘Scottish influence on the Westminster assembly’, 76.

<sup>95</sup> Woolrych, *Britain in Revolution*, 271.

<sup>96</sup> RPS 1643/6/75.

<sup>97</sup> Baillie, *LJ*, ii, 102; NRS, RH1/2/779, sig. A3r.

<sup>98</sup> Lightfoot, *Works*, xiii, 10; *CJ*, iii, 218-220.

Consciences conceive the same to be according to the Word of God'.<sup>99</sup> Interestingly, on 4 September an edition of the Solemn League and Covenant was printed in London in which the first article declared that the preservation of the Church of Scotland was to be 'according to the Word of God', after which the sentence '(this Explication to be at the end of the Covenant, *As far as we do, or shall in our consciences conceive to be according to the Word of God*)' was inserted.<sup>100</sup> The explanation is of significance, as is the fact that the preservation of the Scottish church was also qualified. Though we do not know the provenance of this edition, S. W. Carruthers argues that it is likely to be the form of the document as it left the House of Commons.<sup>101</sup> This suggests that the exact placing of the qualifying phrase is of less importance than the Westminster Assembly's explanation of the first article of the Solemn League. Indeed, *Mercurius Aulicus*, the royalist newsbook, reported that while parliament resolved that while the text of the Solemn League should be unaltered, disagreements should be inserted in the margin.<sup>102</sup>

Evidence of such an approach to the Solemn League can be found in the records of the Westminster Assembly. On 18 October 1643, assembly members reported their experiences in city and suburban churches where the Solemn League was tendered for subscription. Francis Cheynell reported resistance to taking the Solemn League, including a minister who subscribed 'soe farre or forth as I doe & shall conceive it to be according to the word of God', apparently producing a copy of the Assembly's explanation as justification.<sup>103</sup> The Protestation had similarly been accompanied by an explanation, and the meaning of the Scottish National Covenant had also been retrospectively clarified after episcopacy was abolished.<sup>104</sup> This suggests that the oaths themselves were unable to maintain fixed interpretations, and could be shaped by the institutions that imposed them, for varying purposes.

The Assembly's explanation can also be understood as an articulation of an English political culture in which appeals to individual conscience had become normalised. This language of conscience was also evident in the Westminster Assembly's letter to the Scottish General Assembly in 1643, which emphasised to the Scots that its members had sworn to follow their consciences.<sup>105</sup> Those who subscribed Vow and Covenant swore that 'I doe in my Conscience beleeve, That the forces raised by the two houses of Parliament

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<sup>99</sup> CJ, iii, 222-224; Lightfoot, *Works*, xiii, 10.

<sup>100</sup> *The New Oath or Covenant To be taken by All Persons within the two Kingdoms of England and Scotland* (London, 1643), 4. See also Daniel Featley, *The League illegal. Wherein the late Solemn League and Covenant is Seriously Examined, Scholastically and Solidly Confuted: For the Right informing of Weak and Tender Consciences, and the Undeceiving of the Erroneous* (London, 1660), 11-12.

<sup>101</sup> Carruthers, 'Solemn League and Covenant', 237-38.

<sup>102</sup> *Mercurius Aulicus* (3-9 September 1643), 495.

<sup>103</sup> *Minutes and Papers*, ii, 207.

<sup>104</sup> CJ, ii, 144-45; RKS, 39-42.

<sup>105</sup> RKS, 352.

are raised and continued for their just Defence, and for the Defence of the true Protestant Religion, and Liberties of the Subject, against the forces raised by the King'.<sup>106</sup> As mentioned above, the Protestation had also used the first-person singular. It was perhaps partly because the Solemn League was framed as a collective statement, using the first-person plural, that an explanation emphasising individual interpretation was deemed necessary.

The idea that individual consciences could diverge and disagree was not, of course, foreign to the Scots, but they apparently did not believe or expect such latitude within a gathering of the saints, or that representative institutions would legitimise discord. Such a qualifying phrase would have seemed redundant to them, and they would have rejected any prioritisation of conscience over scripture. As we have seen, when conscience was used by the covenanters, it was in public documents, such as the National Covenant and Bishops' Wars propaganda, as a statement of individual belief according with the public conscience. In contrast, when the divines at the Westminster Assembly were unable to reach a consensus, they delegated the task of interpretation to the individual. That their explanation was attached to at least some printed copies of the Solemn League suggests that this was not seen as a privilege restricted to elites.

It was this emphasis on conscience which sustained rival interpretations of the Solemn League. Radicals and independents in England, in particular, diverged from the presbyterian mainstream in advocating liberty of conscience. Individuals in both kingdoms also invoked conscience to take the Solemn League with reservations and qualifications, elevating personal over public interpretation. Divergent interpretations of the Solemn League abounded in England from the outset, in part designed to assuage tender consciences. Thomas Case, for example, reassured his listeners that 'by this Covenant *we* are bound no more to conform to *Scotland*, then *Scotland* to *us*'.<sup>107</sup> Oliver St John reportedly allayed opponents' concerns in the Commons by arguing that the Solemn League was a political necessity designed to gain Scottish support and that the Westminster Assembly would issue a statement which would 'give relief to ... tender consciences': this is what the explanation was designed to do.<sup>108</sup> The author of the *Second Part of the Un-deceiver*, though commending Scottish presbyterianism, similarly argued that the word of god was the model for all the churches in the three kingdoms.<sup>109</sup>

In his exhortation to the Westminster Assembly and the Houses of Parliament before the signing of the Solemn League Philip Nye pointedly stated that the Covenant was for 'the Reformation of three Kingdoms' and left open the possibility that England would not

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<sup>106</sup> *A Sacred Vow and Covenant taken By the Lords and Commons assembled in Parliament* (London, 1643), 4-5.

<sup>107</sup> Case, *Quarrell of the Covenant*, 44.

<sup>108</sup> Pearl, 'Oliver St. John and the "middle group"', 499-500.

<sup>109</sup> *The Second Part of the Un-deceiver* (London, 1643), 14, 23.

follow Scotland's example.<sup>110</sup> That Nye, a congregationalist, endorsed the Solemn League might be surprising but must be understood in the context of the friendly relations he had with the Scottish covenanters.<sup>111</sup> In the *Apologeticall Narration*, of which Nye was one of the authors, conscience was repeatedly invoked as a justification for the congregational model of church government. They had approached scripture 'impartially, and unprejudicedly' guided only by god's light, as men who had 'the greatest reason to be true to our own consciences', given what they had suffered for them.<sup>112</sup> This suggests that Nye's support for the Solemn League was predicated on the belief that it prescribed only that model of church government which could be conscientiously derived from scripture. The Solemn League did not, after all, explicitly endorse the form of presbyterianism practised in Scotland, or, indeed, presbyterianism at all. It is clear that there were different assumptions at work here, which were a reflection of differing political and religious cultures.

Contemporaries recognised that there was room in the Solemn League for equivocation, largely based on the clause 'according to the word of God', but also drawing on the Assembly's explanation of it. *The Plain-meaning Protestant*, for example, argued that because the Solemn League was imposed by the House of Commons, a multitude of men, it had many possible interpretations.<sup>113</sup> Those who were compelled to take the Solemn League often did so with reservations, implicitly denying the authority of the institutions of church and state to impose their meaning on it. This was not a practice exclusive to England. For example, when in 1649 Sir Patrick Maule, the Earl of Panmure, was compelled to declare that he adhered to the Solemn League, he protested that he was 'tyed thereby to the ... plaine meaning thereof' and only as he understood 'the true meaning of the covenant'.<sup>114</sup> In a similar declaration, a certain W. Baillie of Edinburgh informed the duke of Hamilton that he had subscribed the Solemn League 'in obedience to our church and state'. Like Panmure, Baillie swore to his own sense of the Solemn League, and made it clear that he conceived it to be for god and king.<sup>115</sup>

John Coffey argues that the Solemn League and Covenant 'bound both sides to a programme of religious intolerance'.<sup>116</sup> However, some English authors saw the Solemn League and Covenant as holding the promise of religious and civil liberty. For example, in a tract addressed to the House of Commons, Gerrard Winstanley argued 'you swore in your

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<sup>110</sup> Philip Nye and Alexander Henderson, *Speeches delivered before the Subscribing of the Covenant* (Edinburgh, 1643), sig. A3<sup>v</sup>.

<sup>111</sup> Powell, *Crisis*, 35-53, 63.

<sup>112</sup> John Goodwin, Philip Nye, Sidrach Simpson, Jeremiah Burroughs and William Bridge, *An Apologeticall Narration* (London, 1644), 3.

<sup>113</sup> *The Plain-meaning Protestant* (Oxford, 1644), 14-15.

<sup>114</sup> NRS, GD45/1/110.

<sup>115</sup> NRS, GD406/1/1921.

<sup>116</sup> John Coffey, 'The toleration controversy during the English Revolution', in Christopher Durston and Judith Maltby (eds), *Religion in Revolutionary England* (Manchester: Manchester University Press, 2006), 45.

National Covenant to endeavour a reformation according to the Word of God' which he interpreted to mean 'to restore to us that primitive freedom in the earth, in which the earth was first made and given to the sons of men, and that is to be a common treasury of livelihood to all'.<sup>117</sup> He repeatedly invoked the Solemn League to demonstrate that both parliament and people had pledged to reform the English state and church and to defend the liberties of the subject. He rejected the argument that parliament was the final interpreter of the Solemn League and instead insisted that it empowered the people to hold parliament to account.<sup>118</sup> In contrast to the Scottish National Covenant of 1638, which was seen as a renewal of the Negative Confession, in England, the Solemn League's emphasis on reformation opened it up to diverse interpretations. Reformation according to the word of god could be a radical or a conservative programme, and from 1649 references to the Solemn League can be found in pamphlets by Winstanley and other similarly minded thinkers.<sup>119</sup>

John Saltmarsh also made a radical argument for liberty of conscience from the Solemn League.<sup>120</sup> In the *Smoke in the Temple* Saltmarsh interpreted the Solemn League as obliging each individual 'to endeavour a Reformation according to the Word of God'. However, he continued, the only judge and interpreter of the Word of God is 'he who is Lord of the conscience, in things immediately divine & spiritual'.<sup>121</sup> The clause, as Saltmarsh understood it, obliged the swearer only in '*so far as we do or shall in our consciences conceive the same to be according to the Word of God*'.<sup>122</sup> Saltmarsh was here citing the Westminster Assembly's explanation of the Solemn League's first article to forward a radical defence of religious toleration.<sup>123</sup> It seems apparent that this was part of its intended function. For example, in the Assembly, the congregationalist Thomas Goodwin argued that 'Those of differing judgements have in a generall way taken the covenant & toke it conscientiously in that sence left to them' and he contended that 'no interpretation may be put as may restraine it one way'.<sup>124</sup> It is arguable that the promotion of the idea that the Solemn League permitted liberty of conscience was a deliberate attempt to demonstrate that it could sustain multiple interpretations and was not a definitive and eternal statement of god's word.<sup>125</sup> However, Lazarus Seaman argued that though they 'carefully avoyd the affixing of any perticular sence' they had also been 'carefull to prevent variety of

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<sup>117</sup> Gerrard Winstanley, *The Law of Freedom and Other Writings*, ed. Christopher Hill (Harmondsworth: Penguin, 1973), 111.

<sup>118</sup> Winstanley, *Law of Freedom*, 82, 83, 92, 93, 105, 106, 111, 114, 116, 117, 119, 122, 128, 130, 131, 133, 136, 137, 162, 165, 182, 184, 190, 240, 245, 252, 299, 377.

<sup>119</sup> Vallance, *Revolutionary England*, 151-53.

<sup>120</sup> *Ibid.*, 145-46.

<sup>121</sup> John Saltmarsh, *The Smoke in the Temple*, 2nd. ed. (London, 1646), 24.

<sup>122</sup> *Ibid.*, 24.

<sup>123</sup> Lightfoot, *Works*, xiii, 10.

<sup>124</sup> *Minutes and Papers*, iii, 283.

<sup>125</sup> This suggestion was put to me by Laura Stewart.

Interpretations'.<sup>126</sup> This suggests that the congregationalists, while seeking to uphold their reading of the Solemn League, did not envision it being open to endless reinterpretation by all: there were limits to what could be justified by conscience.

The Westminster Assembly's explanation of the Solemn League put an entirely different gloss on its meaning than that which had been intended by the Scottish covenanters. Rather than scripture being the normative basis of a common conscience, some English writers wanted to assert that individual conscience was the measure of the Solemn League's meaning. As we have seen with W. Baillie and the Earl of Panmure, this mode of interpretation was not limited to England. Scottish royalists were able to interpret the Solemn League as being for the defence of the king, a debate which did not gain much purchase south of the border. In England, the Westminster Assembly's explanation authorised and legitimised divergent readings, and did not fix the Solemn League with any definitive meaning. The Solemn League may have been 'the enduring Scottish contribution to the assembly'<sup>127</sup>, but perhaps as significant was the Westminster Assembly's contribution to the Solemn League.

It was the tension between the obligations to the king and covenanted uniformity which were at the root of the 1648 Scottish Engagement crisis. By 1648 Scotland was broadly divided into two factions, one led by Argyle and the other by Hamilton. They both were sincere about defending the interests of the Solemn League and the rights of the king but differed over which was to be given precedence.<sup>128</sup> Baillie wrote in 1647 that if Charles subscribed the Solemn League, 'we are all as one man to restore him to all his rights, or die by the way', but that if he did not while 'many here will be for him ... diverse of the best and wisest are irresolute, and waits till God give more light'.<sup>129</sup> His analysis of the mood of the ministers in Scotland was accurate, but by 1648 a clear majority of the members of parliament were in favour of the Engagement. An oath to promote the Solemn League and Covenant, catalogued with supplications from presbyteries in 1648, may give more evidence of attempts to placate the ministers. Subscribers swore to advance the ends of the Solemn League, in particular the ecclesiastical and doctrinal statements of the Westminster Assembly, and 'by all Lawfull and possible means' to free the English parliament from the 'Armie of Sectaries'. Perhaps significantly, this article of the oath came before that which committed subscribers to restoring the king.<sup>130</sup> Before his authority was secured, Charles

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<sup>126</sup> *Minutes and Papers*, iii, 283.

<sup>127</sup> Van Dixhoorn, 'Scottish influence on the Westminster assembly', 87.

<sup>128</sup> Stevenson, *Revolution and Counter-Revolution*, 86. As Laura Stewart points out, 'The dilemma for many may not have been whether the preservation of the king took precedence over that of the Covenants, but whether the preservation of the Covenants was more likely to be achieved by preserving the king'. Laura A. M. Stewart, 'Scottish Politics, 1644-51', in Michael Braddick (ed.), *The Oxford Handbook of the English Revolution* (Oxford: Oxford University Press), 124.

<sup>129</sup> Baillie, *LJ*, iii, 18.

<sup>130</sup> La.I 308.18, sig A<sup>r</sup>, A<sup>v</sup>.

was to settle and establish the Solemn League and swear to ‘never make anie opposition, or Impediment thereunto, or endeavour a change thereof’, though he was not to be obliged to subscribe it himself.<sup>131</sup> It is not possible to accurately date this oath, though the fact that it mentions ‘this Engagement’ indicates that it was composed after the alliance with the king was secured.<sup>132</sup> It could be a draft of the oath which parliament produced to promote the Engagement, but which was never enforced.<sup>133</sup> This oath framed the Engagement as the best means to obtain the ends of the Solemn League and secure a settlement with the king which excluded the ‘sectaries’ in England.

This position contrasts with another draft oath prepared by Gillespie and Wariston in March 1648. According to Baillie it ‘pleased themselves well, but their opposites extreemly ill, and their best friends but so and so’, and was consequently never promulgated.<sup>134</sup> This oath was recorded by Baillie but is not included in the published version of his letters and journals and consequently has been overlooked. It survives in the contemporary copy of Baillie’s letters and journals and a 1728 transcript, both held at New College Library in Edinburgh.<sup>135</sup> The oath presents a particular interpretation of the Solemn League and is of interest as evidence of how the covenanting cause had developed since 1643. Gillespie and Wariston specified that adherence to the Solemn League now meant acceptance of the Directory of Worship and Confession of Faith produced by the Westminster Assembly; of presbyterian church government ‘with a subordination of the Lower Assemblies to the higher’; and a rejection of toleration of any kind.<sup>136</sup> The ‘true protestant religion’ to be defended was now doctrinally defined, but that presbyterianism had to be more carefully expounded is a reflection of the lack of consensus found in the Westminster Assembly on the issue of church government. The question of where authority lay in the church was a vexed question, and this oath ruled out any concession to the congregationalists’ position. Indeed, it committed its subscribers to oppose toleration not only of the usual range of heresies but also the English prayer book and independency.<sup>137</sup>

As in the Engager oath, the English parliament was to be rescued, and monarchical government was to be preserved.<sup>138</sup> However, before Charles was to be restored to his throne security was to be had that he would not oppose the Solemn League, that he would approve all acts of parliament making its subscription mandatory and that presbyterianism

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<sup>131</sup> *Ibid.*, sig. Av.

<sup>132</sup> *Ibid.*

<sup>133</sup> Stevenson, *Revolution and Counter-Revolution*, 106-09.

<sup>134</sup> Baillie, *Letters and Journals*, iii, 37.

<sup>135</sup> New College Library, Edinburgh, Baill.Ms. 3/4, 73-74 and Baill.Ms. 4/3, ff. 28r-29v. Quotations are taken from the contemporary copy.

<sup>136</sup> Baill.Ms. 4/3, f. 28<sup>r</sup>.

<sup>137</sup> Baill.Ms. 4/3, ff. 28r-28<sup>v</sup>.

<sup>138</sup> *Ibid.*, f. 28<sup>v</sup>.

would be established in all his kingdoms.<sup>139</sup> Further, and radically, he was to consent to an act of parliament declaring the war in pursuance of the ends of the Solemn League lawful. It was to ‘always be understood’ that it was the duty of parliaments ‘in cases of the like danger’ to defend the religion and liberties of the kingdoms, even without the king’s concurrence.<sup>140</sup> There are hints of a similar position in a sermon given by Henderson in 1643, but this constraining of the king represents a dramatic escalation of such sentiments.<sup>141</sup> This provides stark evidence of how distrustful some covenanters had become of the king by 1648: only the threat of war was seen as providing adequate security for religion, and there was no mention of attempting to make Charles swear the Solemn League. This draft association was designed to be taken with the Solemn League, expanding and clarifying the ends of the covenant.<sup>142</sup> It also committed its subscribers to a further reformation of ‘ourselves, and our families and of the congregations we have’, and to support greater use of civil laws against sinners, ‘without respect of persons’.<sup>143</sup> The personal, the national and the international were thus bound up together, as in the Solemn League.

By setting such high conditions for any peace settlement, this oath may have been intended to undermine the Engagement. These were terms which no king could agree to, and which would alienate potential allies in England and moderates in both kingdoms. Explicitly tying support for restoring Charles to his position to onerous conditions gave individuals a reason to refuse to support the Engagement on conscientious grounds. This uncompromising vision is the most likely reason why it never progressed beyond being a privately circulated draft. Laura Stewart has argued that the Engagement crisis ‘exposed a key tension that had remained unresolved in 1641: who possessed the authority to make and enforce binding rules?’.<sup>144</sup> Presbyterians held that ministers should not sit in parliament or hold civil offices, but as the regulator of the public conscience, the kirk nevertheless claimed significant power to itself. For Wariston and Gillespie, this included the interpretation of the Solemn League and Covenant, and consequently the limits of any peace settlement. They assigned to parliament the duty of determining when true religion was in danger and authorising a defensive war,<sup>145</sup> but the kirk would necessarily play a major role in judging when such a radical course of action was required. In the idealised covenanted state, kirk and parliament would work in conjunction towards the same ends. In reality, the tension between religious and legal obligations remained unresolved.

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<sup>139</sup> *Ibid.*, ff. 28<sup>v</sup>-29<sup>r</sup>.

<sup>140</sup> Baill.Ms. 4/3, 29<sup>r</sup>.

<sup>141</sup> Henderson, *Sermon Preached to the ... House of Commons ... 1643*, 11-12.

<sup>142</sup> Baill.Ms. 4/3, 29<sup>r</sup>-29<sup>v</sup>.

<sup>143</sup> *Ibid.*, 29<sup>v</sup>.

<sup>144</sup> Stewart, *Rethinking*, 260.

<sup>145</sup> Baill.Ms. 4/3, 29<sup>r</sup>.

These contrasting oaths also demonstrate that the meaning of the Solemn League shifted in accordance with changing historical circumstances. As Chris R. Langley has recently argued, '[t]he official definition of a good Covenanter moved over time'.<sup>146</sup> If Gillespie and Wariston had had their way, the covenanting movement would be tied to a particular form of church government, which was objectionable to congregationalists and clerical presbyterians in England, and Charles would only be restored to his power on terms he would never accept. The fact that Engagers appear to have drafted a rival oath suggests the depth of the struggle over interpretation in Scotland. This was not a conflict between church and state but within the covenanted state.<sup>147</sup> By making declarations about religion without the consent or advice of the general assembly or the commission of the kirk, the parliament was assuming a role that the church believed belonged rightly to it: the informing of conscience. As Baillie put it, 'it is one of the liberties of the Church of *Scotland*, established by law and long custom, to keep the people by publick Declarations in their duty to God, when men are like to draw them away to sin'.<sup>148</sup>

Conscience was repeatedly invoked to justify the intervention of the kirk in public affairs.<sup>149</sup> Several synods, for example, declared themselves bound in duty and conscience to petition the parliament and support the desires of the Commission.<sup>150</sup> The ministry of Dumfries supplicated parliament 'for the exoneration of our owne consciences before God & man'. The judgement of the kirk, it continued, 'is not (as many are pleased to speake) the opinion of a few privat particular men, but to the best of our knowledge is the meaning of the ministrie in generall'.<sup>151</sup> These petitions emphasised that the kirk was acting as an institution to warn of the dangers posed to public religion, rather than articulating the grievances of private individuals. In other petitions, parliament was warned that: 'the eyes of many both at home and abroad' and the 'eyes of men and angells' were watching them.<sup>152</sup> This language combined the internal and external aspects of conscience, encouraging the reader to consider his public standing, both nationally and internationally, and the final judgement of god on his actions. Anti-Engager barons and gentry asked that the parliament proceeded 'unanimouslie' rather than proceeding without stating the grounds of the war clearly.<sup>153</sup> Unity had long been the watchword of the covenanters, used to construct and maintain a covenanting public by excluding dissenters.

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<sup>146</sup> Chris R. Langley, *Worship, Civil War and Community, 1638-1660* (London: Routledge, 2016), 176.

<sup>147</sup> Stewart, *Rethinking*, 262.

<sup>148</sup> Robert Baillie, *A Review of the Seditious Pamphlet lately published in Holland by Dr Brambell* (Delph, 1649), 45.

<sup>149</sup> For example, *Ecclesiastical Records. Selections from the Minutes of the Presbyteries of St. Andrews and Cupar, M.DC.XLI.-M.DC.XCVIII*, ed. G. R. Kinloch (Edinburgh: T. Constable for the Abbotsford Club, 1837), 41-42, 47.

<sup>150</sup> La.I.308.4, 308.5, 308.9.

<sup>151</sup> La.I.308.6.

<sup>152</sup> La.I.308.9, 308.12.

<sup>153</sup> La.I.308.17.

However, the language of conscience was also used to resist the demands of the kirk during the Engagement crisis. A ‘cross-petition’, the only known surviving copy of which comes from Linlithgow presbytery, expressed the concerns of a small group of ministers about the actions of the Commission, though it was never presented to the General Assembly.<sup>154</sup> It urged that no ministers should ‘be forced in our conscience to preach unto and presse upon the people any thing whereof we are not fully cleared by the light of gods word’.<sup>155</sup> This was the same language used by prominent covenanter thinkers and the kirk itself to justify resistance first to the king and now to parliament, highlighting the fact that conscience could be invoked to differing ends. The kirk ultimately failed to maintain its monopoly on the language of conscience and was unable, seemingly, to uphold the unanimity it prized so dearly amongst its own ministers. While the kirk attempted to assert its position as the conscience of the commonwealth, it was unable to have its interpretation of the Solemn League accepted by all. This was a reflection of the fact that the obligations it incurred were far harder to reconcile in 1648 than they had been in 1643. Following the defeat of the Engager army and the assumption of power by its opposers, the Solemn League was reimposed for national subscription.<sup>156</sup> However, it was still not obvious what course of action would best secure the ends of the Solemn League, or, indeed, who had the authority to prescribe any interpretation of it.

## Opposing the Solemn League

In England royalists, independents and radicals articulated clear and principled objections to the Solemn League and Covenant. Chief amongst these were the arguments that it was contrary to previous oaths — particularly the Oath of Allegiance — and that associations made without the king’s consent were unlawful.<sup>157</sup> A rejection of the British union envisaged by the League’s supporters was also central to denunciations of it. In 1643 the English ministry called for kingdoms to ‘stand up against Antichrist as one man’, and the General Assembly spoke of a desire that England and Scotland ‘be knit together as one man’, with one head, one heart, and one soul.<sup>158</sup> The English presbyterian Humphrey Chambers declared that the Solemn League and Covenant committed its subscribers to bringing the people of England, Scotland and Ireland ‘into the nearest bond of Christian

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<sup>154</sup> See Stewart, *Rethinking*, 286-290 for a full account of the origins and nature of the 1648 ‘Cross-Petition’.

<sup>155</sup> NRS, CH2/242/53, 317. Quotations are taken from the transcription provided in Stewart, *Rethinking*, 301-02.

<sup>156</sup> *Kirk Commission Records*, ii, 78-89.

<sup>157</sup> For example, E. M. *A Long imprisoned Malignant, his Humble Submission to the Covenant and Directory: With some Reasons and Grounds of use to settle and satisfie tender Consciences* ([London], 1647), 5.

<sup>158</sup> RKS, 349, 358.

unity'.<sup>159</sup> Rutherford argued in *A Free Disputation Against Pretended Liberty of Conscience* that the union was not between the parliaments of both kingdoms but between the two nations.<sup>160</sup> The implications of this were significant. When kingdoms were 'united together, and confederate by the Oath of God in one Religious Covenant, they become an Ecclesiastick body', he wrote, and therefore 'the whole may challenge any part that maketh defection, and labour to gaine them, and if they contumaciously resist, they are with the sword to decide the matter, lest wrath from the Lord breake out on the whole confederate body'.<sup>161</sup>

However, opponents of the Solemn League argued that because the kingdoms were separate nations with differing constitutions and laws, they could not be bound together in a band of mutual defence. For example, the *Anti-Confederacie* pointed out that the liberties of the three kingdoms were different and they had no power over each other. It was therefore not possible for subscribers in one kingdom to preserve the liberties and rights of another kingdom, and it was best that they did not meddle in each other's affairs.<sup>162</sup> Further, some things which were lawful in England were unlawful in Ireland and Scotland, 'in particular, that some Oaths and Subscriptions, established by the Lawes of England, are contrary to the very Nationall Oath and Covenant approved by His Majesty in Scotland'.<sup>163</sup> The author of *A Briefe Discourse* observed that not only was it illegal to make a league with a foreign nation without the king's consent, those who swore the Solemn League had no power to interfere with or preserve the Scottish church.<sup>164</sup> John Gauden, along with a number of other observers, argued that no one could swear '*in Truth, Righteousnesse and Judgement*' to preserve 'the Lawes and government of 3 Kingdomes Ecclesiastical and Civill' since it was not possible for anyone to know them sufficiently well.<sup>165</sup>

The backwardness of the Scottish nation and the servility of its commonalty were common themes of English literature. The *Anti-Confederacie* claimed that the kirk's discipline was obviously not effective, and for evidence instructed the reader to 'inquire into the lives and manners, the fidelity, piety, chastity, and civility of that Nation'.<sup>166</sup> The author of *Certain Observations Upon the New League and Covenant*, reportedly a divine at the Westminster Assembly, described it as 'the Scottish Covenant' and argued that the different

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<sup>159</sup> Humphrey Chambers, *A Divine Ballance to Weigh the Religions Fast in* (London, 1643), 13.

<sup>160</sup> Samuel Rutherford, *A Free Disputation Against Pretended Liberty of Conscience* (London, 1649), 274.

<sup>161</sup> *Ibid.*, 304.

<sup>162</sup> *The Anti-Confederacie* (Oxford, 1644), 16.

<sup>163</sup> *Ibid.*, 17.

<sup>164</sup> *A Briefe Discourse, Declaring the Impiety and Unlawfulness of the new Covenant* ([Oxford], 1643), 8, 10.

<sup>165</sup> John Gauden, *Certain Scruples and Doubts of Conscience About taking the Solemne League and Covenant; First Printed in the year 1643* (London, 1660), 2, 9. See also *A Challenge, by the Divines of the Army, to the Divines of Sion-Colledge: Concerning the League and Covenant* ([London, 1644?]), sig. Ar; *Anti-Confederacie*, 1; *Hell and Death, in the Covenant* ([London], 1647), 10, 16; *Reasons Of the present judgement of the University of Oxford, concerning The Solemn League and Covenant. The Negative Oath. The Ordinances concerning Discipline and Worship* ([Oxford], 1647), 4.

<sup>166</sup> *Anti-Confederacie*, 2.

parties took it in different senses. It was, he concluded, a partisan association, not a national oath.<sup>167</sup> Another pamphleteer described the Solemn League as ‘the Scotch hooke’ and ‘the Scotch 400000.l. Covenant’, a reference to the money paid by the English parliament to the Scottish army.<sup>168</sup> He attacked presbyterianism, arguing that in Scotland the lords and presbyteries tyrannised over ‘the poor ignorant Lord-ridden People’.<sup>169</sup> Other references to the Solemn League speaking ‘perfect *Scottish*’ and to it being taken ‘in the Scots sense’ evidence a rejection of designs for greater British uniformity, and of Scottish claims to have an interest in the disposal of the king’s person.<sup>170</sup> Some who had taken the Solemn League denied that they understood it in this sense. For example, ‘Borialis Guard’, the author of *The Joviall Tinker of England* wrote that the city of London had ‘sworn ... to the Scotch glosse upon the English Covenant’.<sup>171</sup> He attacked those Englishmen who took it ‘with the Scotch corrupt paraphrase of a joynt-interest’. The limitations, ‘in our several places and callings’, ‘in our several vocations’ and ‘according to our places and interests’, he argued, explicitly kept separate England and Scotland’s interests, a position also taken by Thomas May.<sup>172</sup>

Perhaps the most piercing analysis of the Solemn League and Covenant came from Gerard Langbaine, an academic and clergyman. He wrote that although the kingdoms shared a king, they were still separate and had their own parliaments. ‘The *Cause* of one Kingdome’, he continued, ‘is not *common* to another though they be in subjection to the same King’.<sup>173</sup> What Charles did in one kingdom he did not have do in another. For example, the king ‘by reason of his necessary absence from thence, may have granted some Liberties to *Scotland*, which if he should doe in *England* would be in disherison to the Crowne’.<sup>174</sup> The essential problem, as Langbaine saw it, was that three very different nations were taking one oath.<sup>175</sup> The interests of the kingdoms were different, and ‘none having any mutuall dependence or superiority above another, the titular union in the same King will be found ineffectual to reconcile their differences, if he be not Supreme in the old received sense’.<sup>176</sup> Langbaine’s critique positioned Charles as the only means of

<sup>167</sup> *Certain Observations, Upon the New League or Covenant, As it was explained by a Divine of the New Assembly, in a Congregation at London* (Bristol, 1643), 4, 8-9, 10, 16.

<sup>168</sup> *The Remonstrance of the Kingdome of England, to the Universities of Oxford and Cambridge* ([Oxford], 1647), 2, 5.

<sup>169</sup> *Ibid.*, 10.

<sup>170</sup> *A Narrative of Some Passages in or Relating to the Long Parliament* (London, 1670), 55; LJ, viii, 31-540; Thomas Juxon, *The Journal of Thomas Juxon, 1644-47*, ed. Keith Lindley and David Scott (Cambridge: Cambridge University Press for the Royal Historical Society, 1999), 104.

<sup>171</sup> Borialis Guard, *The Joviall Tinker of England: Willing To Hammer the Covenant and Scots Commissioners into English* (London, 1648), 1.

<sup>172</sup> Guard, *Joviall Tinker*, 3; Thomas May, *The Changeable Covenant. Shewing in a brief Series of relation, How the Scots from time to time have imposed upon England, by their false Glosses, and perverse interpretations of the Covenants* (London, 1650), 8.

<sup>173</sup> Gerard Langbaine, *A Review of the Covenant* ([Oxford], 1644), 4-5, 18.

<sup>174</sup> *Ibid.*, 18. Disherison: The action of depriving of, or cutting off from, an inheritance (OED).

<sup>175</sup> *Ibid.*, 22.

<sup>176</sup> *Ibid.*, 8.

unifying the kingdoms, and in a manner which allowed for the significant differences between them. Charles did make such an overture to the Scottish general assembly, proposing a federal model for the three kingdoms which would preserve their laws and institutions. This was this an attempt to undermine the alliance between the parliament and the Scots, but it was too late for any such assurances.<sup>177</sup>

In Scotland, the clearest opposition to the Solemn League and Covenant was manifested in 1644 when, after a failed attempt to provoke royalist uprising in the spring, the Marquis of Montrose returned with the support of Alasdair MacColla's Irish forces and carried out a successful campaign against the covenanting regime. Montrose, along with other Scottish royalists, swore an oath of allegiance to Charles at Oxford in which their opposition to the Solemn League was made clear. The pretence of public authority, it stated, was being used to justify rebellion. The late convention of estates was 'a presumptuous, illegal, and traitorous meeting', and the Solemn League was 'a most impious imposition upon men's consciences'.<sup>178</sup> A remonstrance presented to the king by Scottish nobles in early 1644 was similarly critical of the convention and its imposition of the Solemn League.<sup>179</sup> These denunciations of the Solemn League were centred on a key argument also used by English royalists: an illegitimate authority could not compel men's consciences.

