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POLICY AND POWER

IDEAS, POLICYMAKING AND PRACTICE IN 1670S ENGLAND

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A thesis submitted for the degree of Doctor of Philosophy

**Department of History
Durham University**

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**Durham
University**

Abstract

This thesis is about how and why Restoration-period political culture changed in England in the run up to the dissolution of the Oxford Parliament in March 1681. It argues that it was the tension between Charles II's desire and attempts to rule personally and his opponents' desire and attempts to prevent him from doing so, which drove politics and change during the 1670s. It suggests that while people in the Restoration period were concerned with developing, representing and debating issues, ideas and identities, that intellectual process was only one part of political culture. The other was a much broader practical concern with how those ideas could be turned into reality through policymaking and practice. This thesis aims to explore these more practical concerns and to show that it was the contest for the power to turn ideas into policy and then to turn that policy into practice which proved decisive in the gradual breakdown of relations between the king and his opponents throughout the 1670s and in the final dissolution of parliament in 1681. In order to explore this other practical side of political culture, which has not yet received a great deal of scholarly attention, the thesis will draw upon methods and source material outside of those traditionally used by political historians and in doing so will try to make a meaningful contribution to an emerging historiographical trend, perhaps best described as the 'process turn'.

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List of Abbreviations

BL	British Library
<i>Burnet</i>	<i>Burnet's History of My Own Time: From the restoration of king Charles the second to the treaty of peace at Utrecht, in the reign of Queen Anne, Volume II</i> , (ed.) Airy, O. (Oxford, 1900)
<i>Cal. treas. bks.</i>	<i>A Calendar of Treasury Books</i> , (ed.) Shaw, W. A. (32 vols, London, 1904-62)
Coleman newsletters	Edward Coleman newsletters, Harry Ransom Centre, Pforzheimer MS 103C, Box 6
<i>CJ</i>	<i>Journal of the House of Commons</i>
<i>CSPD</i>	<i>Calendar of State Papers Domestic</i>
<i>EHD</i>	<i>English Historical Documents 1660-1714</i> , (ed.) Browning, A. (London, 1953)
Entry Book	Entry Books, <i>A Calendar of Treasury Books</i> , (ed.) Shaw, W. A. (32 vols, London, 1904-62)
<i>Entring Book</i>	<i>The Entring Book of Roger Morrice (1677-1691)</i> , (ed.) Goldie, M. et. al. (Woodbridge, 2009)
<i>Evelyn's Diary</i>	<i>The Diary of John Evelyn</i> , (ed.) Bray, W. (New York, 1901)
Grey debates	<i>Grey's Debates of the House of Commons</i> , (ed.) Grey, A. (London, 1769)
<i>History of England</i>	<i>The History of England, During the Reigns of K. William, Q. Anne and K. George I.: With an Introductory Review of the Reigns of the Royal Brothers, Charles and James</i> (London, 1744).
<i>History of Parliament</i>	<i>The History of Parliament: the House of Commons 1660-1690</i> , (ed.) Henning, B. D. (3 vols, London, 2006)
HHC	Hull History Centre
HLRO	House of Lords Record Office
HMC	Historical Manuscripts Commission
<i>Letters of Charles II</i>	<i>The Letters, Speeches and Declarations of King Charles II</i> , (ed.) Bryant, A. (London, 1968)
Lutterell, <i>Brief Relation</i>	<i>A brief historical relation of state affairs, from Sept. 1678 to Apr. 1714 vol. I</i> (Oxford, 1857)

<i>LJ</i>	<i>Journal of the House of Lords</i>
McKenzie and Bell	<i>A Chronology and Calendar of Documents Relating to the London Book Trade, 1641-1700</i> , (eds.) McKenzie, D. F. and Bell, M., vol. II (Oxford, 2005)
Minute Book	Minute Books, <i>A Calendar of Treasury Books</i> , (ed.) Shaw, W. A. (32 vols, London, 1904-62)
Newdigate	Newsletters addressed to Sir Richard Newdigate, now in the Folger Shakespeare Library, Washington D.C.
<i>ODNB</i>	<i>Oxford Dictionary of National Biography</i>
<i>Pepys' Diary</i>	<i>The Diary of Samuel Pepys</i> , (eds.) Latham, R. and Matthews, W., vol. 9 (Berkeley, 2010)
<i>State Trials</i>	<i>A Complete Collection Of State-Trials And Proceedings For High-Treason And Other Crimes and Misdemeanours</i> , (ed.) Hargrave, F. (1776)
SP	State Papers, The National Archives, Kew
<i>Statutes at large</i>	<i>The Statutes at Large from the Magna Charta, to the End of the Eleventh Parliament of Great Britain, Anno 1761 [continued to 1806]</i> , (ed.) Pickering, D. (46 vols, Cambridge, 1762-1807)
<i>Statutes of the Realm</i>	<i>Statutes of the Realm</i> , (ed.) Raithby, J. (9 vols, London, 1810-25)

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Introduction

This thesis is about policymaking and political practice in 1670s England. It will distinguish between politics and policy, as contemporaries did, and will argue that political culture at this time was shaped as much by the day to day competition for the means of exercising power, or *how* politics was done, as it was by the longer development of the ideas and ideologies which underpinned political practice, or *why* politics was done. It aims to explore political culture in the run up to the dissolution of the Oxford parliament in March 1681 and to suggest that it was the tension between Charles II's continuing attempts to develop and implement policy personally and different groups in parliament's efforts to introduce a more collective and collaborative method of making and implementing policy which drove political change in this period.

On the morning of 20th March 1669, Samuel Pepys visited his friend William Coventry, member of the house of commons for Great Yarmouth and a former privy councillor, in the Tower of London.¹ Whatever they thought of his supposed irreligion, his brazen obstinacy, or his Machiavellian approach to politics, Coventry's contemporaries agreed that he was, as even his old nemesis the earl of Clarendon described him, 'a man of quick parts and a ready speaker, unrestrained by any modesty or submission to the age, experience or dignity of other men'.² Pepys himself admired and affirmed his friend's ability to speak 'with so much reason, and eloquence so natural'.³ And when he visited him in the Tower that day in March, Coventry's conversation seems to have been no different. They had walked alone on the stone walk, Pepys wrote in his diary later that day, and had talked about politics, the navy, and the possibility of a new war with the Dutch.⁴ And, most notably, they had discussed the former lord treasurer, the earl of Southampton, who Coventry still retained a deep professional respect for, and the former lord chancellor, the earl of Clarendon, who Coventry had been so instrumental in removing from office and still disliked two years on.

