

The Struggle for Sovereignty

THE STRUGGLE FOR
Sovereignty



Seventeenth-Century
English Political Tracts

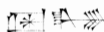
VOLUME I

*Edited and with an Introduction by
Joyce Lee Malcolm*



LIBERTY FUND
Indianapolis

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Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

The struggle for sovereignty: seventeenth-century English political tracts/
edited and with an introduction by Joyce Lee Malcolm.

p. cm.

Includes bibliographical references and index.

ISBN 0-86597-187-0 (2-vol. set: hardcover).—ISBN 0-86597-189-7 (2-vol.
set: pbk.).—ISBN 0-86597-152-8 (vol. 1: hardcover).—ISBN 0-86597-153-6
(vol. 1: pbk.).—ISBN 0-86597-186-2 (vol. 2: hardcover).—ISBN 0-86597-
188-9 (vol. 2: pbk.).

1. Great Britain—Politics and government—1603-1714. 2. Political
science—Great Britain—History—17th century. 3. Civil rights—Great
Britain—History—17th century. I. Malcolm, Joyce Lee.

JN191.S77 1999

323.5'0941'09032—DC21

97-28248

99 00 01 02 03 C 5 4 3 2 I

99 00 01 02 03 P 5 4 3 2 I

Liberty Fund, Inc.

8335 Allison Pointe Trail, Suite 300
Indianapolis, Indiana 46250-1684

TO *Geoffrey Elton* AND *John Kenyon*

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Preface

May you live in interesting times, an old curse goes. The seventeenth century in England was nothing if not an interesting time. But unlike most turbulent centuries, it was no dark age. Quite the contrary, it was an era of great intellectual achievement. This was especially true in the realm of political thought, for at the core of England's traumatic upheavals lay a fundamental intellectual controversy over the source and nature of political sovereignty. It was an intricate subject of the utmost importance that touched virtually every aspect of the relationship between the individual and the state. The source of sovereignty was no simple matter in a kingdom that boasted it possessed an "absolute" monarch presiding over a limited monarchy—a mixed government nicely balanced between power and liberty. Contradictory political and religious assumptions undergirded the English constitution. Most of the time Englishmen juggled these underlying inconsistent beliefs with remarkable equanimity. Indeed, their political system was capable of great flexibility. But flexibility and accommodation vanished when exalted pretensions for royal power clashed with the jealously guarded rights and privileges of the Parliament and with claims for the supremacy of the law. Upon the outcome of this confrontation over sovereignty would hang the form of English government and the rights of its people.

Happily the debate over sovereignty took place in print as scholars, statesmen, lawyers, clergymen, government propagandists, and other concerned individuals snatched their pens, racked their brains, and wrote. The preferred form was the essay published as a pamphlet or

tract—a format that ideally suited the urgency of the controversy. Tracts could be quickly composed and speedily printed. Thousands appeared. Often a provocative tract would inspire several published replies, followed by the original author's response. Issues and arguments evolved in counterpoint with political events, sometimes provoking them, sometimes responding, sometimes justifying, sometimes—as in the case of Charles I's famous "Answer to the Nineteen Propositions"—becoming a part of the shifting situation. The result was a literature unprecedented in volume and of immense influence upon English and American constitutional thought and practice.

Many of the most valuable and influential of these tracts have long been out of print. The aim of *The Struggle for Sovereignty* is to publish a selection of the best and most important examples of this rich political literature. The hope is that bringing these essays to a larger audience will broaden general knowledge of seventeenth-century political thought. Certainly these tracts illustrate the debt subsequent generations owe to the political writers of that era. They also provide a more reliable context for an assessment of the thought of Locke, Milton, Hobbes, and Filmer. The tracts in these volumes span the entire century and set out the key elements of the constitutional debate as it unfolded. Volume 1 begins just prior to the reign of James I and concludes at the eve of the restoration of monarchy in 1660. Volume 2 resumes with the restoration of the monarchy and concludes with issues provoked by the Glorious Revolution. Within each volume tracts have been arranged in chronological order and divided into broad, thematic groups.