The 'Observations on the Divine Right of Kings' may have been written in support of Montrose's uprising, and was certainly composed after the Scots had invaded England in support of the Solemn League. It provides a significant critique of the Solemn League, and is notable for being written by a royalist still abiding in Scotland. The author questioned whether 'the sending of ane army to England after our religion and pace wes established' was 'out of zeall to reforme religion orthodox ... or to assist a reformation in church government never intended?'.<sup>180</sup> The 'Observations' questioned the motives of those who framed the Solemn League. Conscience would accuse those who acted so deceptively and would give an account of their actions before god at the final judgement.<sup>181</sup> The author suspected that the people of both nations were misled as to the purposes of the alliance, 'the mor easily to make use of their persons and purses'.<sup>182</sup> It was those opposed to the king, he argued, who threatened established laws and pressed consciences.<sup>183</sup> The invasion of England and the involvement of the Scots in an aggressive war against their king was clearly unwarrantable and inexcusable.<sup>184</sup> The 'Observations' also questioned the logic of

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<sup>177</sup> Russell, *Fall*, 520.

<sup>178</sup> Mark Napier, *Montrose and the Covenanters*, (London: James Duncan, 1838), ii, 238.

<sup>179</sup> John Spalding, *Memorialls of the Troubles in Scotland and in England, A.D. 1624-A.D. 1645*, (Aberdeen: Spalding Club, 1850-51), ii, 231-28.

<sup>180</sup> La.III 737, 66.

<sup>181</sup> *Ibid.*, 80 [i.e. 70]; 112 [i.e. 102].

<sup>182</sup> *Ibid.*, 66-67.

<sup>183</sup> *Ibid.*, 67.

<sup>184</sup> *Ibid.*, 110 [i.e. 100].

the alliance, asking why the Scots had not received ‘assurance of their acceptance of the presbiteriall government’ before their army was sent into England. Such a course would have allowed them to offer to join with the king had the English parliament refused. That the covenanters had not done so was further evidence that they were concealing their real motives.<sup>185</sup>

Even amongst Scottish covenanters, there were questions raised about how Scotland and England’s concerns intersected. Sir Thomas Hope observed that ‘as ane subject of Scotland’ he ‘cannot be tyet to mayntene, or fueir to mayntene, the Parliament of another kingdome, and the liberties thair off’.<sup>186</sup> John Spalding wondered why Scottish forces should invade England and ‘interpone oureselffis betuixt the King and his subiectis’ given that Charles had acquiesced to the covenanters’ demands, and thought it odd that an army raised for the king’s defence should be done so without his consent.<sup>187</sup> The so-called ‘Cross-Petition’, sent to the Scottish Privy Council in January 1643 and signed by royalist nobles and lairds, had made a similar point. ‘Civil Liberty and Conscience’, it declared, was ‘so tender that it cannot endure to be touched, but by such as they are wedded to, and have lawful Authority over them’.<sup>188</sup> Though the petitioners described themselves as ‘*British* subjects’, they emphasised that Charles remained a Scottish king to whom they owed loyalty as Scottish subjects.<sup>189</sup> By rejecting interference in English affairs, particularly ecclesiastical issues, they acknowledged the distinctiveness of the two kingdoms and recognised that religious unity of the kind supported by the covenanters would undermine Charles’s authority in all his dominions. For some covenanters, on the other hand, Christ’s truth was a prerogative greater than the king and kingdom.

Just as conscience justified variant interpretations of the Solemn League and Covenant it also formed the basis of opposition to it. Gary Rivett’s analysis of *Mercurius Aulicus* between September and October 1643 shows that the royalist newsbook used the issue of conscience to challenge the legitimacy of the Solemn League.<sup>190</sup> Romans 14:23 was generally interpreted to mean that individuals must be certain in conscience before they subscribed oaths. As one pamphleteer observed, this was how Perkins, Calvin, Bucer and Peter Martyr had understood this scriptural text.<sup>191</sup> *Aulicus* therefore focused in particular on the disagreements about the meaning of the Solemn League, which it called ‘the *Scottish*

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<sup>185</sup> *Ibid.* 111 [i.e. 101].

<sup>186</sup> Thomas Hope, *A Diary of the Public Correspondence of Sir Thomas Hope* (Edinburgh: Bannatyne Club, 1843), 197.

<sup>187</sup> Spalding, *Memorialls*, ii, 273.

<sup>188</sup> Burnet, *Hamilton*, 207.

<sup>189</sup> *Ibid.*, 207, 208.

<sup>190</sup> Gary Rivett, ‘English newsbooks, storytelling and political criticism: *Mercurius Aulicus* and the Solemn League and Covenant’, *Media History*, 19:1 (2013), 3-16.

<sup>191</sup> *Hell and Death, in the Covenant* ([London], 1647), 9.

Covenant', to sow doubts about its legitimacy.<sup>192</sup> If the Solemn League was shown to be ambiguous, perhaps deliberately so, then individuals could not in good conscience subscribe it.

To this end, *Aulicus* reported that there were significant disputes about the Solemn League in the House of Commons, but that the English parliament was so desperate to secure Scottish assistance that these doubts and disagreements were suppressed.<sup>193</sup> In October 1643 it alleged that though 'the major part' of the parliament scrupled at the Solemn League, they believed that without it the Scots would not come to their aid and so they took it with reservations and in such a sense as it would not clash with previous oaths.<sup>194</sup> However, the common people were forced to take it 'without the least scruple or limitation of the termes'.<sup>195</sup> This accusation finds evidence in a letter sent to a lord from a royalist in Oxford, in which the author alleged that some Lords had used 'a trick' by which they had 'engaged your selves to nothing by this new Covenant'.<sup>196</sup> By exposing this supposed hypocrisy, focusing on the divisions which it engendered and by making repeated references to the money paid to the Scots for their help, *Aulicus* cast doubt on the oath's supposed religiosity.<sup>197</sup> A similar accusation was levelled at the Scottish convention of estates, which had approved the Solemn League unanimously. Gilbert Burnet wrote that '[i]t was thought strange to see all their Consciences of such a size, so exactly to agree as the several Wheels of a Clock'. For the covenanters this was attributed to providence, 'but by others to the Power and Policy of the Leaders, and the simplicity and fear of the rest'.<sup>198</sup>

*Mercurius Britannicus*, a parliamentary newsbook established to counter the success of *Aulicus*, was unable to match this cutting style. Indeed, it complained that *Aulicus*'s mocking tone was blasphemous.<sup>199</sup> In response to *Aulicus*'s claim in September 1643 that several lords had 'stumbled at the *Covenant*' and others had refused it, *Britannicus* merely offered up a denial and a list of those who had taken it.<sup>200</sup> It alleged that the royalists had bid more money for the Scots' assistance, but that the Scots had sided with parliament out of principle.<sup>201</sup> *Britannicus* was unable or unwilling to engage with the accusation that the Solemn League had been taken with reservations and interpreted in different senses, instead asserting that parliament's military successes crowned 'the *Covenant* ... with such

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<sup>192</sup> *Mercurius Aulicus* (27 August-2 September 1643), 478; (8-14 October 1643), 566; (23-28 October 1643), 611.

<sup>193</sup> *Ibid.* (3 September-9 September 1643), 495; (10 September-16 September 1643), 504-05.

<sup>194</sup> *Ibid.* (23-18 October 1643), 611.

<sup>195</sup> *Ibid.* (29 October-4 November 1643), 624.

<sup>196</sup> *A Letter to a Noble Lord at London from a Friend at Oxford* ([Oxford], 1643), 2.

<sup>197</sup> *Mercurius Aulicus* (25-30 September 1643), 537-38; (1-7 October 1643), 557; (8-14 October 1643), 564; 15-23 October 1643), 584, 591-92.

<sup>198</sup> Burnet, *Memoires*, 239-40.

<sup>199</sup> *Mercurius Britannicus* (3 October-10 October), 55.

<sup>200</sup> *Mercurius Aulicus* (25-30 September 1643), 543; *Mercurius Britannicus* (10-17 October 1643), 61-63.

<sup>201</sup> *Mercurius Britannicus* (12-19 September 1643), 28.

*successe* as all scruples of taking it are removed'.<sup>202</sup> The absence of the language of conscience from defences of the Solemn League stands in contrast to the ways in which the Scottish National Covenant was justified. Though we should not overstate the point, this suggests that there was a tacit acceptance that the Solemn League could not embody the collective conscience.

The use of conscience to oppose the Solemn League is also found amongst a number of royalist writers. The Scottish poet William Drummond denied that Scottish subscribers were 'bound in conscience' to support what he called the 'Conspirators' in England, describing the English parliament as 'an Oligarchy'.<sup>203</sup> To all objections to the Solemn League, he wrote, 'it is Answered, That the Parliament and General Assembly, have an Omnipotency and Arbitrary Power ... over men's Consciences'.<sup>204</sup> In a similar fashion to *Mercurius Aulicus*, by undermining the authority of the institutions imposing the Solemn League, both in England and Scotland, he freed the individual from conscientious obedience. The University of Oxford's reasons for refusing to take the Solemn League pointed out that a person could swear to anything if qualified by the phrase 'so farre as lawfully we may'. Taking the Solemn League with such reservations was a mocking of god which would not free the individual from perjury.<sup>205</sup> John Barwick argued that though it had been subscribed by the Houses of Parliament, the Westminster Assembly, the City of London and the kingdom of Scotland, none of these had the authority to direct conscience.<sup>206</sup>

The preserving of a good conscience was another theme of royalist opposition to the Solemn League. 'I am resolved by Gods grace,' wrote Edward Symmons, 'to keep my Conscience; the enemy shall not spoile me of that, let him doe his worst'.<sup>207</sup> Similarly, John Spelman urged his readers not to ignore 'the thousand witnesses' of their consciences and recede from their duty to their king, a duty which had been inculcated into them all their lives.<sup>208</sup> Royalist writers did not believe that upon a genuine examination of his or her conscience individuals would be able to subscribe such a document. If they had sworn the Solemn League, it was better to break it than to continue in sin.<sup>209</sup> Unlike some proponents

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<sup>202</sup> *Ibid.* (10-17 October 1643), 64.

<sup>203</sup> William Drummond, *The Works of William Drummond of Hawthornden*, ed. John Sage and Thomas Ruddiman (Edinburgh: James Watson, 1711), 188-89.

<sup>204</sup> Drummond, *Works*, 189.

<sup>205</sup> *Reasons Of the present judgement of the University of Oxford, concerning The Solemn League and Covenant. The Negative Oath. The Ordinances concerning Discipline and Worship* ([Oxford], 1647), 23-24.

<sup>206</sup> John Barwick, *Certain Disquisitions and Considerations* (Oxford, 1644), 38.

<sup>207</sup> Edward Symmons, *A Loyall Subjects Beliefe* (Oxford, 1643), sig. 2<sup>v</sup>.

<sup>208</sup> John Spelman, *The Case of our Affaires, in Law, Religion, And other Circumstances briefly examined, and Presented to the Conscience* (Oxford, 1643), 23.

<sup>209</sup> For example, *A Briefe Discourse, Declaring the Impiety and Unlawfulness of the new Covenant* ([Oxford], 1643), 10, 12, 16; Peter Heylyn, *A Letter from an Officer in His Majesties Army, to a Gentleman in Gloucester-shire* ([Oxford], 1643), p. 6; John Barwick, *Certain Disquisitions and Considerations* (Oxford, 1644), 3, 28-29; *The Iniquity of The Late Solemne League* ([London], 1644), 2.

of the Solemn League, who argued that it was lawful to take it in particular senses and with limitations, royalists generally warned their readers that they were bound by the interpretation of those that imposed it.<sup>210</sup> The language of conscience provided a powerful means to oppose the Solemn League, or to reframe it in such a way as to deny its public claims. The variant readings promoted by different parties within England damaged its legitimacy, and its imposition allowed those who resisted it to claim principle and the imperative of a keeping a good conscience.

When the Solemn League and Covenant became associated with a particular presbyterian settlement, religious independents and radicals also voiced their opposition to it.<sup>211</sup> For these men, the imposition of the Solemn League posed a danger to individual consciences.<sup>212</sup> As Roger Williams argued, ‘*Christians* are to be exhorted, not compelled’.<sup>213</sup> In a letter to the speaker of the House of Commons giving an account of the taking of Bristol in September 1645, Cromwell wrote that ‘from brethren, in things of the mind we look for no compulsion, but that of light and reason’.<sup>214</sup> William Walwyn similarly rejected the belief that compulsion was a legitimate way to encourage individuals to reconsider their opinions, insisting that force would only make the conscience ‘runne back, and struggle’.<sup>215</sup> In this respect, independents had something in common with royalists. Langbaine, for example, also denied that ‘a violent Conformity’ was the best way to preserve the church, and held that a degree of toleration was necessary, whilst Daniel Featley and members of the University of Oxford questioned whether an enforced oath could be called a covenant with god.<sup>216</sup> Drummond similarly argued that ‘[t]he Penalty of not subscribing, is not Christian’.<sup>217</sup>

The independent minister Henry Burton mounted a sustained attack on compulsion in his *Conformities Deformity*. The pamphlet was structured as a dialogue between ‘Conformity’ and ‘Conscience’, and juxtaposed what Burton saw as the liberties of the Christian with the tyranny of enforced uniformity. This independent understanding of conscience stands in

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<sup>210</sup> For example, *Iniquity of The Late Solemne League*, 2.

<sup>211</sup> Vallance, *Revolutionary England*, 133.

<sup>212</sup> Nicholas Tyacke, ‘The “Rise of Puritanism” and the Legalising of Dissent, 1571-1719’, in Ole Peter Grell, Jonathan I. Israel and Nicholas Tyacke (eds), *From Persecution to Toleration: The Glorious Revolution and Religion in England* (Oxford: Clarendon Press, 1991), 28; John Coffey, *John Goodwin and the Puritan Revolution: Religion and Intellectual Change in Seventeenth-Century England* (Woodbridge: Boydell Press, 2006), 118.

<sup>213</sup> Roger Williams, *The Bloudy Tenent of Persecution* (London, 1644), 106. See also: Joseph Caryl, *The Nature, Solemnity, Grounds, Property, and Benefits, of a Sacred Covenant* (London, 1643), 18; John Goodwin, *M. S. to A. S. with A Plea for Libertie of Conscience* (London, 1644), 55; William Walwyn, *The Compassionate Samaritane*, 2nd ed. (London, 1644), 12.

<sup>214</sup> Oliver Cromwell, *The Writings and Speeches of Oliver Cromwell*, ed. Wilbur Cortez Abbott, 4 vols (Cambridge: Harvard University Press, 1937-88), i, 377.

<sup>215</sup> William Walwyn, *The Compassionate Samaritane*, 2nd ed. (London, 1644), 14.

<sup>216</sup> Langbaine, *Review*, 30; *Reasons Of the present judgement of the University of Oxford*, 3; Daniel Featley, *The League illegal. Wherein the late Solemn League and Covenant is Seriously Examined, Scholastically and Solidly Confuted: For the Right informing of Weak and Tender Consciences, and the Undeceiving of the Erroneous* (London, 1660), 26.

<sup>217</sup> Drummond, *Works*, 189.

contrast to the idealised view, held by many Scottish covenanters, in which conformity and conscience were not in tension. Conscience, Burton wrote, could only be grounded upon the word of god, not upon popular opinion or the authority of learned individuals. He rejected the conjoining of state and church which the imposition of the Solemn League entailed, and the erection of a power independent of parliament. It was the ‘importunate pressing of the *Covenant*, for Uniformity, in the Scottish sense’, which he opposed, fearing that presbyterianism would ‘undermine and overthrow the liberty and priviledges of the subjects of England’.<sup>218</sup> Burton had, of course, taken the Solemn League, but he denied that those who had sworn it were subject to the Scottish interpretation of it.<sup>219</sup>

The Solemn League and Covenant was opposed by those who rejected the authority by which it was imposed and by those who denied the legitimacy of compulsion in matters of conscience. While many royalists rejected it outright, parliamentarians who had already sworn it repudiated attempts to use the Solemn League to impose presbyterianism on England. For both royalists and independents, enforced conformity threatened individual conscience and the liberties of the subject. While independents defended the right of parliament to determine the Solemn Covenant’s meaning and were fearful of attempts to establish a power independent of it, royalists argued that no oath imposed against the will of the king was lawful. For both groups, the Scots — and their interpretation of the Solemn League — represented an intolerable threat to England’s laws and liberties. For those opposed to the Solemn League, conscience, rather than acting as a public bond, formed the basis of a rejection of Anglo-Scottish conformity.

## Conclusion

The Solemn League and Covenant represented the apogee of the alliance between the English parliament and the Scottish covenanters. The Scottish army’s failure to play a decisive role in England’s civil war and the rise of the New Model Army meant that Scotland’s ability to influence its southern neighbour declined markedly as the war dragged on. Those who advocated the remodelling of the English army sought to render the Scottish army redundant and minimise the covenanters’ influence over any settlement with the king. I have argued here that the imposition of the Solemn League in England was mitigated by a tacit acknowledgement that its meaning was not fixed. Whilst in Scotland the kirk attempted to exert a firm grip over its interpretation through its disciplinary systems, there were no similar structures in place in England. The decision to enforce subscription

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<sup>218</sup> Henry Burton, *Conformities Deformity. In a Dialogue between Conformity, and Conscience* (London, 1646), 3, 14, 20.

<sup>219</sup> Henry Burton, *The Peace-maker: Or, Solid Reasons, perswading to Peace: Grounded upon the late Solemn Covenant* (London, 1646), 3.

encouraged debates about the propriety of compulsion in matters of conscience and provoked principled opposition.

That the Solemn League was accompanied by an official exhortation and a more substantial print campaign to persuade the unsure is perhaps a reflection of the unease felt by some about its imposition. It is also arguable that in England the impact of this compulsion was lessened by the fact that the Solemn League was from the outset opened up to differing interpretations, and there was not a mechanism in place for attempting to discern the intentions of individuals who took it. A broader range of motivations for taking the oath were permitted and even encouraged. However, whether such latitude was to be extended to the unregenerate majority, and how the truly godly were to be identified, were problems without definitive resolutions. As Jason Peacey has argued, while the levellers were optimistic about the capacities of ordinary people, presbyterians and many independents were concerned about the involvement of the lower orders in politics.<sup>220</sup>

The clause which affirmed that the reformation was to be ‘according to the Word of God’ has been identified as a significant alteration made to give the congregationalists in England room to manoeuvre. It was the Westminster Assembly’s explanation of the clause which was most significant, because it placed an emphasis on individual interpretation. The Scots, used to the consensus they had constructed in their homeland based on their interpretation of scripture, did not conceive the Westminster Assembly’s amendments to alter the meaning of the Solemn League significantly. They hoped that their army would, at the last resort, enforce their interpretation. However, the Solemn League was open to many readings, including the argument that it supported liberty of conscience and a radical new constitution.

The Solemn League was on one level interpreted as a commitment to personal reformation. The individual’s liberties were bound up with public liberty, individual reformation with a public reformation of doctrine, worship and church government. The relationship between public and private was arguably more clearly developed in the discipline of the Scottish kirk, which emphasised consensus and popular affirmation, but which strictly delineated the roles of laymen and women. As an act, the Solemn League was an aspect of identity and group affiliation, but the ways in which it was interpreted made it unsuitable as an expression of a public conscience. For the Scots, who had relied heavily on the myth of consensus, Montrose’s rising and the fear of Scotland being infected by malignancy, separation and popery meant that the Solemn League was also used to root out opponents and buttress the covenanting state. Here we witness the beginnings of an exclusionary rhetoric which would lead to the Act of Classes and the purging of the

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<sup>220</sup> Jason Peacey, ‘The People of the *Agreements*: The Levellers, Civil War Radicalism and Political Participation’, in Philip Baker and Elliot Vernon (eds), *The Agreements of the People, the Levellers and Constitutional Crisis of the English Revolution* (Basingstoke: Palgrave Macmillan, 2012), 65-66.

nation's armies of malignants. In England, whilst subscribing the Solemn League was linked to a side in a civil war, in Scotland it was linked to the state itself, demarcating the limits of loyalty and obedience and reinforcing the relationship between church and state. There were those in England who rejected this association and argued instead that not only was religious conformity not essential to the peace of the commonwealth but that its enforcement would only lead to conflict.

The type of union the Solemn League was envisaged to create, and how the two nations' spiritual and secular institutions were to relate, were both disputed. For Scottish thinkers such as Rutherford ecclesiastical uniformity was the bedrock of a close union of equals in which the kingdoms were to enforce their covenant obligations on each other. For English congregationalists and others, however, spiritual harmony was more important than institutional alignment. Given that the Solemn League included Ireland it was necessarily an aggressive rather than purely defensive pact, designed initially to export Scottish presbyterianism to the rest of the British Isles. Scotland, viewed as the only one of Charles's three kingdoms which was fully reformed and united by its own National Covenant, was now engaged with two divided and unreformed kingdoms. The Solemn League, although similar in kind, was therefore of a very different degree than the 1638 National Covenant. It sought to both unite the kingdoms at a national level, and reform England and Ireland from within, uniting the godly of all nations against malignants, papists and heretics. Thomas Maitland wrote that the Solemn League and Covenant 'received its first *life* in *Scotland*, though it came to its first *breathing* in *England*'.<sup>221</sup> He was right: a document conceived in Scotland came to have a different meaning when raised in the very different air of England. It was subjected to a level of debate and discussion which did not occur in Scotland.

Conscience played a fundamental role for those taking, interpreting and opposing the Solemn League. Rather than having a fixed sense it was shaped and reshaped by events. In both England and Scotland, the realities of civil war complicated attempts to construct unity. By pragmatically allowing a wide range of individuals with varying motivations to take the Solemn League, institutions weakened their ability to control its interpretation. Explanations and additional oaths were used to both clarify and delineate its purposes and to widen its meaning to placate tender consciences. These contests over interpretation, and who had the authority to control the Solemn League's meaning, were accompanied by opposition to the very notion of an oath framed and promoted against the king's command. Those who agreed there should be ecclesiastical uniformity could not agree on what form it should take. The Scottish covenanters, however, did appear to hold to a concept of conscience, based on consensus, which they did not anticipate coming undone

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<sup>221</sup> Case, *Quarrell*, sig. A<sup>v</sup>-A2<sup>r</sup>.

in an England where the adjudicatory role of individual conscience was applied to the Solemn League and Covenant. For the covenanters, the Solemn League represented a consensus which individuals were obliged in conscience to subscribe because it was imposed by the authorities of kirk and state and was consistent with the National Covenant. For many of its English interpreters, however, it represented an agreement which required the assent of individual conscience.

## 5

## The Westminster Assembly

The abjuration of episcopacy in Scotland in 1638 had not led to a breakdown of church government. Instead, the authority of the kirk and its discipline had been maintained and enhanced. In England, on the other hand, the collapse of ecclesiastical authority meant that by the end of 1641, ‘there were more ways than ever for English Protestants to think, believe, worship, teach, gather and behave, and no effective disciplinary framework to govern them’.<sup>1</sup> Opposition to episcopacy did not entail agreement on what should replace it. It was in this context that the Grand Remonstrance of 1641 called for a ‘general synod of the most grave, pious, learned and judicious divines of this island’ to effect church reform.<sup>2</sup> Charles refused to grant assent to the bill authorising such a synod in 1642, and in June 1643 parliament passed an ordinance summoning the assembly under its own authority. The Houses called for ‘a further and more perfect Reformation’ and declared that ‘the present Church government ... is evil and justly offensive and burthensome to the Kingdome’.<sup>3</sup> By so doing, it attempted to establish its governing role and cast the assembly as an advisory council.<sup>4</sup> This contrasted with the autonomous status of the kirk’s general assemblies, a difference which the Scots would find troublesome.

The Westminster Assembly of Divines, as it became known, sat from July 1643 to April 1653. For many members, and in particular the Scots, it offered an unprecedented opportunity to realise the dream of ecclesiastical uniformity across the British Isles.<sup>5</sup> The covenanters had articulated such a vision in 1641 when they called for unity in religion and conformity in church government as the surest way to preserve peace.<sup>6</sup> They also believed that exporting presbyterianism to England would provide security against any further innovations in Scotland. The Assembly was attended by four Scottish commissioners:

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<sup>1</sup> David Cressy, ‘Revolutionary England 1640-1642’, *Past & Present*, 181 (2003), 51.

<sup>2</sup> *The Stuart Constitution: Documents and Commentary*, ed. J. P. Kenyon (Cambridge: Cambridge University Press, 1966), 238.

<sup>3</sup> *An Ordinance of the Lords and Commons Assembled in Parliament. For The Calling of an Assembly of Learned, and Godly Divines* (London, 1643), sig. A2<sup>v</sup>.

<sup>4</sup> Chad van Dixhoorn, ‘Summoning an assembly’, in *The Minutes and Papers of the Westminster Assembly 1643-1652*, ed. Chad van Dixhoorn, 5 vols (Oxford: Oxford University Press, 2012), i, 9.

<sup>5</sup> John Morrill, ‘The National Covenant in its British Context’, in John Morrill (ed.), *The Scottish National Covenant in its British Context* (Edinburgh: Edinburgh University Press, 1990), 8.

<sup>6</sup> *Arguments Given in by the Commissioners of Scotland unto the Lords of the Treaty perswading Conformitie of Church government* ([London], 1641).

Robert Baillie, Samuel Rutherford, Alexander Henderson and George Gillespie, along with seven lay elders. Laymen were allowed to attend the Westminster Assembly, but only infrequently contributed to its debates and had no voting rights. The Scottish commissioners first arrived in late 1643 and, with the exception of Henderson, would continue to attend until 1647. We should be aware that their impact was relatively limited. Henderson died before the confession of faith was completed; Gillespie left before the large catechism was finished; and Rutherford left after the first reading of the shorter catechism.<sup>7</sup> The Scottish commissioners were in an unusual position because in their role to ensure that the religious settlement agreed to in the Solemn League and Covenant was achieved they were to treat primarily with the English Parliament. A ‘Grand Committee’, consisting of committees from both Houses of Parliament, a committee from the Assembly and the Scottish commissioners was established to facilitate the development of ecclesiastical reform which would satisfy all parties.<sup>8</sup> In the Assembly itself the Scottish commissioners were, as Rutherford put it, ‘here not soe much to be coactors as witnesses & beholders’, and as such did not have voting rights.<sup>9</sup>

The entrance of the Scottish commissioners in October 1643 turned the Assembly’s attention away from the revision of the Thirty-Nine Articles to the issue of church government. As van Dixhoorn notes, though it did not realise it, from this stage on the Assembly would only produce new texts rather than revise old ones.<sup>10</sup> Between 1644 and 1648 a new Form of Church Government, a Confession of Faith, two catechisms and the Directory for Public Worship were completed. Whilst the Assembly’s reforms were limited and short-lived in England, they had a wide-reaching impact and were propagated worldwide by presbyterian churches. The Westminster Confession was ratified by the Scottish parliament without amendment and remains the subordinate standard of doctrine in the Church of Scotland.<sup>11</sup>

However, these achievements should not mask the fact that deep divisions emerged within the Assembly. Fractures were caused from the outset by interpretation of the Solemn League and Covenant, which had bound the kingdoms to endeavour ecclesiastical uniformity, following the word of god and the examples of the best reformed churches. The Scottish model of presbyterian church government was opposed both by erastians, who sought a greater role for the civil magistrate, and by congregationalists, who favoured

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<sup>7</sup> Van Dixhoorn, ‘The Reformation at Westminster’, in *Minutes and Papers*, i, 24-26.

<sup>8</sup> John Lightfoot, *The Whole Works of the Rev. John Lightfoot*, ed. John Rogers Pitman, 13 vols, (London: J. F. Dove, 1822-25), xiii, 27; *Minutes and Papers*, ii, 221-23.

<sup>9</sup> *Minutes and Papers*, ii, 363.

<sup>10</sup> Van Dixhoorn, ‘The Reformation at Westminster’, in *The Minutes and Papers of the Westminster Assembly 1643-1652*, ed. Chad van Dixhoorn, 5 vols (Oxford: Oxford University Press, 2012), i, 27.

<sup>11</sup> ‘The Westminster Confession’, <[http://www.churchofscotland.org.uk/\\_data/assets/pdf\\_file/0011/650/westminster\\_confession.pdf](http://www.churchofscotland.org.uk/_data/assets/pdf_file/0011/650/westminster_confession.pdf)> [29 September 2015].

greater freedom for local churches. Debates about excommunication, the election of ministers and communion revealed significant disagreements about the rights of the people in the church, the location of spiritual authority, and the feasibility of a national church. In 1644 the Scots, sensing that the advantage was slipping away from them, sought to secure a presbyterian settlement by ending the Assembly's deliberations.<sup>12</sup> When the resulting propositions were sent up to parliament, the congregationalists entered their first dissent, henceforth becoming known as the 'dissenting brethren'. The series of papers subsequently exchanged between the congregationalists and the presbyterian majority have come to be known as the 'Grand Debate'.<sup>13</sup> It was during this time, when the possibility of a presbyterian settlement seemed likely, that several key defences of toleration were published, along with responses from those who opposed religious freedom.

The Westminster Assembly has been overlooked by many historians of the British civil wars, in part because until recently the minutes and papers of the Assembly were not easily accessible. The two existing monographs on the Assembly, by W. M. Hetherington and Robert S. Paul, are valuable if slightly dated.<sup>14</sup> The fact that both men were ministers is a reflection of the interest the Assembly holds for theologians and religious historians. The intricacies of reformed ecclesiology present a barrier to those who do not have a similar background, which has had the unfortunate effect of maintaining the division between the political and the religious which has been challenged elsewhere. Amongst the historians who have engaged with the Assembly, there is disagreement about who the Scottish commissioners were most theologically and politically aligned with. Crawford Gribben argues that the Scots realised that the congregationalists, not the English presbyterians, were their natural allies and that they were linked by a shared view of eschatology.<sup>15</sup> David Stevenson concurs, quoting favourable statements made by both Samuel Rutherford and George Gillespie.<sup>16</sup> David Mullan, however, contends that Rutherford's words are better understood as an aside and that he merely saw the congregationalists as less disagreeable than other members of the Assembly.<sup>17</sup>

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<sup>12</sup> John Adamson, 'The Triumph of Oligarchy: the Management of War and the Committee of Both Kingdoms, 1644-1645', in Chris R. Kyle, and Jason Peacey (eds.), *Parliament at Work: Parliamentary Committees, Political Power and Public Access in Early Modern England* (Woodbridge: The Boydell Press, 2002), 125; Hunter Powell, *The Crisis of British Protestantism: Church Power in the Puritan Revolution, 1638-44* (Manchester: Manchester University Press, 2015), 221, 232-34.

<sup>13</sup> Robert S. Paul, *The Assembly of The Lord: Politics and Religion in the Westminster Assembly and the 'Grand Debate'* (Edinburgh: T. & T. Clark, 1985).

<sup>14</sup> W. M. Hetherington, *History of the Westminster Assembly of Divines* (Edinburgh: John Johnston, 1843); Paul, *Assembly of The Lord*.

<sup>15</sup> Crawford Gribben, "'Passionate Desires, and Confident Hopes": Puritan Millenarianism and Anglo-Scottish Union, 1560-1644', *Reformation and Renaissance Review*, 4:2 (2002), 254, 255.

<sup>16</sup> David Stevenson, 'The Radical Party in the Kirk, 1637-45', *The Journal of Ecclesiastical History*, 25 (1974), 158

<sup>17</sup> David G. Mullan, "'Uniformity in Religion": The Solemn League and Covenant (1643) and the Presbyterian Vision', in W. Fred Graham, (ed.), *Later Calvinism: International Perspectives* (Kirksville, Mo.: Sixteenth Century Journal Publishers, 1994), 261.

More recently, however, Hunter Powell has shown that this amicableness was not merely pragmatic. His study of the Assembly is one of the first to make use of the *Minutes and Papers of the Westminster Assembly* and offers a corrective to traditional narratives which emphasise simplistic oppositional dynamics. He suggests that ‘presbyterianism’ was a spectrum of belief, rather than a strictly defined ecclesiological programme. The congregationalists — Thomas Goodwin, Philip Nye, Jeremiah Burroughs, William Bridge and Sidrach Simpson — saw themselves, and were seen by other members of the Assembly, as advocating a form of presbyterianism. There were significant differences between English presbyterians too. Alongside the erastian English presbyterians, Powell identifies ‘clerical English presbyterians’ who emphasised the role of ministers at the expense of the laity.<sup>18</sup> It is also important to note that the Scottish commissioners were not uniform in their beliefs, and should not necessarily be taken as representative of Scottish presbyterian thought.<sup>19</sup>

This chapter will focus on the four-year period when the Scottish Commissioners attended the Westminster Assembly. I will begin by examining the debates on excommunication and the election of ministers, which largely took place in 1643 and 1644, and formed part of the larger dispute on the nature of church government. I will then go on to look at the issue of the Lord’s Supper, a controversy which involved parliament as well as members of the Assembly. This has been interpreted as a clash between erastians and those who saw presbyterianism as *jure divino*, but it was also conflict with the congregationalists and amongst presbyterians. The religious and cultural significance of the sacrament in England and Scotland also forms an important backdrop to this dispute. Finally, I will consider the institutional, cultural and temperamental differences which contextualise and help to explain the disagreements which developed between the Scottish commissioners and their English counterparts. The issues of conscience and biblical exegesis were of particular importance, and I will broaden the enquiry to consider contemporaneous debates about toleration and liberty of conscience. However, my focus is primarily on the Scottish covenanter position within the Assembly, and this is not intended to be a comprehensive account of the liberty of conscience debates which occurred within England.