Coventry had explained to Pepys how he had heard those two lords each trying to shape the king's policy of indemnifying the participants in the regicide at the beginning of his reign, the one hoping to use Charles' power of pardon as leverage to ensure that the crown

¹ 'William Coventry', *History of Parliament*.

² Edward Hyde, earl of Clarendon, *The life of Edward earl of Clarendon, written by himself, vol. 3* (Oxford, third edn. 1761), p. 569.

³ *Pepys' Diary*, Monday 22nd July 1667.

⁴ *Ibid*, Saturday 20th March 1669.

came out favourably in the impending Restoration settlement, and the other hoping to rush it into implementation in the knowledge that at that time parliament were on the king's side anyway. 'When the king did shew himself forward for passing the Act of Indemnity', Coventry had said, '[Southampton] did advise the king that he would hold his hand in doing it, till he had got his power restored that had been diminished by the late times, and his revenue settled in such a manner as he might depend on himself, without resting upon parliaments'.⁵ But Clarendon, on the other hand, 'because for the king's sake [parliament] were awhile willing to grant all the king desired, did press for its being done; and so it was, and the king from that time able to do nothing with the parliament'.⁶

Coventry's story, recorded by Pepys as an anecdotal titbit alongside his usual recollections of what he had had for lunch and how late he had had to stay at his office, was more than just the idle chatter of a man bored by three weeks in prison. It revealed, in fact, how the constitutional settlement made in the first years after the Restoration laid the foundations for the way in which politics would be done for the rest of Charles' reign. Charles had failed, Coventry thought, to capitalise on the power which his ability to indemnify his opponents had given him over the how the Restoration settlement was made, meaning that many parts of the new constitution had remained rushed, ill thought out, and unfinished. Far from clearly and conclusively distributing power between politicians, locking them in to a defined and accepted set of practices and behaviours which would from then on keep debate constructive and politics moving forward, the Restoration settlement had ended up being sufficiently loose and incomplete to leave the way open for political dispute and opposition in the future. Certain political processes, structures of state, and methods of governance were left exposed to competition by anyone who could construct a claim to ownership over them. As Coventry and Pepys discussed, even by the end of his first decade as king, Charles and his many opponents were still contesting the means of controlling public access to information and the *arcana imperii*, who had legislative power and who executive, who had access to and control over government bureaucracy, and who should fund government and by what means. As the second decade of the restored king's reign began, this competition for the means of exercising power had grown to such a height that the country was poised for political crisis.

While, as historians have for a long time shown, people in the Restoration period were concerned with developing, representing and debating issues, ideas and identities, that

⁵ Ibid.

⁶ Ibid.

intellectual process was only one part of political culture. The other was a much broader practical concern, born out of the constitutional gaps in the Restoration settlement, with how those ideas could be turned into reality through policymaking and practice. This thesis aims, then, to explore these more practical concerns, and to show that it was the continuing contest for the power to turn ideas into policy and then to turn that policy into practice which proved decisive in the gradual breakdown of relations between the king and his opponents throughout the 1670s and in the final dissolution of parliament in 1681. In order to explore this other practical side of political culture, which has not yet received a great deal of scholarly attention, the thesis will draw upon methods and source material outside of those traditionally used by political historians, and in doing so will try to make a meaningful contribution to an emerging historiographical trend perhaps best described, as we will see, as the 'process turn'.

Scope of the Current Study

It is only relatively recently that the Restoration period has received any great scholarly attention, with the reigns of Charles II and James II having traditionally been overshadowed by the events of the 1640s and 50s before them, and the glorious revolution afterwards. The earlier of these periods in particular drew a lot of attention from Marxist historians preoccupied with how class tensions contributed to and could be read out of the great political, religious and social upheavals of the time.⁷ But the absence of any major revolutionary movement for the majority of the Restoration period, and the relative stability which it is tempting to assume existed as a result, did not produce the same kind of scholarly interest.

From the mid-1970s and in to the 1980s, however, revisionist historians, seeking to address the intellectual and evidential gaps in three hundred years-worth of often partisan and gossipy accounts of Charles and James' reigns, turned their attention to this then understudied period. With few Marxist histories of the Restoration to respond to, it was the traditional whiggish histories of the period which revisionists began to question. They challenged these older accounts, which aimed to chart how the period progressed towards the

⁷ The greatest of these Marxist historians was Christopher Hill. His huge output in the middle decades of the twentieth century posed many of the questions which scholars are still trying to answer even now. There are too many of Hill's works which are important to be able to cite them all here. But his *The Intellectual Origins of the English Revolution* (1965) and *The World Turned Upside Down: Radical Ideas During the English Revolution* (1972) are, I think, two of the best early modern history books ever written.

glorious revolution and the liberty waiting beyond it, by exploring the influence of shorter-term, contextual moments in the organisation and negotiation of power in Restoration political culture.⁸ Revisionists reduced the scale of their studies and began to regard the twenty eight years between the civil wars and the glorious revolution in their own right, in order to examine the character of the period free from the contamination of unwieldy longer-term narratives and overly-schematic explanations of the progress of history.⁹ They asked questions of how changing national interests influenced individual policy or groups of policies and then played out in wider political debate.¹⁰ They began to explore how developing economic trends and principles affected how official policy and legislation featured in broader political designs.¹¹ They asked how new methods of explaining and approaching the world developed in the face of changing attitudes to the established church, and how catholicism and protestant dissent interacted with more traditional belief systems.¹² And, perhaps most importantly for political historians, they studied how, as broader influences pushed and pulled society in different directions, Restoration identity began to solidify into distinct political institutions and even political parties.¹³

By emphasising the agency of contingent moments, then, and by thus rejecting all sense of inevitability in the development of the period, revisionists have been able to credit

⁸ Two of the more important Whiggish histories were written by David Hume and T. B. Macaulay. Hume wrote about the Restoration period in his *The history of England, from the invasion of Julius Caesar to the Abdication of James II*. Macaulay wrote about it in his *The history of England from the accession of James II*. Both histories have run to innumerable editions since their original publication in the eighteenth and nineteenth centuries respectively. More recently, the Whiggish tradition was advanced by G. M. Trevelyan, in his *England Under The Stuarts: The political, constitutional, and social history of England in the seventeenth century* (1904, first edn.).