Compiling this collection has been a daunting task, and a word is in order about the criteria that governed the choice of tracts. Rather than presenting a sample of eloquent political writing, I focused on the issues under discussion. Therefore my first priority has been to select those tracts that not only best present the arguments on a subject but also do so cogently and concisely. For example, while Henry

Parker wrote other excellent and influential essays, his “Case of Shipmony” was selected because it best illustrates the grave constitutional consequences that many of his contemporaries saw in the imposition of what they regarded as an illegal tax. For the same reason I included tracts that present a range of viewpoints. Here I am only too aware of a major omission—the works of the Levellers. This is not because the Levellers’ views were unimportant but because limitations of space persuaded me to exclude pieces already available in print. Since Leveller works are especially well preserved, it seemed preferable to rescue important works that are not. Hence I have reprinted key tracts not readily available or at least not available in complete form.

Choice of candidates for inclusion was more seriously limited by the early decision to reprint works in their entirety rather than excerpts from them. The obvious advantages to this method are that readers are not dependent on anyone’s prior judgment about which portions of an essay are significant and therefore can see the work whole. This decision, however, meant that longer tracts had to be excluded. Those familiar with the political essays of the seventeenth century know that many tracts were long—some attaining book length. Thus these two volumes include fewer tracts than could otherwise have been the case, and many excellent works could not be considered. Tracts that are reprinted, however, are entire, with two minor exceptions. In volume 1 only the second chapter of Heylyn’s “A Briefe and Moderate Answer” was reprinted. But this chapter was responding to a particular sermon of Henry Burton’s and is thus complete in itself. In volume 2 only the first five chapters of “The Arraignment of Co-Ordinate-Power” have been printed. These five chapters are quite independent of the last chapters, which are both narrowly technical and lengthy. It seemed better to reprint only the first chapters of this useful essay than omit the whole.

Other points. Where possible I have included one tract replying to another, thus allowing readers to sample the give-and-take of a de-

bate as it occurred. For example, the exchange between Henry Ferne and Charles Herle over whether, in Ferne's words, "Subjects may take Arms and resist? and whether that case be now?" is a famous debate between two of the best minds on the royalist and parliamentary sides, respectively.

Operating under these constraints, I have endeavored to present the work of as many authors as possible. For this reason I rarely include more than one tract by a writer. The glaring exception occurs in volume 2 where readers will find three tracts by Anthony Ashley Cooper, the Earl of Shaftesbury. Shaftesbury has been allotted more space than others because few tracts dealing with pressing constitutional issues were published in the 1670s and because his essays are excellent. It is no accident that both exceptions to my guidelines occur in volume 2. Strict censorship was imposed during the Restoration and this fact, together with the more muted debate generally, meant that there were periods when few tracts unfavorable to the authorities were published. This is not the place to provide an essay on censorship during the seventeenth century. Suffice it to say that during this time spells of prolific publishing and little effective control of the press alternated with periods when strict censorship drove critics of the government either to silence or to anonymous publication and subterfuge. Several of the tracts in *The Struggle for Sovereignty* are anonymous. Where the authorship of a tract is in doubt, I have followed the attribution of the *Wing Short Title Catalogue*.

The contemporary market for tracts was so brisk that many essays went into several editions. Where this is the case I have preferred the first edition when it was available. Subsequent editions often contain responses to critics of the first edition. They are, therefore, longer—a disadvantage from my point of view. For the same reason the arguments in later editions tend to be more dilute with new passages inserted into the original text. Political tracts appeared in a variety of

formats. I have included a mix of the most popular styles of the genre—formal dialogues, sermons, published speeches, familiar letters.

It has been a great luxury to be able to publish two volumes. Even so, after severely winnowing the hundreds of tracts I read to a manageable number, my initial selection would have created two books, each of which was fully double the present length. In short, the choice has not been an easy one. I am acutely mindful of the many excellent works that could not be included. Nevertheless, I hope the reader will find that closer acquaintance with the thought and wit of these particular authors will be time well spent and will find their tracts to be of interest, insight, and value. For myself, I have found them often brilliant, invariably thought-provoking, sometimes exasperating, always fresh, and frequently delightful.

EDITORIAL APPROACH

Fashions in editorial approach, as in all else, change. Earlier in this century editors thought nothing of silently altering early works, changing even the language itself. The trend is now moving in the direction of producing something very close to a facsimile of an original text. I have taken a middle road. Because the goal is to make these works accessible, even to those unfamiliar with seventeenth-century English literature, some sensitive modernizing has been done. Occurrences of blackletter type have not been reproduced and spellings that might confuse have been changed (a decision I am confident the writers of the seventeenth century would approve). In addition, the spelling of proper names within individual tracts has been made consistent, unusual punctuation has been brought up-to-date, and with a few exceptions, contractions not now in use have been spelled out. Because tracts often were published in haste, they frequently contained misprints. Such typographical mistakes have

been corrected. Seventeenth-century printers capitalized some words in titles because the words began a new line or for other reasons of design. The titles of the tracts contained in these volumes retain their original spellings and punctuation; except on the title pages, capitalization in the tract titles follows modern convention.