Conscience was central to many of the Assembly’s debates, and it is notable that the Westminster Assembly was the first reformation council to produce a confessional statement on liberty of conscience.<sup>20</sup> The Westminster Confession affirmed that god alone was the ‘Lord of Conscience’, and that conscience was free from ‘the Doctrines and

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<sup>18</sup> Powell, *Crisis*, 10, 22-34, 36, 48, 53, 94, 173, 235.

<sup>19</sup> John Coffey, *Politics, Religion and the British Revolutions: The Mind of Samuel Rutherford* (Cambridge: Cambridge University Press, 1997), 202; Powell, *Crisis*, 40, 50, 100-01.

<sup>20</sup> L. John van Til, *Liberty of Conscience: The History of a Puritan Idea* (Nutley, N.J.: Craig Press, 1972), 86.

Commandments of men, which are, in anything, contrary to his Word'.<sup>21</sup> This broad statement did not, however, resolve the tension between institutional authority and individual liberty. Indeed, the dream of religious unity and ecclesiastical conformity was ultimately undone by conscience. The failure of the Assembly to produce a settlement which could accommodate the dissenting brethren or secure the full support of the English parliament meant that presbyterianism was not firmly established and spaces for alternative beliefs continued to develop. The disagreements which occurred within the Assembly concerned two of the key questions raised by conscience: how to reconcile the needs of the individual with those of the community at large, and where authority ultimately lay.

### **The church and the people: excommunication and the election of ministers**

The Scottish covenanters' programme for church reform in England was summarised in four points in a report from the Scottish commissioners to the Westminster Assembly on 14 November 1643.<sup>22</sup> These were: that scripture was the criterion by which reform must be measured, 'yet they cannot but remember, how eminent and excellent testimonies have been given of the reformation in Scotland'; that there were four permanent church officers: pastors, teachers, ruling elders and deacons; that church government was by the few, not one or the multitude; and that there were four kinds of assemblies: kirk sessions, presbyteries, provincial synods and national synods.<sup>23</sup> As Mullan observes, 'these four salient points are well represented in the commissioners' numerous treatises and published sermons, and provide a fair summary of hundreds of pages of arguments'.<sup>24</sup>

In a letter to the Church of Scotland in January 1645 the Assembly made it clear that though they believed that unity on the issues of the confession of faith and catechism was possible, they foresaw greater difficulties when it came to worship and church government.<sup>25</sup> Here I will focus on two issues to illustrate the differences between Assembly members regarding the relationship between the church and its members: excommunication and the election of ministers. I am primarily interested in the Scottish positions on these issues, and the differences which emerged between the commissioners and the congregationalists. These disputes centred on the power of the keys, that is, the

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<sup>21</sup> *Articles of Christian Religion, Approved and Passed by both Houses of Parliament, After Advice had with the Assembly of Divines* (London, 1648), 33.

<sup>22</sup> Robert, *Assembly of the Lord*, 159.

<sup>23</sup> John Lightfoot, *The Whole Works of the Rev. John Lightfoot*, ed. John Rogers Pitman, 13 vols, (London: J. F. Dove, 1822-25), xiii, 50-51.

<sup>24</sup> Mullan, "Uniformity in Religion", 257.

<sup>25</sup> *Minutes and Papers*, xiii, 160-63.

location of spiritual authority. The central matter in dispute was the nature of the involvement of members of the congregation in the governance of the church, but these debates were bound up with questions about the nature of the church itself.

The issue of excommunication had long been the subject of disagreement in the Scottish kirk. It brought into question the role of the king in maintaining the public conscience of the realm, and the extent of the church's power to discipline its members, including nobles and the monarch.<sup>26</sup> Rutherford and Gillespie were, as Powell argues, willing to consider the people as holding a type of power of the keys, a position which English presbyterians opposed entirely.<sup>27</sup> The central issues were whether power ascended from the congregation upwards, or descended downwards from the universal church, and, if the latter, how far down this power descended.<sup>28</sup> The congregationalists, meanwhile, argued that church power resided in the people and their elders, rejecting the view of the separatists and independents that power resided in the congregation as a whole.<sup>29</sup>

The covenanters' emphasis on consensus functioned to minimise the tension between the different aspects of church government. This was an ideal with a foundation in established political conventions and grounded in a belief in a shared, public conscience based on biblical norms. Though 'the ideal and the reality of unified choice', as Mark Kishlansky puts it, were challenged in the 1640s, they did not entirely disappear.<sup>30</sup> With the ideal of unanimity largely preserved in representative assemblies and a more stable polity, and without the experience of contested elections, it is understandable that the Scots viewed consensus as a realistic political and religious ambition. On the other hand, divided assemblies, including the Westminster Assembly, a polity at war with itself and the experience, albeit limited, of contested elections with a substantial electorate meant that English divines were more aware of the limitations of any system of church government reliant on unity to function. At several points, such issues, which the Scots considered theoretical, were raised.

As we have seen, Rutherford granted the people a measure of power but not a great deal of authority. This was the distinction between popular and judicial consent. Similarly, Gillespie argued that: '[t]he judgement of one man cannot be judicial and that 'one man can doe noe more but declare, but a sinod hath an authoritative judgement'.<sup>31</sup> There were

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<sup>26</sup> Alan R. MacDonald, *The Jacobean Kirk, 1567-1625: Sovereignty, Polity and Liturgy* (Ashgate: Aldershot, 1998), 40, 49.

<sup>27</sup> John Coffey, 'Religious Thought', in Michael Braddick (ed.), *The Oxford Handbook of the English Revolution* (Oxford: Oxford University Press, 2015), 451.

<sup>28</sup> Powell, *Crisis*, 51, 83.

<sup>29</sup> Coffey, 'Religious Thought', 451.

<sup>30</sup> Mark Kishlansky, *Parliamentary Selection: Social and Political Choice in Early Modern England* (Cambridge: Cambridge University Press, 1986), 106, 122.

<sup>31</sup> George Gillespie, *Notes of Debates and Proceedings of the Assembly of Divines*, ed. David Meek (Edinburgh: Robert Ogle and Oliver and Boyd, 1846), 40; *Minutes and Papers*, ii, 613.

differences amongst the Scottish commissioners though: Gillespie held that church elders could not excommunicate members without the consent of the congregation, whereas Rutherford held that the people's role was to affirm decisions made by the elders. Gillespie's 1637 tract *A Dispute Against the English-Popish Ceremonies* had given the power to excommunicate to individual congregations.<sup>32</sup> However, as Powell argues, he sought to reframe his argument so that it was more consistent with the presbyterian polity espoused by his peers.<sup>33</sup> The differences between the Scottish commissioners meant that they did not pursue an entirely consistent line. For example, they gave in papers to the Grand Committee asserting congregational eldership for governing the private affairs of the congregation. This caused David Calderwood to write to the Scottish delegation to censure them, pointing out that the Scottish 'Books of Discipline admits of no Presbyterie or Eldership but one' and that the commissioners had opened up the possibility that 'excommunication, and so entire government' would be given to congregations.<sup>34</sup>

The debate in the Assembly turned on the question of whether the congregation's consent was required to excommunicate. Wariston argued that decisions should be taken '*coram populo*' ('before the people'), and that if they were taken '*conjunctim*' ('jointly') the distinction Christ made between officers and the whole body of the church would be lost.<sup>35</sup> The people's consent was sought, but ultimately it was the role of those appointed by god to exercise judgement. What would happen, Goodwin asked, if there was disagreement between the presbytery and its pastor and elders about whether or not an individual should be excommunicated? Wariston replied that 'These scruples are of so rare an occurrence, that such things have been never heard since the Reformation in Scotland'.<sup>36</sup> This had echoes of Henderson's plea that 'we would not in metaphysical and abstract notions consider of these things, but go to work to determine what offices we think fit to be in the church, without more ado'.<sup>37</sup> Consent was presented as evidence of the effectiveness of the Scottish kirk's model of government and as a mark of its godliness.

On 14 February 1644 Goodwin elucidated the congregationalists' position. They differed from the Brownists in that they did not believe that the people without officers had the power of excommunication. Rather, they 'only ... hold that, when there is a difference of judgment among the people, the elders should explicitly draw forth the suffrage of the major part'.<sup>38</sup> The use of the term 'suffrage' is instructive. In the debate on

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<sup>32</sup> George Gillespie, *A dispute against the English-Popish ceremonies* (Leiden, 1637), 180-97.

<sup>33</sup> Powell, *Crisis*, 37-40, 45, 47.

<sup>34</sup> Baillie, *LJ*, ii, 181-82.

<sup>35</sup> *Minutes and Papers*, ii, 531.

<sup>36</sup> Lightfoot, *Works*, xiii, 146.

<sup>37</sup> *Ibid.*, 53.

<sup>38</sup> Gillespie, *Notes*, 20.

the ordination of ministers, Lazarus Seaman argued that ‘The people may have their full interest in a presbyterial government, in the call of their ministers; as the people of the land have their full interest in choice of parliament men’.<sup>39</sup> Two issues are raised here: the principle of and implications of majority voting, and the right of the people to be involved in political or religious decision-making. Goodwin contended that ‘the people having consciences of their own must have their own power referred’.<sup>40</sup> It was the consciences of the members of the congregation which gave them a right to a say in acts of excommunication, and their consent could be sought through voting. The implication was left open that the people could disagree with their elders and oppose their decisions. This was consistent with Goodwin’s later shift towards independency, which, as Coffey argues, he saw as ‘the one form of church government that allowed room for individual conscience, because it rejected compulsion and imposition’.<sup>41</sup>

As with excommunication, there was much debate about the extent to which the people’s interest should be taken into account regarding the election of ministers. Powell demonstrates that the Scottish commissioners sought to navigate a middle way between a clerical position, which placed power immediately and exclusively in the hands of ministers, and that which vested power in the people, but made ministers and elders the exclusive exercisers of it.<sup>42</sup> Baillie, in a letter to his cousin William Spang, wrote that the Scottish commissioners were ‘not against the people’s power of election of officers, or, at least, free consent thereto’ but that the congregationalists had pushed for ‘all processe and acts of censure to be done ... in the presence and with the consent, not only of the whole presbyterie congregationall, but also of the whole people, even every communicant male’.<sup>43</sup>

It was agreed without dispute that ministers should be qualified both for life and ministerial ability according to scripture. Debate arose over whether or not the consent of the congregation was required.<sup>44</sup> Henderson proposed the question ‘The presbytery recommends one, and the people desire another; how shall it be determined?’.<sup>45</sup> Gillespie desired that in a settled church a minister ought not to be obtruded upon a congregation ‘renitente ecclesia’, resisting the church. The text of the bible was, of course, capable of sustaining differing interpretations and translations. Gillespie, for example, argued that the word rendered as ‘ordaining’ in Acts 14:23 in the Authorised Version should rather be translated as ‘choosing’, ‘importing the people’s suffrages in electing their officers’.<sup>46</sup> The

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<sup>39</sup> Lightfoot, *Works*, xiii, 134.

<sup>40</sup> Gillespie, *Notes*, 17.

<sup>41</sup> John Coffey, *John Goodwin and the Puritan Revolution: Religion and Intellectual Change in Seventeenth-Century England* (Woodbridge: Boydell Press, 2006), 118.

<sup>42</sup> Powell, *Crisis*, 173, 202.

<sup>43</sup> Baillie, *LJ*, ii, 205.

<sup>44</sup> Lightfoot, *Works*, xiii, 230.

<sup>45</sup> *Ibid.*

<sup>46</sup> Baillie, *LJ*, ii, 129.

1576 edition of the Geneva bible noted that ‘ordaining’ ‘signifieth to elect by putting up the hands which declareth that ministers were not made without the consent of the people’.<sup>47</sup> Rutherford, meanwhile, argued that though the choice of a pastor was given to the people: ‘the act of electing is in the people; and the regulating and correcting of their choice is in the presbytery’.<sup>48</sup>

Again we see here the tension between the free conscience of the people, expressed collectively, and the role of their superiors in controlling and limiting this freedom. This might be described as a process of acclamation, or in Kishlansky’s terms, selection rather than election.<sup>49</sup> There are also parallels with the tension in Rutherford’s *Lex, Rex* between the ‘institution’ of god and ‘constitution’ by the people. Rutherford argued that god ‘by the people’s free suffrages and choices, createth such a man king’ and that ‘God doth regulate his people in making a king’.<sup>50</sup> In explaining this rather obtuse relationship between the people’s free election and god’s will, Rutherford observed that ‘[a] man’s hand may apply a faggot to the fire,’ but ‘the fire only maketh the faggot burn’.<sup>51</sup> It is important to recognise, then, the role that god played in the process of election. The people’s choice was never completely free, and it was not the consent of the people alone which gave power to the minister or magistrate.

Discussions about excommunication and the election of ministers could not be separated from the issue of the nature of the church. As had been feared, the attempt to define what was meant by the church led to significant divisions. Should ‘the church’ be thought of as the entire community of its members, and, if so, what did that mean for the way it was to be governed? The Scots, as we have seen, argued from the outset that church government was by the few, not one or the multitude. In a debate on synods, Gillespie argued that ‘the whole church’ could not mean that ‘the multitude of the church was present’. He pointed out that in the case of the church in Jerusalem, the Assembly had already voted that there were too many members to meet together in one place.<sup>52</sup> By ‘the whole church’, he continued, must be understood the ruling elders, quoting the maxim *id sunt concillia in ecclesiis quod sunt commitia Regnis* (councils are in churches what assemblies are in the kingdoms).<sup>53</sup> The people, as the visible church, could not be its governors given that the elect and the reprobate were intermingled. Richard Vines agreed, contending that

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<sup>47</sup> *The Bible* (London, 1576), sig. Kkkk.iiii; Christopher Hill, *The English Bible and the Seventeenth-Century Revolution* (London: Penguin, 1994), 51, n. 9.

<sup>48</sup> Lightfoot, *Works*, xiii, 231.

<sup>49</sup> Kishlansky, *Parliamentary Selection*, 12.

<sup>50</sup> *Lex, Rex*, 7.

<sup>51</sup> *Ibid.*, 11.

<sup>52</sup> *Minutes and Papers*, iii, 317-18.

<sup>53</sup> *Ibid.*, iii, 318.

‘church’ in the Old Testament related to officers and that Christ must have had this meaning in mind when he spoke.<sup>54</sup>

William Bridge argued for the congregationalists that if the presbytery was a church, it was a representative church ‘and the power, yea the exercise, is originally in the people represented, for *frustra est potentia quoe* [sic] *nunquam reducitur in actum*’ (a power is a vain one if it is never exercised).<sup>55</sup> This went against the conventional view that there was a difference between possessing and exercising power. This distinction, denied by the congregationalists, allowed power to reside in the people in theory but in practice to be exercised by the ministry and elders.<sup>56</sup> The Scottish middle way between the election of ministers by the congregation and the ordination of ministers by other ministers was that the ordination of ministers should be conditional upon the approval of the parish.<sup>57</sup> This was a system based on the people giving consent to the selection of a minister by the presbytery, rather than the people electing their ministers.

In the end, the proposition put forward by Palmer, ‘No man shall be ordained a minister for a particular congregation, if they can shew any just cause of exception’, was ordered without dispute. The propositions ‘He is not to be ordained at all without their consent’ and ‘The people have right to nominate’ were, however, voted not to be taken into consideration.<sup>58</sup> The Westminster Assembly’s position thereby allowed congregations only a limited negative voice in the ordination of their ministers. In a visible national church of the godly and reprobate, the consciences of the congregation could only in exceptional cases object to the ordination of a minister. However, it is important to note that the Assembly did acknowledge the collective conscience of the congregation, and a limited role for the people in church government. What was at issue was the extent to which congregants’ consciences should be subject to the authority of the eldership, or whether there was parity between minister and people. In a national church, the government of the church could never be fully granted to the people. The congregationalists’ desire to secure a presbyterian settlement within which they would have the freedom to follow their consciences led them to emphasise the rights of individual church members. The concept of conscience supported both positions, whether idealised as public and mediated by institutions, or as an internal lawgiver who legitimised divergence from societal norms and governmental authority.

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<sup>54</sup> *Minutes and Papers*, ii, 505.

<sup>55</sup> Gillespie, *Notes*, 21; *Minutes and Papers*, ii, 499.

<sup>56</sup> Hill, *English Bible*, 174.

<sup>57</sup> Chad van Dixhoorn, ‘Unity and Disunity at the Westminster Assembly (1643-1649): A Commemorative Essay’, *The Journal of Presbyterian History*, 79:2 (2001), 105.

<sup>58</sup> Lightfoot, *Works*, xiii, 233.

## Community and conscience: the Lord's Supper

The debate about the sacrament of the Lord's Supper had two main aspects. Firstly, the form of the rite itself was in question. Here, the differing cultural and historical experiences of Scottish and English members played an important role. Secondly, the nature of the church as a community was in question. In a series of papers and petitions, the Assembly argued for the divine right of church discipline and the right of ministers to keep ignorant and scandalous individuals from the communion table. The English House of Commons, however, sought definitive statements on what constituted ignorance and scandal and was reluctant to give ministers the sole authority of exercising church discipline. These arguments about the relationship between church and state were complex, and I will only touch upon pertinent aspects of the dispute. In both cases, these debates centred on questions about the relationship between conscience and community and between intent and action. The compromise which was achieved illustrates the limits of what the Scottish commissioners considered an acceptable accommodation with their English co-religionists.

It is important to begin by outlining the differences between how the sacrament was practised and understood in both kingdoms. In Scotland, the *Book of Common Order* established the form the Lord's Supper should take, though it was not a prescribed text.<sup>59</sup> Congregations were to sit at a table, a gesture full of symbolic meaning. In part, as Margo Todd argues, this 'was a conscious endeavour to reduce the distance between believer and divinity'.<sup>60</sup> Usually celebrated annually, this communion season was a great public event.<sup>61</sup> Rather than being physically separated from the altar by a rail 'the doctrinal and behavioural standard imposed by Reformed discipline' was the only barrier to partaking of the sacrament.<sup>62</sup> Participation in the Lord's Supper in the Scottish kirk was almost universal, a fact which must be understood within the context of an effective discipline which was enforced by both kirk and people.<sup>63</sup> Every prospective communicant was examined and received a token for admission to the Lord's Supper if they passed. This was, as Todd puts it, 'a very powerful way indeed to demonstrate godly identity and the coherence of the faithful community'.<sup>64</sup> The Weberian notion of a division between 'brothers' and 'others' arguably existed but almost exclusively in reference to Catholics and atheists, those already

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<sup>59</sup> John Knox, *The Works of John Knox*, ed. David Laing, 6 vols, (Edinburgh: James Thin for the Wodrow Society, 1895), iv, 191-97.

<sup>60</sup> Margo Todd, *The Culture of Protestantism in Early Modern Scotland* (London: Yale University Press, 2002), 103.

<sup>61</sup> Leigh Eric Schmidt, *Holy Fairs: Scottish Communion and American Revivals in the Early Modern Period* (Princeton: Princeton University Press, 1989), p. 18; Todd, *The Culture of Protestantism*, 85.

<sup>62</sup> Todd, *Culture of Protestantism*, 106-07.

<sup>63</sup> *Ibid.*, 112-16.

<sup>64</sup> *Ibid.*, 91-92, 97.

outwith the national confessional community.<sup>65</sup> In both England and Scotland communion was used to flush out papists.<sup>66</sup> The sacrament and its performance became a key part of Scottish presbyterian identity, and the imposition of kneeling in the Five Articles of Perth of 1618 generated intense, though not universal, controversy. The 1638 Glasgow Assembly declared the Perth Assembly to be unlawful and restored seated communion.<sup>67</sup> It is understandable, then, that the Scots would seek to preserve their hard-won traditions and to reject the interference of the state in church ceremonies.

In England, the *Book of Common Prayer* prescribed the form of taking communion.<sup>68</sup> The Lord's Supper was also generally an annual event, but the 'popular sacramental festival' Eric Leigh Schmidt describes as occurring in Scotland was much rarer.<sup>69</sup> Unlike the Scottish communion table which, momentarily at least, effaced social distinctions, the communion service in England could serve to reinforce such differences. Members of the congregation could receive the sacrament in order of social precedence and finer wine was sometimes reserved for 'the better sort' of parishioners.<sup>70</sup> The Prayer Book established three general reasons for exclusion from the communion: sin, malice and ignorance. The definitions of all three and how they might be identified were, however, somewhat murky and exclusion depended upon both examination by the minister and individual self-examination.<sup>71</sup> The latter was particularly emphasised, with members of the congregation being urged to examine their consciences before receiving the sacrament.<sup>72</sup> Tokens were often employed but they were usually used to exclude those who had not paid their contribution.<sup>73</sup> Unlike their Scottish counterparts, Elliot Vernon argues that English presbyterians viewed communion as 'the goal and central privilege of the converted saint', not a community celebration aimed simply at social cohesion.<sup>74</sup>

The debate about inclusion in and exclusion from the Lord's Supper was centred on notions of community and conscience. Schmidt argues that the Westminster Assembly

<sup>65</sup> John Bossy, 'The Mass as a Social Institution 1200-1700', *Past & Present*, 100 (1983), 29-30.

<sup>66</sup> Todd, *Culture of Protestantism*, 114; Alexandra Walsham, *Catholic Reformation in Protestant Britain* (Farnham: Ashgate, 2014), 114.

<sup>67</sup> Schmidt, *Holy Fairs*, 27; Todd, *Culture of Protestantism*, 89; Laura A. M. Stewart, 'The Political Repercussions of the Five Articles of Perth: A Reassessment of James VI and I's Religious Policies in Scotland', *The Sixteenth Century Journal*, 38:4 (2007), 1013-1036.

<sup>68</sup> *The Booke of Common Prayer, and Administration of the Sacraments, and Other Rites and Ceremonies of the Church of England* (London, 1604), sig. P4r-Q7v.

<sup>69</sup> Schmidt, *Holy Fairs*, 31; Arnold Hunt, 'The Lord's Supper in Early Modern England', *Past & Present*, 161 (1998), 61-62.

<sup>70</sup> Hunt, 'The Lord's Supper', 49.

<sup>71</sup> Christopher Haigh, 'Communion and Community: Exclusion from Communion in Post-Reformation England', *The Journal of Ecclesiastical History*, 51:4 (2000), 722-25.

<sup>72</sup> *The English Rite: Being a Synopsis of the Sources and Revisions of the Book of Common Prayer*, ed. F. E. Brightman, (London: Rivingtons, 1915), ii, 671, 673, 679; Haigh, 'Communion and Community', 724.

<sup>73</sup> Haigh, 'Communion and Community', 729.

<sup>74</sup> Elliot Vernon, 'A ministry of the gospel: the Presbyterians during the English Revolution', in Christopher Durston and Judith Maltby (eds), *Religion in Revolutionary England* (Manchester: Manchester University Press, 2006), 125.

witnessed a clash between the Scottish commissioners who ‘thought that everyone should observe the solemnity through to its finish whatever their spiritual state’ and the English ministers who ‘tended to sanction a more closed, cloistered communion at which only the saints would be present’. He concludes that the result of the Westminster Assembly debates was to accentuate the difference between the Scots and the English.<sup>75</sup> Ethyn Williams Kirby, however, argues that the Scots and the congregationalists shared a similar view of exclusion from communion based on the concept of ‘the rule of the saints’, a position which was rejected by English presbyterians.<sup>76</sup> However, the degree of agreement and disagreement between the Scots and the other parties present in the Westminster Assembly is more complex than either Schmidt or Kirby’s arguments suggest. Two issues predominated: firstly, whether or not the practice of taking communion whilst sitting at a table was necessary or convenient. The debate on this question occupied most of the Assembly’s time from late June to early July 1644, and throughout the Scottish commissioners spoke frequently and forcefully in defence of the kirk’s traditions. Secondly, who should be excluded from participating in the sacrament and the extent of their exclusion. Everyone at the Assembly wanted to bar unrepentant scandalous sinners from the sacrament, but it was far harder to agree on how this might be done.<sup>77</sup>

Herbert Palmer summarised the three positions on the issue of receiving communion at a table: some held it necessary, even if successively; others thought that the people needed to commune simultaneously and that therefore successive tables were unlawful; and others held that though successive tables were lawful, they were impractical.<sup>78</sup> Baillie complained that the congregationalists kept the Assembly on the issue of communicating at a table for three long weeks. They ‘would mangle that sacrament’, he wrote, ‘No catechising nor preparation before; no thanksgiving after; no sacramentall doctrine, or chapters, in the day of celebration; no coming up to any table; but a carrying of the element to all in seats ... We must dispute every inch of our ground’.<sup>79</sup> The sacrament was central to Scottish protestant identity and an important element of the covenanting movement. For the Scots, as Henderson put it, what they were contending for was not simply a wooden board, but a gesture which was ‘in itself a poynt of dignity & familiarity’.<sup>80</sup>

Gillespie contended that scripture was clear that ‘there ought to be a table, not an altar’ and that since tables were for guests to sit around, ‘I desire to know what reasons some

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<sup>75</sup> Schmidt, *Holy Fairs*, 34.

<sup>76</sup> Ethyn Williams Kirby, ‘The English Presbyterians in the Westminster Assembly’, *Church History*, 33:4 (1964), 426.

<sup>77</sup> Van Dixhoorn, ‘Unity and Disunity’, 106.

<sup>78</sup> *Minutes and Papers*, iii, 180.

<sup>79</sup> Baillie, *LJ*, ii, 195, 204.

<sup>80</sup> *Minutes and Papers*, iii, 169.

shall sit about the table and not others'.<sup>81</sup> This was a point he raised on several occasions: 'If a table be necessary then either for all or for none'.<sup>82</sup> Against the argument that only twelve people sat around the table with Christ, Gillespie asserted the Scottish tradition of communicants receiving the sacrament successively, noting that this was not 'a priority of dignity, but only a priority of time'.<sup>83</sup> Rutherford emphasised the spiritual honour which Christ had bestowed upon his disciples through the sharing of a meal around a table.<sup>84</sup> This is an aspect of the sacrament highlighted by Todd who notes that emulating the apostles implicitly elevated 'humble lay communicants to sainthood'.<sup>85</sup> For the Scots, the use of a table was unambiguously biblical and any attempts to exclude the laity from sitting around it, albeit for practical reasons, would be to dilute its meaning and introduce a false hierarchy.

The congregationalists, on the other hand, preferred that the congregation received the sacrament whilst sitting in their pews, and thought that a table was not necessary.<sup>86</sup> Bridge contended that 'it is more in the nature of communion if they receive it together than successively'.<sup>87</sup> The inconsistency of the congregationalists' position was noted by Edmund Calamy, who pointed out that since 'the unity of the congregation is in the unity of the consecration' the handing of bread and wine from one pew to another would divide the congregation as much as coming up successively would.<sup>88</sup> Further, in an earlier debate on the early church in Jerusalem, the congregationalists had denied that there were multiple congregations, and Goodwin had cited the Scottish custom of successive communion tables in defence of this position.<sup>89</sup> Nevertheless, the congregationalists maintained that the practice of successive communion tables divided a congregation into many when it should be one and was therefore unlawful.

The debate between the congregationalists and the Scottish commissioners took on a more rancorous tone when Bridge suggested that the Scots had 'been helpful to us in reformation' and now the favour could be returned by assisting them on the issue of the Lord's Supper. In response, Henderson desired that the word accommodation be understood correctly: 'Our church needs not to be reformed in it, because none doe hold it unlawfull to sit at a table'.<sup>90</sup> Accommodation, for the Scots, meant a settlement which would preserve and uphold the kirk whilst bringing the English church as close as possible

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<sup>81</sup> *Minutes and Papers*, iii, 155.

<sup>82</sup> *Ibid.*, iii, 166, 170.

<sup>83</sup> *Ibid.*, iii, 166-67.

<sup>84</sup> *Ibid.*, iii, 167.

<sup>85</sup> Todd, *The Culture of Protestantism*, 103.

<sup>86</sup> *Minutes and Papers*, iii, 155, 167.

<sup>87</sup> *Ibid.*, iii, 156.

<sup>88</sup> *Ibid.*, iii, 185.

<sup>89</sup> *Ibid.*, ii, 543.

<sup>90</sup> *Ibid.*, iii, 68-69.

to that ideal. It was not a two-way process, and the commissioners were not content to agree to disagree on what they considered to be fundamental issues. This aligns with the Scots' interpretation of the Solemn League and Covenant as necessitating the reformation of the Church of England according to the word of god and the example of the best-reformed churches. As the general assembly put it in a letter to the Westminster Assembly, it was the English church that had 'walked in paths unusuall' rather than followed the 'good old way' pointed out by the Reformed churches.<sup>91</sup>

However, whilst the Scots argued for the practice of sitting around a table, they were reluctant to elevate it to an essential point of doctrine.<sup>92</sup> This tension was highlighted when Rutherford described the table as a necessity but added that 'Ther are degrees of necessity'.<sup>93</sup> For peace and conformity's sake, he would accept that it be recommended only.<sup>94</sup> Stephen Marshall agreed that there was enough evidence from the practice of Christ to make the practice of taking the sacrament at a table convenient.<sup>95</sup> However, the use of the term 'convenient' was problematic, as was the congregationalists' assertion that successive communion tables were unlawful. Rutherford protested that the word 'convenient' would 'hold out to all the churches a cleare condemnation of all the churches & in particular the church of Scotland'.<sup>96</sup> It was consequently resolved that the Scots would retain this custom whilst the English would be left to sit at a table or near it.<sup>97</sup>

The Directory for Public Worship was finished in November 1644 and approved by the English parliament in early 1645. It stated that the communion table should be 'conveniently placed so that the Communicants may orderly sit about it, or at it'.<sup>98</sup> This meant that the English church had adopted a form of communion much closer to that which had been practised by the Scottish kirk until the Perth Articles, and since 1638. However, few English parishes ever utilised the Directory, and many instead continued to use the Prayer Book. The anglican tradition of allowing all but the openly scandalous to attend communion also appears to have survived in several localities.<sup>99</sup> The Scots may have played an important role in the development of a replacement for the Prayer Book, but they could not ensure its success or its acceptance by the English population.

Gillespie and Baillie returned from Scotland on 9 April 1645 and reported that the Directory had been approved in both the general assembly and the Scottish parliament

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<sup>91</sup> RKS, 428.

<sup>92</sup> *Minutes and Papers*, iii, 171.

<sup>93</sup> *Ibid.*, iii, 167.

<sup>94</sup> Lightfoot, *Works*, xiii, 291; *Minutes and Papers*, iii, 154.

<sup>95</sup> *Minutes and Papers*, iii, 156.

<sup>96</sup> *Ibid.*, iii, 171.

<sup>97</sup> Lightfoot, *Works*, xiii, 326.

<sup>98</sup> *A Directory for the Publique Worship of God* (London, 1645), 50-51.

<sup>99</sup> John Morrill, 'The Church in England, 1642-9', in John Morrill (ed.), *Reactions to the English Civil War 1642-1649* (Basingstoke: Macmillan, 1982), 94, 104, 106.

unanimously.<sup>100</sup> This may be seen as an indication of the Scots' commitment to uniformity in religion. However, the general assembly declared that the instructions regarding the administration of the Lords Supper should not be interpreted 'as if in the judgement of this Kirk, it were indifferent and free for any of the Communicants, not to come to, and receive at the table' or that 'we did approve the distributing of the Elements by the Minister to each Communicant and not by the Communicants among themselves'.<sup>101</sup> The assembly asserted these points in a letter to the Westminster Assembly, adding that 'we still conceive and believe the order and practice of our own Kirk, To be most agreeable and suitable to the Word of God, the example of our Lord Jesus, and the nature of that Heavenly Feast and Table'.<sup>102</sup> The committee for keeping greater uniformity in the kirk further stated that congregations should be tried and examined before the communion 'according to the bygone practice of the kirk'.<sup>103</sup> That this was the one issue which the kirk would not compromise on, whilst agreeing to lay aside other customs for the sake of nearer uniformity, speaks to the centrality of the rite to Scottish identity.<sup>104</sup>

The question of who should be allowed to partake in the eucharist had also brought to the fore disagreements about the role of the state in church affairs. Most members of the synod objected to 'ignorant and scandalous persons' taking the sacrament, but many in the English parliament questioned the feasibility of ministers or elders examining individuals before they attended eucharist. This was fundamentally an issue of conscience for both sides in the debate. On the one hand, objections were raised to ministers attempting to judge individuals' consciences to assess their suitability for full participation in the life of the church. On the other, ministers claimed they would be violating their consciences if they allowed ignorant and scandalous persons to do so. Ministers argued that they must be free to carry out the discipline of the church without the interference of the state, but struggled to precisely identify the beliefs and ideas which would either allow a person to take the eucharist or disbar them from doing so. Most members of the Assembly believed that ministers and ruling elders should use their own judgement when deciding who could attend the Lord's Supper given that an elucidation of all scandalous sins was impossible.<sup>105</sup>

There was a fear that rigorous testing of a layperson's suitability for communion would entail an overly intrusive probing of individual conscience, reminiscent of the moral tyranny of the catholic church. This was an accusation frequently levelled by authors afraid

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<sup>100</sup> *Minutes and Papers*, iii, 574; *RPS* 1645/1/65; *RKS*, 418-19.