⁹ John Morrill has made one of the clearest revisionist statements about the agency of contingency in the development of the past in his 2003 Stenton Lecture, which has since been published by the University of Reading. J. Morrill, 'Uneasy lies the head that wears a crown': Dynastic crises in Tudor and Stewart Britain and Ireland 1502-1746' (The Stenton Lecture, 2003: University of Reading, 2005 [ISBN 0704998556]). In this lecture, by setting up a series of counter-factuals Morrill manages to explore how the specific circumstances in which individuals found themselves guided their actions and identities and led to the decisions which they made and the changes which eventually took place. In this sense, Morrill shows that it is fair to regard circumstances as having agency in the development of history as well as people. As will be seen below, however, this understanding of where agency lies is the basis of a great deal of debate among historians.

¹⁰ J. L. Price, 'Restoration England and Europe', in J. R. Jones (ed.) *The Restored Monarchy, 1660-1688* (London, 1979); R. Hutton, *The Restoration: A Political and Religious History of England and Wales, 1658-1667* (Oxford, 1985).

¹¹ H. Tomlinson, 'Financial and Administrative Developments in England, 1660-1688', in J. R. Jones (ed.) *The Restored Monarchy*; J. P. Kenyon, *The Stuart Constitution, 1603-1688* (Cambridge, 1986).

¹² J. P. Kenyon, *The Popish Plot* (New York, 1972); J. Miller, *Popery and Politics in England, 1660-1688* (London, 1972); R. A. Beddard, 'The Restoration Church', in J. R. Jones (ed.) *The Restored Monarchy*; J. Miller, 'The Potential For 'Absolutism' in Later Stuart England', *History* vol. 69 issue 226 (1984), pp. 187-207; R. Greaves, *Deliver Us From Evil: The Radical Underground in Britain, 1660-1663* (Oxford, 1986).

¹³ J. R. Jones, *The First Whigs: the politics of the exclusion crisis 1678-1683* (London, 1961); J. H. Plumb, *The Growth of Political Stability in England* (1967); J. Miller, *Restoration England: The reign of Charles II* (London, 1985); R. Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government* (Princeton, 1986); J. R. Jones, *Charles II, Royal Politician* (London, 1987).

Restoration politicians and the identities which they developed with a great deal more sophistication and organisation than previously acknowledged. They have shown us that, instead of being driven by the huge undercurrents of class struggle or by a teleological progression towards freedom and modernity, seventeenth-century history developed on a human level, as people reacted to events, thought about their circumstances, and tried to respond to and interpret the world around them. This thesis will draw upon the synchronic approach to studying the past which revisionist historians have emphasised, and aims to contribute to the study of the Restoration as a period of change in its own right, rather than as a by-product of prior events or as a signifier of things to come. It will reduce the chronology of study to the second decade of Charles II's reign, and it will read outwards more in an attempt to account for a wider range of influences over Restoration politics and how those influences combined and interacted to shape the period in the way that they did.

But in spite of the revisionist insistence that studying the period for its own sake is important, in many respects the Restoration is still 'the historiographical poor relation to both the earlier and later periods'.¹⁴ Any new study of this phase of English history owes much more methodologically to histories of other parts of the seventeenth century. Historians of the pre-civil war period in particular have recently taken up and advanced the revisionist emphasis on the relationship between identity and issues in the development of their period, and have begun to demonstrate how the forms, basis, character and objectives of political debate were not only dependent on the contingent moments in which that debate took place. They changed, rather, through the designs of political participants who understood and would willingly adjust the world around them. These more recent post-revisionist historians, then, the majority of whom have worked on the first half of the seventeenth century, have begun to identify agency in historical change in people, rather than in circumstances. Seemingly unconvinced by descriptions of people being passively moulded by contingency or unconsciously shaped by long-term undercurrents of social, economic and intellectual change, both of which often depict the past as being one unplanned moment after another, post-revisionists have explored how people actively and performatively shaped identity and the issues which mattered to them themselves, in the pages of printed material and through the processes of debate.¹⁵

¹⁴ Tim Harris described the Restoration period in this way in 1987, in his *London Crowds in the Reign of Charles II: Propaganda and Politics from the Restoration Until the Exclusion Crisis* (Cambridge, 1987). I think his reflection on the scholarship of the period is still appropriate now.

¹⁵ The output of many of these historians is enormous. So, what follows is a very select few titles which I think epitomise how post-revisionism has moved the scholarship onwards.

As a result, these historians have been able to show how people from all levels and in all corners of seventeenth-century society actively engaged with and contested power, and sought to reinforce and adjust their place in the world by asking difficult and sophisticated questions of political and religious authority and claims to legitimacy.¹⁶ They have challenged the idea that authority was exercised linearly between a series of static and established positions towards singular, consistent ends, and have shown that power was negotiated as people used multivalent language to represent and debate labile concepts, issues and identities.¹⁷ And they have shown how the ways in which news, ideas and polemic were represented and read by different people, in different locations, and at different times allowed people to develop nuanced political attitudes and identities in individual localities and across the country.¹⁸

This thesis will try to emulate and expand on this post-revisionist effort to shift the focus in explanations of historical change away from the circumstances in which it took place and towards people's attempts to acquire and develop the agency to influence their world themselves. It aims to contribute to the more detailed picture of the past which these historians have tried to draw, by exploring how fluid and changeable identities and issues in Restoration politics could be, as people created and then tried to resolve political, religious and social tension. And, importantly, therefore, it will try to take up the, at times elided, emphasis placed by some post-revisionist historians on the processes of debate in politics. Political ideas and ideologies were not pitched at each other in stationary and complete forms until one of them found the correct audience and environment and somehow prevailed. They

¹⁶ While difficult to place in any one historiographical category, Peter Lake is perhaps most responsible for taking seventeenth-century political and religious history beyond the revisionist method. In one of his more recent works, he summarises the post-revisionist approach by saying that, in order to 'recuperate, to animate and inhabit imaginatively and intellectually' early modern ideas and identities, we should take what people in the period 'were doing and saying about themselves and their place in the world seriously'. P. Lake, *Bad Queen Bess? Libels, Secret Histories, and the Politics of Publicity in the Reign of Queen Elizabeth I* (Oxford, 2016), p. 4. Also, see P. Lake, *The Boxmaker's Revenge: 'orthodoxy', 'heterodoxy', and the Politics of the Parish in Early Stuart London* (Stanford, 2001), or A. Hughes, *Gangraena and the Struggle for the English Revolution* (Oxford, 2004).