In several instances, the Greek script was illegible in the original. I have indicated the missing text in those cases with three ellipsis points enclosed by brackets. A few tracts contained prefaces that, for reasons of space, I have not reprinted, although I have noted in the relevant headnotes any dedications these included. Marginalia have also been omitted. Marginal notes usually were confined to the notation of references, and these tend to be listed in barely legible, severely abbreviated, form. The practice of using marginalia was especially common and the list of references especially lengthy in published sermons. I hope these omissions will not detract from readers' appreciation of the text, and I urge those readers with particular interest in the prefaces or the marginalia to consult the original pamphlets.

Apart from these exceptions, the text has been painstakingly reproduced. The language has been faithfully preserved, as have the capitalization and italics of the originals. All departures from twentieth-century norms stand as a continual reminder that one is dealing with another era.

The introductions and editorial footnotes are designed to aid readers unfamiliar with the political thought of seventeenth-century England. A grasp of the historical and philosophical background, in all its bewildering complexity, with all its contradictions, subtleties, and shifts, is critical to a sensible reading of these works. True, the conceptions with which the authors wrestled are profound, the political dilemmas eternal, but they were men of their century facing urgent contemporary problems. To miss that is to mistake their meaning.

Acknowledgments

I should like to thank all those who have generously assisted in and encouraged this ambitious undertaking. The Huntington Library awarded me a Fletcher Jones Foundation fellowship, which permitted the use of their splendid collection of seventeenth-century pamphlets, and the Earhart Foundation followed with a generous fellowship research grant. Bentley College awarded me a Bentley Institute Fellowship, which provided both funds and time to carry out the work.

Many scholars and friends read and commented on the selection of tracts and the introductory essays. In particular I would like to thank Quentin Skinner for his continuing encouragement throughout this project; John Morrill, David Wootton, and Donald Lutz for reviewing the lists of tracts and making valuable comments on the introductions; and Mark Goldie for his thoughts on the Restoration tracts. Many thanks as well to Derek Hirst for recommending Goodwin's "Right and Might Well Mett"; to Tim Harris for drawing my attention to "Captain Thorogood His Opinion of the Point of Succession"; to John Morrill for urging the inclusion of Algernon Sidney's splendid scaffold speech; and to Quentin Skinner for recommending the work of William Sherlock. I should also like to express my gratitude to Sir Geoffrey Elton and John Kenyon, good friends who are sorely missed, and to whom this collection is dedicated.

A special acknowledgment must go to Kim Cretors who valiantly undertook the formidable challenge of deciphering all these idiosyn-

cratic texts and putting them on computer. My research assistants were a splendid help. I should like especially to thank Jeff Strong and Jacqueline Allard for their ingenuity in tracking down elusive references.

My family, as always, has been patient beyond belief or fairness. Living with a historian is never easy, especially a talkative one preoccupied with constitutional issues. The flaws that remain in the work, and I fear they are many, are my own.

Introduction

Whose rights are to predominate in the State, the rights of the ruler or those of the people, the rights of the governed or those of government? It is this vexed question which produces tension in the structure of constitutional monarchy—a tension which may only make itself felt on exceptional occasions, but then shakes the whole edifice to the point of collapse.

—Fritz Kern, *Kingship and Law in the Middle Ages*

Seventeenth-century Englishmen were thoroughly confused about sovereignty, knew they were, but found the ambiguity tolerable. “To demand which estate may challenge this power of final determination of fundamental controversies arising betwixt them,” Philip Hunton wrote in 1643, “is to demand which of them shall be absolute . . . if the nondecision be tolerable, it must remain undecided.”¹ Unfortunately in 1643 war between the king and Parliament had made nondecision increasingly impracticable. In that case Hunton advised “every person . . . [to] . . . aid that part which in his best reason and judgement stands for the publike good.” It was not a choice anyone had wished to make. At the beginning of the seventeenth century Englishmen prided themselves on their government’s nice balance between liberty and authority. It was this balance they hoped they had restored as the century closed. But in the years between, the scales tipped one way and then another as dissension, civil war, revolution, restoration, dissension, and revolution followed one another in giddy and unprecedented procession goaded by, and in turn setting in motion, probing of virtually every aspect of the relationship be-

1. Philip Hunton, “A Treatise of Monarchy” (1643), 69, 73.

tween the individual and the state.² Central to these events and this relationship were rival claims for sovereignty. Claims were advanced for the sovereignty of nearly every component of English government—for the sovereignty of the king alone, for the king in Parliament, for the two houses of Parliament and the House of Commons alone, for the sovereignty of the law and that of the people.