<sup>101</sup> *RKS*, 419.

<sup>102</sup> *Ibid.*, 429.

<sup>103</sup> *Ibid.*, 421.

<sup>104</sup> *Ibid.*, 429.

<sup>105</sup> *Minutes and Papers*, v, 189, 184.

that presbyterianism threatened both conscience and liberty.<sup>106</sup> In the debate on the Directory of Worship, Goodwin argued that ‘a man is to be judged, according to his inward principle professed, rather than by any outward duty’.<sup>107</sup> This view of conscience was centred on intent and professed belief, rather than public actions. That there was a relationship between intention and action was not a new belief, but there is evidence in the 1640s of a shift towards, as Blair Worden puts it, the ‘elevation of sincerity of intention above correctness of belief’.<sup>108</sup> Indeed, one modern scholar has argued that within the Christian framework intentions are more important than rule-following.<sup>109</sup>

This view was not restricted to congregationalists. Lightfoot argued that a minister could not judge a man’s conscience, ‘for though he was scandalous yesterday, yet may his repentance be unfeigned to-day’.<sup>110</sup> Similar points were raised when the issue was debated in parliament. John Selden, for example, argued that ‘Every man is a sinner, the difference is only, the one is in private, and the other a sinner in public’. Bulstrode Whitelocke contended that only the individual could judge of their worthiness to take the sacrament, ‘for none can know his heart but himself, and a commission will scarce be produced for any other to be judge thereof’.<sup>111</sup> These arguments prioritised individual intention and limited the role of community witnessing and church discipline as gatekeepers of public morality.

The congregationalists, however, went further by arguing that those who because of scruples of conscience could not participate in the sacrament, ‘shall not be compelled to communicate in the Lord’s Supper’.<sup>112</sup> The issue was not only whether the ignorant and scandalous be excluded from the eucharist but whether or not those with tender consciences could exclude themselves. In a paper submitted to the committee for accommodation, they objected to uniformity for uniformity’s sake, without respect for ‘the variety of light in matters of a lesser nature’.<sup>113</sup> The committee for accommodation responded that this would open the way ‘to as many divisions and sub-divisions in the Church as are the errors unto which the mindes of men are subject’.<sup>114</sup> They desired

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<sup>106</sup> For example, Thomas Aston, *A Remonstrance against Presbitery* ([London],1641), sig. K3v, K4r, L4r; John Milton, *Milton’s Poetical Works* (London: Collins Clear-Type Press, n.d.), 521.

<sup>107</sup> Gillespie, *Notes*, 102.

<sup>108</sup> George L. Mosse, ‘Puritan Political Thought and the “Cases of Conscience”’, *Church History*, 23:2 (1954), 112; David Little, *Religion, Order, and Law: A Study in Pre-Revolutionary England* (Oxford: Basil Blackwell, 1970), 117; Blair Worden, ‘Toleration and the Cromwellian Protectorate’, in W. J. Sheils (ed.), *Persecution and Toleration* (Oxford: Basil Blackwell, 1984), 207; Mark Goldie, ‘The Theory of Religious Intolerance in Restoration England’, in Ole Peter Grell, Jonathan I. Israel and Nicholas Tyacke (eds), *From Persecution to Toleration: The Glorious Revolution and Religion in England* (Oxford: Clarendon Press, 1991), 346-48; Coffey, *Rutherford*, 215.

<sup>109</sup> Larry Siedentop, *Inventing the Individual: The Origins of Western Liberalism* (London: Penguin, 2015), 353.

<sup>110</sup> Lightfoot, *Works*, xiii, 272.

<sup>111</sup> Whitelocke, *Memorials*, 504, 506.

<sup>112</sup> *The Papers and Answers of the Dissenting Brethren And The Committee of the Assembly of Divines ... 1645* (London, 1648), 22.

<sup>113</sup> *Ibid.*, 114.

<sup>114</sup> *Ibid.*, 103-04.

‘uniformity for order, and order for edification’.<sup>115</sup> If the scandalous were not excluded from the Lord’s Supper, and if others professing conscience excluded themselves, the Christian community would be undermined.

For the Scots, the sacrament was key to the moral reformation of society and the maintenance of a public conscience. As Michael F. Graham has argued, drawing on the works of the minister Robert Bruce, the [s]ocial discipline administered by the Kirk was necessary as an external conscience, to prod the sinner to repentance while developing the conscience within’.<sup>116</sup> Richard C. Trexler has argued that the most pressing task facing protestant churches ‘was not the articulation of clear intellectual differences from Catholicism and among each other, but the establishment of new sacred times, spaces and objects for meaningful behaviour’.<sup>117</sup> He argues that the triumph of the modern definition of religion as reflection, and the uncritical portrayal of this as progress by some historians, is a linked to the triumph of the state, ‘which controls the ritual stage and says faith is private but behaviour is a public matter’.<sup>118</sup> The struggles over communion must be understood in this light. Presbyterians, and the Scottish commissioners in particular, feared that the separation between public and private implied by the congregationalists would jeopardise a programme of national reformation, and contribute to the privatisation of religion.

### **Accommodation, toleration and conscience**

The Westminster Assembly’s debates on excommunication, the election of ministers and communion offer us valuable insights into how divines from both kingdoms thought about toleration and conscience. It was the possibility that a full presbyterian uniformity would be imposed that galvanised supporters of liberty of conscience in England.<sup>119</sup> 1644 saw the publication of several significant tracts on liberty of conscience.<sup>120</sup> In response, Gillespie, Rutherford and Baillie, along with the commissioners of the kirk, produced a number of

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<sup>115</sup> *Papers and Answers of the Dissenting Brethren*, 114.

<sup>116</sup> Michael F. Graham, *The Uses of Reform: ‘Godly Discipline’ and Popular Behaviour in Scotland and Beyond, 1560-1610* (Leiden: Brill, 1996), 148-49.

<sup>117</sup> Richard C. Trexler, ‘Reverence and Profanity in the Study of Early Modern Religion’, in Kaspar Von Greyerz (ed.), *Religion and Society in Early Modern Europe 1500-1800* (London: George Allen & Unwin, 1984), 253.

<sup>118</sup> Trexler, ‘Reverence and Profanity’, 251, 256.

<sup>119</sup> Paul, *Assembly of The Lord*, 31-32.

<sup>120</sup> Most notably, John Goodwin, *M. S. to A. S. with A Plea for Libertie of Conscience* (London, 1644) and *Theomachia; or The Grand Imprudence of men running the hazard of Fighting Against God* (London, 1644); John Milton, *Areopagitica; ; A speech of Mr. John Milton for the Liberty of Unlicenc’d Printing, to the Parliament of England* (London, 1644); William Walwyn; *The Compassionate Samaritane* (London, 1644); Roger Williams, *The Bloudy Tenent of Persecution* (London, 1644).

anti-tolerationist tracts.<sup>121</sup> It is important to consider these pamphlets alongside the disputes occurring within the Assembly. As John Coffey has argued, the debate over toleration ‘turned on what the Bible taught about church and state, not on what it taught about free-will and predestination’.<sup>122</sup> The arguments about church government and communion discussed above reflect differing perceptions of the relationship between public and private conscience. It is here that we find significant differences between the Scottish commissioners and the congregationalists.<sup>123</sup>

The primacy accorded to individual conscience jarred with Scottish assumptions about the role of scripture and of the church in regulating behaviour. Members of the assembly swore to ‘not maintain any thing in matters of doctrine, but what I think in my conscience to be truth’, and this oath was taken every Monday.<sup>124</sup> This, the Assembly declared in a letter to the Church of Scotland, ‘doth not onely secure the members against fettering of their judgements or Votes, but ingage them to use of all freedome becomming the integrity of Conscience’.<sup>125</sup> This formulation hints at an emphasis on individual conscience at odds with the consensus that the covenanters held to be a sign of truth. John R. Mackay has observed that ‘the ultimate appeal is here made not to the Word of God, but to what each member believes in his conscience to be truth’.<sup>126</sup> This is a slightly anachronistic understanding of conscience, but points towards an emphasis not found in Scottish works of the era. George Gillespie, answering a sermon by Thomas Coleman, in which Coleman argued that as little should be established *jure divino* as possible, insisted that ‘it is incumbent to Parliament-Men, to Ministers, and to all other Christians ... to search the Scriptures, and thereby to informe their owne and other mens Consciences’ so that they knew that the church government they were instituting concurred with god’s will.<sup>127</sup> This was an assertion of the traditional view that scripture was the basis of consensus.<sup>128</sup>

All participants in the Westminster Assembly ascribed primary authority to scripture, but there was disagreement about how it should be interpreted and whether or not it

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<sup>121</sup> Robert Bailie, *A Dissuasive from the Errours Of the Time* (London, 1645); *idem*, *Anabaptism, the True Fountain of Independency, Antinomy, Brownisme, Familisme, And the most of the other Errours, which for the time doe troubled the Church of England, Unsealed* (1646); George Gillespie, *Wholesome Severity Reconciled with Christian Liberty* (London, 1645); *idem*, *A Necessary and Seasonable Testimony Against Toleration* (London, 1649); Samuel Rutherford, *A Survey of the Spiritual Antichrist* (London, 1648); *idem*, *A Free Disputation Against Pretended Liberty of Conscience* (London, 1649).

<sup>122</sup> John Coffey, ‘Puritanism and Liberty Revisited: The Case for Toleration in the English Revolution’, *The Historical Journal*, 41:4 (1998), 971.

<sup>123</sup> See Coffey, *John Goodwin*, 292-93 for a summary of the significant differences between Goodwin and Rutherford.

<sup>124</sup> Lightfoot, *Works*, xiii, 4, 324.

<sup>125</sup> *Minutes and Papers*, iv, 19-20.

<sup>126</sup> John R. Mackay, ‘The Promise and Vow Taken by Members of the Westminster Assembly’, *The Princeton Theological Review*, 8 (1910), 304.

<sup>127</sup> Thomas Coleman, *Hopes Deferred and Dashed* (London, 1645), 24-25; George Gillespie, *A Sermon Preached Before the Right Honourable House of Lords* (London, 1645), 33.

<sup>128</sup> Paul, *Assembly of The Lord*, 32.

prescribed or proscribed specific models of ecclesiastical government. A ‘rigourist hermeneutic’ was a key feature of the puritan mentality in both England and Scotland.<sup>129</sup> G. D. Henderson has written of the strong belief amongst Scottish divines that scripture was ‘inerrant, uniformly authoritative, sufficient and self-interpreting’, and an emphasis on ‘the plainness of Scripture’ was similarly a central element of puritanism in both countries.<sup>130</sup> It was an essential tenet of covenanting thought that truth was knowable.<sup>131</sup> Henderson, for example, argued the commandments of god were ‘no lesse plaine and peremptory in our practise of things indifferent, then in other matters’.<sup>132</sup> Rutherford similarly wrote that ‘the Scriptures in all fundamentals are clear, and expone themselves’.<sup>133</sup> His *A Free Disputation Against Pretended Liberty of Conscience* was an extended attack on the belief that the word of god was subject to conscience. While it was true that nothing but scripture obliges, he argued, ‘it is most false that it obligeth ... because it doth appear to the conscience to be the word of God’, for then every erroneous interpretation of scripture would be binding. Conscience was bound by scripture; it was not scripture itself.<sup>134</sup>

That the bible could only offer general and historically specific advice was a view which had already been aired in the early 1640s, and which challenged the belief that scripture offered eternal truths.<sup>135</sup> When agreement on the ordination of ministers could not be reached, for example, a committee was formed to resolve the impasse. The following day the Assembly debated the proposition brought in by the committee that ‘in extraordinary cases, something extraordinary may be done, until a settled order may be had, yet keeping as close as may be to the rule’.<sup>136</sup> The proposition referenced Chronicles 29:34 in which due to a shortage of priests the Levites assisted with the preparation of burnt offerings. Lightfoot notes that ‘Divers spake very largely upon this’, and himself argued ‘That some positive laws of God gave place not only to necessity, but even to conveniency’.<sup>137</sup> Necessity and conveniency, justifications used to legitimise resistance to authority, were here used to qualify the laws of god. Rutherford doubted that the biblical proof supported the proposition, but it was passed.<sup>138</sup>

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<sup>129</sup> Jane E. A. Dawson, ‘Trumpeting Resistance: Christopher Goodman and John Knox’, in Mason, Roger A. (ed.), *John Knox and the British Reformations* (Aldershot: Ashgate, 1998), 131-153.

<sup>130</sup> G. D. Henderson, *Religious Life in Seventeenth Century Scotland* (Cambridge: Cambridge University Press, 1937), 1, 19; Conrad Russell, ‘Arguments for Religious Unity in England, 1530-1650’, *The Journal of Ecclesiastical History*, 18:2 (1967), 212.

<sup>131</sup> David Mullan, ‘Masked Popery and Pyrrhonian Uncertainty: The Early Scottish Covenanters on Arminianism’, *The Journal of Religious History*, 21:2 (1997), 164.

<sup>132</sup> Alexander Henderson, *A Sermon Preached to the Honourable House of Commons* (London, 1644), 22.

<sup>133</sup> Samuel Rutherford, *Lex, Rex, or The Law and the Prince* (Harrisburg: Sprinkle Publications, 1982), 117.

<sup>134</sup> Samuel Rutherford, *A Free Disputation Against Pretended Liberty of Conscience* (London, 1649), 10, 263-64.

<sup>135</sup> Charles Herle, *An Answer to Doctor Fernes Reply, Entitled Conscience Satisfied* (London, 1643), 2-3.

<sup>136</sup> Lightfoot, *Works*, xiii, 117.

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*, 117-18.

The word ‘conscience’ was recorded in the minutes of over one hundred sessions of the Westminster Assembly and was frequently employed by the dissenting brethren and Thomas Goodwin in particular.<sup>139</sup> When Henderson complained in March 1645 that ‘We thought we had been neare to the harbour, & now we are sailing out into the deepe’, Nye responded: ‘Ther was a necessity for us to doe it to dischargd our consciences. We are called to this worke & you must give us leave to make our owne consciences the rule’.<sup>140</sup> For the congregationalists, the integrity of conscience took precedence over the prerogatives of the national church. As Alexandra Walsham has argued, the experience of persecution often encouraged the interiorisation of religion and the elevation of personal conviction over external gesture.<sup>141</sup> In the *Apologeticall Narration*, the congregationalists emphasised how the experience of exile had shaped their religious thinking. Freed from partiality or worldly interest, and guided only by their consciences, they went back to scripture to discover the positive rules of church government and worship.<sup>142</sup> Hunter Powell has argued that the *Apologeticall Narration* was intended to demonstrate the closeness of the congregationalists’ position to that of the presbyterian majority and the Scots in particular.<sup>143</sup> Indeed, William Walwyn wrote that he was disappointed in the *Narration* for this very reason.<sup>144</sup> However, its emphasis on individual conscience was at odds with covenanters’ belief that the maintenance of uniformity in practice was paramount.

The lack of consensus found in the Westminster Assembly undermined the belief that objective truth could be reached after reasoned debate. This, in turn, raised the issue of how to accommodate dissenting opinions, a problem the covenanters had largely avoided in Scotland. The Westminster Assembly’s debates on Christian liberty are brief, and speeches of assembly members are not provided.<sup>145</sup> The debate about liberty of conscience mainly §took place outwith the synod, and amongst those who were excluded from its deliberations. It was largely driven by a fear that, as Henry Robinson put it, presbyterianism would ‘as much abridge them the Liberty of Conscience, as they themselves have been abridged under Episcopacie’.<sup>146</sup> The tracts published in defence of religious freedom were marked by scepticism about whether objective truth could be established and whether any authoritative judge existed to determine religious controversies. Consequently, some conceived of the church as a voluntary community

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<sup>139</sup> *Minutes and Papers*, ii, 168, 200, 202, 181-82, 426; iii, 154.

<sup>140</sup> *Ibid.*, iii, 564.

<sup>141</sup> Walsham, *Catholic Reformation*, 113.

<sup>142</sup> *An Apologeticall Narration*, 3.

<sup>143</sup> Powell, *Crisis*, 94.

<sup>144</sup> Walwyn, *Compassionate Samaritane*, 1-2.

<sup>145</sup> *Minutes and Papers*, iv, 30-34, 303-05, 310-16, 324-25, 438-441, 446-458.

<sup>146</sup> Henry Robinson, *Liberty of Conscience: Or the Sole means to obtaine Peace and Truth* ([London], 1643), sig. A2<sup>r</sup>.

which the state did not regulate.<sup>147</sup> John Milton, for example, argued that truth was the best suppressor of heresies and that ‘it is not impossible that she may have more shapes than one’.<sup>148</sup> Williams denied that widely accepted view that civil peace was dependent on the establishment of true religion.<sup>149</sup> Walwyn emphasised the uncertainty of knowledge and argued that men’s consciences could not be compelled by force.<sup>150</sup> Goodwin, meanwhile, emphasised the arbitrariness of god’s revelation and cautioned against persecution in case the saints were accidentally oppressed.<sup>151</sup>

In their quest for consensus, the Scottish commissioners were willing to seek accommodation but never toleration. As Gillespie put it in a speech he gave before he departed for the Scottish General Assembly, ‘I wish that instead of toleration ther may be a mutuall indeavour for a happy acomodation’.<sup>152</sup> Though it was true, he continued, that two were better than one, this was not true of parties because ‘God hath promised to give his people one heart & one way’.<sup>153</sup> Toleration would admit of difference, a policy the covenanters could not accept. After the defeat of Essex’s army in September 1644 Rutherford, apparently alarmed by the rise of the independents, alleged that ‘Ther was an accommodation concluded conceived to be a peaceable & brotherly way for the intended reformation ... but it hath been deserted’.<sup>154</sup> In his anti-toleration treatise, *Wholesome Severity Reconciled with Christian Liberty*, Gillespie elucidated that by accommodation, he meant ‘an agreement of the dissenters with the rest of the Church in practicall conclusions, so that if any difference be, it is in their *principles*, not in their *practices*, and so not obvious, apparent and scandalous to people’. If this were not possible, he did not rule out a limited toleration, either out of necessity or Christian pity and moderation, but accommodation was by far the preferable solution.<sup>155</sup> For the Scots, as Rutherford put it, ‘internall libertie’, that is ‘libertie to think, understand, judge, conclude’, was never in question; it was men’s actions and practices which must be regulated, and the unity and uniformity of the church which had to be maintained.<sup>156</sup>

It is clear that though the religious settlement the Scots sought was for England to conform to the Scottish church, they were willing to allow for some flexibility. This

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<sup>147</sup> Coffey, ‘Puritanism and Liberty Revisited’, 977; Andrew R. Murphy, *Conscience and Community: Revisiting Toleration and Religious Dissent in Early Modern England and America* (Pennsylvania: Pennsylvania State University Press, 2001), 108; Perez Zagorin, *How the Idea of Religious Toleration Came to the West* (Princeton: Princeton University Press, 2003), 205-06.

<sup>148</sup> John Milton, *Areopagitica and Of Education*, ed. Michael Davis (London: Macmillan, 1963), 58, 59.

<sup>149</sup> Williams, *Bloudy Tenent*, 138.

<sup>150</sup> Walwyn, *Compassionate Samaritane*, 10-11, 42.

<sup>151</sup> Goodwin, *Theomachia*, 6-7, 47.

<sup>152</sup> *Minutes and Papers*, iii, 498.

<sup>153</sup> *Ibid.*, iii, 498.

<sup>154</sup> *Ibid.*, iii, 282.

<sup>155</sup> Gillespie, *Wholesome Severity*, 31-32, 36-37.

<sup>156</sup> Rutherford, *Free Disputation*, 46.

willingness to compromise, albeit limited, was in part a response to the Scots' realisation that the Westminster Assembly was not a unified body but one composed of differing groupings with alternate ecclesiological views. Further, the Scots were not voting members: it was ultimately up to the English to agree upon the how their church should be reformed. In attempting to negotiate between these different positions in order to get the best possible settlement, without bringing into question the discipline or government of the Church of Scotland, the commissioners pushed for an accommodation which would maintain and promote protestant unity rather than a toleration which would legitimise dissent. This was driven in part by political considerations: the Scottish commissioners wanted to present Charles I with an already agreed presbyterian settlement and to do so before the congregationalists and the political independents gained the ascendancy, fearing that otherwise episcopacy, with a limited toleration, would be restored.

However, the emphasis on exterior conformity raises questions about in the relationship between public and private conscience, as suggested above. Though private beliefs could be tolerated, differences in practice and discipline could not because they threatened the unity of the church and undermined the processes of public reformation. The people needed exterior controls and frameworks to guide them and rectify their conduct. The communions of the godly envisaged by congregationalists and independents instead emphasised Christian liberty and the authority of the illuminated conscience. The Scots, on the other hand, placed an emphasis on exterior conformity and uniformity in practice. This was a reflection of the widespread belief that opinions and beliefs could not be regulated, but also of the principle that admonishment and compulsion had a role to play in correcting erring consciences.

The basis of the argument for compulsion in matters of belief was articulated clearly by John Cotton in his dialogue with Roger Williams. Because scripture was clear in its fundamentals, he contended, if a man could not be convinced after admonition, he was condemned by his own conscience. 'He is not *persecuted* for Cause of *Conscience*,' he concluded, 'but for sinning *against* his Owne *Conscience*'. Liberty of conscience was to be granted to the godly, those who would not persist in heresy or schism when convinced of the sinfulness thereof.<sup>157</sup> This bears a relation to an observation made by David Little: 'we would not adjudge a person conscientious who did not include somewhere among his basic convictions ... a commitment to principles ... of honesty, wisdom, truth, courage and the other procedural virtues'.<sup>158</sup> The liberty of conscience advocated by mainstream

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<sup>157</sup> Williams, *Bloody Tenent*, 8, 14.

<sup>158</sup> David Little, 'Duties of Station vs. Duties of Conscience: Are There Two Moralities?', in Donald G. Jones (ed.), *Private and Public Ethics: Tensions Between Conscience and Institutional Responsibility* (New York: Edwin Mellen Press, 1978), 143-44.

presbyterians was rule-bound and biblically-based; for others to claim this right they had to demonstrate that they were operating within the same limits.

The Scots expressed vocal opposition to English defences of toleration. Baillie encouraged his friend Thomas Edwards to publish *Gangraena*, and wrote his own heresiographical works. Edwards and other supporters of the covenanters attributed the perceived lack of error and heresy in Scotland to the success of presbyterianism, an association the Scots were keen to encourage.<sup>159</sup> For the Scottish commissioners, conscience could not be understood merely as internal and private. Gillespie argued that no-one was calling for the magistrate ‘to punish men for their thoughts, or bare opinions, or for conscience simply considered in it self’.<sup>160</sup> Yet he also warned that none should ‘think that opinions are free, more than practices’. Heretical and erroneous beliefs were as much a threat to the individual's salvation as ‘wickednesse of practise’.<sup>161</sup> For Rutherford, it was entirely legitimate for the magistrate to regulate ‘the imperated acts and these externall, that is not touching opinions and acts of the minde, but that which is visible and audible in these opinions’.<sup>162</sup>

Gillespie also laid the charge of hypocrisy against the those who advocated liberty of conscience, pointing out that proponents of religious toleration were happy to force consciences when it came to matters of state.<sup>163</sup> Williams, for example, called for liberty of conscience for ‘Gods people’, but affirmed that ‘all the Subjects in a *Kingdome* or *Monarchie* ... must be compelled by the power of the *Civill Sword*’.<sup>164</sup> Walwyn and Goodwin called for liberty of opinions, unless they were dangerous to the state.<sup>165</sup> For Gillespie this was hypocrisy: ‘Mens consciences may be compelled for the good of the State, but not for the glory of God’.<sup>166</sup> He also observed that Walwyn argued for freedom of beliefs unless they threatened the commonwealth, and then went on to state that presbyterianism posed a danger to the state.<sup>167</sup> Those demanding liberty of conscience for themselves were almost always quick to deny it to others.

The Westminster Confession codified the mainstream puritan position on liberty of conscience.<sup>168</sup> The liberty which Christ had purchased for believers, it stated, was spiritual

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<sup>159</sup> Ann Hughes, *Gangraena and the Struggle for the English Revolution* (Oxford: Oxford University Press, 2004), 81, 360, 376.

<sup>160</sup> Gillespie, *Wholesome Severity*, 34.

<sup>161</sup> Gillespie, *Treatise of Miscellany Questions*, 157.

<sup>162</sup> Rutherford, *Free Disputation*, 46.

<sup>163</sup> Gillespie, *Sermon Preached Before the ... House of Lords*, 16.

<sup>164</sup> Williams, *Bloudy Tenent*, 228.

<sup>165</sup> Goodwin, *M. S. to A. S.*, 53-54; Walwyn, *Compassionate Samaritane*, 5.

<sup>166</sup> Gillespie, *Sermon Preached Before the ... House of Lords*, 16.

<sup>167</sup> Gillespie, *Wholesome Severity*, 20.

<sup>168</sup> John Coffey, ‘The toleration controversy during the English Revolution’, in Christopher Durston and Judith Maltby (eds), *Religion in Revolutionary England* (Manchester: Manchester University Press, 2006), p. 47; Van Til, *Liberty of Conscience*, 86.

freedom, from the slavery of sin, and freedom to follow the illuminated conscience. The end of Christian liberty was that Christians ‘might serve the Lord’. Only god was the ‘Lord of the Conscience’ and to obey men in things contrary to scripture, or to follow commandments blindly, was ‘to destroy Liberty of Conscience, and Reason also’.<sup>169</sup> Even in this mainstream document, we witness the tension between the prerogatives of conscience and the attempts to limit private conscience’s public and civic role. It is a reminder, too, that that Christian liberty meant an equality of believers, and their superiority to unregenerate men.<sup>170</sup> We should not be surprised that the Westminster Assembly was ultimately unable to solve the problem of how to accommodate differences of opinion and practice within a national church. The ideal of a national, public conscience had been severely tested by the experience of civil war, the breakdown of authority and the emergence of new religious communities. Furthermore, significant numbers of Englishmen and women retained an affection for episcopacy and the Prayer Book. In this context, the consensus which the Scots saw as both a product of and the basis for their system of church government could not be secured.

## Conclusion

In the Scottish schema, there existed a small space for individual conscience, but it was rarely exercised or expected to be exercised. The ideal was both prescriptive and descriptive: those who dissented were excluded from the national community thus preserving its integrity. This was possible at first but as the covenants came to be used to exclude more and more people the ideal became unsustainable. The clash between ideal and reality, belief and practice, was at the heart of many disagreements at the Westminster Assembly. Cromwell is alleged to have said regarding religion, ‘I can tell you ... what I would not have, though I cannot what I would’.<sup>171</sup> This uncertainty can be applied to the English presbyterians who were more used to dissent than power. The congregationalists had a more clearly defined programme, whilst the Scottish commissioners knew both what they would not have and what they would. Though the most united group, their ecclesiology did not sit well with either the congregationalists or the English presbyterians. As with the Solemn League and Covenant the attempt to create Anglo-Scottish, let alone British, unity instead opened up new areas of dispute. We should be careful not

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<sup>169</sup> *Articles of Christian Religion*, 33.

<sup>170</sup> A. S. P. Woodhouse, ‘Introduction’, in *Puritanism and Liberty: Being the Army Debates (1647-49) from the Clarke Manuscripts*, ed. A. S. P. Woodhouse, 3rd ed. (London: Dent, 1986), 53, 59.

<sup>171</sup> Phillip Warwick, *Memoirs of the Reign of King Charles the First* (Edinburgh: John Ballantyne and Co., 1813), 194.

overemphasise the extent of the disunity which existed at the Assembly, but on the issues of ecclesiology and the sacrament of the Lord's Supper there were significant differences. John Morrill has associated the 'dissenting brethren' with the breakdown of an anti-Laudian unity and its replacement with 'a Protestant Tower of Babel'.<sup>172</sup> But it is arguable that many members of the Assembly arrived at Westminster already speaking different languages.

The Scots' position on communion must be understood as grounded in a context in which a Calvinist consensus existed, personal conviction and external gesture coincided, and the Lord's Supper was both popular and personal. There was some truth to the fear that England would contaminate Scotland with its heresies, for once the consensus of the church was broken, it was nigh on impossible to restore. The Scots sincerely believed that their system of church discipline was the only remedy to the fragmentation of protestantism they witnessed in England. The desire for the quick establishment of presbyterianism was in part a defensive measure to cauterise the wound and halt the spread of infection. The institutional success of the reformation in Scotland cultivated different ideas of freedom and the role of individual conscience. Discipline was necessary for the rectification and education of individual consciences within the framework of a national church. The consciences of the degenerate majority could not overrule the consensus of the saints as achieved in assemblies of the kirk.

The elevation of personal conviction above external gesture which developed in England can in part be explained if we accept Alexandra Walsham's argument that persecution pushed some protestants to claim 'an interior liberty' and 'a quasi-mystical devaluation of dogma and ceremonial'.<sup>173</sup> We should remember that the leading congregationalists had all gone to Holland rather than submit to Laud's demands.<sup>174</sup> Persecution of a more limited degree contributed to the development of conventicles in Scotland in the years before 1638. The support of ministers such as Rutherford and Gillespie for these meetings goes some way to explaining their sympathy towards the congregationalists' position, though they never sought to legitimise independent churches. As Stevenson argues, the euphoria which National Covenant had inspired led some to believe that Scotland was an elect nation and that the visible and the invisible churches might coincide. It was in the later 1640s and early 1650s that this ideal was to be fatally wounded.<sup>175</sup> The 'rule of the saints' meant different things in Scotland and England, and for the congregationalists and the Scottish commissioners. The construction of a united

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<sup>172</sup> Morrill, 'The Puritan Revolution', 72.

<sup>173</sup> Walsham, *Catholic Reformation*, 113.

<sup>174</sup> Samuel C. Pearson, Jr., 'Reluctant Radicals: The Independents at the Westminster Assembly', *Journal of Church and State*, 11: 3 (1969), 476.

<sup>175</sup> David Stevenson, 'The Radical Party in the Kirk, 1637-45', *The Journal of Ecclesiastical History*, 25 (1974), 137, 145, 158, 165.

society, built around widespread subscription to the National Covenant, supported the myth that Scotland was a godly society less afflicted by the heresies and sects that afflicted England.

The presbyterian system of church government required popular participation in order to be effective, and there is evidence in Scotland of this being the case. It was also a system which made private sins public, often with the acquiescence of sinners. Private conscience compelled the public declaration and repentance of sins within the context of a shared and community-enforced morality. Admonition and reproach were seen as ways to convict individuals of their sinfulness and correct them. This intermingling of private and public was of course also embodied in the Covenants and was based on the notion that conscience itself was both private and public. This was particularly true in the case of the sacrament of the Lord's Supper. Those who were excluded were publicly shamed, their sins made visible before the community at large.<sup>176</sup> Sincere belief was not sufficient and correct belief could only be reached within the church. Belief could not be compelled by force, but individuals could be compelled to reconsider their views and improve their knowledge.<sup>177</sup> Not unjustifiably, the Scots feared that if consensus was not achieved on the exercise of discipline, the authority of scripture and the church would be irrevocably damaged.

Regarding ecclesiology, the problem was that Christianity was not inherently democratic, monarchical or aristocratical. The single godly person could be correct and the multitude wrong. As the representative of Saxony declared at the Diet of Worms, 'in matters of conscience there is no majority'.<sup>178</sup> Indeed the history of the church was one of persecuted minorities holding onto the true faith whilst under pressure from the world to recant. This had two contradictory implications. On the one hand, the decisions of church governors, who were assumed to be godly men, could not be challenged by popular opinion. On the other hand, there was always the possibility that a godly individual or individuals could legitimately challenge the authority of the church. God could, and often did, speak through lowly men and women. How to enforce church discipline without accidentally suppressing the workings of the Holy Spirit was a dilemma without a simple solution. The protestant reformation had, after all, begun as an act of conscience.

The Westminster Assembly continued to sit until April 1653. The regicide shocked most of the divines, though it was not until the Engagement was imposed on them that many left.<sup>179</sup> By the time the last of the Scottish commissioners had departed in 1647 the Assembly had, ostensibly at least, accomplished much. Though a presbyterian church

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<sup>176</sup> Hunt, 'The Lord's Supper', 51.

<sup>177</sup> Goldie, 'The Theory of Religious Intolerance', 347.

<sup>178</sup> Quoted in Geoffrey Nuttall, *Visible Saints: The Congregational Way 1640-1660* (Oxford: Basil Blackwell, 1957), 101.

<sup>179</sup> Van Dixhoorn, 'The Reformation at Westminster', *Minutes and Papers*, i, 37.

would never be fully realised in England, the work of the Assembly would have a lasting impact. However, this great meeting of protestant divines was unable to secure a lasting British religious settlement. The experience of participating in the Assembly had shown the Scots that in England conscience sustained competing beliefs, and undermined the feasibility of accommodation. The claims made for individual conscience, and the emphasis placed on intention rather than action, jarred with the ideal of a public conscience mediated by the church. It was to be in the 1650s, with the church split and the country divided, that similar beliefs would begin to be aired in Scotland. It is perhaps illustrative of the different trajectories that the two countries were on that on the same day that the House of Commons resolved to abolish monarchy, the Scottish parliament approved the two catechisms and Confession of Faith devised by the Westminster Assembly.<sup>180</sup>

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<sup>180</sup> *CJ*, vi, 133; *RPS*, 1649/1/78a.