¹⁷ P. Lake, 'Calvinism and the English Church 1570-1635', *Past & Present* no. 114 (1987), pp. 32-76; P. Lake with M. Questier, *The Anti-Christ's Lewd Hat: Protestants, Papists and Players in Post-Reformation England* (New Haven, 2002); M. Questier, 'What happened to English Catholicism after the English Reformation?', *History*, 85 (2000), pp. 28-47; M. Questier, *Catholicism and community in early modern England* (Cambridge, 2006); Harris, *London Crowds*; J. Scott, *Algernon Sidney and the Restoration Crisis, 1677-1683* (Cambridge, 1991); M. Knights, *Politics and Opinion in Crisis, 1678-81* (Cambridge, 1994); T. Harris, *Restoration: Charles II and his kingdoms* (London, 2006).

¹⁸ R. Cust, 'News and Politics in Early Seventeenth-Century England', *Past & Present*, no. 112 (Aug, 1986), pp. 60-90; K. Sharpe, 'Crown, parliament and locality: government and communication in early Stuart England', *English Historical Review*, Volume 101 (1986), pp. 321-50; T. Cogswell, *The Blessed Revolution: English Politics and the Coming of War, 1621-1624* (Cambridge, 1989); P. Hinds, 'The Horrid Popish Plot': *Roger L'Estrange and the Circulation of Political Discourse in Late-Seventeenth-Century London* (Oxford, 2010); R. Bullard, *The Politics of Disclosure, 1674-1725: Secret History Narratives* (Abingdon, 2015).

were, instead, constantly changing and developing as, in the face of competing designs, people rethought and revised their political ambitions and the ways in which they wanted to realise them, in order more successfully to gain and exercise power. This thesis will take seriously, then, as some historians have recently suggested we should, people's competing statements about their intentions to effect change and the means by which they aimed to do so, and to recognise them as part of an ongoing struggle to gain agency and power.¹⁹

This post-revisionist emphasis on how political identity was defined through processes of representation and debate has recently been developed to such an extent that we can now, I think, see what could be called a 'process turn' in the study of seventeenth-century history. Many historians have recently taken the post-revisionist method beyond a focus on the content of publications and the processes of debate in the public contest for power and identity. They are now beginning to explore a wider range of processes, outside of just debate, which led up to and resulted from people's engagement with political, religious and social ideas and issues.²⁰ An excellent case has now been made for not only studying which ideological statements were made, which issues they related to and how they played out in debate, but for also exploring the processes by which those statements were made and the reasons for them being brought into existence how they were.

So, recent works have drawn an important distinction between polemic and propaganda to explore how political culture was shaped, not only by publications which advocated a specific political line or ideology in relation to a contemporary debate, but by works which, by appearing how, when and through whom they did, attended to specific political, religious or social designs.²¹ Others have shown how people, both within and outside of the political elite, contested and shaped the processes of publication, petitioning, protest, and public speaking as means of representing their ideas and making ideological statements. They have begun to explore how early modern people recognised that the processes through which political, religious or social statements had to pass, or which they had to bypass, before becoming public were an important part of them being able to influence

¹⁹ In his introduction to *Bad Queen Bess?*, Peter Lake persuasively suggests that, since contemporary views of politics, religion and society 'can only properly be understood when they are set in a tensely dialogic relationship', we should take contemporaries' statements about their world seriously. Lake, *Bad Queen Bess?*, p. 7.

²⁰ This method has been most explicitly laid out by Jason Peacey. See, in particular, the introduction to his *Politicians and Pamphleteers: Propaganda During the English Civil Wars and Interregnum* (Aldershot, 2004).

²¹ Peacey, *Politicians and Pamphleteers*; J. Raymond, *Pamphlets and Pamphleteering in Early Modern Britain* (Cambridge, 2003); M. Knights, *Representation and Misrepresentation in Later Stuart Britain: Partisanship and Political Culture* (Oxford, 2005); M. Braddick, *God's Fury, England's Fire: A New History of the English Civil Wars* (London, 2008).

the course and nature of the political, religious and social cultures in which they lived.²² Others have begun to explore state building and the day to day economics and administration of government. They have challenged the view, put forward in many histories, that seventeenth-century governments were laying the foundations for a modern, enlightened, and permissive society which allowed big political and religious ideas to meet freely in open and public debate as part of an organic process of development and change. They have shown, instead, that politicians and government officials aimed to build a bureaucracy, often based more on the principles of renaissance humanism, which was capable of receiving, logging and interpreting vast amounts of information, in order better to understand, intervene in and control the society which they sought to rule.²³ And still others have shown how private, commercial and local interests exerted their own influences on the state and the state's ability to raise revenue and conditioned how governments could turn their ideas, policies, and claims to authority into reality.²⁴

This process turn has shown us, then, that if we wish to understand seventeenth-century political culture fully, we must look outside of the statements which people at that time made about their society, to the range of processes which they used to form their ideas and which allowed them practically to turn those ideas into reality. These historians have demonstrated that we must now try to explore, as well, how ideas came to exist, whose interest it was in to make arguments in the way they were made, how the way in which something was said or done affected what was said or done, how the kind of statement and the process which was used to make it was matched to the end it advocated, and then what

²² A. Milton, 'Licensing, Censorship, And Religious Orthodoxy In Early Stuart England', *The Historical Journal* Volume 41, Issue 3 (September 1998), pp 625-651; T. Harris (ed.), *The Politics of the Excluded, c. 1500-1850* (Basingstoke, 2001); J. Peacey, *Print and Public Politics in the English Revolution* (Cambridge, 2013); S. Sowerby, *Making Toleration: The Repealers and the Glorious Revolution* (Cambridge, MA, 2013); A. W. Barber, "It is not easy what to say of our condition, much less to write it": the continued importance of scribal news in the early eighteenth century', *Parliamentary History* Volume 32 (2013), pp. 293-316; A. W. Barber, 'Censorship, Salvation and the Preaching of Francis Higgins: A Reconsideration of High Church Politics and Theology in the Early 18th Century', *Parliamentary History* Volume 33, Issue 1 (2014), pp. 114-139.

²³ M. Braddick, *The Nerves of State: Taxation and the Financing of the English State, 1558-1714* (Manchester, 1996); J. Soll, *The Information Master: Jean-Baptiste Colbert's Secret State Intelligence System* (Michigan, 2009); J. C. Rule and B. S. Trotter, *A World of Paper: Louis XIV, Colbert de Torcy, and the Rise of the Information State* (Montreal, 2014); A. W. Barber, 'Diverse and Evil Disposed Persons': private and public restraint in the 1690s', paper delivered at the NACBS, 10th October 2014; N. Millstone, *Manuscript Circulation and the Invention of Politics in Early Stuart England* (Cambridge, 2016).