If the scope of the controversy was unprecedented, so was the opportunity for debate. For the first time in their history Englishmen had the opportunity for political argument on a grand scale, and for the first time they were in a position to choose between political visions. Happily the shifting, intense, and at times profound debate on sovereignty was published, largely in the form of hastily written tracts printed in unprecedented quantities.³ Thanks to the “swarming number of pamphleteers” stricken with what a correspondent of Lord Conway diagnosed as “a powerful disease, this writing,” we can read for ourselves the political theories and analyses of scores of the best minds of that talented, turbulent, and pivotal age.⁴ The literature they left has been of the greatest consequence for succeeding generations across the entire political spectrum.

There are a variety of compelling justifications for a collection of these essays. The most general was touched upon by the royalist Bishop Brian Duppa in 1656 when he praised Photius, whose an-

2. Some historians and philosophers argue that, as Wedgwood wrote, “Theory and doctrine are more often the explanation of actions already envisaged or performed than their initial inspiration.” See C. V. Wedgwood, *The King’s War: 1641–1647* (London, 1966), 11. I believe that the preaching of a particular theory can, of itself, provoke.

3. More than twenty-two thousand pamphlets, speeches, sermons, and issues of newspapers were published between 1640 and 1661. Perez Zagorin, in his *Rebels and Rulers, 1500–1600* (Cambridge, 1982), 149, points out that the sum of publications issued during the “revolutionary period” probably exceeded “the entire output of the English press since the beginning of printing in England in 1475.”

4. See “Thomas Scot’s Account of His Actions as Intelligencer During the Commonwealth,” *English Historical Review*, ed. C. H. Firth (1897), 12:121; and Sir Theodore Turquet de Mayerne to Lord Conway, 8 October 1651, Marjorie H. Nicholson, ed., *Conway Letters* (London, 1930), 21.

thology *Bibliotheca* included the names and works of many classical authors “which else had utterly perished” and heartily wished “there wer found som to imitate him; for besides preserving the memory, both of greater and more especially lesser tracts and treatises (which ar commonly lost like pinns and needles, and never recovered again), there might be great use made of it, both in the exercising of every man’s own judgement, and giving an edge to the judgement of others.”⁵ It is hoped this collection of seventeenth-century tracts might be of similar “great use.” Issues of sovereignty are chronic, and the struggles of seventeenth-century men to achieve liberty with order speak to us still. Moreover, while much study has been lavished upon those few seventeenth-century theorists later centuries have deemed original and important, the works of other excellent thinkers, such as Henry Ferne, Francis Rous, and Gilbert Burnet, now nearly as lost as Duppa’s “pinns and needles,” were frequently more typical of their age and more influential during it, and furnish an intellectual context in which a Hobbes and a Locke can be better understood and more justly evaluated.

Beyond such a general purpose is the historian’s purpose. As Bernard Bailyn wrote of the pamphlets of the American Revolution, these tracts “reveal not merely positions taken but the reasons why positions were taken; they reveal motive and understanding: the assumptions, beliefs, and ideas—the articulated world view—that lay behind the manifest events of the time.”⁶

Lastly, many seventeenth-century historians now question the assumption that clashing constitutional theories played a prominent role in the civil war. They rightly stress the political concepts most Englishmen shared, but some have gone on to marginalize and be-

5. See Sir Gyles Isham, ed., *The Correspondence of Bishop Brian Duppa and Sir Justinian Isham, 1650–1660*, Northants. Rec. Soc., vol. 17 (Lampport, 1951), 117.

6. Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass., 1967), vi.

little the importance and the quality of the political theories so passionately argued prior to, and during, the civil war era.⁷ Indeed, one scholar maintained that “from the time religious and ecclesiastical splits seriously damaged parliamentary unity to the time when that unity was, after a fashion, restored at dreadful cost, constitutional thought was suspended.”⁸ The political treatises of the Restoration period have suffered less belittlement only because until recently they have not been the subject of serious consideration.⁹ In both instances

7. Conrad Russell, for example, a leader among revisionists, takes issue with the notion that “these divergent theories had something to do with the causes of the Civil War.” Russell finds the political thought of little worth. He writes that the parliamentary arguments and what he terms “the makeshift and almost ramshackle manner in which they were put together to meet circumstances as they arose” suggests “that the body of ideas about how the country should be governed were not really the central element in the cause for which they fought: they were, like their medieval predecessors, ad hoc ideas constructed out of any materials ready to hand, to serve the immediate purpose of clipping the wings of a king with whom they simply could not cope.” See Conrad Russell, *The Causes of the English Civil War* (Oxford, 1990; rpt., 1991), 145, 160 (page citations are to the reprint edition). Michael Seymour, in his dissertation on government propaganda during the Interregnum, ignores the content of progovernment tracts because of their “intellectual poverty” and decides “intellectual justifications” on behalf of the government “are best categorised by reference to the relationship of their authors to the government, rather than by their content.” See Seymour, “Pro-Government Propaganda in Interregnum England, 1649–1660” (Ph.D. diss., Cambridge University), 53. On the other hand, see J. P. Sommerville, *Politics and Ideology in England, 1603–1640* (London, 1986). Sommerville deals only with the period leading up to the civil war but reasserts the importance of the ideological divisions that developed prior to it. Margaret Judson in her classic work, *The Crisis of the Constitution: An Essay in Constitutional and Political Thought in England, 1603–1645* (New Brunswick, N.J., 1949), 8–9, finds a “meagerness” of political thought in the political thinking of men participating in the controversy between king and Parliament before the civil war but argues that beginning in 1642 “there began an outpouring of political thought more extensive and more profound than England had ever experienced before.”

8. M. J. Mendle, “Politics and Political Thought, 1640–42,” in *The Origins of the English Civil War*, ed. Conrad Russell (London, 1973), 233.

9. Excellent work on the treatises of the Restoration has been done in recent years. See, for example, Mark Goldie, “The Roots of True Whiggism, 1688–94,” *History of Political Thought* (summer, June 1980): 195–236, and “The Revolution of 1689 and the Structure of Political Argument: An Essay and an Annotated Bibliography of Pamphlets on the Allegiance Controversy,” *Bulletin of Research in the Humanities* (winter 1980): 473–564; John Kenyon, “The Revolution of 1688: Resistance and Contract,” in *Historical Perspectives: Studies in English Thought and Society*, ed. Neil McKendrick (London, 1974), and *Revolution Principles: The Politics of Party* (Cambridge, 1977); and Tim Harris, *London Crowds in the Reign of Charles II: Propaganda and Politics from the Restoration Until the Exclusion Crisis* (Cambridge, 1987).

exposure to the published tracts of influential, if lesser known, authors provides an opportunity for a larger audience to evaluate their quality and significance and hopefully arrive at a richer understanding of the century's political thought and conflicts.

When I first traveled to Great Britain I was cautioned, "Just because you speak the same language, don't think you understand each other." That advice is just as sound for the time traveler determined to fathom the tangled intellectual milieu of seventeenth-century Englishmen. In addition to the need to understand a battery of then commonly accepted political notions, it is important to be aware that the vocabulary central to the debate over sovereignty—words such as "sovereign" and "absolute"—had meanings so various and shifting that the protagonists themselves were often confused. This brief introduction can do no more than point out the major landmarks and landmines of that philosophical universe. The fascinating implications and nuances of the discussion will be left to the authors themselves.

Let us begin with those political understandings Englishmen shared, for their inherent contradictions were at the root of the trouble.¹⁰ We will then consider the various claims for supremacy. The English king was head of both church and state. His political position was ancient, his role as supreme head of the Church of England less than a century old when James I came to the throne in 1603. This double role had great potential to ensure a secure and powerful monarchy but also generated inconsistent constitutional expectations.

10. Corinne Weston distinguishes the doctrine of the ancient constitution and the political theory of order espoused by James I and finds, "Although it appeared at times as if the two sets of ideas coexisted harmoniously even within the mind of a Coke or a Pym, these were nonetheless incompatible." Weston, "England: Ancient Constitution and Common Law," in *The Cambridge History of Political Thought*, ed. J. H. Burns and Mark Goldie (Cambridge, 1991), 394–95.