## 6

## Engagement Controversies

Charles's execution on 30 January 1649 was, as John Morrill put it, a 'wholly English act of regicide' which represented 'a dissolution of the union of 1603'.<sup>1</sup> The Scots had opposed the trial of Charles, though they had tacitly accepted that kings could be brought to justice.<sup>2</sup> In common with many English presbyterians, while they recognised that Charles had sinned, they believed that monarchy was essential to any lasting political and religious settlement.<sup>3</sup> On 19 May the Rump Parliament abolished monarchy and the House of Lords and established the Commonwealth of England.<sup>4</sup> An Oath of Engagement was framed with the intention of securing loyalty to this new regime. In contrast to previous oaths and covenants, it was short and simply worded: 'I do declare and promise, that I will be true and faithful to the Commonwealth of England, as it is now established, without a King or House of Lords'.<sup>5</sup> It provoked a fierce pamphlet debate which ran until 1652 and has come to be known as the Engagement controversy.

The Scots had swiftly proclaimed Charles II king of Great Britain, Ireland and France after the death of his father, a move which represented a commitment to both kingship and British unity.<sup>6</sup> However, though the Scottish covenanters accepted that Charles II had a right to his royal title, his assumption of the royal office was conditional upon taking the Solemn League and Covenant.<sup>7</sup> Questions of how to secure guarantees from a duplicitous king and disagreements about whether the defence of the realm should take precedence over the obligations of the covenants would fracture an already divided Scottish polity.<sup>8</sup>

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<sup>1</sup> John Morrill, 'The English, the Scots, and the Dilemmas of Union, 1638-1654', in T. C. Smout (ed.), *Anglo-Scottish Relations from 1603 to 1900* (Oxford: Oxford University Press for the British Academy, 2005), 71; *idem.*, 'The English Revolution in British and Irish Context', Michael Braddick (ed.), *The Oxford Handbook of the English Revolution* (Oxford: Oxford University Press, 2015), 557.

<sup>2</sup> David Stevenson, *Revolution and Counter-Revolution in Scotland, 1644-1651* (London: Royal Historical Society, 1977), 129.

<sup>3</sup> Elliot Vernon, 'The Quarrel of the Covenant: the London Presbyterians and the Regicide', in Jason Peacey (ed.), *The Regicides and the Execution of Charles I* (Basingstoke: Palgrave, 2001), 203.

<sup>4</sup> *CJ*, vi, 212.

<sup>5</sup> *The Constitutional Documents of the Puritan Revolution, 1625-1660*, ed. Samuel Rawson Gardiner (Oxford: Oxford University Press, 1979), 391.

<sup>6</sup> *A Declaration of the Committee of Estates of the Parliament of Scotland, In Answer to some Printed Papers, Intituled, The Declaration of the Parliament of England, and the Declaration of the Army of England, upon their March into Scotland* (Edinburgh, 1650), 17.

<sup>7</sup> S. R. Gardiner, *History of the Commonwealth and Protectorate 1649-1656*, 4 vols (London: Longmans, Green and Co., 1903), i, 203-04.

<sup>8</sup> Morrill, 'The English, the Scots, and the Dilemmas of Union', 74.

The Scots' decision to assert Charles's claim to the crowns of the three kingdoms was interpreted as a provocation by the newly established English Commonwealth, and to counter this threat an army led by Oliver Cromwell invaded Scotland on 22 July 1650.

The English invasion exposed and exacerbated divisions which had emerged in the Scottish body politic in the late 1640s.<sup>9</sup> A group of committed covenanters issued a declaration, known as the Western Remonstrance, which demanded that the king commit sincerely to the Solemn League. They pledged to expel the English from Scotland but rejected attempts to restore Charles to the English throne.<sup>10</sup> The army of the Remonstrants was defeated by English forces in the winter of 1650, but they remained an active and vocal presence. They were opposed by those who considered the country's defence to be the priority, a policy which received the sanction of commission of the kirk in the Public Resolutions of 14 December.<sup>11</sup> Those who objected to this turn of events, including the Remonstrants, became known as the Protesters. The Scottish church was thereafter divided between the Protesters, led by the western ministers James Guthrie and George Gillespie, and the Resolutioners, the majority party led by Robert Douglas, James Wood and the Edinburgh clergy.<sup>12</sup>

Following victories at Dunbar and Worcester, the Scottish nation was largely subdued by 1652. Plans to annex Scotland were abandoned, and it was instead determined that Scotland was to be incorporated into one commonwealth with England and Ireland. The reasons for this change of heart are not entirely clear, though it seems likely that Cromwell played an important role in the decision.<sup>13</sup> The Commonwealth declared that 'the same Government that is established here ... under the free State and Common-wealth of *England*, as now settled, without King, of House of Lords' was to be 'derived and communicated unto' the Scots.<sup>14</sup> The country's shires and burghs were obliged to give their assent to a Tender of Union, and through elected deputies to consent to the incorporation of Scotland into England. Officers appointed by the English commissioners were required

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<sup>9</sup> John Nicoll, *A Diary of Public Transactions and Other Occurrences, Chiefly in Scotland, From January 1650 to June 1667*, ed. David Laing (Edinburgh: Bannatyne Club, 1836), 39.

<sup>10</sup> James Balfour, *The Historical Works of Sir James Balfour of Denmylne and Kinnaird, Knight and Baronet; Lord Lyon King at Arms to Charles the First, and Charles the Second*, 4 vols (Edinburgh: W. Aitchison, 1824), iv, 136.

<sup>11</sup> Robert Wodrow, *The History of the Sufferings of the Church of Scotland from the Restoration to the Revolution*, 4 vols (Glasgow: Blackie and Son, 1835), i, 2; F. D. Dow, *Cromwellian Scotland, 1651-1660* (Edinburgh: John Donald, 1979), 8-9.

<sup>12</sup> Patrick Little, *Lord Broghill and the Cromwellian Union with Ireland and Scotland* (Woodbridge: Boydell Press, 2004), 95.

<sup>13</sup> Austin Woolrych, *Britain in Revolution 1625-1660* (Oxford: Oxford University Press, 2002), 500-501; Dow, *Cromwellian Scotland*, 30-31.

<sup>14</sup> *A declaration of the Parliament of the Commonwealth of England concerning the settlement of Scotland* (London, 1652), 6.

to take the Engagement, and an additional oath was required from those who held executive posts.<sup>15</sup>

In this way the Engagement was extended to Scotland and, as in England, it provoked a debate about the nature of obedience due to usurped powers. This controversy surrounding the Tender of Union has not received a great deal of attention from historians. Indeed, there are only a few studies of the conquest and incorporation of Scotland during the 1650s.<sup>16</sup> A comparative study of the Engagement controversies has been attempted by Kirsteen Mackenzie, but her analysis overlooks the issue of conscience.<sup>17</sup> It is clear, however, that the Tender was viewed as a case of conscience and produced a literature comparable with, though of a smaller scale than, the English Engagement controversy. Responses ranged, as Allan I. Macinnes summarises it, from ‘*de facto* acceptance’ to ‘conditional acquiescence that reserved prior commitment to the Covenants’.<sup>18</sup>

The English Engagement controversy, on the other hand, has been studied extensively. A traditional account is provided by Perez Zagorin, who distinguished between the ‘unofficial theory’ of the *de facto* theorists and the ‘official theory’ which held that the people had a right to hold rulers to account.<sup>19</sup> Quentin Skinner describes the latter strain of thought as a reflection of the Independent belief that ‘the origin of any lawful government must lie in a decision by the people to consent to its establishment’. The *de factoists*, more moderate and often presbyterian thinkers, drew on Romans 13 to argue that even usurping powers must be obeyed.<sup>20</sup> The Engagement controversy has also been interpreted by many as an important stage in the development of a secular theory of

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<sup>15</sup> *The Cromwellian Union: Papers Relating to the Negotiations for an Incorporating Union Between England and Scotland 1651-1652 with an Appendix of Papers Relating to the Negotiations in 1670*, ed. C.. Sanford Terry (Edinburgh: T. and A. Constable for the Scottish History Society, 1902) 178-79.

<sup>16</sup> Most notably: F. D. Dow, *Cromwellian Scotland, 1651-1660* (Edinburgh: John Donald, 1979); Patrick Little, *Lord Broghill and the Cromwellian Union with Ireland and Scotland* (Woodbridge: Boydell Press, 2004); R. Scott Spurlock, *Cromwell and Scotland: Conquest and Religion, 1650-1660* (Edinburgh: John Donald, 2007). There have, however, been several doctoral theses on this period: Susan Gillanders, ‘The Scottish Burghs during the Cromwellian Occupation, 1651-1660’ (PhD thesis, University of Edinburgh, 1999); Holfelder, ‘Factionalism in the Kirk’; Robert Harris Landrum, ‘Vast visions and intransigent realities: the Anglo-Scottish Union of 1651-60’ (PhD thesis, University of Wisconsin, 1999); Robert Matthew Shurmer, ‘Deconstructing the nation state: the Cromwellian invasion and occupation of Scotland, 1650-1660’ (PhD thesis, University of Virginia, 1998); Lesley M. Smith, ‘Scotland and Cromwell: a study in early modern government’ (DPhil thesis, University of Oxford, 1979); John Matthew Toller, ‘“Now of little significance”? The Convention of the Royal Burghs of Scotland, 1651-1688’ (DPhil thesis, University of Dundee, 2011).

<sup>17</sup> Kirsteen Mackenzie, ‘Loyalty to King or Covenant Retained: Presbyterians in the Three Nations and the English Commonwealth, 1649-1653’, in Shane Alcobia-Murphy, Johanna Archbold, John Gibney and Carole Jones (eds), *Beyond the Anchoring Grounds: More Cross-currents in Irish and Scottish Studies* (Belfast: Cló Ollscoil na Banríona, 2005), 168-176; *idem*, ‘Presbyterian Church Government and the “Covenanted Interest” in the Three Kingdoms, 1649-1660’ (PhD thesis, University of Aberdeen, 2008), 50.

<sup>18</sup> Allan I. Macinnes, *The British Revolution, 1629–1660* (Basingstoke: Palgrave Macmillan, 2005), 201.

<sup>19</sup> Perez Zagorin, *A History of Political Thought in the English Revolution* (London: Routledge & Kegan Paul, 1954), 63.

<sup>20</sup> Quentin Skinner, ‘Conquest and Consent: Thomas Hobbes and the Engagement Controversy’, in G. E. Aylmer, (ed.), *The Interregnum: The Quest for Settlement 1646-1660* (London: Macmillan, 1972), 79, 80.

politics. As Worden puts it, many apologists for the Commonwealth developed ‘an amoral, secular, Hobbesian philosophy of subordination to a *de facto* government’.<sup>21</sup> The oath itself demanded loyalty to an abstract concept, the state or the commonwealth, and omitted a religious clause.<sup>22</sup> Many authors, it has been suggested, avoided religious arguments in their defences of its legitimacy. Schochet, for example, suggests that the oath was designed to inculcate a sense of political obligation based on rational and conscientious assent. This, he argues, was ‘a radical step towards the endorsement of a politics that was altogether secularised and irretrievably ambiguous’.<sup>23</sup> Unlike earlier oaths, equivocation was accepted, permitted and even encouraged.<sup>24</sup> Skinner acknowledges that while providence may have been the most basic argument in favour of taking the Engagement, a conservative and secular strand of *de facto* theory emerged in which political obligation was shorn of providentialist language and emphasised the political nature of man.<sup>25</sup>

This account has been challenged. Glenn Burgess has argued that the placing of the Engagement controversy in a narrative of emerging secularism; the view of the debate as ‘a complete, self-sufficient entity’; and the favour often shown to the arguments of the Engagers, have all distorted historical interpretations.<sup>26</sup> Along with John M. Wallace and, more recently, Conal Condren, he emphasises the significance of providence in the debate, bringing into question the emphasis some historians have placed on its ‘secularism’.<sup>27</sup> Condren also questions the ‘accepted polarities’ between *de facto* and *de jure* theorists, pointing out that some refusers argued that *de facto* rule might have to be accepted; some subscribers believed that *de facto* compliance undermined the legitimacy of the government; and others still denied the distinction between *de facto* and *de jure* rule altogether.<sup>28</sup> John M. Wallace, meanwhile, argues that the debate about might and right is better conceived of as ‘a struggle between the belief that God had merely permitted the new regime ... and a

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<sup>21</sup> Worden, *Rump Parliament*, 229.

<sup>22</sup> Sarah Barber, ‘The Engagement for the Council of State and the Establishment of the Commonwealth Government’, *Historical Research*, 63:150 (1990), 49-50; *idem*, *Regicide and Republicanism*, 181-82, 190.

<sup>23</sup> Gordon J. Schochet, ‘Persuading the Heart: Appeals to “Conscience” in the English Revolution’, in Grafton, Anthony T. and J. H. M. Salmon (eds), *Historians and Ideologies: Essays in Honor of Donald R. Kelly* (Rochester, NY: University of Rochester Press, 2001), 168.

<sup>24</sup> Edward Vallance, ‘Protestation, Vow, Covenant and Engagement: swearing allegiance in the English Civil War’, *Historical Research*, 75 (2002), 422, 423-24.

<sup>25</sup> Skinner, ‘Conquest and Consent’, 86-97.

<sup>26</sup> Glenn Burgess, ‘Usurpation, Obligation and Obedience in the Thought of the Engagement Controversy’, *The Historical Journal*, 29:3 (1986), 516-18.

<sup>27</sup> Burgess, ‘Usurpation, Obligation and Obedience’, 521, 524; Conal Condren, *Argument and Authority in Early Modern England: The Presupposition of Oaths and Offices* (Cambridge: Cambridge University Press, 2006), 294-312; *idem*, ‘Marvell’s “Horatian Ode on Cromwell’s Return from Ireland” and the Context of the Engagement Controversy’, in Andrew Lynch and Anne M. Scott (eds), *Renaissance Poetry in Context: Essays for Christopher Wortham* (Newcastle: Cambridge Scholars Publishing, 2008), 259-64; John M. Wallace, ‘The Engagement Controversy 1649-1652: An Annotated List of Pamphlets’, *Bulletin of the New York Public Library*, 68:6 (1964), 384-405; *idem*, *Destiny His Choice: The Loyalty of Andrew Marvell* (Cambridge: Cambridge University Press, 1968), 67.

<sup>28</sup> Condren, *Argument and Authority*, 296.

conviction that it might prove later to have His express design'.<sup>29</sup> What is clear is that supposedly 'secular' ideas cannot be easily separated from religious arguments and language. As Edward Vallance has shown, for many participants, particularly presbyterians, the obligations oaths placed upon the conscience were the most pressing concern.<sup>30</sup>

In this chapter, I draw upon this historiography and provide the first comprehensive comparative study of these English and Scottish Engagement controversies. My interest is primarily in extending an analysis of how the concept of conscience was used and understood to Scottish sources, and in situating these debates in a broader Anglo-Scottish context. I begin by examining how the language of liberty and conscience was used in the English Engagement controversy. This analysis will establish the key ideas that emerged during this debate to provide a framework to make comparisons with Scottish sources. In the second section of the chapter I argue that the Scottish context of the English Engagement controversy has been overlooked and demonstrate that Scottish texts and Anglo-Scottish relations were important aspects of the English Engagement controversy. In particular, the Solemn League and Covenant — and divergent readings of it — were central to these debates in both England and Scotland. Finally, I explore reactions to the Tender of Union. The Tender crystallised questions of obedience, requiring collective assent to republican government and sworn submission to the English regime. Though not as wide-ranging as the English Engagement controversy, this was nevertheless a significant dispute. It draws attention to a shared repertoire of arguments and languages, whilst also suggesting that Scottish political thought had distinctive features.

### **Conscience and the English Engagement controversy**

As has been emphasised throughout this thesis, conscience must be understood in relation to the contexts in which it was invoked. While ideas about obedience and resistance which had circulated in the early 1640s were repurposed and reframed during the debates about the Engagement, submission to a regicidal regime created particular dilemmas for conscience. By imposing a new oath on the populace, the Commonwealth compelled individuals to consider its compatibility with prior sworn obligations. This analysis is not intended as a comprehensive account of the English Engagement controversy. Rather, I focus on several important themes which have already been examined in previous chapters:

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<sup>29</sup> Wallace, *Destiny His Choice*, 67.

<sup>30</sup> Edward Vallance, *Revolutionary England and the National Covenant: State Oaths, Protestantism, and the Political Nation, 1553-1682* (Woodbridge: Boydell Press, 2005), 162.

the role of the people in public affairs; the purposes of government and the church; and religious and civil toleration.

A significant element of the English Engagement controversy was the debate over what part the individual should play in the political life of the nation. This was, in part, a reflection of the fact that the people had been actively required to take sides for much of the 1640s. A number of authors argued that the main end of government was to enable subjects to live godly, peaceable lives. If this condition was fulfilled, the people ought to submit to their rulers.<sup>31</sup> That there was a necessary relationship between protection and allegiance was a common refrain, most famously articulated by Anthony Ascham and Thomas Hobbes.<sup>32</sup> This belief minimised the role of the public in political disputes: conscientious obedience was owed to the powers that be. As Francis Rous put it, when one power was in possession and another claimed a title, the people could not judge but only ‘see who doth visibly and actually exercise power and authority’.<sup>33</sup> Possession alone, often interpreted providentially, was the measure of a government’s legitimacy.<sup>34</sup> Further, given that it was impossible to ascertain the original moral or legal basis of government, it was best to obey those in power.<sup>35</sup>

John Dury, who was employed by the Commonwealth to produce an official defence of the Engagement, was particularly adamant that private persons should not interfere in affairs of state.<sup>36</sup> He promoted a political quietism, arguing that the Christian should take

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<sup>31</sup> [Henry Robinson], *A Short Discourse Between Monarchical and Aristocratical Government. Or a Sober perswasive of all true-hearted Englishmen, to a willing conjunction with the Parliament of England In setting up the Government of a Common-wealth* (London, 1649), 8; Lewis de Moulin, *The Power of the Christian Magistrate in Sacred Things* (London, 1650), 58, 62-63; John Rocket, *The Christian Subject: A Treatise Directing a Christian to a peaceable Conversation suitable to an holy Calling* (London, 1651), 17-18, 19, 22-23, 31-34.

<sup>32</sup> Anthony Ascham, *The Bounds & bonds of Publique Obedience* (London, 1649), 3, 26; *idem*, *Of the Confusions and Revolutions of Governments* (London, 1649), 125, 131, 137, 159; *idem*, *A Reply To a Paper of Dr Sandersons, Containing a Censure of Mr. A. A. his Booke of the Confusions and Revolutions of Government* (London, 1650), 10; *Memorandums of the Conferences held between The Brethren scrupled at the Engagement; and others who were satisfied with it* (London, 1650), 8; Marchamont Nedham, *The Case of the Common-Wealth of England, Stated* (London, 1650), 17-19; *The Exercitation Answered* (London, 1650), 28; John Drew, *The Northern Subscribers Plea, Vindicated from The Exceptions, laid against it by the Non-subscribing Ministers of Lancashire and Cheshire* (London, 1651), 23-24; Wallace, *Destiny His Choice*, 63; Richard Tuck, *Philosophy and Government 1572-1651* (Cambridge: Cambridge University Press, 1993), 259, 335; Thomas Hobbes, *Leviathan*, ed. J. C. A. Gaskin (Oxford: Oxford University Press, 2008), 139-48.

<sup>33</sup> [Francis Rous], *The Lawfulness Of obeying the Present Government. Proposed By one that loves all Presbyterian lovers of Truth and Peace, and is of their Communion* (London, 1649), 9.

<sup>34</sup> Ascham, *Of the Confusions and Revolutions of Governments*, 10, 32, 34, 99; Thomas Carre, *A Treatise of Subiection to the Powers* (London, 1651), 17; Robert Filmer, *Observations upon Aristotles Politiques, touching Forms of Government. Together with Directions for Obedience to Governours in dangerous and doubtfull Times* (London, 1652), 46, 47, 49; Richard Saunders, *Plenary Possession makes a Lawfull Power* (London, 1651), 14, 15.

<sup>35</sup> Ascham, *A Reply*, 5; Drew, *Northern Subscribers Plea*, 32; Saunders, *Plenary Possession*, 6-7; Rocket, *Christian Subject*, 117.

<sup>36</sup> John Dury, *A case of Conscience Resolved: Concerning Ministers meddling with State-matters in their Sermons* (London, 1649); *idem*, *Considerations Concerning the present Engagement, Whether It may lawfully be entered into; Yea or No?* (London, 1649), 12, 13; *idem*, *Two Treatises Concerning the matter of the Engagement* (London, 1650), 34, 48, 52; *idem*, *Conscience Eased: Or, The main Scruple which hath hitherto stuck most with conscionable Men, against taking of the Engagement removed* (London, 1651), 7, 27.

things as he finds them and make the best of his situation, while always keeping a good conscience.<sup>37</sup> '[M]y conscience', he wrote, 'is obliged to nothing, but to judg of mine own waies', and 'I am bound in Conscience to take all things as they fall in my way'.<sup>38</sup> Marchamont Nedham similarly argued that 'private Persons have no Right to Question those that are in Power'.<sup>39</sup> Another author argued that 'if the people were to take account of their King ... everie subject must be a King'. It was contrary to nature that the people's obedience should depend on their own will and judgement.<sup>40</sup> Though, one pamphlet conceded, monarchs are 'Creatures of the Peoples choise', this was immediately qualified: 'I do not mean the hurly-burly confusions of the people, but of the orderly chosen Representatives of a people'.<sup>41</sup>

Anti-Engagers disputed this argument. One pamphlet agreed that the people were unable to judge titles in doubtful cases, 'but in our case, who is so simple that he cannot judge of the Title, where it is, and where it is not?'.<sup>42</sup> The commonwealth was visibly unlawful, another argued, and the people were able to judge it.<sup>43</sup> Presbyterians were inclined to believe that the people could only be competent judges of public affairs in those extreme cases where the wickedness of governors was incontrovertible.<sup>44</sup> Churchmen were obliged to offer public pronouncements in political affairs: conscience bestrode the realms of politics and religion. However, there was no unified 'presbyterian' response to the controversy. Though presbyterian ministers were the most vocal opponents of the oath, the laity was less circumspect. According to Tubb, arguments for pragmatic accommodation appear to have swayed many. Royalist sources, such as the newsbook *Mercurius Pragmaticus*, acknowledged that subscription of the Engagement was widespread and not confined to any one party or faction.<sup>45</sup>

Other authors argued that if Christians were to swear oaths of allegiance they must have some knowledge of the rights of those who they were to promise obedience to, otherwise they would be slaves to all who came into power over them, with no right to

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<sup>37</sup> Dury, *Considerations*, 13.

<sup>38</sup> John Dury, *A second Parcel of Objections Against the taking of the Engagement Answered* (London, 1650), 54; *idem*, *Objections Against The taking of the Engagement Answered* (London, 1650), 5.

<sup>39</sup> Nedham, *Case of the Common-Wealth*, 30.

<sup>40</sup> *Traitors Deciphered in an answeare to a Shamelesse Pamphlet, entituled, A Declaration of the Parliament of England, expressing the grounds of their late proceedings, and of setting the present Government in the way of a Free State* ([The Hague], 1650), 37, 54.

<sup>41</sup> T. B., *The Engagement Vindicated* (London, 1650), 5.

<sup>42</sup> *A second Part of the Religious Demurrer; By another Hand. Or, an Answer to a Tract called The Lawfullnesse of obeying the present Government* ([London, 1649]), 7.

<sup>43</sup> *The Grand Case of Conscience Stated, about Submission to the new and present Power* ([London, 1649]), 10.

<sup>44</sup> Jason Peacey, 'The People of the *Agreements*: The Levellers, Civil War Radicalism and Political Participation', in Philip Baker and Elliot Vernon (eds), *The Agreements of the People, the Levellers and Constitutional Crisis of the English Revolution* (Basingstoke: Palgrave Macmillan, 2012), 65.

<sup>45</sup> Macinnes, *British Revolution*, 197-98; Tubb, 'The Engagement controversy', 45, 60-61.

judge rationally of their lawfulness.<sup>46</sup> Edward Gee, a Lancastrian presbyterian minister, pointed out that throughout the 1640s both king and parliament had appealed to the people, implying that they were competent judges of political matters.<sup>47</sup> Nathaniel Ward also questioned why some supporters of the Commonwealth taught that power was originally in the people but denied that they had any right to question the lawfulness of the government. This was especially true given that the people had been persuaded at the outset of the civil wars that it did greatly concern them. It was a natural, moral and political duty for subjects ‘to see their Government and Governors exquisitely constituted, and exactly carried on in a just line of succession’. Adopting a familiar nautical metaphor, he argued that it concerned every passenger if the whole ship sank. The present assembly was ‘not the elected Parliament of the people, but the selected Parliament of a faction’.<sup>48</sup> *The Grand Case of Conscience* argued that if power was originally in the people, their consent was required for a change in government.<sup>49</sup> This was a criticism made by the Scottish kirk in reference to the Agreement of the People. If power was originally in the people, it asked, how could a few impose the Agreement on the rest? Did not those who refused it have as much power and freedom to judge as those who would impose it on them?<sup>50</sup> We see here a similarity between anti-Engagers in England and Scotland: government was moral, not simply practical, and so concerned the consciences of all.

Several pro-Engagement authors argued that temporal obedience to magistrates did not affect matters of faith.<sup>51</sup> Because civil government was immaterial to salvation, it was possible to live peaceably under any power, and it was a duty to obey the magistrate no matter the government. As we have seen, this line of reasoning had been developed by those opposed to the presbyterian settlement devised by the Westminster Assembly. This was a view of conscience in which the Christian was not required to judge public matters or question the lawfulness of his or her rulers. Conscience was, in a sense, detached from the state. These arguments can be seen as a pragmatic response given that, as Schochet observes, there were few genuine options open to the populace.<sup>52</sup> Peace was preferable to war, and any government was better than no government. Further, the godly had often lived under ungodly or pagan governments throughout history. Those who opposed the

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<sup>46</sup> *An Answer to Mr. J. Dury: Or, Animadversions upon his Considerations concerning the present Engagement* ([London, 1650]), 4, 5.

<sup>47</sup> Edward Gee, *An Exercitation Concerning Usurped Powers* ([London], 1650), 78.

<sup>48</sup> Nathaniel Ward, *Discolliminium. Or, A most obedient Reply to a late Book, called, Bounds & Bonds* (London, 1650), 12 and *A Religious Demurrer, Concerning Submission to the Present Power* ([London, 1649]), 3.

<sup>49</sup> *The Grand Case of Conscience Stated*, 14.

<sup>50</sup> *A Solemn Testimony against Toleration and The Present Proceedings of Sectaries and their Abettors in England* (London, 1649), 9.

<sup>51</sup> Ascham, *Of the Confusions and Revolutions of Governments*, 125; *idem*, *A Reply*, 18; du Moulin, *The Power of the Christian Magistrate in Sacred Things* (London, 1650), 94; Albertus Warren, *The Royalist Reform'd Or Considerations of Advice, To Gentlemen, Divines, Lawyers* (London, 1650), 4.

<sup>52</sup> Schochet, ‘Persuading the Heart’, 168.

Commonwealth, as Nedham observed,<sup>53</sup> had little chance of success, and a middle way between malignants and levellers should be sought.<sup>54</sup> One anti-Engager pamphlet, whilst arguing that it was unlawful to recognise the Commonwealth admitted that there were few practical options but to submit, counselling Christians that they must ‘content themselves in the solaces of a good conscience’.<sup>55</sup>

An anti-clerical strain can be detected in many attacks on ministers’ supposed meddling in state affairs.<sup>56</sup> Though Dury was concerned to deny the role of any private individual in public matters, he admonished ministers in particular for using their pulpits to preach against the Engagement, though he was denounced as a hypocrite for meddling in state affairs through print.<sup>57</sup> Ephraim Elcock similarly argued that ministers should not publicly dispute such matters and should not openly question the authority of the magistrate.<sup>58</sup> *Englands Apology* attributed the public’s low perception of ministers to such interference.<sup>59</sup> There is evidence of the existence of similar anti-clerical literature in Scotland, albeit being covertly circulated, and, as we shall see, print attacks on ministers were promoted by English occupiers during the early 1650s.<sup>60</sup>

The Engagement controversy also highlighted divergent views about conscience, in particular between religious and civil toleration. Gee questioned why those in favour of religious toleration would not tolerate dissent in civil matters.<sup>61</sup> This accusation of hypocrisy had been levelled against tolerationists by Scottish thinkers and by the kirk. Henderson, for example, condemned those who believed ‘that the whole Kingdome of Christ is internall’. The kingdom of god was not of this world, ‘yet some part of this Kingdome is externall and visible’, namely the administration of it by ministers.<sup>62</sup> In a sermon before the House of Lords in the same year Gillespie argued that ‘If *Liberty of conscience* ought to be granted in matters of Religion, it ought also to be granted in matters Civil or Military’. The latter was absurd, so neither should the former be granted.<sup>63</sup> Nathaniel Ward described this exclusion of conscience from civil matters as ‘political

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<sup>53</sup> Nedham, *Case of the Common-Wealth*, 33-71.

<sup>54</sup> T. B., *The Engagement Vindicated* (London, 1650), 10-11.

<sup>55</sup> *A Briefe Resolution Of that Grand Case of Conscience* (London, 1650), 6.

<sup>56</sup> Condren, *Argument and Authority*, 312.

<sup>57</sup> Dury, *A case of Conscience Resolved; An Answer to Mr. J. Dury: Or, Animadversions upon his Considerations concerning the present Engagement* ([London, 1650]), 1.

<sup>58</sup> Ephraim Elcock, *Animadversions on a Book, called, A Plea for Non-Scribers* (London, 1651), 3, 4-5.

<sup>59</sup> *Englands Apology, for Its late Change: Or, A Sober Perswasive, Of all Disaffected or Dissenting persons, to a Seasonable Engagement, for the Settlement of this Common-Wealth* (London, 1651), 35.

<sup>60</sup> Robert Baillie, *The Letters and Journals of Robert Baillie*, ed. David Laing, 3 vols (Edinburgh: Bannatyne Club, 1841-42), iii, 38, 60-61.

<sup>61</sup> Edward Gee, *A Plea for Non-Scribers* ([London], 1650), 60.

<sup>62</sup> Alexander Henderson, *A Sermon Preached before the Right Honourable House of Lords ... the 28. of May 1645* (London, 1645), sig. A3, 9.

<sup>63</sup> George Gillespie, *A Sermon Preached Before the Right Honourable House of Lords* (London, 1645), 16.

Atheisme'.<sup>64</sup> He could not comprehend why a state should not tolerate '*practicall sinnes* against Gods Commandments' if it allowed '*notionall errorrs* against Gods Truths'.<sup>65</sup>

This highlights the tendency of historians to think of toleration largely in religious terms, and of allegiance as internal. Rachel Weil suggests that 'practices of experimental predestinarianism by those who sought assurance of election ... may have reinforced the notion of allegiance as something that had to be recognised from the outside in order to be real'.<sup>66</sup> This accords with David Beetham's argument that an important aspect of legitimacy is 'the evidence of consent derived from actions expressive of it'.<sup>67</sup> For Scottish covenanters and English anti-Engagers conscience could not be quieted when the state demanded obedience, nor divorced from action. To live peaceably under an ungodly and unlawful government was consequently a dereliction of duty. The liberty to act on the dictates of conscience was an important liberty for many early modern thinkers for whom actions could be taken as a sign of election. Conversely, the recurrent motif of those who defended the Engagement, that there was a necessary relationship between protection and obedience, prioritised civil peace over private scruples.<sup>68</sup> This required a reconfiguration of what was private and what public, a reorientation of values which many continued to deny was possible or desirable.

### **The Scottish context of the English Engagement controversy**

The English Engagement was, in Allan Macinnes's terms, a 'Gothic Engagement', concerned primarily with the supremacy of the English constitution, to the exclusion of the other nations of the British Isles.<sup>69</sup> Nevertheless, several authors who took part in the pamphlet controversy were highly interested in Scottish political texts and history. This Scottish context has not attracted a great deal of scholarly attention, perhaps because the Engagement has often been studied in isolation or because its supposed secularism has been viewed as peculiarly English. It is recognised, of course, that the Solemn League and Covenant played a prominent role in the debate because the issue of how the two oaths could be reconciled troubled many consciences. What has not been acknowledged is that the way in which Engagers interpreted the Solemn League owed much to the ardent

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<sup>64</sup> Nathaniel Ward, *Discolliminium. Or, A most obedient Reply to a late Book, called, Bounds & Bonds* (London, 1650), 12.

<sup>65</sup> *Ibid.*, 32.

<sup>66</sup> Rachel Weil, 'Thinking about Allegiance in the English Civil War', *History Workshop Journal*, 61:1 (2006), 185.

<sup>67</sup> David Beetham, *The Legitimation of Power* (London: Palgrave Macmillan, 1991), 6.

<sup>68</sup> Howard Nenner, 'The later Stuart age', in J. G. A. Pocock, Gordon Schochet and Lois G. Schworer (eds), *The Varieties of British Political Thought, 1500-1800* (Cambridge: Cambridge University Press, 1993), 206; Tuck, *Philosophy and Government*, 259.

<sup>69</sup> Macinnes, *British Revolution*, 8-39, 197.

rhetoric of the radical covenanters who, largely in opposition to the 1648 Engagement, emphasised that true religion must take precedence over the king's interests. The use of Scottish texts, and the ambiguous place of the king in them, also provided fertile ground for those who sought to neutralise English presbyterians' objections to the regicide and the Engagement.