²⁴ J. Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (Cambridge, MA, 1990); P. K. O'Brien and P. A. Hunt, 'England, 1485-1815', in R. Bonney (ed.) *The Rise of the Fiscal State in Europe c. 1200-1815* (Oxford, 1999); S. Pincus, *1688, The First Modern Revolution* (New Haven, 2009); J. T. Takeda, *Between Crown and Commerce: Marseille and the Early Modern Mediterranean* (Baltimore, 2011); A. Dobie, *Accounting at Durham Cathedral Priory: Management and Control of a Major Ecclesiastical Corporation 1083-1539* (Basingstoke, 2015).

processes an idea had to pass through once it had been developed in order to have a practical impact on society. And in doing so, the process turn has made a range of source material, which has for a long time remained the demesne of book historians, bibliographers, economists, sociologists and political scientists, now relevant to the study of political, religious and social history.

Overall, then, there have been a number of important developments in the scholarship on the seventeenth century, of which any new study of Restoration period politics needs to take note. Collectively, historians in the last four or five decades, by way of different and developing methodologies, have successfully demonstrated the benefit of reducing the scale of study to a human level, and examining the Restoration period on its own terms. They have shown that people in the seventeenth century had a clear and intelligent understanding of which political issues characterised and shaped their society, and were accordingly able to organise themselves into, what were at times, distinct groups and movements in order to develop and achieve their aims. They have demonstrated that people in the seventeenth century were capable, on all sides in debate, of developing strong and sophisticated political and theological arguments, and that they were aware of how to convert those arguments into convincing and persuasive ideological statements through the processes of public debate. And they have shown that politicians from all levels of society and in all types of political participation had a firm grasp of rhetorical technique and the means of communicating with and persuading various public audiences, the gritty business of government administration, the complex detail and various uses of accounting techniques, and the politics of economy and money's relationship with the constitution.

This thesis aims to contribute to this growing scholarship on seventeenth-century political history, by focussing on how people in the 1670s made policy and tried to turn their ideas into reality in order to make changes in politics, religion, society, and the course of events. It will take a holistic view of political culture in this period, and will explore how ideological belief, policymaking and political practice all informed and influenced each other through the processes of debate, politicking and statecraft.

Conceptual Framework

There was, as historians have demonstrated time and again, a rich and diverse intellectual culture underpinning Restoration-period politics, in which an infinite number of ideas were

developed, pitched and debated by a range of political participants and audiences. Restoration-period politics advanced, these historians have said, because of a continual dialogue about the ideological basis for doing politics, the political, religious and social issues which needed to be addressed, and the identities which people formed in political participation. These scholars have examined the content of Restoration-period intellectual culture in detail, and have shown how, through an intense dialogic process of representation and discussion, people from all levels of society challenged the boundaries of authority, made claims and counter-claims to legitimacy, and tested and redefined the orthodoxies in which they lived.

All of these histories have a shared fundamental interest in *why* people in the Restoration period sought to do politics. They are all still responding, whether explicitly or not, to the echoes of the revisionist cry that ‘issues were what mattered during the [Restoration period], issues on which the nation was divided with a bitterness and intensity’.²⁵ We now have, then, a series of detailed and imaginative accounts of what those issues might have been, of how people engaged with, represented and shaped, for example, ideas of sovereignty, the polity, the role and nature of the church in politics and society, the constitution, the royal succession, gender, ethnicity, localities and central government, or dissent and radicalism.²⁶

But this focus on issues, on why politics was done in the Restoration period, at best skims over a range of other important tensions which contributed to political change, at worst completely ignores them altogether, and in both instances fails to explain fully the changes which took place at all. Change did not happen in political culture just because people’s ideas surrounding certain fundamental issues were developing. The Restoration itself, for

²⁵ It was J. R. Jones who talked about how ‘the forms, basis, character and objectives of government’ in the exclusion crisis were reliant on ‘issues’. See the introduction, p. 3, of his *The First Whigs*. Jones is undoubtedly one of the most important figures in Restoration historiography, having published monograph after edited volume after article on this period alone, at a time when, as mentioned, most historians were cutting the Restoration a wide berth. The scholarship which has emerged since owes a great deal to his, what was at the time, bravely conceptualised and always well-written work.

²⁶ Scott, *Algernon Sidney; Knights, Politics and Opinion*; J. Rose, *Godly Kingship in Restoration England: The Politics of The Royal Supremacy, 1660–1688* (Cambridge, 2011); A. Murphy, *Liberty, Conscience, and Toleration: The Political Thought of William Penn* (Oxford, 2016); N. Keeble, *The Restoration: England in the 1660s* (Oxford, 2002); C. Jackson, *Restoration Scotland, 1660-1690: Royalist Politics, Religion and Ideas* (Woodbridge, 2003); G. De Krey, *London and the Restoration, 1659-1683* (Cambridge, 2005); G. Tapsell, *The Personal Rule of Charles II, 1681-85* (Woodbridge, 2007); E. Vallance, *Revolutionary England and the National Covenant: State Oaths, Protestantism, and the Political Nation, 1553-1682* (Woodbridge, 2005); L. Gowing, *Gender Relations in Early Modern England* (London, 2012); G. Mahlberg, ‘Henry Neville and English Republicanism in the Seventeenth Century’, unpub. University of East Anglia PhD Thesis (2005); J. Spurr, *The Restoration Church of England, 1646-1689* (New Haven, 1991); S. Thomas, *Creating Communities in Restoration England: Parish and Congregation in Oliver Heywood’s Halifax* (Leiden, 2012); M. Zook, *Radical Whigs and Conspiratorial Politics in Late Stuart England* (Pennsylvania, 2010).

instance, did not take place simply because people began once again to be able to conceive of living subject to a monarch. Out of the intellectual culture described so far by historians, there had to be a process by which historical characters' discussion of issues was turned into plans for action and then by which their plans were realised in practice. There was, they recognised, a distinction between politics and policy.