The assertion of conditional allegiance had been a controversial aspect of the Scottish National Covenant from the outset and had been exported to England in the Solemn League and Covenant. In the 1638 covenant defence of the king's person and authority was 'in the defence and preservation of ... true religion, liberties and laws of the kingdom'.<sup>70</sup> The third article of the Solemn League contained an almost identical qualifying clause: 'in the preservation and defence of the true religion and liberties of the kingdoms'.<sup>71</sup> English state oaths during the 1640s — the Protestation, the Vow and Covenant, and the Engagement — did not include similar qualifying clauses, and the Engagement was notable for lacking any statement on religion.<sup>72</sup> The covenanters claimed that the defence of true religion and the king's interest could not be separated and that to support one was to support the other.<sup>73</sup> By the late 1640s, however, it was apparent that Charles was not going to subscribe the Solemn League and the tension between conscience and obedience came to a head in the 1648 Engagement crisis. *An humble Remonstrance of the Citizens of Edinburgh*, an anti-Engager pamphlet published in March of that year, clearly articulated this theory of conditional obedience. 'Kings must bee obeyed for Gods cause, and not against God', it declared, 'and then, when they serve and obey God, and not otherwayes'.<sup>74</sup> This was a commonplace observation, but the author of the pamphlet went further. Just as rebellious vassals were deprived of their estates, so kings, who were the vassals of god, 'deserve to be deprived of the benefit they receive from their Lord if they commit felony', adding, somewhat ominously in retrospect, 'every man shall be put to death for his owne sinne'.<sup>75</sup>

The rhetoric of the kirk had also hardened during the 1640s. As has been noted by Patricia Crawford, the most serious association of Charles with blood guilt came from the general assembly in 1645.<sup>76</sup> It warned the king that he was 'guilty of shedding of the Blood of many 'Thousands' of his subjects, a warning it repeated in 1648.<sup>77</sup> It has been suggested that this language contributed towards the eventual decision to bring Charles to justice, but,

<sup>70</sup> *Constitutional Documents*, 133.

<sup>71</sup> *Ibid.*, 269.

<sup>72</sup> *Constitutional Documents*, 155-56, 391; *Acts and Ordinances*, 75-76.

<sup>73</sup> *The confession of faith of the kirk of Scotland* (Edinburgh, 1638), 6-7.

<sup>74</sup> *An humble Remonstrance of the Citizens of Edinburgh to the Convention of the Estates of Scotland* (Edinburgh, 1648), 5.

<sup>75</sup> *Ibid.*, 14, 25.

<sup>76</sup> Patricia Crawford, "'Charles Stuart, That Man of Blood'", *The Journal of British Studies*, 16:2 (1977), 50.

<sup>77</sup> *The Remonstrance of the Generall Assembly of the Kirk of Scotland to His Majestie* (London, 1645), sig. A3<sup>v</sup>-A4<sup>r</sup>; *The Princippall Acts of the Generall Assembly, Conveened at Edinburgh Upon the first Wednesday of July the 12. of that moneth in the year, 1648* (Edinburgh, 1648), 57.

as Philip Baker points out, it could also be used to justify the need for action that fell well short of the king's execution.<sup>78</sup> This was the case in Scotland, where there was little appetite for either regicide or republicanism.<sup>79</sup> However, assertions of continued loyalty to the king's person were tempered by skepticism about the inclinations of his heart.<sup>80</sup>

In 1648, faced with an uncovenanted and unrepentant king, the kirk stated that it was not opposed in principle to an engagement with the king, but only if it was satisfied by the grounds of such an undertaking. Restoring the king to his throne without first securing assurances from him concerning religion and the covenant, the Commission argued, was 'a postponing of Christs interest to the Kings'.<sup>81</sup> The kirk made clear in several declarations that 'the duty of preserving and defending the Kings Majesties person and authority' was 'joynd with & subordinate unto the duty of preserving and defending the true Religion and Liberties of the Kingdoms'.<sup>82</sup> The parliament, for its part, protested that its proceedings had been greatly misinterpreted and that all undertakings for the king would be 'subordinate to Religion, and to our duties to God'.<sup>83</sup> This principle was applied to the offer of the crown to Charles II. He was required to take the Solemn League and Covenant and agree to the settling of the church accordingly before he could take the throne.<sup>84</sup>

The interpretation of the Solemn League and Covenant which prioritised religion over the king's interests had been articulated by Scots to English audiences well before the Engagement controversy. In a speech to the English parliament in November 1646, for example, Wariston declared that Christ had the most interest in the first article of the Solemn League and Covenant, clearly establishing a hierarchy of duties.<sup>85</sup> In the same month, he spoke before the Westminster Assembly, arguing that all the other articles of the Solemn League and Covenant were subordinate to 'Christs article', as he called it.<sup>86</sup> The commission of the kirk wrote to the Assembly that 'the glory of God and good of Religion' were always the principal aims, and that god's interest was 'more then Cesars,

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<sup>78</sup> Philip Baker, 'The Regicide', in Michael Braddick (ed.), *The Oxford Handbook of the English Revolution* (Oxford: Oxford University Press, 2015), 158.

<sup>79</sup> Sharon Adams, 'In Search of the Scottish Republic', in Sharon Adams and Julian Goodare (eds), *Scotland in the Age of Two Revolutions* (Woodbridge: Boydell Press, 2014), 114.

<sup>80</sup> *Principall Acts of the Generall Assembly ... 1648*, 57; *A Declaration of the Commissioners of the General Assembly, To the whole Kirk and Kingdome of Scotland, Concerning Present dangers, and duties relating to the Covenant and Religion* (Edinburgh, 1648), 6; *Kirk Commission*, i, 49, 83.

<sup>81</sup> *A Short Information from the Commission of the General Assembly, Concerning The Declaration of the Honourable Court of Parliament* ([Edinburgh], 1648), 2-3.

<sup>82</sup> *Declaration of the Commissioners of the General Assembly ... Concerning Present dangers*, 5; *The Declaration Of the Commission of the General Assembly To this whole Kirk and Kingdome of Scotland* (Edinburgh, 1648), 37.

<sup>83</sup> *The Answer of the Parliament of Scotland to the Petitions presented from the Synods and Presbyteries* (Edinburgh, 1648), [1 p].

<sup>84</sup> NRS, RH1/7/22; *Letters and Papers Illustrating the Relations Between Charles the Second and Scotland in 1650*, ed. Samuel Rawson Gardiner (Edinburgh: University Press, 1894), 101-03.

<sup>85</sup> *Kirk Commission*, i, 86.

<sup>86</sup> *Ibid.*, 96.

though not exclusive of Cesars'.<sup>87</sup> However, by the late 1640s, English authors were questioning how the interests of king and covenant could be reconciled. As the author of *The Scottish Mist Dispel'd* put it, 'Your zeale for the Covenant and His Majestie runs together, though His Majestie and the Covenant are a great way asunder'.<sup>88</sup> John Price, a 'citizen of London', argued that 'the Kings *Authority, true religion, the liberties of the Kingdomes*, are ... to be *defended and preserved* before and above the King's *person*'.<sup>89</sup> The army's *Remonstrance*, probably written by Henry Ireton, also made the case that if the clauses of the Solemn League could not be reconciled, civil liberty and religious reformation should take priority.<sup>90</sup>

Interpretations of the Solemn League and Covenant played an important role in the English Engagement controversy because one of the principal objections to the Engagement was that it was incompatible with former oaths and protestations.<sup>91</sup> There were two main responses to this argument.<sup>92</sup> The first was to deny that the Solemn League was, or ever had been binding. This was often accompanied by condemnations of Scottish interference in English affairs and denunciations of the hypocrisy of the Scots. The second was to argue that the Solemn League and the Engagement were compatible, often based on an interpretation of the covenant which owed much to the Scots own pronouncements on conditional obedience. There was a third way too, taken by Thomas Hobbes: to ignore the Solemn League entirely.<sup>93</sup>

The independent minister John Canne argued that the Solemn League was unlawfully given and taken, and so was not binding. He objected in particular to the Scots' claim to define who were heretics and therefore ought to be suppressed in England.<sup>94</sup> Another pamphleteer argued that the ambiguity of the Solemn League meant that it could be interpreted to suit the ends of any party. Further, whilst in England 'the meanest Subject hath the liberty to Govern himself and, to make his free choice of what he conceives good and upright', the people of Scotland were servile and had most likely been forced to take the covenant.<sup>95</sup> Rejection of the Solemn League was here coupled with the use of the

<sup>87</sup> *Kirk Commission*, i, 335.

<sup>88</sup> *The Scottish Mist Dispel'd* (London, 1648), 11.

<sup>89</sup> John Price, *Clerico-Classicum, or, The Clergi-allurum to a third war* (London, 1648), 37.

<sup>90</sup> *Puritanism and Liberty*, 459-60.

<sup>91</sup> [Edward Reynolds], *The Humble Proposals of Sundry Learned and Pious Divines Within this Kingdome, Concerning the Engagement Intended to be imposed on them for their Subscriptions* (London, 1649), 2-3; [Nathaniel Ward], *A Religious Demurrer, Concerning Submission to the Present Power* ([London, 1649]), 7; *A second Part of the Religious Demurrer; By another Hand. Or, an Answer to a Tract called The Lawfullnesse of obeying the present Government* ([London, 1649]), 7-8; T. B., *Logoï apologetikoi. Foure Apologickall Tracts Exhibited To the Supreme, Self-made Authority, now erected in, under the Commons name of England* ([London], 1649), 17; Gee, *Exercitation*, 28-64.

<sup>92</sup> Vallance, *Revolutionary England*, 165.

<sup>93</sup> Condren, *Argument and Authority*, 309.

<sup>94</sup> John Canne, *The Snare is broken* (London, 1649), 3-4, 15-16.

<sup>95</sup> *Some Considerations about the Nature of an Oath More particularly relating to Our Nationall Covenant* (London, 1649), 1, 10.

familiar tropes of freedom and slavery, civilisation and barbarism. Henry Marten also objected to Scottish interference and the covenanters' interpretation of the Solemn League which would mean neither nation would have any distinct laws or liberties but 'both interests are jumbled together'. It was the right of the people, he argued, to be governed by 'such Laws as themselves or those whom they depute for that purpose shal make choice of'.<sup>96</sup> Anthony Ascham, meanwhile, argued that the Scots had broken the Solemn League by invading England in 1648 and that since monarchical government had been abolished its formal obligation had ended.<sup>97</sup> These arguments freed the conscience from any obligations imposed by the Solemn League and England from the influence of the Scots.

Some authors also drew upon the doctrine of conditional obedience which had been central to arguments against the Scottish Engagement in 1648.<sup>98</sup> John Dury had taken the Solemn League with limitations, declaring that he would not meddle with affairs of state.<sup>99</sup> Subscribers, he argued, had sworn to preserve the rights and privileges of parliament and the liberties of the kingdom without limitation, but the king's person and authority only conditionally.<sup>100</sup> All promises were conditional, but the Solemn League was explicitly so, and '*the liberties of the Kingdome are the greater, and more worthy*' and 'ought to have the more *precedence*, in point of preservation and defence'.<sup>101</sup> It was first taken, he pointed out, when the kingdoms were united to defend their liberties and rights against the king.<sup>102</sup> Other authors went further, drawing from the Solemn League the argument that there was an obligation to punish the king. The author of *The Northern Subscribers Plea* noted that the article for bringing all delinquents to punishment was 'positive and absolute'. Given that the church of Scotland had charged the king with the guilt of shedding the blood of his subjects, they could not object to him being judged and punished.<sup>103</sup> Another argued that Charles's actions demonstrated that there was no obligation to preserve him, but rather 'to cut him off, as a dead member that is gangrened'.<sup>104</sup>

Some promoters of the oath were keen to demonstrate that the ends of the Engagement and the Solemn League were essentially the same. The Engagement bound those who swore it to procure the good of the commonwealth as it now stood, a duty which was required at all times and which was consistent with the intent of the Solemn

<sup>96</sup> Henry Marten, *The Independency of England Endeavoured to be maintained* (London, 1648), 11, 23.

<sup>97</sup> Ascham, *Bounds & bonds*, 44, 45; Ascham, *Of the Confusions and Revolutions of Governments*, 89-90, 91.

<sup>98</sup> Parker, *Scotland's Holy War*, 16; Carre, *Treatise of Subiection to the Powers*, 42, 43-44.

<sup>99</sup> Dury, *A case of Conscience Resolved*, 15-16, 23-30.

<sup>100</sup> Dury, *Considerations*, 4; *idem*, *Two Treatises*, 29-30; *idem*, *Just Re-Proposals*, 14; *idem*, *Conscience Eased*, 37.

<sup>101</sup> [John Dury], *A Disingag'd Survey of the Engagement. In relation to publike Obligations* (London, 1650), 16, 17.

<sup>102</sup> *Ibid.*, 18.

<sup>103</sup> N. W., *A Discourse Concerning the Engagement: or, The Northern Subscribers Plea opposed to their dissenting Neighbors importune Animosities against Engaging to be true and faithful, &c.* (London, 1650), 17.

<sup>104</sup> *The Grand Case of Conscience Concerning the Engagement Stated & Resolved. Or, A strict Survey of the Solemn League & Covenant In Reference to the Present Engagement* (London, 1650), 15, 19-20; *Englands Apology*, 33-34.

League.<sup>105</sup> Another pamphlet contended that the main ends of the Solemn League were ‘the preservation of the godly partie, with the true Religion and just liberties of the Nations respectively’ with which the Engagement was ‘wholly consistent and consonant’.<sup>106</sup> The author of *The Grand Case of Conscience* made the same point: the ends of the Solemn League were preserved in the Engagement, ‘the nature of a Common-wealth being to promote common and publique concernment, both of Religion and Liberty’.<sup>107</sup> Anthony Ascham and John Drew both contended that the Solemn League did not bind its subscribers to defend the institution of monarchy for perpetuity.<sup>108</sup> For these Englishmen, the purposes of the Solemn League could be separated from the person of the king and could, indeed, only be accomplished without him. This represents a significant difference between the defenders of the Commonwealth and the Scots, for whom contractual kingship remained integral.

Rejection or reinterpretation of the Solemn League was often linked to anger about the Scots’ interference in English affairs. Several authors rejected the Scots’ claims to be authoritative interpreters of the Solemn League. As *The Grand Case of Conscience* put it:

There remains nothing now, if we mean to reconcile the Covenant with it self, and make it whole and entire again (having razed out the grand Errataes of it, and written it over in fairer and more legible Characters, and all ominous expressions expunged) but to take the new Ingagement to the Common-wealth of England.<sup>109</sup>

The suggestion implicit in this statement was made explicit by other authors. The author of *The Scottish Mist Dispel’d*, a self-professed ‘English Covenanter’, accused the Scottish covenanters of attempting to ‘impose your Scottish sense upon our English words’, an ‘intollerable slavery’.<sup>110</sup> George Wither, meanwhile, declared: ‘I am an English man, and desire to appear so, both in my own language and interest’, adding, ‘I had rather obey God than men, than *Scotch* men’.<sup>111</sup> The author of *Englands Apology* wrote that the Solemn League did not ‘hinder me from taking the Engagement, then the Protestation did men from taking the Covenant, though there were many other words of a different dialect inserted into it’.<sup>112</sup>

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<sup>105</sup> Dury, *Two Treatises*, 6-8.

<sup>106</sup> *Memorandums of the Conferences held between The Brethren scrupled at the Engagement; and others who were satisfied with it* (London, 1650), 6.

<sup>107</sup> *The Grand Case of Conscience*, 21.

<sup>108</sup> Ascham, *Bounds & bonds*, 56-57; Drew, *Northern Subscribers Plea*, 62-63.

<sup>109</sup> *The Grand Case of Conscience*, 22.

<sup>110</sup> *Scottish Mist Dispel’d*, 2.

<sup>111</sup> Wither, George, *Respublica Anglicana or the Historie of the Parliament In their late Proceedings* (London, 1650), sig. A3<sup>v</sup>, A4<sup>r</sup>.

<sup>112</sup> *Englands Apology, for Its late Change: Or, A Sober Perswasive, Of all Disaffected or Dissenting persons, to a Seasonable Engagement, for the Settlement of this Common-Wealth* (London, 1651), 34.

The Solemn League, once envisioned as the basis for an eternal British union, was only intelligible once translated into English idiom. The Scots' claim to be interpreters of it was repudiated, implying a rejection of a common language. For the Scots to try and force their meaning on the English would be an unacceptable imposition by the periphery on the centre, by slaves upon freeborn men. Elizabeth Skerpan has written that '[t]he events of 1648 and 1649 swept away any possibility of a common public language'.<sup>113</sup> It seems equally apparent that they had a similarly deleterious effect on the possibility of a cross-border community of interests. In this instance, the two countries seemed 'divided by a common language' rather than sharing a 'common language of liberty'.<sup>114</sup> For those opposed to Scottish covenanters' vision of British ecclesiastical conformity, the Solemn League represented a threat to English liberties. The Scots' '*Pharisaicall Priests*' would domineer 'over the Consciences of the *English*'; a new form of government would be forced on England; the English would become vassals to a foreign nation.<sup>115</sup> An emphasis on particular English freedoms entailed a rejection of Scottish interference. Those who asserted the liberties of the godly renounced both the covenanters' belief that individual conscience could only reach its potential within the discipline of the church and the universalism of their vision of a united protestant Britain.

Scottish history and the recent affairs of the northern kingdom were made use of to illustrate the legitimacy of the change in government in England and the hypocrisy of the Scots in opposing it. John Milton, for example, cited Buchanan's *History of Scotland* to show that the Scots had a long and ambiguous relationship with their monarchs, and observed that Knox had even claimed that subjects were entitled to execute god's judgement on their kings.<sup>116</sup> Francis Osborne remarked that the Scottish crown 'seemes rather a snare to catch unadvised fooles, then a *Symbole of Honour*; proving as *fatall* to most have worn it, as the *Shirt of Hercules*, the *Drab* had poisoned'.<sup>117</sup> Ascham, Wither and the author of *The Northern Subscribers Plea* all pointed out that the Scottish church and state had been preserved by excluding members from parliament in 1648, with no little assistance from Cromwell.<sup>118</sup> Other writers argued that presbyterianism and monarchy were inimical, as Charles himself

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<sup>113</sup> Elizabeth Skerpan, *The Rhetoric of Politics in the English Revolution 1642-1660* (Columbia: University of Missouri Press, 1992), 83.

<sup>114</sup> Russell, *Fall*, 183-84; Williamson, 'Patterns of British Identity', 152.

<sup>115</sup> Canne, *The Snare is broken*, 15-16; Cromwell, *Letters and Speeches*, ii, 387; Nedham, *Case of the Common-Wealth*, 53; Parker, *Scotland's Holy War*, 62-63.

<sup>116</sup> John Milton, *The Tenure of Kings And Magistrates* (London, 1649), 28-31.

<sup>117</sup> Francis Osborne, *A Perswasive to A Mutuall Compliance Under the Present Government. Together with a Plea for a Free State Compared with Monarchy* (Oxford, 1652), 34.

<sup>118</sup> Ascham, *Bounds & bonds*, 10; N. W., *Discourse Concerning the Engagement*, 20; Wither, *Respublica Anglicana*, 43; *Northern Subscribers Plea*, 46-48.

had long averred.<sup>119</sup> Milton accused presbyterians of hypocrisy, arguing that by taking the king's office and dignity, 'they in the truest sence may be said to have killd the King'.<sup>120</sup> The Scots were portrayed as cynical, grasping opportunists and hypocrites.

A number of English authors also demonstrated a familiarity with Scottish political texts. John Canne, for example, cited the Aberdeen Doctors' *Generall demands*, and Ephraim Elcock approvingly referenced John Maxwell's *Sacro-sancta Regum Majestas*.<sup>121</sup> This use of anti-covenanter or royalist writings to condemn the Solemn League is not surprising, but English authors also drew upon texts which could be used to justify regicide, including the works of Knox and Buchanan.<sup>122</sup> Two works, in particular, were referenced by Engagers: *The Papers Which Passed at New-Castle Betwixt His Sacred Majestie and Mr Al. Henderson* and Samuel Rutherford's *Lex, Rex*. As with the Solemn League and Covenant, English Engagers were able to exploit the ambiguous position of the king in Scottish political thought. Anthony Ascham, for example, referenced Henderson's correspondence with the king at Newcastle to argue that the Scots were not averse to the abolition of monarchy. What else could Henderson have meant by citing Esther 4:14, Ascham wondered, except to imply a change of government?<sup>123</sup> In that verse Mordecai warned Esther that if she remained silent, the Jews would find deliverance from another source, 'but thou and thy father's house shall perish'.<sup>124</sup> Such tacit warnings were, as we have seen, a common part of covenanter rhetoric from the mid-1640s onwards, stemming from Charles's continuing recalcitrance. Henderson, who had died in August 1646, had been coy about how to resolve the problem of Charles's refusal to accept presbyterianism, implying that the king had an erroneous conscience.<sup>125</sup>

The author of *The Northern Subscribers Plea*, meanwhile, cited Henderson's first paper to Charles in which he argued that when the formal cause of an oath is taken away the obligation of it ceases.<sup>126</sup> Henderson had argued that the king's coronation oath did not bind him to preserve episcopacy since the parliaments of both kingdoms had abolished it, 'otherwayes no Lawes could be altered by the Legislative Power'.<sup>127</sup> The Westminster Assembly had made a similar argument in its *Exhortation to the taking of the Solemn League and*

<sup>119</sup> [Henry Robinson], *A Short Discourse Between Monarchical and Aristocratical Government. Or a Sober perswasive of all true-hearted Englishmen, to a willing conjunction with the Parliament of England In setting up the Government of a Common-wealth* (London, 1649), 16-17.

<sup>120</sup> Milton, *Tenure of Kings And Magistrates*, 38.

<sup>121</sup> Canne, *The Snare is broken*, 19-20, 25, 26; Elcock, *Animadversions*, 5.

<sup>122</sup> John Price, *Clerico-Classicum, or, The Clergi-allurum to a third war* (London, 1648), 35; N. W., *Discourse Concerning the Engagement*, 15; Carre, *Treatise of Subjection*, 19-20, 25, 26; Elcock, *Animadversions*, 21; Drew, *Northern Subscribers Plea*, 38.

<sup>123</sup> Ascham, *Bounds & bonds*, 8, 9; *Papers Which Passed at New-Castle*, 9.

<sup>124</sup> Esther 4:14 (GNV).

<sup>125</sup> *The Papers Which Passed at New-Castle Betwixt His Sacred Majestie and Mr Al. Henderson: Concerning the Change of Church Government* (London, 1649), 35.

<sup>126</sup> N. W., *Discourse Concerning the Engagement*, 21; *Papers Which Passed at New-Castle*, 13.

<sup>127</sup> *Papers Which Passed at New-Castle*, 13.

*Covenant*, as another Engager pamphleteer observed.<sup>128</sup> *The Northern Subscribers Plea*, however, was using this same argument to demonstrate that the Solemn League was no longer binding since the formal cause of the oath, the king, had ceased to be. Henderson's assertion of the supremacy of the legislative power was intended to assuage the king's conscience, but it also implied that oaths were contingent and conditional.

Samuel Rutherford's *Lex, Rex* was another influential text. Zagorin observes, for example, that the main ideas in John Goodwin's *The Obstructours of Justice*, a defence of regicide, can be found in *Lex, Rex*.<sup>129</sup> Rutherford displayed some doubts about monarchical government in his magnum opus, making it a useful text for those defending the regicide and the establishment of the English Commonwealth. He did not believe that monarchy was superior to other forms of government, and argued that 'many represent many... better than one doth' and that kings only 'improperly represent the people'.<sup>130</sup> Ephraim Elcock was one of those authors who made use of *Lex, Rex*, arguing that 'Those who make a King, and have power to unmake him, in point of misgovernment, must be above the King' and 'the Kings power is fiduciary, and put in his hands upon trust', before pointing out that 'all this is Mr. Rutherford's'.<sup>131</sup> Rutherford argued that the king was not simply to engender conditions conducive to the security of true religion, but to be its defender 'for the behalf and salvation of all', and that if he did not, the people of God were entitled to defend true religion, 'in their way'.<sup>132</sup> John Drew quoted at length from *Lex, Rex* to argue that no man was above the reach of justice.<sup>133</sup> This reinforced the argument that the Solemn League and Covenant prescribed punishment for delinquents no matter who they were. If a king could be called to account, who was better placed to do this than the representatives of the people?

That the Scots were no friends of monarchy was a common accusation. The covenanters believed that government was ordained by god, but the particular form it took was a matter of expediency.<sup>134</sup> Some of the more radical thinkers, including Henderson, Rutherford and Gillespie, seem to have believed that at the last resort kings could be judged, but they never clearly articulated the mechanism for doing so, partly because they never thought it would be required. One possibility — that the threat of armed resistance should be employed to keep Charles to his word — was considered by Gillespie and Wariston in 1648 but rejected by mainstream covenanters. Henry Robinson's claim that 'the

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<sup>128</sup> *An Exhortation to the taking of the Solemn League and Covenant* (London, 1644), 4; *Grand Case of Conscience*, 21-22.

<sup>129</sup> John Goodwin, *The Obstructours of Justice. Or A Defence of the Honourable Sentence passed upon the late King, by the High Court of Justice* (London, 1649); Zagorin, *History of Political Thought*, 85.

<sup>130</sup> Rutherford, *Lex, Rex*, 99.

<sup>131</sup> Elcock, *Animadversions*, 19; Rutherford, *Lex, Rex*, 69, 78, 79, 95-99, 113-119.

<sup>132</sup> Rutherford, *Lex, Rex*, 56.

<sup>133</sup> Drew, *Northern Subscribers Plea*, 39-40.

<sup>134</sup> Henderson, *Sermon Preached before the ... Lords ... 1645*, 12.

*Scots* love the Name, but care little for the Company or Power of a *King*' was not without basis.<sup>135</sup> As Sharon Adams puts it, the covenanters 'had succeeded in divorcing the principle of monarchical government from the exercise of monarchical authority'.<sup>136</sup> Their association of Charles with blood guilt, their inability to agree upon a solution to the problem of an uncovenanted king, and their ambiguous support for monarchy meant that Scots' ideas and arguments could be repurposed to justify regicide by English Engagers.

### **The Scottish Engagement controversy**

That the English Commonwealth abandoned plans to annexe Scotland and instead sought an incorporating union suggests that consent was seen as central to establishing the legitimacy of the new regime. However, as *Mercurius Scoticus*, the first multi-issue newsbook published in Scotland, put it, the Commonwealth's strategy was to use 'all means possible both by love and force to win and reduce these people to conformity (if not affection)'.<sup>137</sup> The tension between pragmatism and principle, between expediency and duty, love and force, engaged individuals' consciences and provoked deep questions about the nature of government. Scotland's traditions and institutions proved surprisingly resilient, however, and the reforms that were enacted by the English regime failed to have a lasting impact on the country.<sup>138</sup>

In January 1652 the commissioners of the English Parliament summoned Scotland's shires and burghs to elect deputies to meet at Dalkeith and give assent to the Tender of Union.<sup>139</sup> They were required to give an answer in writing to three propositions. First, their acceptance of the Tender and 'that thereby the same Government that is established in England without a King or howse of Lords under the Free State and Commonwealth of England may bee derived to the People in Scotland'. Second, that they declare that in the meantime they would 'live peaceably under and give obedience unto the Authoritie of the Parliament of the Common wealth of England exercised in Scotland'. Finally, if the first two propositions were accepted, that they would 'offer what they conceive requisite for bringing to effect said Union and settlement with speed and best satisfaction to the People of Scotland'.<sup>140</sup> In this way, Scots were compelled to acquiesce to a political revolution and grant obedience to their conquerors. This extension of the Engagement oath to Scotland,

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<sup>135</sup> [Robinson], *Short Discourse*, 17.

<sup>136</sup> Adams, 'In Search of the Scottish Republic', 114.

<sup>137</sup> *Mercurius Scoticus* (16-23 September 1651), 58.

<sup>138</sup> Laura A. M. Stewart, 'Cromwell and the Scots', in Jane A. Mills (ed), *Cromwell's Legacy* (Manchester: Manchester University Press, 2012), 171-190.

<sup>139</sup> *CU*, 11-14.

<sup>140</sup> *Ibid.*, 14-15.

albeit in an indirect and limited manner, posed significant dilemmas for a covenanted people and, as in England, provoked a debate about authority, power and obedience.

The returns of the shires and burghs can be grouped into three categories: those which assented without any stated reservations; those which qualified their assents or expressed particular desires; and those which dissented. Unsurprisingly, given that Scotland was an occupied country, most returns agreed to the three propositions given in the summons. This response to the Tender can be seen as analogous to that of English royalists and presbyterians who submitted to the Engagement for pragmatic reasons. More interestingly, many returns added the desire that, in the words of the assent of Haddington, the people of England and Scotland ‘may bee represented in one Parlyament and Goverened by their representatives therein, as the supreme authority of the whole Iseland’.<sup>141</sup> As Derek Hirst has argued, the responses of the shires and burghs show that though they ‘found the manner of the proffered union abhorrent, the principle still held considerable attraction’.<sup>142</sup> Others included requests for the alleviating of practical grievances, largely relating to the burden of the occupation.<sup>143</sup> Some constituencies saw potential benefit in the change of government. Orkney and Shetland, for example, requested that the kirks in the shire be replanted since all but two were vacant.<sup>144</sup> This is suggestive both of the regional variances which make it hard to generalise about support for the covenanted state, and that some Scots saw that English rule might bring some benefits.

Those returns which contained additional desires all expressed concern about toleration and the maintenance of the kirk. Dumfriesshire’s return, for example, requested that ‘for the quieting of the consciences of many Godlie people who have the oath of God upon them’ the present government of the Church of Scotland be maintained until a general assembly could be called and pronounce on the issue of toleration.<sup>145</sup> The kirk opposed the introduction of toleration, and at least two synods, those of Galloway and Fife, issued warnings against it.<sup>146</sup> The returns suggest that one response to the introduction of toleration was to attempt to secure Scotland’s presbyterian system. Stirlingshire was one of a number of burghs and shires which, though assenting to the Tender, expressed the desire that the true protestant religion established in Scotland be continued and maintained.<sup>147</sup> Edinburgh and other burghs requested that ‘the Protestant Religion may be established in uniformitie throughout the whole Island by advise of the most godlie and learned men of

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<sup>141</sup> *CU*, 20.

<sup>142</sup> Derek Hirst, ‘The English Republic and the Meaning of Britain’, *Journal of Modern History*, 66 (1994), 477.

<sup>143</sup> *CU*, 24-25, 53-55, 70-71.

<sup>144</sup> *Ibid.*, 124.

<sup>145</sup> *Ibid.*, 39.

<sup>146</sup> *Wo.Fo.XXX*, xxiii, xliv.

<sup>147</sup> *CU*, 81.

both Nations' and should 'Conforme to the word of God'.<sup>148</sup> This was a deliberate assertion of continued commitment to the Solemn League and Covenant and the work of the Westminster Assembly. By doing so these burghs and shires qualified their assent and articulated a vision of British unity at odds with that envisioned by the English regime.

The dissent of Glasgow to the Tender was a significant and unexpected development. An English newsbook reported that at the proclaiming of the *Declaration* in the city 'some of quality of *Scots* cried out God save King Charles', and that they were consequently 'apprehended and secured'.<sup>149</sup> The deputies framed their response in the language of conscience, arguing that they could not consent to a tender which destroyed the nation's government, threatened individuals' property and introduced 'a vast and boundles toleration of all sorts of errour and heresis without any effectuall remedie for suppressing the same'. They also objected to being required to assent to a union without any details on how or when it was to be established.<sup>150</sup> In response, the English commissioners imposed nine companies of horse and foot on the city, deposed all its magistrates and demanded a new answer.<sup>151</sup> Despite this demonstration of power, Lanark, Morayshire, Argyllshire and the stewartry of Kirkcudbright subsequently also expressed similar concerns about the Tender.<sup>152</sup> Significantly, these responses did not express opposition to the union itself; rather, they sought a settlement consistent with the Solemn League. These returns express the belief that agreeing to live peaceably under the Commonwealth regime and maintaining a good conscience were not incompatible. Indeed, the Commonwealth's commitment to liberty of conscience afforded space to negotiate between seemingly conflicting obligations.

As in England, reservation and equivocation could be also used to ease doubtings conscience and reconcile covenant-obligations with submission to the Commonwealth. The Marquis of Argyll presents the most notable example of this pragmatic acquiescence. In March 1651 he told the English commissioners that he approved of the contents of the *Declaration* and was 'very willing to do all that which with a safe conscience I may for the peace and union of this Island'.<sup>153</sup> The deputy for Argyllshire had already accepted the Tender, but it was not until 19 August that Argyll himself formally accepted it, and then only with significant conditions. As reported in *Severall Proceedings in Parliament*, he declared

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<sup>148</sup> *CU*, 53, 78.

<sup>149</sup> *The Weekly Intelligencer* (9-10 March 1651), 385.

<sup>150</sup> *CU*, 34-35.

<sup>151</sup> 'Records of the Anglo-Scottish Union Negotiations, 1652-1653', ed. Robert Landrum, in *Miscellany of the Scottish History Society, Volume XV*, ed. Siobhan Talbot, David Stevenson and Robert Landrum (Woodbridge: Scottish History Society, 2014), 161.

<sup>152</sup> *CU*, 74-75; 112-113; 118-19; 171.

<sup>153</sup> *Scotland and the Commonwealth: Letters and Papers Relating to the Military Government of Scotland from August 1651 to December 1653*, ed. C. H. Firth (Edinburgh: T. and A. Constable for the Scottish History Society, 1895), 37-38.

that ‘according to my Oath in the Covenant always reserved’ he acquiesced to ‘the Civill part’ of Scotland being made a Commonwealth with England.<sup>154</sup> In the articles of agreement made with Major-General Richard Deane, his pledge to live peaceably under the government of the Commonwealth was qualified by the understanding ‘that this shall nott hinder his Lordshippes good endeavours for the establishing religion according to his conscience’.<sup>155</sup> MacKenzie suggests that Argyll was able to use this religious freedom to preserve his loyalty to Charles II, and notes that he allowed his chaplains to continue to pray for the king.<sup>156</sup> More significantly, the Marquis’s declaration and articles of agreement also allowed him to maintain, defend and endeavour to establish religion according to his conscience. This commitment to the religious clauses of the Solemn League mirrors that found in many of the returns and demonstrates that, with little possibility of the king’s return, the defence of the ‘true Protestant religion’ remained the core of the covenanting cause. This accommodation was possible because the Engagement did not align itself with any particular form of church government and Cromwell was committed to limited religious toleration. As long as obedience was secured, the English regime was willing to permit limited dissent. Indeed, fomenting the divisions in the kirk was a useful strategy.

The *Explanation of the Foresaid Declaration*, published by proclamation on 15 February 1652, illuminated some of the reasoning behind the Tender of Union. It clarified that though limited religious toleration was to be introduced the Scottish church would be protected. Scandalous ministers would be removed and replaced, but those ‘whose conscience oblige them’ to continue to adhere to the kirk ‘shall receive protection and encouragement from all in authority in their peaceable and inoffensive exercise of the same’.<sup>157</sup> Having abolished monarchy, redistributed land and introduced toleration, the *Explanation* sought to reassure Scotland’s still influential and always vocal ministry that the kirk was not going to be overthrown. The *Explanation* was in part designed to counter the charges of sectarianism that had been levelled at the English army since 1650, to insist that Commonwealth rule was godly and, though allowing for a degree of toleration, would not abide heresy or blasphemy. In a world turned upside down some constants had to remain; the landscape had to be recognisable, even if it were not entirely comprehensible. The English were keen to impose an English justice system, but content to leave their most vociferous opponent, the kirk, relatively undisturbed, a fact which, as Michael Hechter points out, granted Scotland ‘far more cultural autonomy than either Wales or Ireland’.<sup>158</sup>

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<sup>154</sup> *Severall Proceedings in Parliament* (2-9 September 1652), 2407-08.

<sup>155</sup> *Scotland and the Commonwealth*, 48-49.

<sup>156</sup> MacKenzie, ‘Presbyterian Church Interest’, 70.

<sup>157</sup> Nicoll, *Diary*, 84.

<sup>158</sup> Michael Hechter, *Internal Colonialism: The Celtic Fringe in British National Development, 1536-1966* (Berkeley: University of California Press, 1975), 78.

There is also evidence of support for the English regime from Scots weary of war and what they saw as the hypocrisy of their ministers. Matthew Shurmer argues that the English army ‘altered the nature of authority itself’, primarily as a result of the collapse of the moral and civil authority of the church.<sup>159</sup> The Protester/Resolutioner split in the kirk fatally undermined its claims to act as the public conscience of the nation. In some areas Protesters established their own presbyteries; rival synods were held; and the lawfulness of the 1650 commission and 1651 general assembly were contested.<sup>160</sup> There were differences amongst the Protesters too: those in the west of the country were more willing to submit to English authority, whilst Rutherford, Wariston and most of those in the east rejected such tendencies.<sup>161</sup> Throughout, the general assembly continued endorse prayers for Charles II, and it was eventually dissolved by the English regime in 1653.<sup>162</sup>

These divisions in the kirk were fuelled by disagreements over the reasons for god’s seeming abandonment of Scotland. The minister Alexander Jaffray had significantly changed his views on church government following conversations with Cromwell and the independent theologian John Owen during his imprisonment after the Battle of Dunbar.<sup>163</sup> In October 1651 he presented a paper to the meeting of Protester ministers at Edinburgh. The newsbook *Mercurius Scoticus* provided a copy for its readers’ benefit, describing Jaffray as ‘a godly Scot’.<sup>164</sup> The tract, entitled *Some causes of the Lords Controversie with the Land*, had clear propagandistic value, listing twelve reasons why Scotland had fallen out of god’s favour. Some of these clearly aligned with Protester reasoning. For example the ‘concluding a Treaty with the King, putting him in the actual exercise of power, and owning his Interest’ was condemned as Charles II ‘did palpably evidence his disaffection to the Covenant’ and as a result ‘the quarrel which the Lord did formerly plead against the King, seemeth now to be tabled at the door of Church and State’.<sup>165</sup> However other named causes included ‘Ministers meddling with civil affairs’ and ‘Preaching upon our form of Presbyterial-Government as the uttermost attainable perfection of Reformation’, a criticism which could be levelled at Protesters and Resolutioners alike.<sup>166</sup>

While the policy of toleration was abhorred by most of the country’s clergy, a series of pamphlets purportedly authored by Scots provides evidence that it was not met with universal hostility. Three of these pamphlets were published in 1651-52: *A Word of Advertisement & Advice to the Godly in Scotland*, *The Dead-Man’s Testament* and *To the Very*

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<sup>159</sup> Shurmer, ‘Deconstructing the nation state’, 68-69.

<sup>160</sup> Holfelder, ‘Factionalism in the Kirk’, 134-44.

<sup>161</sup> Spurlock, *Cromwell and the Scots*, 109, 140.

<sup>162</sup> Holfelder, ‘Factionalism in the Kirk’, 190-91.

<sup>163</sup> John Coffey, ‘Jaffray, Alexander (1614–1673)’, *ODNB*.

<sup>164</sup> *Mercurius Scoticus* (2-19 December 1651), 154.

<sup>165</sup> *Ibid.*, 155.

<sup>166</sup> *Mercurius Scoticus* (2-19 December 1651), 156.

*Honorable the Representative of the Common-Wealth of England*.<sup>167</sup> All three are notable for their use of the language of conscience, their attacks on what they saw as the hypocrisy and spiritual tyranny of the kirk and for expressing a hope to partake in the privileges of the godly in England.<sup>168</sup> These arguments have clear links with the rhetoric deployed in English propaganda during the conquest of Scotland. Cromwell, for example, accused the kirk of having ‘by your hard and subtle words ... begotten prejudice in those who do too much (in matters of conscience, wherein every soul is to answer for itself to God) depend upon you’.<sup>169</sup>

Similar sentiments are also expressed in a manuscript petition from 1659,<sup>170</sup> adding weight to the argument that the earlier pamphlets were indeed written by Scots. This ‘humble petition and address of some wel affected persons in and about Edinburgh’ was addressed to the English parliament and signed by ten men.<sup>171</sup> They interpreted recent events as signs of god’s favour of ‘the godlie in these nations’ and ‘that glorious word so long contended for against usurped tyrannie in the midst of us’.<sup>172</sup> This designation reframed the debate about obedience due to conquerors and set up the godly interest as the primary focus of loyalty. The petitioners desired that ‘we may shair of these gossell priviledges that they truly godlie in England contend for’ and ‘that any laws or acts of parliament contrarie there unto may be abolished, either by some priviso to that effect to be insert in the act of union, or by some other more expedient way’.<sup>173</sup> This petition, coupled with the printed pamphlets, suggests that there was support for the policy of toleration amongst Scots disillusioned with the kirk.<sup>174</sup> The English Commonwealth’s strategy of targeting this audience in the propaganda campaign of 1650-51 and its promise to protect those who chose an ‘other Gospel-way’ helped to construct and maintain this support.<sup>175</sup>

After Dunbar and Worcester, the question of armed resistance was largely an academic one; the issue was whether compliance could be given to a regime considered by many as sectarian and which imposed toleration and undermined the kirk’s authority.<sup>176</sup> The kirk’s

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<sup>167</sup> See Spurlock, *Cromwell and Scotland*, 77-84 on the provenance of these pamphlets.

<sup>168</sup> *A Word of Advertisement & Advice to the Godly in Scotland* (Edinburgh, 1651), 4, 5, 14, 15, 16, 17, 20; Thomas Wood, *The Dead-Man’s Testament: or, A Letter Written, To all the Saints of God in Scotland* (Leith, 1651), 6-15; *To the Very Honorable The Representative of the Common-Wealth of England, The humble Petition and Remonstrance of such in Scotland, who are clear in, and willing to close with the designe of the advancement of Christ’s Kingdom, and the just Freedom and Liberty of the People* (Leith, 1652) [1 p.].

<sup>169</sup> Cromwell, *Letters and Speeches*, ii, 78.

<sup>170</sup> Spurlock, *Cromwell and Scotland*, 189.

<sup>171</sup> NLS, Wo.Fo.XXX, xxvii.

<sup>172</sup> *Ibid.*

<sup>173</sup> Wo.Fo.XXX, xxvii.

<sup>174</sup> See also: Alexander Jaffray, *Diary of Alexander Jaffray*, ed. J. Barclay, 3rd edn (London, 1856).

<sup>175</sup> *By the Commissioners Of the Parliament of the Common-Wealth of England, For Ordering and Managing Affairs in Scotland* (Leith, 1651) [1 p.].

<sup>176</sup> *CU*, 5-6.

response to the Tender was to condemn it outright as incompatible with the Solemn League and, as in England, ministers provided the most vocal opposition to the new regime.<sup>177</sup> However, the records of the kirk commission focus largely on the Protester-Resolutioner controversy. In order to examine how Scots responded to the issue of giving obedience to an unlawful power, we must turn to the archives. Two unpublished manuscript treatises held in the Laing and Wodrow collections, and never before examined in detail, provide important evidence of presbyterian opposition to the Tender of Union. They are best described as works of political theology, and their interrogation of independency and erastianism and defences of presbyterianism give them a distinctively Scottish character. They are not wholly original works, of course, and both suggest that the authors were familiar with the works produced during the English Engagement controversy.

The first of these manuscripts is held in the Wodrow collection where it is catalogued as possibly being the work of Archibald Johnson of Wariston. It is titled ‘Some further considerations befor your choise of or consent to the Incorporatioune or Ingagment’ and is suffused with scriptural citations and references to significant political texts.<sup>178</sup> Both Wariston and the author of the ‘Considerations’ conflated the Tender and the Engagement: the former was a means to introduce and impose the latter in Scotland.<sup>179</sup> At first, Wariston expressed doubt about the Tender, but after reading a treatise against subscription, he appears to have become resolute against it.<sup>180</sup> He recorded in his diary that taking the Engagement ‘seimed to me to be contrary to our deuty and the Lord’s will in relation to His inflicted jugment, to our prayers and His promises for delyvery out of our captivetye’.<sup>181</sup>

The treatise is structured as a case of conscience, and a series of considerations are presented to a reader who is considering whether or not to assent to the Tender of Union. The casuistical method was used by numerous participants in the English Engagement controversy,<sup>182</sup> and it is not surprising to find that Scottish authors facing a similar dilemma also employed it. The first and perhaps most significant argument levelled against the English regime in the ‘Considerations’ was that ‘the way of the present power seemes not to be of God’.<sup>183</sup> The covenanters had interpreted Romans 13 to permit resistance to Charles I in the late 1630s, and here it was used in a similar fashion to argue against

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<sup>177</sup> Whitelocke, *Memorials*, iii, 394; *The Weekly Intelligencer* (9-10 March 1651), 385; (23-30 March 1651), 399.

<sup>178</sup> Wo.Fo.XXX, xxii.

<sup>179</sup> Archibald Johnston of Wariston, *Diary of Sir Archibald Johnston of Wariston, 1650-1654*, ed. David Hay Fleming (Edinburgh: T. and A. Constable for the Scottish History Society, 1919), 151.

<sup>180</sup> *Ibid.*, 159, 160, 165.

<sup>181</sup> *Ibid.*, 171.

<sup>182</sup> Vallance, ‘Oaths, Casuistry, and Equivocation’, 72-74; *idem*, *Revolutionary England*, 162, 173-74.

<sup>183</sup> Wo.Fo.XXX, xxii, f. 61<sup>r</sup>.

assenting to the Tender of Union. '[I]n a covenanted natione as well as in a church', the author argued, 'all thingis ... sould be ordered according to the word'.<sup>184</sup> This elision of the grounds for ecclesiastical and civil government is a significant theme of the work. Drawing on the work of George Gillespie, the author drew parallels between the election of ministers and magistrates. As discussed above, in the presbyterian church ministers were not directly elected but received the assent of the congregation. Magistrates must also receive such assent: 'none can mak themselves magistrates but must be appoynted to be such by us' and usurpation consequently could not 'mak any our superiour'.<sup>185</sup> Here we can see similarities with the arguments produced by the presbyterian minister Edward Gee, for whom lawful power was established through the election or consent of the people.<sup>186</sup> Rutherford had also made a similar point in *Lex, Rex* in explaining the relation between the people's free election and god's will.<sup>187</sup>

The author saw the Engagement as a means to give the English regime legitimacy and argued that those who subscribed it became partakers and accessors to all its sins and the punishments which would follow.<sup>188</sup> Though it might be necessary for a conquered people to passively submit to their conqueror, usurpers could not be acknowledged as lawful magistrates.<sup>189</sup> '[I]t cannot be lawfull to consent to obey and maintaine the ungodlie in their ungodlines'.<sup>190</sup> He quoted William Ames' *Conscience with the Power and Cases Thereof* to show that 'no man can bind himself by oath to any thing but what is good & fast'.<sup>191</sup> He explicitly drew a distinction between *de facto* and *de jure* powers and rejected what he saw as the elevation of the sword as the arbitrator of all questions.<sup>192</sup> All these arguments follow those made by English presbyterians, suggesting that the author of the manuscript was familiar with the literature of the English Engagement controversy. The use of the church as a model of government was, however, more unusual.

To engage to the Commonwealth in this manner was also directly counter to the National Covenant and the Solemn League.<sup>193</sup> He saw these constitutional documents as defending a limited monarchy established in law, whereas the Commonwealth was a mutable and arbitrary power.<sup>194</sup> He concluded by urging the reader to 'conscienciouslie remember and seriouslie ponder' the judgement of the kirk, the example of worthy

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<sup>184</sup> Wo.Fo.XXX, xxii, f. 61<sup>r</sup>.

<sup>185</sup> *Ibid.*

<sup>186</sup> Gee, *Exercitation*, 1, 4; Ian Michael Smart, 'Edward Gee and the Matter of Authority', *Journal of Ecclesiastical History*, 27:2 (1976), 118.

<sup>187</sup> Rutherford, *Lex, Rex*, 11.

<sup>188</sup> Wo.Fo.XXX, xxii, f. 63<sup>v</sup>.

<sup>189</sup> *Ibid.*

<sup>190</sup> *Ibid.*, ff. 64<sup>v</sup>-65<sup>r</sup>.

<sup>191</sup> *Ibid.*, f. 69<sup>r</sup>; William Ames, *Conscience with the Power and Cases Thereof* (London, 1643), iv, 48-59.

<sup>192</sup> Wo.Fo.XXX, xxii, ff. 65<sup>r</sup>, 67<sup>v</sup>.

<sup>193</sup> *Ibid.*, ff. 64<sup>r</sup>-64<sup>v</sup>, 66<sup>r</sup>, 66<sup>v</sup>.

<sup>194</sup> *Ibid.*, f. 66<sup>r</sup>.

servants of god, and the National Covenant and other prior declarations and acts.<sup>195</sup> The treatise was followed by a densely argued list of arguments ‘drawne out of gods word and our Covenants’ to consider before consenting to the ‘Tender.’<sup>196</sup> This accumulation of authoritative references and examples was a well-established casuistical technique, whereby the weight of extrinsic opinion was used to convince a doubting conscience.<sup>197</sup> However, it might also plausibly suggest a degree of self-doubt on the part of the author. Wariston’s doubts about the Tender speaks to an uncertain and troubled conscience. He was later to admit that ‘whereas I thought I was following the call of Gods providence ... the trueth is I followed the call of providence when it agreed with my humor ... and seemed to tend to honour and advantage’.<sup>198</sup> The initial success of the National Covenant had persuaded many covenanters that Scotland had a special role to play in god’s unfolding plan, but by the early 1650s, it seemed instead that the country was being disciplined for its failings.

In a tract published in 1653, Wariston provided ten reasons for god’s punishment of Scotland, including the general ignorance and sinfulness of the people, the breaking of the covenants and the restoration of Charles II to his throne in the knowledge of his insincerity.<sup>199</sup> However, in October 1656 he was awarded an annual pension and subsequently described Cromwell as ‘the man whom Thou hes providentially maid Thy depute on earth’. He justified this change of heart by concluding that it was ‘our deuteye to mak use of the favour of the providential magistrat sett over us by Gods hand’.<sup>200</sup> This change of heart did not endear Wariston to some of his Protester colleagues — James Guthrie accused him of harbouring ambitions to be Protector — but in 1657 he accepted his old position as clerk register.<sup>201</sup> By this point, the Engagement had been repealed, and so Wariston was not required to take it. His acceptance of a pension and an office could, however, be interpreted as giving the regime legitimacy, something the author of the ‘Considerations’ had warned against. It seems that even as vociferous an opponent of the regime as Wariston could reach a pragmatic acceptance of English rule.

That Scotland was suffering god’s judgement was an important theme of Samuel Rutherford’s ‘Treatise on the Nature of Obedience to a Usurped Power’. Though Rutherford is acknowledged as the foremost Scottish political theorist of the era, little attention has been paid to this work. This is in part a result of the dearth of studies of Scotland during the interregnum, but even the most recent political biography of

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<sup>195</sup> Wo.Fo.XXX, xxii, f. 72<sup>r</sup>.

<sup>196</sup> *Ibid.*, ff. 73<sup>r</sup>-79<sup>r</sup>.

<sup>197</sup> Johnson and Toulmin, *Abuse of Casuistry*, 167, 168.

<sup>198</sup> Wariston, *Diary*, iii, 167.

<sup>199</sup> Archibald Johnston of Wariston, *Causes of the Lords Wrath against Scotland, Manifested in his sad late dispensations* ([Edinburgh], 1653).

<sup>200</sup> Wariston, *Diary*, iii, 54.

<sup>201</sup> Wariston, *Diary*, iii, 54; John Coffey, ‘Johnston, Sir Archibald, Lord Wariston (b. 1611, d. 1663)’, ODNB.

Rutherford inexplicably devotes just a sentence to the ‘Treatise’.<sup>202</sup> Kyle David Holfelder notes that in common with other Protesters, Rutherford believed that the imposition of religious toleration would lead to an erastian subordination of the kirk’s courts to the Westminster parliament, thereby disqualifying the English from assuming the role of legitimate magistrate.<sup>203</sup> Rutherford believed the occupation of Scotland was a result of the ‘permissive providence of God’ and he counselled patience and urged Scots to ‘mak vertue of necessitie’.<sup>204</sup>

He used a nautical metaphor to argue that it was lawful to give obedience to a usurped power. If a shipmaster had been taken and bound by force and the ship steered to another harbour, the shipmaster requires and exhorts the steersman not to run the ship aground.<sup>205</sup> Put another way, it is lawful to obey the commands of the usurper, but ‘only upon supposition, that he act the princes part’.<sup>206</sup> Here we see Rutherford employing the same arguments made by Gee, again suggesting that the influence of English presbyterians was considerable.<sup>207</sup> This obedience was limited and qualified. Subjects were not to give their free consent to unjust conquerors, nor ‘to give the formal power Magistraticall to them as Lawfull Magistrates becaus of the present necessitie’.<sup>208</sup> Though he does not mention it directly, Rutherford is clearly referring to the Tender of Union here. This nuanced response to the *de facto* and *de jure* debate allowed obedience to be given to a usurping power without legitimising its rule. It was one thing to live peaceably under such a ruler, but quite another to promise to ‘live peaceably for all tymes to come’.<sup>209</sup> It was against the laws of nature and self-preservation, to the love owed to ‘our mother countrey’ and ‘contrare to the covenant’ to swear ‘never by lawfull and innocent ways to vindicat our awne Libertie’.<sup>210</sup> He went on to argue that ‘if there wer probable power to resist him, certaine he is not to be obeyed’.<sup>211</sup> However, since this was not the case, Scots were to endure the English regime as ‘a just punishment of our iniquitie’ and not to do anything ‘against the saiftie and settled peace and Governement of the Commune wealth’.<sup>212</sup> Though a man could refuse to give such an oath to the usurper, ‘he cannot raise an armie to oppose the Conqueror because he hath not the consent and authority of the Communitie’.<sup>213</sup>

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<sup>202</sup> Coffey, *Rutherford*, 253. Coffey mistranscribes the sentence ‘to stande under him as the just punishment of our iniquitie’ as ‘to stande under him as the first punishment of our iniquitie’ (EUL, La.III.69/5, f. 9).

<sup>203</sup> Holfelder, ‘Factionalism in the Kirk’, 158-59.

<sup>204</sup> La.Ms.III.69/5, ff. 2, 5.

<sup>205</sup> La.Ms.III.69/5, f. 1.

<sup>206</sup> *Ibid.*, f. 3.

<sup>207</sup> Gee, *An Exercitation*, 24.

<sup>208</sup> La.Ms.III.69/5, f. 5.

<sup>209</sup> *Ibid.*, f. 29.

<sup>210</sup> *Ibid.*, f. 30.

<sup>211</sup> *Ibid.*, f. 9.

<sup>212</sup> *Ibid.*, ff. 9, 10.

<sup>213</sup> *Ibid.*, f. 28.

Baillie expressed the concerns of many when he wrote in 1652 that he could not see how the Solemn League could be made to ‘stand well enough with a freedome to change Monarchie with a Scottish Republic’.<sup>214</sup> However, neither of these manuscript political treatises devoted much time to considering the question of kingless rule. The Western Remonstrance, issued in the autumn of 1650, had denounced Charles II and renounced his cause, arguing that it was ‘manifest’ that the king was ‘not prosecuting the cause of God, nor walking in any subordination to God’.<sup>215</sup> Wariston and Rutherford were both Protesters, and it is perhaps this suspicion of the king which shaped their responses to the Engagement. For them, Charles II could not embody the lawful displaced authority in opposition to the power of the English regime. The author of the ‘Considerations’ used the example of Charles II to challenge the legitimacy of the English regime, pointing out that Scots refused to give obedience to the king until he took the Solemn League.<sup>216</sup> Rutherford invoked kingship only in his attack on erastianism.<sup>217</sup> For both authors, the change of government was not the most significant issue. Rather, it was the sectarian nature of the English regime and its introduction of religious toleration which posed the greatest threats. It was for these reasons, rather than any loyalty to a king who both believed was duplicitous, that they rejected the Engagement.

## Conclusion

A royalist rebellion, known as Glencairn’s uprising, broke out in Scotland in mid-1653.<sup>218</sup> The Protesters condemned the rebellion whilst the Resolutioners prayed publicly for Charles II throughout, a reflection of the chronic divisions disrupting Scottish society. However, without military support from overseas and lacking the unifying figure of the king the uprising never posed an existential threat to the English regime. The leader of the abortive revolt, the Earl of Glencairn, surrendered in September 1654 partly, if Nicoll is to be believed, because of ‘the great division, hatred, and contention, amongst the chief men and commanders in the Scottish army’.<sup>219</sup> The institutional unity of protestantism in Scotland never fully recovered after the schism between the Protesters and Resolutioners and, Stevenson argues, the covenants ‘came to stress the disunity, not the unity, of Scotsmen’.<sup>220</sup>

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<sup>214</sup> Baillie, *LJ*, iii, 176.

<sup>215</sup> Balfour, *Historical Works*, iv, 136.

<sup>216</sup> Wod.Fo.XXX, xxii, f. 66r.

<sup>217</sup> La.Ms.III.69/5, ff. 13-25.

<sup>218</sup> Dow, *Cromwellian Scotland*, 74-75.

<sup>219</sup> Nicoll, *Diary*, 136.

<sup>220</sup> Stevenson, *Revolution and Counter-Revolution*, 226, 231.

The Solemn League and Covenant was at the heart of both Engagement controversies. The Scots' doctrine of conditional obedience, albeit ambiguously phrased, was enshrined in the National Covenant, and exported to England in the Solemn League. Obedience was dependent on the king's preservation and defence of true religion and the liberties of the kingdoms. In this understanding, authority was moral, purposeful and limited. This contrasted with the Engagement, in which allegiance was given to the Commonwealth as it was now established. Government was to be without a king or House of Lords, but its purpose was assumed rather than articulated. However, several English Engagers drew upon the Solemn League to both justify the regicide and to legitimise the Commonwealth in the eyes of the many thousands who had subscribed the covenant. Others rejected it and Scottish interference in English affairs, merging their denunciations with a latent xenophobia. Scottish history and political texts also provided fruitful sources for writers favouring the Engagement, exploiting the ambiguous place of the monarchy in works by writers such as Alexander Henderson and Samuel Rutherford.

Though this cross-border interaction provides evidence of the transmission of ideas, in large part it amounted to a rejection of the possibility of a new Anglo-Scottish alliance and a reassertion of an exclusive Englishness. The Solemn League was now the oath of a party and could sustain such divergent readings that it could no longer function as the basis of British unity. Covenanter radicalism, contained in Scotland by a constitutional settlement which preserved the monarchy in name at least, was loosed in England. Scottish covenanters saw their words turned against them. Though the literature of the Scottish Engagement controversy is comparatively sparse, it is clear that presbyterians in both countries made similar arguments. As Dury observed, 'the generalitie of the Church of *Scotland* have the same sense of this new Engagement with those that scruple it in *England*'.<sup>221</sup> In particular, the indirect or direct influence of Edward Gee can be discerned in both the manuscript treatises examined here. That it was lawful to submit to the force but not the authority of a usurper was an argument made by authors on both sides of the border and by those of differing ecclesiastical persuasions. Writers in both kingdoms sought to reconcile the obligations placed on individual consciences by prior oaths — in particular the Solemn League — whilst negotiating between principle and pragmatism.

In England, the function of individual conscience in the commonwealth was widely disputed. For some the ability to live peaceable, godly lives was the essential purpose of government, limiting the duty of the individual to question any authority which fulfilled this requirement. The people, who had been so often invoked as adjudicators between king and parliament, were now to restrict their consciences to their private, inward lives. This argument was rejected by those who, like the Scottish covenanters, believed that

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<sup>221</sup> Dury, *A second Parcel of Objections*, 4.

government had a moral basis and that obedience was not automatic. Conscience was not simply internal and private, but rather only verifiable by public actions. Few, if any, authors held purely secular views, however, suggesting that different understandings of the meaning and role of conscience were a more significant dividing line. Loyalty to the commonwealth, in the abstract, did not exclude religion, but it suggested a wider conception of who constituted the national community. For those who believed that conscience, action and allegiance could not be easily disentangled, political quietism represented a retreat from the difficult duties god required of man.

The 1649 Engagement can be seen as in the tradition of the Elizabethan Settlement, which prioritised exterior conformity over interior belief.<sup>222</sup> It required obedience without expressly articulating the foundations of this submission or the conditions of the government's rule. The Tender required Scots to give their assent to a constitutional settlement which had not yet been devised. The attempt to maintain the link between interior and exterior was challenged by the English regime's imposition of the Tender and introduction of religious toleration. Patient submission — without surrendering the hope of regime change — was advocated even by those who had supported armed resistance to Charles I. The Scottish nation and kirk were divided, and without any authoritative representative bodies, Rutherford and the author of the 'Observations' could not envisage a means by which the community could resist their new rulers. Without the institutional framework to unite the commonwealth, these authors rejected a recourse to individual resistance.

The Solemn League and Covenant and the Engagement were the most contested oaths of this period. The former was over a thousand words long and contained six articles; the latter was a single sentence. The Solemn League was an assertion of the necessary relationship between true religion and good government and between public and private interests. That it failed to unite is a reflection of the fact that by the end of the 1640s both these beliefs were being questioned. It was subject to variant readings within Scotland too, largely because it failed to account for the reality of a resolutely uncovenanted king. The Engagement can be seen as an attempt to distill the traditional interpretation of Romans 13: obedience was to be given to the powers that be, irrespective of their provenance. The Commonwealth existed, an indisputable fact, and therefore was owed obedience for conscience sake. No mention was made of Acts 5:29 — 'We ought rather to obey God than men' — perhaps a recognition that obeying god now meant different things to different people.

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<sup>222</sup> Walsham Alexandra, 'Ordeals of Conscience: Casuistry, Conformity and Confessional Identity in Post-Reformation England', in Harald E. Braun and Edward Vallance (eds), *Contexts of Conscience in Early Modern Europe, 1500-1700* (Basingstoke: Palgrave Macmillan, 2004), 47.

The Cromwellian occupation of Scotland widened the space for individual dissent, but it did not decisively overthrow the influence of the kirk. As in England, where affection for the Church of England and its rites survived the civil wars, the established church was not so easily dislodged. Scotland's legal system and political structures also proved resilient, and half-hearted attempts at union could not efface the country's distinctive traditions and history. The Council of State proclaimed the Protectorate under the title of 'the Commonwealth of England, Scotland and Ireland', but this new entity was not a united one.<sup>223</sup> Disagreements about the ends of the Solemn League and Covenant, which had existed since its inception, had deepened. The authority of both countries' representative institutions was publicly disputed. A policy of limited religious toleration had undermined the basis of British ecclesiastical uniformity and weakened the national churches. Resistance to the new government seemed futile, but a regime which had established itself by force struggled to win the affection of those it ruled. Conscience, which had been invoked to justify rebellion more than a decade earlier, now for some sustained hope and prompted acts of defiance, and for others encouraged introspection and fed doubt. The idea that there could be an institutionally-embodied public conscience seemed remote.

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<sup>223</sup> Dow, *Cromwellian Scotland*, 51.

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## Conclusion

By 1653 England and Scotland had been in conflict for more than a decade. Scottish soldiers had invaded England in support of their own National Covenant, the Solemn League and Covenant and of both Charles I and Charles II. Cromwell had marched into Scotland at the head of an army twice, and the English Commonwealth had accomplished what no king had previously managed and conquered both Ireland and Scotland. These struggles of arms were accompanied by contests of ideas, values and beliefs, shaped by the institutional and cultural peculiarities of the two countries. At the beginning and end of the period under investigation Scots and English men and women faced two momentous cases of conscience: firstly, whether to take up arms against their king; and then whether to submit to a regicidal regime and, if so, on what terms. Between these two crises, they faced a multitude of other dilemmas, both personal and public, which raised new questions about the relationship between the individual, the church and the state. The British civil wars not only tested consciences but generated new thinking about the relationship between belief and action.

The failure to reach a stable peace settlement was indicative of divisions both between and within England and Scotland. The fragmentation of the parliamentary and covenanter causes, fuelled in part by claims made for individual conscience, meant that Charles I was presented with competing visions of how settlement could be reached. The Solemn League and Covenant proved to be an inadequate basis for Anglo-Scottish unity and attempts to assert control over its meaning served only to further fragment the king's opponents. Where once men and women had been largely united by faith, they were now often divided by party. War-weariness and demographical devastation contributed to a retreat into stoicism and a rise in anti-clericalism. Conscience was increasingly used to justify pragmatic political quietism and sustain rival communities of belief.

The aim of this thesis has been to explore the differences and similarities between English and Scottish political thought using the concept of conscience. I have taken the invocation of conscience by a wide array of historical figures seriously and have demonstrated that the historical, national and religious contexts in which ideas were framed and articulated shaped how conscience was understood. I have shown that conscience was an important element of Scottish political thought, and challenged the assumption that its

articulation was necessarily associated with the development of individualism and toleration. This analysis has focused on theories of resistance to authority and the obstacles contemporaries faced in attempting to reach a peace settlement. Using a broadly chronological approach I have shown how ideas developed over time and how Scottish and English ideas and thinkers interacted. Appeals to conscience are made when individuals are faced with temptation or indecision, and, in particular, in cases of societal breakdown and the absence of authority.<sup>1</sup> The sources examined in this thesis were largely written as responses to particular cases of conscience. This means that their messages were shaped by events and designed to illicit changes in behaviour.

Most participants in the debates and controversies I have examined agreed about the concept of conscience: it was moral belief applied to action. The most significant disagreements were about the origins of this moral knowledge, who had the authority to arbitrate cases of conscience, and how this knowledge was to be applied. This analysis has consequently focused on the claims made by institutions and individuals to interpret and apply the dictates of conscience, and the tension between public and private authority. Scholars have long recognised that at the heart of the concept of conscience lay a conflict between the rights of the individual and the claims of the community.<sup>2</sup> The idealised view of a Christian commonwealth in which these coincided continued to be upheld by many, but the experience of conflict within and between England and Scotland challenged many assumptions about the feasibility of such a polity. Thinkers drew upon the rich heritage of the concept of conscience to both sustain old beliefs and generate new ideas.

Puritans in both countries shared a similar tradition, and the English casuists William Perkins and William Ames were cited by divines in both countries throughout this period. Episcopalians also held similar positions on the nature and function of conscience, though placed a greater emphasis on the moral necessity of obedience. While all agreed that the magistrate had no power to compel men's consciences, there was disagreement about what public actions could be legitimised by conscience. The fundamental tension before the civil wars was between those who saw few matters as indifferent and judged civil authority by its adherence to scripture, and those who deferred to the magistrate in doubtful cases.<sup>3</sup> It was the contexts in which conscience was invoked, and the unique dilemmas presented by the

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<sup>1</sup> James F. Childress, 'Appeals to Conscience', *Ethics*, 89:4 (1979), 326.