While they were concerned with presenting sound arguments in discourse, politicians in the Restoration period took a practical approach to politics which recognised that even if they managed to gain intellectual dominance in debate 'power without policy is like a ship without a helm'.²⁷ They knew that their ability to develop and implement policy effectively, and thus to realise their ideas in practice, depended on their command of a series of practical and physical systems of state and governance. They knew, for instance, how their ability to exercise power was shaped by their ability to control and distribute wealth. As William Petty put it, in one of the many essays which he wrote on political economy in the last quarter of the seventeenth century, 'power is to be able to take away the commoditys of another ... [Greatness] is to have power over many men ... Sovereignty is to dispose of the power of all men and consequently of their commoditys'.²⁸ Or, politicians knew how their command of the law and legal processes affected their ability to participate in politics. If, the duke of Buckingham told the house of lords in 1677, '[kings] have power by an order of theirs to invalidate the statute *de tallagio non concedendo*, then they may not only, without the help of a parliament, raise money when they please, but also take away a man's estate when they please, and deprive everyone of his liberty or life'.²⁹ Politicians' understanding of how these physical and practical processes affected their ability to make their ideas a reality was so developed that they recognised that even in the face of 'strong opposition from mistaken opinions, and whilst [it] will remaine almost single in [its] opinion against all others in [the] kingdome', a government could still govern successfully if it could 'shew upon what foundations [it] will build or maintaine [it]self'.³⁰ To get at these more mechanical, day to day tensions, then, we need to ask the question of *how* politics was done in the Restoration period. How did people seek to solve their issues through policymaking and practice?

²⁷ Patrick Kerr in a letter to William Smith, messenger, regarding Smith's seizure of some of Kerr's goods in London, 21st August 1676. SP 29/384, f. 185.

²⁸ From his notes for an essay entitled *An Explication of Trade & its Increase* c. 1671, BL Add MS 72865, ff. 108-115.

²⁹ The *Statutum de tallagio non concedendo* was a piece of legislation which prevented kings from levying taxes on land without the consent of parliament. It was quoted as a statute in the preamble to the Petition of Right; Buckingham's speech, made on 15th February 1677, is recorded in *Cobbett's Parliamentary History of England, Volume 4* (London, 1808), pp. 815-823.

³⁰ Danby in a memorandum to the king, June 1677. BL Add MS 28042, f. 13.

Where Restoration historians have studied policymaking they have focussed on how people sought to shape their own and their opponents' ability to participate in policymaking through the processes of debate. Collectively they have shown how the lack of a codified constitutional settlement in the Restoration period, which clearly set out what everybody's roles in politics were, meant that politicians were able consistently to make strong claims for their right to participate in policymaking whilst trying to destabilise the claims of their opponents.³¹ They have explored how, out of these claims about the right to participate in policymaking, politicians used a range of methods to make competing policy pitches to a discerning and legitimating public authority in order to discredit the policies of their opponents and to win favour for their own.³² In this way, these historians have said, policy was developed how it was because politicians in opposition to each other put pressure on each other's plans through creative and skilful use of propaganda, petitioning, protest, and polemic. Changes in political culture then emerged, they have suggested, out of the cracks and tensions between politicians' competing efforts to participate in this discursive process of representation and debate.

By taking this approach, political historians have very successfully been able to draw out how Restoration-period politicians thought about how policy should be made and how those beliefs were connected to their divergent views of who had a right to participate in politics. The solutions which politicians developed to the problems which they encountered in politics were based in an intellectually rigorous process of representation and discussion, which was underpinned by ideas of correct practice and legitimate authority. But while this approach has turned out a series of compelling readings of the ideas behind policy decisions, these historians' focus on the content of debate in their explanations of how policy was made has left a gap between the point at which different policies came under intellectual pressure in discourse and the point at which change in political culture actually materialised. They have overlooked the often mundane and mechanical day to day processes by which governments and their opponents tried to implement policy and the tensions which existed around those

³¹ P. Seaward, *The Cavalier Parliament and the Reconstruction of the Old Regime, 1661-1667* (Cambridge, 1989). Seaward brilliantly examines how the Restoration settlement conditioned political practice through the first decade of Charles II's reign and in to the second. It is, really, compulsory reading for any scholar of Restoration-period political culture.

³² Harris, *London Crowds; Knights, Representation and Misrepresentation; Knights, Politics and Opinion*; A. Houston and S. Pincus (eds.), *A Nation Transformed: England After the Restoration* (Cambridge, 2001); Hinds, *The Horrid Popish Plot*; B. Cowan, *The Social Life of Coffee: The Emergence of the British Coffeehouse* (New Haven, 2005); S. Pincus, 'Coffee Politicians Does Create': Coffeehouses and Restoration Political Culture', *Journal of Modern History* Volume 67, No. 4 (December 1995), pp. 807-834; A. Fox, *Oral and Literate Culture in England, 1500-1700* (Oxford, 2000).

processes. And, as a result, they have presented an overly linear explanation of change: politicians had ideas, they discussed their ideas and plans for realising them, and then change happened.

Early modern policymaking and implementation has thus been much more successfully studied by historians of the late-seventeenth and eighteenth centuries. These historians of the later period have shown much greater willingness to drill past the ideas behind policy decisions to the processes through which plans and ideas were actually realised.³³ As a result, they have been able to construct much more detailed explanations of how different parties, projects and interests coalesced and forced their agendas into political decision making to effect material change on a local, national and even international scale. Historians of the eighteenth century in particular now have a much greater understanding than their Restoration counterparts of, for instance, how an increasingly industrialised British society began to empower a greater number of people through the end of the seventeenth century to develop their own political and economic projects within and beyond those which they received top-down and centre-out from the government.³⁴ They have explored much more convincingly how different types of interest groups afforded their members different tools with which they could shape their interventions in political, religious and social policymaking.³⁵ Or they have demonstrated how changing attitudes to constituency politics allowed politicians to engineer advantages in general elections or in the development and implementation of political designs on both a national and regional level.³⁶

The chief significance of these attempts to study policymaking in the late-seventeenth and eighteenth centuries for political historians of other periods is that they have shown the value of broadening the source base. Historians of the later period have moved beyond reading sources which reveal the content and processes of early modern debate and the ideas which contemporaries pitched against each other. They have recognised that, taken seriously,

³³ This is not to say that this greater willingness is unique to this later period, merely more prevalent. The early-seventeenth century has recently seen truly excellent work on the processes of decision making by W. J. Bulman, 'The Practice of Politics: The English Civil War and the 'Resolution' of Henrietta Maria and Charles I', *Past & Present* Volume 206 Issue 1 (2010), p. 50. See also M. Kishlansky, *The Rise of the New Model Army* (Cambridge, 1979), or J. De Groot, 'Space, Patronage, Procedure: The Court at Oxford, 1642-46', *English Historical Review*, cxvii (2002), pp. 1204-1227; And mid-seventeenth century France and the policymaking of Jean-Baptiste Colbert has also produced a great deal of excellent work. See, in particular, Soll, *The Information Master and Rule* and Trotter, *A World of Paper*.

³⁴ J. Thirsk, *Economic Policy and Projects: The Development of a Consumer Society in Early Modern England* (Oxford, 1978); R. Grassby, *The Business Community of Seventeenth-Century England* (Cambridge, 1995).

³⁵ A. Olson, *Making the Empire Work: London and American Interest Groups, 1690-1790* (Cambridge MA, 1992); J. Innes, *Inferior Politics: Social Problems and Social Policies in Eighteenth-Century Britain* (Oxford, 2009).

³⁶ H. T. Dickinson, *The Politics of the People in Eighteenth-Century Britain* (Basingstoke, 1994).

historical actors' innovations in, for example, regional employment practices, methods of campaigning and lobbying, or the application of direct and indirect taxation were themselves tacit expressions of ideological belief and political design. By studying source material which reveals process then, eighteenth century historians have at the same time found a different way of accessing the ideas which were the basis for people's participation in politics and of exploring how those ideas practically manifested in day to day political developments.

But while Restoration historians have managed to study the ideas behind policy decisions well, and while historians of the eighteenth century have been better at drawing out the means by which policy was implemented in their period, it is not enough for a new study of 1670s political culture simply to combine these two approaches and hope that a more satisfactory reading of policy will follow. For the last fifty years political scientists have warned against studying policymaking with such so-called 'high-modernist' ideals.³⁷ They have shown, by now conclusively, that political power is not exercised smoothly between the point at which an idea, ambition or design is conceived and the point at which the change that that idea is designed to make is realised. Much as they might like to politicians do not have 'an overwhelming ... ability to measure and monitor the world' or a 'boundless ... capacity actually to pull off the task of control'. For political scientists, 'the limits of authority and accountability, of sheer analytic capacity, have borne down upon us'.³⁸

In the last half a century policy theorists have begun to recognise that policymaking is more of an obstacle course, in terms of policymakers' abilities to detect problems, to efficiently develop plans for addressing those problems, and then to administer those plans according to their initial aims, to be navigated by governments and their opponents alike. Constantly pushing back against policymakers' desires and abilities to change the world around them are the practicalities of actually being able to do so. By acknowledging that political power does not work as a smooth application of will by empowered political participants policy theorists have been able to explore more fully the tensions and obstructions inherent in everyday political practice, and to understand the conditions that make for more successful, and unsuccessful, political planning.

Among the areas in which the benefits of this more nuanced understanding of policymaking have been borne out most, and which allow historians of much earlier periods to think about how policymaking worked in the past, has been the study of European federal

³⁷ M. Moran, M. Rein and R. Goodin describe this ambition as high modernist in their 'The Public and its Policies', in M. Moran, M. Rein and R. Goodin (eds.) *The Oxford Handbook of Public Policy* (Oxford, 2008), pp. 3-4.

³⁸ Ibid.

government in the twentieth and twenty-first centuries. These theorists have shown that while federal governments are designed to encourage cross-boundary co-operation and to prevent tyranny, by nurturing multilateral decision making and preventing individual interests from acting unilaterally, in Europe those governments do not always produce the policies which are required for achieving the desired state of peaceful and harmonious co-existence which they are supposed to.³⁹ This gap in federal systems, between the way in which a government is capable of acting or is supposed to act and the way in which it actually acts, political scientists have said, is there because this type of government is prone to ending up in a 'joint-decision trap'.⁴⁰

That is to say that because power in a federal government is shared across a number of levels, and because decisions, planning and problem-solving take place jointly across those levels, if there is not a well-defined code of inter-level co-operation and co-ordination which can accommodate, compensate for, or release the pressure of the competing interests of each level, then when that government comes to turn its ideas into reality through policymaking it largely finds itself in one of two scenarios. Either it undergoes an internal bargaining process, wherein policy is developed according to what will receive the least resistance from the parties involved and which very often means that policy becomes that which is doable rather than that which is required. Or, if that bargaining process cannot take place because the competing inter-level interests cannot be reconciled, a political deadlock emerges wherein no policy is developed and no plan is implemented at all. In both instances, the joint-decision trap means that a federal government does not solve problems as effectively as it could do because its means of developing policy push back against its efforts to make change. Political scientists have therefore been able, with great success, to pick out and explore the tensions in systems of governance and the processes by which power is exercised, and how those tensions affect the way in which policy is developed and plans realised. They have

³⁹ The observation that a gap exists between what federal governments should be doing and what they actually do was made and explored to great effect by Yehezkel Dror in his *Public Policy Making Re-examined* (New Brunswick, 1983); See also, D. Sidjanski (ed.), *Political Decision-Making Processes: Studies in National, Comparative and International Politics* (Amsterdam, 1973).

⁴⁰ The joint-decision trap was first described by F. W. Scharpf, in his 'The Joint-Decision Trap: Lessons From German Federalism And European Integration', *Public Administration* Vol. 66, Issue 3 (1988), pp. 239-278. It has since been revisited and refined in a number of studies, but see in particular J. Blom-Hansen, 'Avoiding the 'joint-decision trap': Lessons from intergovernmental relations in Scandinavia', *European Journal of Political Research* Vol. 35, Issue 1 (1999), pp. 35-67; A. Héritier, *Policy-Making and Diversity in Europe: Escape from Deadlock* (Cambridge, 1999); F. W. Scharpf, 'The Joint-Decision Trap Revisited', *Journal of Common Market Studies* Vol. 44, Issue 4 (2006), pp. 845-864; K. Bogenschneider and T. Corbett, *Evidence-Based Policymaking: Insights from Policy-Minded Researchers and Research-Minded Policymakers* (New York, 2010); A. Benz, 'Escaping Joint-Decision Traps: National and Supranational Experiences Compared', in G. Falkner *The EU's Decision Traps: Comparing Policies* (Oxford, 2011); A. Benz, *Constitutional Policy in Multilevel Government: The Art of Keeping the Balance* (Oxford, 2016).

contextualised political debate and discussions surrounding policy within a broader political system and have shown how power is constrained and shaped by the means available to exercise it. And, importantly, they have shown how political change can occur by the physical processes of state and governance feeding back on themselves. They have demonstrated that when a government comes to act unless it can command the means of developing and implementing policy effectively it can be forced to change the ideas, designs and ambitions which it was originally trying to realise. They have shown that the end which a government ultimately reaches, and the change which ultimately ends up taking place, is determined as much by that government's ability actually to negotiate its plans through the physical processes of state and governance as it is by the pressures of competing points of view in political debate.