<sup>2</sup> Norbert Elias, *The Civilising Process: Sociogenetic and Psychogenetic Investigations*, trans. Edmund Jephcott, revised ed., ed. Eric Dunning, Johan Goudsblom and Stephen Mennell (Oxford: Blackwell, 2000), 447; Andrew R. Murphy, *Conscience and Community: Revisiting Toleration and Religious Dissent in Early Modern England and America* (Pennsylvania: Pennsylvania State University Press, 2001), xvi-xvii, 11-16; Norman Jones, *The English Reformation: Religion and Cultural Adaptation* (Oxford: Blackwell, 2002), 187; Gerald Gaus, *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (Cambridge: Cambridge University Press, 2011), xv; Mika Ojakangas, *The Voice of Conscience: A Political Genealogy of Western Ethical Experience* (New York: Bloomsbury Academic, 2013), 211, 224-29; Paul Strohm, *Conscience: A Very Short Introduction* (Oxford: Oxford University Press, 2011), 1-2.

<sup>3</sup> Jones, *English Reformation*, 187.

experience of civil war and attempts to reform church and state, which led to a greater divergence between how conscience was understood in England and Scotland. At the outset, the covenanters' understanding of conscience was framed by presbyterianism. In England, civil war meant that there was a greater emphasis on the adjudicatory role of individual conscience. However, these national contexts were not entirely isolated, nor were they static, and the interactions between English and Scottish thinkers meant that many of these assumptions were challenged.

In Scotland, understandings of conscience were shaped by presbyterianism. It was as a member of the kirk that the individual exercised his or her conscience. Public cases of conscience were resolved by the presbyteries, synods or, at the last resort, the general assembly. This view of conscience was founded on an idealised view of the Christian commonwealth, and sustained by the relative stability of the kirk's structures and institutions. The tensions inherent in the concept of conscience were also present in the discipline of the kirk, which was at once levelling and hierarchical, and which merged democratic, aristocratic and monarchic elements. Because it was a national church, accommodating the elect and the reprobate, it could never be popular, but because conscience was viewed as public and objective, it necessitated a degree of consent. In England, those within the episcopalian tradition emphasised obedience and hierarchy, placing individual conscience within the constraints of law, custom and tradition. In this respect, they had much in common with Scottish episcopalians, though there was not a sufficient basis for an Anglo-Scottish constitutionalism to emerge. Those who sought to reform the Church of England further did not agree on the structure it should take. English presbyterians had much in common with their Scottish counterparts, though clericalism and erastianism figured more prominently in their notion of the church. Many were prepared to accept the subordination of the church to the authority of parliament. For English congregationalists, however, conscience was a means of differentiation, a mark of the godly.

### **Theories of resistance**

The key issue raised by conscience was, as Edward G. Andrew framed it, whether it dictated obedience to worldly authority, or whether worldly authority had to obtain the assent of individual conscience.<sup>4</sup> This was a fundamental divide between those who justified armed resistance against Charles I and those who decried it, and later between

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<sup>4</sup> Edward G. Andrew, *Conscience and its Critics: Protestant Conscience, Enlightenment Reason, and Modern Subjectivity* (Toronto: University of Toronto Press, 2001), 32.

opponents and advocates of the Engagement Oath. Conscience provided a means to judge those in authority, to measure their actions against a public standard. Who was to exercise this arbitration was a more complicated question. Was it the role of ministers, nobles, representative institutions, or the people themselves? An important contrast between English and Scottish theories of resistance was the role given to individuals, which can be summarised as the difference between assent and adjudication. Conscience supported both the claims of those who believed that armed resistance was necessary and those for whom it dictated obedience to authority. This contradiction was containable in a commonwealth in which the godly prince collaborated with the institutions of church and state to sustain an ethical consensus. However, the breakdown of authority in the mid-seventeenth century challenged this vision.

The language of conscience was initially used by thinkers in both countries for quite different purposes. In Scotland, it was used to justify action by signalling sincere belief and corporate unity. The Scottish presbyterian view of conscience could only function in the absence of sustained dissent. This was far easier to construct and maintain in Scotland in the early 1640s, but the Engagement crisis of 1648 revealed latent divisions in the covenanting movement. These divisions would develop into deep fractures under the strain of the English conquest of the country in the early 1650s. The National Covenant was central to the covenanters' claim to represent the public conscience of Scotland, an assertion which challenged Charles's belief that as king he embodied the conscience of the commonwealth. Though involving individual assent, the authority of the National Covenant was based on the Negative Confession and parliamentary statute. The kirk quickly claimed authority to interpret the Covenant and established control over public debate to this end. By allowing that resistance could sometimes be justified, Charles's Scottish opponents had to establish the limits of this radical argument to sustain the ideal of a united community. They largely held to the belief that a collective conscience could be articulated and maintained by institutional authority, and that differences of opinion could not be allowed to translate into differences in practice. It was not individual conscience which authorised rebellion, but the collective defence of the public conscience.

In England, though, understandings of conscience had to accommodate the reality of dissent from the outset. Civil war meant that the language of conscience was used to generate support for opposing parties and to differentiate between subjects. The Protestation Oath of 1641 was an attempt to galvanise citizens and legitimise resistance, drawing on fears of a popish conspiracy. However, by generating an 'active citizenry', in Walter's words,<sup>5</sup> it gave credence to the belief that the people had a role in adjudicating

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<sup>5</sup> John Walter, *Covenanting Citizens: The Protestation Oath and Popular Political Culture in the English Revolution* (Oxford: Oxford University Press, 2017), 197-200, 229, 250.

between king and parliament. It was not, like the National Covenant, framed as the reassertion of an established public conscience, but rather as a response to the particular circumstances of the early 1640s, and was sworn in the first-person singular. These claims for the role of the individual were not universal, of course, and the authority of parliament was also asserted in a manner not seen in Scotland. It was not possible, however, for English parliamentarians to lay claim to the same rhetoric of unanimous consent, or claim the restoration of a pure church, as the Scottish covenanters had done. Congregationalists and independents, meanwhile, made greater claims for the illuminated consciences of the godly, which undermined traditional hierarchies and the integrity of the confessional state.

Royalists in both kingdoms shared the belief that conscience and obedience were inseparably intertwined. This was not novel: they drew upon accepted ideas and norms, and the tradition of absolutism played a notable role in framing arguments in both countries. If common languages of liberty emerged,<sup>6</sup> and the emphasis must be on languages in the plural, there also appeared a common vocabulary of obedience. This was not inimical to liberty, as royalist authors saw it, but rather the precondition which made liberty possible. A rejection of conditional obedience allowed individual conscience a smaller space in the state, divorced from action and largely internalised. To think of royalism as essentially British has its merits, but it should also be recognised that Charles I's failures were in part reflections of the limitations of British royalism. His claim to be the conscience of the commonwealth was undermined by the different policies he adopted and by his duplicitousness. However, his commitment to episcopacy in England undoubtedly inspired his followers there, and his professed adherence to the dictates of his conscience was an important element of his elevation to martyrdom.

The Engagement controversy saw the reassertion of the position taken by royalists that obedience to the magistrate took priority over private scruples. Many of those who had fought against Charles I rejected the involvement of private citizens in public affairs. The individual was to keep his or her opinions to himself or herself, exchanging allegiance for protection. This was a break from the belief that the state was required to defend and preserve a particular religion and church. In the writings of many English Engagers, victory in war represented the final, authoritative resolution of the dispute. Those opposed to the Engagement, however, thought that the people were competent enough to see that the regicide and erection of the Commonwealth were unlawful. Scottish covenanters were relatively consistent in their use of arguments for resistance. The Scots had never allowed the people a role as judges, but the language of conscience granted them a rhetorical authority. The schisms in Scottish society which were exacerbated by the English invasion

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<sup>6</sup> Arthur H. Williamson, 'Patterns of British Identity: "Britain" and its Rivals in the Sixteenth and Seventeenth Centuries', in Glenn Burgess (ed.), *The New British History: Founding a Modern State 1603-1715* (London, 1999), 152.

would give minority opinions more latitude. A divided kirk could no longer act as the arbiter of public cases of conscience, but a commitment to the Solemn League and Covenant, as evidenced by the returns of Scotland's shires and burghs, remained firm. The English regime's imposition of a policy of toleration allowed Scots to maintain their allegiances whilst pragmatically submitting to the Commonwealth's authority. The acrimonious divisions between the Protesters and the Resolutioners in the 1650s severely damaged the kirk's claims to represent the collective conscience, but claims for individual resistance against the English conquerors did not emerge.

### **Attempts at settlement**

It seems clear that differing ideas about conscience were central to the failure to reach a political and religious settlement. When Scots invoked conscience, the context of its exercise — a presbyterian system of discipline — was assumed. When they spoke of liberties, they meant the freedom of the individual within this discipline and the freedom of the country's representative institutions from monarchical control. When they articulated theories of conditional obedience they believed that even an errant king could be corrected, an erroneous conscience brought back into the community. However, by the end of the 1640s, these ideas were under strain: epithets abounded, malignants intermixed with the godly in the name of defence of the realm and a sectarian English army imposed religious liberty at the point of a sword. In England, the language of conscience helped to justify civil war and sustain the parties which engaged in it. It became increasingly clear that consensus was not possible and that victory for either side could not mean a return to the way things had been. The English civil wars required a reimagining of the relationship between individual and society, opening the door to radical constitutional ideas. However, these new ideas failed to gain ground in Scotland, in large part due to the maintenance of church discipline and because a public print culture did not develop to the same extent.

The oaths of this period can be used to gauge how conscience was conceived and how the individual was ideally meant to relate to the state. Their promulgation and subscription period involved an unprecedented number of men and women, unquestionably, though often unintentionally, changing the way people perceived their relationship with church and state. The Scots believed that the covenants did not impart new rights but rather stated pre-existing obligations. Individuals were asked to recognise and affirm beliefs which were assumed to be a part of the shared vocabulary of society. This was initially successful because the covenanting movement represented a coalition of the most important interests in Scottish society and the National Covenant was predicated on the powerful myth of the

perfection of the Scottish reformation. It was far harder to achieve the same success in England because there was less consensus on what was being defended and what reformed.

However, the meanings of oaths and covenants, far from being assumed, were violently disputed. Again, conscience was used both to assert control over meaning and free the individual to make their own interpretation. There was often reference to the ‘common sense’ or ‘plain meaning’ of the words. This speaks to a belief in a shared political culture or language, but also a fear that semantic meaning was being lost. If words could sustain significantly divergent meanings, then what basis could political society have? Was the meaning of oaths determined by those who administered them or those who swore them? If it was the former, institutional authority could be maintained; if it was the latter individual belief became the basis of political obligation. If intent was all that mattered, the meanings of oaths could be retroactively changed and their purposes radically reinterpreted. If oaths were understood as the affirmation of publicly verifiable truth, then they could be legitimately imposed. However, if they required the assent of individuals endowed with a degree of natural reason, an element of consent was introduced.

The Solemn League and Covenant represents perhaps the clearest example of how England and Scotland’s differing cultural, institutional and political contexts shaped reception and interpretation. A document composed in Scotland, with English input, failed to unite Charles’s opponents and was able to sustain radically different readings. The projected unanimity of the Scottish church and state was put under strain by the alliance, which engaged the Scots against their king on the battlefields of England. The divisions it caused did not always correspond to nationality. Both Englishmen and Scotsmen advocated individual interpretation and questioned whether or not they could lawfully swear to preserve and defend the liberties and rights of each others’ kingdoms.<sup>7</sup> The Scottish covenanters displayed a greater interest in attempting to discern the intentions of those taking the covenants. Because oaths were to be performed, control over interpretation was vital. However, in England, there was neither the means nor the desire to exercise strict control over how the Solemn League was understood. In allowing limited flexibility of interpretation, authorities sought to construct a broad base of support, recognising that accommodation within limits was prudent.

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<sup>7</sup> NRS, GD45/1/110; NRS, GD406/1/1921; John Saltmarsh, *The Smoke in the Temple*, 2nd. ed. (London, 1646), 24; *Minutes and Papers*, iii, 283; John Gauden, *Certain Scruples and Doubts of Conscience About taking the Solemn League and Covenant; First Printed in the year 1643* (London, 1660), 2, 9. See also *A Challenge, by the Divines of the Army, to the Divines of Sion-Colledge: Concerning the League and Covenant* ([London, 1644?]), sig. Ar; *Anti-Confederacie*, 1; *Hell and Death, in the Covenant* ([London], 1647), 10, 16; *Reasons Of the present judgement of the University of Oxford, concerning The Solemn League and Covenant. The Negative Oath. The Ordinances concerning Discipline and Worship* ([Oxford], 1647), 4; Hope, *Diary*, 197.

The Solemn League imposed a requirement of religious reformation, though its form and limits were disputed. This responsibility fell to the Westminster Assembly, which was founded on a statement of the primacy of individual conscience. Members of the Assembly swore to ‘not maintain any thing in matters of doctrine, but what I think in my conscience to be truth’.<sup>8</sup> This suggested that difference was to be expected and respected, but the scope of the debates which ensued went beyond what many participants in the gathering anticipated. The Scottish commissioners hoped for an independent assembly which would swiftly and decisively overturn episcopacy and establish presbyterianism in England. The Glasgow Assembly of 1638, which convened itself in defiance of the king and before parliament had been called, had achieved radical reforms in a matter of months. The Westminster Assembly, which depended on the authority of parliament, sat for almost ten years and its reforms were far more ephemeral in England. From the outset there was disagreement about the direction reformation should take, the authority of scripture and how to accommodate dissenting opinions. This stood in marked contrast to the Scottish general assemblies where unanimity, often constructed, prevailed.

Debates about the sacraments and the location of spiritual authority in the church brought differences between the Scots and the English divines to the fore, as well as those which existed between the presbyterian majority, the congregationalists and parliament. The Lord’s Supper was an important expression both of the communal nature of the Scottish presbyterian experience and of the power of discipline in establishing and maintaining societal norms. Here we see the role of conscience in the internalisation of societal norms and self-policing, coupled with a public system of detection, punishment and repentance. The Scots’ belief that a national church, composed of the godly and unregenerate, could be sustained speaks in part to the excitement generated by the National Covenant and the sense that momentous events were underway. However, English congregationalists sought greater independence for local congregations, which entailed a rejection of the authority of national synods and an emphasis on self-regulating communities of the godly.

It is perhaps not surprising that the Scottish national church could not simply be replicated in another nation. The congregationalists’ beliefs were, however, novel. The experience of persecution and exile played an important role in this developing emphasis on the interiority of religion, and so of conscience. In Scotland, religion was to a significant degree exterior, centred on the rites of the church: conscience was institutionalised. The Scottish commissioners were not themselves entirely consistent on the role of the individual in the church, though they settled on the belief that the

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<sup>8</sup> John Lightfoot, *The Whole Works of the Rev. John Lightfoot*, 13 vols, ed. John Rogers Pitman (London: J. F. Dove, 1822-25), xiii, 4.

community was able to express its consent but not pass authoritative judgement. For the more clerical English presbyterians, parliament was to have a greater role in the government of the church, and the presbyterian system established in England favoured lay elders over ministers.<sup>9</sup> Attempts to secure an accommodation which could satisfy all members of the Assembly ultimately foundered on the issue of conscience. The dissenting brethren sought not only the freedom to hold divergent beliefs, but the liberty to put these views into practice. The Scots, who prized conformity and unity in outward actions, could not consent to this position.

The failure to reach a settlement was in part a result of disagreements about how to accommodate individual conscience within the structures of church and state. The Scots' drive for covenanted uniformity was rejected by those who feared the consequences of the imposition of presbyterianism, and those who thought that Scottish interference threatened English liberties. By the late 1640s, several English authors were vociferously rejecting what they saw as the Scottish corruption of the English language. This represented a rejection of the belief that a common language, a prerequisite for a public conscience, existed. Anglo-Scottish union, when it did arrive in the mid-1650s, was not to be a partnership of equals. It was more akin, as Robert Blair put it, to 'when the poor bird is embodied into the hawk that hath eaten it up.'<sup>10</sup> The Solemn League and Covenant would, however, continue to inspire hopes for a union which would recognise Scotland's distinctive institutions into the eighteenth century.<sup>11</sup>

## Limitations and implications

It is important to recognise that while focusing on the concept of conscience helps to illuminate ideas and suggests avenues of further investigation, it cannot provide all the answers. The sources used represent only a fraction of the literature produced during the period 1637-53, and a greater emphasis has been placed on published material than on manuscript material. My interest here has been primarily in the print debates which accompanied the crises of conscience under investigation. This account is not comprehensive but provides a structured approach to the issue of conscience. The

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<sup>9</sup> Robert Baillie, *The Letters and Journals of Robert Baillie*, ed. David Laing, 3 vols (Edinburgh: Bannatyne Club, 1841-42), iii, 452; Valerie Pearl, 'London Puritans and Scotch Fifth Columnists: a Mid-Seventeenth-Century Phenomenon', in Albert E. J. Hollaender and William Kellaway (eds), *Studies in London History Presented to Philip Edmund Jones* (London: Hodder and Stoughton, 1969), 330-31.

<sup>10</sup> Robert Blair and William Row, *The Life of Mr Robert Blair, Minister of St Andrews, Containing his Autobiography, from 1593-1636, with Supplement to his Life, and the Continuation of the History of the Times to 1680, by his Son-in-Law, Mr William Row, Minister of Ceres*, ed. Thomas McCrie (Edinburgh: for the Wodrow Society, 1848), 291-292.

<sup>11</sup> Karin Bowie, *Scottish Public Opinion and the Anglo-Scottish Union, 1699-1707* (Woodbridge: Boydell Press, 2011), 99-100, 126.

timeframe is also limited, most notably omitting detailed analysis of the Interregnum, a period which has often been overlooked. However, the key debates and questions relating to the concept of conscience had been formed and articulated by 1653, and I have examined these in my discussion of the Engagement controversies. The experience of occupation and incorporation continued to open up new spaces for dissent and disagreement, fuelled by the splits in the kirk and the presence of a sectarian army.<sup>12</sup>

The nature of the source base and the historiography has created an imbalance between the way in which English and Scottish texts are used. There are simply far more of the former than the latter, and the literature on English political thought is far denser and more sophisticated than that which focuses on Scottish thinkers. Conscience is not usually associated with Scottish political thought, but I have shown that a comparative approach using the concept yields important results. Because I have focused on the sustained and meaningful interactions which took place between England and Scotland during this period the European context has largely been left unspoken. The attempts to establish political and ecclesiastical unity offer a unique context in which to compare political cultures. To situate my findings within broader European protestant traditions would have been a different project entirely, though one which would be worth pursuing.

What I have demonstrated is that the invocation of conscience represented an appeal to a public, shared moral vocabulary. Opponents and supporters of Charles I both believed that it was only the misled or misinformed who would fail to recognise the duties their consciences required of them. However, as the conflict lengthened and deepened, conscience came increasingly to represent a particular interpretation of events. It was invoked to justify actions based on intent and private beliefs. The authority of conscience came less to descend from external sources, or rely on public institutions for verifiability, but rather to be based on internal convictions. This trend was most obvious in England, where the individual, loosed from the discipline of a national church and introduced to a marketplace of ideas and news, faced particular dilemmas of conscience.

Robert Zaller has argued that while the emergence of parties and contested elections, and the breakdown of unanimity, had their roots in the pre-civil war era, the 1640s and 1650s accelerated the trend from a culture of conscience to a culture of interest. That is, from ‘the common sense of value instilled by God and notionally possessed by all ... to one of interest, the idea of value as individually construed and regulated by law’.<sup>13</sup> However, this trend maps less precisely onto the Scottish experience, where claims for institutional authority continued to outweigh assertions of individual rights. Edward

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<sup>12</sup> R. Scott Spurlock, *Cromwell and Scotland: Conquest and Religion, 1650-1660* (Edinburgh: John Donald, 2007), 102-200.

<sup>13</sup> Robert Zaller, *The Discourse of Legitimacy in Early Modern England* (Stanford: Stanford University Press, 2007), 656.

Andrew's argument that by the time of the civil wars conscience had become 'revolutionary, antinomian, and subjectivist, with individual judgement rather than God as the measure of all things'<sup>14</sup> clearly cannot be sustained. This statement is based on a confusion of the exceptional for the general and ignores the development of the concept of conscience in Scotland. It is also misleading to say, as Gordon J. Schochet argues, that conscience *became* private and secular.<sup>15</sup> Conscience always had both public and private, religious and secular elements. The concept of conscience was capable of sustaining different traditions and supporting different impulses.

I have put a particular emphasis on the importance of institutional differences and the relationship between ecclesiology and political thought in explaining how and why arguments about conscience diverged in England and Scotland. Ethan Shagan has recently argued that debates about the church were centred on the issue of government, and the question of whose behaviour required moderation. For congregationalists, the godly could regulate themselves; for presbyterians church government required a degree of consent, but could not be populist.<sup>16</sup> Debates about whether authority ascended from the congregation or descended from the church mirrored arguments about the location of political authority. Scottish presbyterianism limited the development of radical claims for popular sovereignty because to allow the people a greater role in the state would necessarily require a rethinking of their role in the church, and vice versa. The Scottish myth of a perfectly reformed kirk which needed to be re-established and defended also limited the development of novel theories of the relationship between church and state. Of course to rise in arms against the king was itself a shocking act, but it was framed in such a way as to limit the role of the individual. In England, however, it was the failure to agree upon what should replace episcopacy, and the collapse of ecclesiastical authority, that contributed towards the flourishing of public debate.

Though presbyterianism acted as a bulwark against constitutional and religious upheaval, there were nonetheless radical implications latent in the concept of conscience as the Scots understood it. For example, when challenged to defend the forcing of a king's conscience, Alexander Henderson conceded that the only solution was 'to lay aside such a Conscience; it being part of the Old Man'.<sup>17</sup> The implication was clear: Charles's conscience was erroneous, and compulsion might be justified. John Milton came to the

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<sup>14</sup> Andrew, *Conscience and its Critics*, 32.

<sup>15</sup> Gordon J. Schochet, 'Persuading the Heart: Appeals to "Conscience" in the English Revolution', in Anthony T. Grafton and J. H. M. Salmon (eds), *Historians and Ideologues: Essays in Honor of Donald R. Kelly* (Rochester, NY: University of Rochester Press, 2001), 155.

<sup>16</sup> Ethan H. Shagan, 'Rethinking Moderation in the English Revolution: The Case of *An Apologeticall Narration*', in Stephen Taylor and Grant Tapsell (eds), *The Nature of the English Revolution Revisited: Essays in Honour of John Morrill* (Woodbridge: Boydell Press, 2013), 32, 40, 50.

<sup>17</sup> *The Papers Which Passed at New-Castle Betwixt His Sacred Majestie and Mr Al. Henderson: Concerning the Change of Church Government* (London, 1649), 35.

same conclusion, albeit more forcefully, several years later.<sup>18</sup> As we have seen, in 1648 Gillespie and Wariston proposed the threat of armed resistance as a permanent check on the authority of the king.<sup>19</sup> In the 1650s, Rutherford and other Protestors were notably circumspect about the role of an uncovenanted king in the commonwealth.<sup>20</sup> Conscience could, then, be radically levelling: the king's conscience was not that of the commonwealth but was instead subject to the authority of the kirk. In the 1650s the author of 'Some further considerations', possibly Wariston, drew on the model of the church to argue that civil magistrates required the assent of the people.<sup>21</sup> Conscience, then, also imbued an element of consent into Scottish political thought, though there remained an idealised focus on unanimity rather than an allowance of democratic dissent.

We must also balance an awareness of the contexts in which these ideas were formulated — and the assumptions they were based on — with the recognition that the promulgation of ideas was significant. It is clear that contemporaries were aware of these skirmishes over the meaning of language. A major conclusion of this thesis is that Scottish ideas meant something very different in England, and vice versa. Miscommunication of a fundamental nature was in part responsible for the failure to reach a stable peace settlement. Contemporaries were aware of linguistic differences and of speaking at cross purposes. The same languages may have been being used, but they meant different things in different contexts. Failure to recognise this fact lies behind anachronistic readings of Scottish texts, both by contemporaries and modern-day historians. John Witte, Jr., for example, lists Samuel Rutherford in an 'honour roll' of mid-century 'prophets of liberty', and describes him as an independent who 'embraced liberty of conscience and toleration for all Protestants'.<sup>22</sup>

I have also shown that conscience cannot simply be understood as 'belief' or 'opinion', existing in the interior world only. Several scholars have observed that a separation between belief and action is hard to sustain in practice.<sup>23</sup> The Scottish covenanters were particularly concerned to deny that the two could be disconnected, and saw exterior conformity as

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<sup>18</sup> John Milton, *Eikonoklastes, in Answer to a Book Intitl'd Eikon Basilike* (London, 1649), 9, 14, 19, 56-57, 62, 145; David Martin Jones, "'Dissolving Allegiance to the Acknowledged Power Supreme": Milton, Casuistry and the Commonwealth', *History of Political Thought*, 32:2 (2011), 334.

<sup>19</sup> NCL, Baill.Ms. 4/3, f. 29<sup>r</sup>.

<sup>20</sup> EUL, La.Ms.III.69/5; Walter Makey, *The Church of the Covenant 1637-1651: Revolution and Social Change in Scotland* (Edinburgh: John Donald, 1979), 82-83; Kyle David Holfelder, 'Factionalism in the Kirk during the Cromwellian Invasion and Occupation of Scotland, 1650-1660: The Protester-Resolutioner Controversy' (PhD thesis, University of Edinburgh, 1998), 154-155; Spurlock, *Cromwell and Scotland*, 109.

<sup>21</sup> NLS, Wod.Fo.XXX, xxii, f. 61<sup>v</sup>.

<sup>22</sup> John Witte, Jr., *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge: Cambridge University Press, 2007), 220, 247.

<sup>23</sup> Bernard Wand, 'The Content and Function of Conscience', *The Journal of Philosophy*, 58:24 (1961), 772; Robert K. Vischer, *Conscience and the Common Good: Reclaiming the Space Between Person and State* (Cambridge: Cambridge University Press, 2010), 3, 99; Strohm, *Conscience*, 93; Richard Sorabji, *Moral Conscience through the Ages: Fifth Century BCE to the Present* (Oxford: Oxford University Press, 2014), 47; Alexandra Walsham, *Catholic Reformation in Protestant Britain* (Farnham: Ashgate, 2014), 123.

necessary for the maintenance of a public conscience.<sup>24</sup> Early modern tolerationists, on the other hand, were, as Murphy puts it, reluctant ‘to sacrifice conscience for the sake of the community’.<sup>25</sup> The contrast the independent minister Henry Burton drew between conscience and conformity in his 1646 tract *Conformities Deformity* is illustrative of the differences between an emerging English radicalism and the ideals espoused by the Scottish covenanters. For Burton, conformity represented the elevation of worldly authority and public opinion over the word of god. Scottish presbyterianism embodied this tyrannising over the ‘birthrights of English freeborn subjects’, and the claimed jurisdiction of synods was a threat to both the individual and the civil magistrate.<sup>26</sup> However, he emphasised that while obedience in religious matters was due only to Christ, civil obedience was due to the state.<sup>27</sup> Rutherford, in contrast, wrote that conscience could ‘reele, and totter, and dream’, and consequently, and that it should not be made ‘every mans Rule, Umpire, Judge, Bible, and his *God*’. Whilst synods could err, they could also determine infallible points as conduits of god’s truth. It was necessary for the conscience to be corrected, either by fear or shame, or by civil or ecclesiastical censure.<sup>28</sup> Conformity, then, was a sign of truth, and because there was one truth, one god and one scripture, consciences should align.<sup>29</sup>

The experience of civil war — during which conflicting claims were rooted in conscience, and the traditional authorities who might arbitrate between them were subject to question — led to an emphasis on individual interpretation. For Andrew R. Murphy, a growing insistence on ‘subjective assent’ and ‘the corresponding psychological or epistemological assertion that conscience could not be forced’ are ‘perhaps the two most important conceptual developments in the early modern emergence of toleration’.<sup>30</sup> Resistance to toleration must be seen in part as opposition to the interiorisation and privatisation of religion. Intentions can be concealed, denied or changed, and the elevation of intention over correct belief represents the privatisation of conscience. Separated from acts and objective truth conscience becomes internal and subjective, and the authority of public institutions to define shared morality is lost.

A key issue was who was to be the arbiter of public morals and behaviour. Debates about toleration must be understood as part of the negotiation between individuals, the church and an ever-expanding state. This supports Trexler’s argument that we must be

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<sup>24</sup> George Gillespie, *A Sermon Preached Before the Right Honourable House of Lords* (London, 1645), 16; *idem*; *A Treatise of Miscellany Questions* (Edinburgh, 1649), 147, 157; Samuel Rutherford, *A Free Disputation Against Pretended Liberty of Conscience* (London, 1649), 46.

<sup>25</sup> Andrew R. Murphy, *Conscience and Community: Revisiting Toleration and Religious Dissent in Early Modern England and America* (Pennsylvania: Pennsylvania State University Press, 2001), 3.

<sup>26</sup> Henry Burton, *Conformities Deformity*. In *a Dialogue between Conformity, and Conscience* (London, 1646), 3, 19-21.

<sup>27</sup> *Ibid.*, 22, 23.

<sup>28</sup> Samuel Rutherford, *A Free Disputation Against Pretended Liberty of Conscience* (London, 1649), sig. A3<sup>v</sup>, 10, 23, 24.

<sup>29</sup> *Ibid.*, 28, 409.

<sup>30</sup> Murphy, *Conscience and Community*, 228-29.

more critical of the definition of religion as reflection and consider how the relegation to the private sphere relates to the rise of the state.<sup>31</sup> While the church never denied its role was a moral one, and that it had a duty to moderate behaviour, the role of the state in upholding societal norms was not entirely clear. Opposition to religious toleration must be seen as an assertion of the right of the church to uphold a public conscience and a rejection of the state's encroachment on the realm of behaviour and morality. The demarcation between acceptable private beliefs and unacceptable public acts is worth exploring in more depth. This is apparent in the present day where, as Michael Kessler observes, '[w]hat appears to one citizen as a legitimate regulation by the government is to another a deeply offensive intrusion'.<sup>32</sup>

These trends can be traced beyond the 1650s. It was in the Restoration era that several significant English treatises on conscience were published. The bishops Joseph Hall, Robert Sanderson, Jeremy Taylor and the puritan Richard Baxter all produced works of casuistry.<sup>33</sup> These works were marked by scepticism about the ability of even the learned to prescribe universal rules, suggesting that casuistry was retreating from the public and political to the private and personal.<sup>34</sup> It also seems apparent that the experience of civil war contributed towards, as Strohm puts it, the deinstitutionalisation of the evangelical protestant conscience.<sup>35</sup> Though they were not entirely diminished, national churches no longer had the same hold over the individual, and new churches and creeds were becoming established. This had begun earlier and gone further in England, but Scotland too witnessed similar developments in the 1650s. The Abjuration Act of 1662 declared the National Covenant and the Solemn League and Covenant to be against the fundamental laws of Scotland, and the associated oath debarred many presbyterians from holding office.<sup>36</sup> Large numbers of ministers refused to acquiesce, and a period of persecution of committed covenanters ensued. The theories of resistance they developed drew on the key Scottish political texts of the 1640s but allowed for the people to resist tyrannical

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<sup>31</sup> Richard C. Trexler, 'Reverence and Profanity in the Study of Early Modern Religion', in Kaspar von Greyerz (ed.), *Religion and Society in Early Modern Europe 1500-1800* (London: George Allen & Unwin, 1984), 251, 256.

<sup>32</sup> Michael Kessler, 'Responding to Religious Freedom: Past, Present, and Future Challenges', *Berkley Forum*, 29 April 2016, <<https://berkeleycenter.georgetown.edu/forum/religious-freedom-past-present-and-future-challenges/responses/conflicted-ideas-of-conscience>> [19 November 2016].

<sup>33</sup> Joseph Hall, *Resolutions and Decisions of Divers Practical Cases of Conscience* (London, 1659); Robert Sanderson, *Several Cases of Consciences Discussed* (London, 1660); *idem*, *Nine Cases of Conscience Occasionally Determined* (London, 1678); Jeremy Taylor, *Ductor Dubitanitium* (London, 1660); Richard Baxter, *A Christian Directory or Body of Practicall Divinity and Cases of Conscience* (London, 1677); *idem*, *The Whole Duty of Man Laid Down in a Plain and Familiar Way for the Use of All* (London, 1684).

<sup>34</sup> James Tully, 'Governing conduct', in Edmund Leites (ed.), *Conscience and Casuistry in Early Modern Europe* (Cambridge: Cambridge University Press, 1988), 28; Edward Vallance, 'The Kingdom's Case: The Use of Casuistry as a Political Language 1640-1692', *Albion*, 34:4 (2002), 560.

<sup>35</sup> Strohm, *Conscience*, 37-39.

<sup>36</sup> RPS, 1662/5/70.

magistrates.<sup>37</sup> It was in this era that the latent radicalism of some of the covenanters' ideas was more fully explored, shorn of the ecclesiastical structures which had inhibited their development.

The concept of conscience is so ingrained in our culture that we rarely pause to consider what the term actually means, or whether what is thought to be universal might, in fact, be the product of a particular historical and cultural experience. This thesis has shown that though agreement could be reached on its basic function, the origin and content of moral knowledge and its application in particular contexts were contested. The ideal of a public, and publicly verifiable, conscience, based on scripture and maintained by institutions, laws and customs was not overthrown in this period. However, the experience of conflict challenged these authorities and introduced new claims for the rights of individuals. These broad trends did not emerge in the same way or at the same time in England and Scotland, but thinkers in both countries had to grapple with the questions of how to maintain corporate unity, accommodate dissent and achieve religious and political settlement during a time of conflict. The conclusions they reached were responses to these particular circumstances and reflected the institutional peculiarities of the two countries.

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<sup>37</sup> Holfelder, 'Factionalism in the Kirk', 303.

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