However, while the political science approach does illuminate a number of tensions in political planning and practice which simply studying the content of debate, as Restoration historians have done, does not lead us to, we should think carefully about applying a similar approach too strictly to the study of seventeenth-century history. While some political scientists have very successfully studied the effects of politicians acting beyond the boundaries of convention and acceptability in politics, by far the majority of political scientists have not managed effectively to access the kind of human agency in politics which post-revisionist historians have by now shown was important in shaping early modern political culture.⁴¹ Since political scientists' purpose is generally to identify and predict problems in contemporary political systems, in order then to address them and to refine the system being studied, their models tend to focus on what can be forecast and measured so that they can quantify the possible number of outcomes.⁴² As a result, their explanations of politics often become a little constitutionally deterministic. The joint-decision trap model, for instance, can really only account for and identify political behaviours and issues which are theoretically possible within a federal system. It finds it very difficult to explain problems which have emerged through politicians acting outside of their theoretical constitutional

⁴¹ Most notably, Frederick Bailey has explored how politicians in different societies have acted beyond the rules of the political game in order to win and retain political support in his *Stratagems and spoils: a social anthropology of politics* (New York, 1969). And James C. Scott has examined how large-scale plans for change through the twentieth century have produced unpredictable outcomes in the face of unforeseeable circumstances and diverse and conflicting political interests, in his *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, 1998).

⁴² For explicit statements of political scientists' role as advocates of policy see A. B. Wildavsky, *Speaking Truth to Power: The art and craft of policy analysis* (New Brunswick, 1987); G. Majone, *Evidence, Argument, and Persuasion in the Policy Process* (New Haven, 1989); F. Fischer and J. Forester (eds.), *The Argumentative Turn in Policy Analysis and Planning* (Durham NC, 1993).

limits, and so would be no good for studying the activities of Restoration-period politicians who regularly rewrote laws, rhetorically manipulated the constitution to justify their theoretically unconstitutional ends, or made decisions which were just outright illegal.

This thesis will therefore try to draw from and build upon the strengths of these different methods of studying policymaking and practice. It will make two main methodological moves. Firstly, it will build upon Restoration historians' attempts to explore the ideas upon which people based their policy decisions whilst at the same time looking beyond ideological debate to the processes through which politicians tried to turn their ideas into practice. By studying process it aims to reconnect the ideological conflicts and constitutional debates which led people to participate in politics, and which have traditionally been studied by historians of political thought, with the changes which actually took place in 1670s political culture.⁴³ But likewise, by studying ideas it aims to avoid the risk of describing innovations in political process as detached from the broader political agendas for which they were made, as some historians of policymaking previously have done.⁴⁴ Overall it aims to recognise the knowledge and command which politicians in the seventeenth century had over a range of processes and procedures of state and governance, and how they manipulated those processes in order to be able to transfer their ideas into reality more successfully. So, it will ask what were the processes of governance through which people tried to turn ideas, however popular or unpopular, into reality? How, in the face of strong ideological opposition, could a government still govern effectively? Who had access to the processes of political planning and policymaking, and how did people try to shape and improve their ability to develop policy? Could the processes and practicalities of making and implementing policy feed back into debate and change the way in which people viewed and conceptualised their society? And, ultimately, how did the competitions for the ability to make policy and to implement plans change the political culture of 1670s England?

And, in order to explore these questions, the second methodological move will be to broaden the source base, to rethink the types of processes which political historians should

⁴³ Here the thesis is distinct from the largely post-revisionist Restoration histories mentioned in fn. 26 above, and from the Cambridge School of intellectual history which has scarcely ever troubled itself with trying to identify the ethereal political thought of men like Machiavelli, Hobbes and Locke in the discussions and decisions of politicians on the ground actually trying to effect change from one day to the next. For this type of intellectual history see Q. Skinner, *Reason and Rhetoric in the Philosophy of Hobbes* (Cambridge, 1996); J. Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the 'Two Treatises of Government'* (Cambridge, 1982); J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, 1975).

⁴⁴ This absence of a connection to ideas is one of the main drawbacks to Joan Thirsk's method of studying policymaking, for example. Thirsk, *Policy and Projects*.

consider. The thesis will try to recognise how politicians in this period knew how the form and function of their interventions in politics could be used to make political statements and influence the course of events just as much as the content of their interventions did. It was, very often, as some historians of the process turn have begun to demonstrate, not what people said and did in Restoration-period politics, but how they said and did it which was important. So, for example, it will explore what the practical differences between a royal proclamation and an act of parliament were and how materially those means of intervening in policymaking and politics offered their users different ways of exercising power and making change. It will look at how making adjustments to the format of warrants allowed treasury officials to move money around the exchequer in ways that would facilitate their political agenda. Or it will explore how reforms in press regulation were designed to adjust the level of access which different political interests had to the information on which policy decisions were based.

The method which I have used to study policymaking is thus reflected in the structure of the chapters which follow. Each chapter will first try to pick out the divergent views of participants in political debate, in order to establish what different interests in politics hoped to achieve and how their visions of the future, or of correct practice, or of legitimate authority existed at different times. Each chapter will then move on to study the methods by which those different interests developed plans to realise their aims, and how they tried to go about implementing them. The thesis is broadly split into two halves. The first half will explore the tensions in politics and policymaking in the first seven years of the 1670s, while the second half will attempt to draw out how those tensions intensified and developed from the reopening of parliament after the long prorogation of 1676 and through the last three parliaments of Charles II's reign. Roughly speaking, in its entirety it will examine a period from the signing of the secret Treaty of Dover at the start of June 1670, to the dissolution of the Oxford parliament at the end of March 1681.

Chapter one will examine how both the king's and parliament's abilities to participate in politics were based on their ability to control wealth. It will demonstrate how in the first two years of the 1670s Charles' reliance on parliament for votes of supply inhibited his ability to make policy and to exercise power. And it will explore how from the summer of 1673 Charles tried to compensate for this constitutional weakness by charging the earl of Danby with developing treasury practices in order that the crown could become financially independent of parliament. It was, as this chapter will demonstrate, only in a position of financial independence from parliament that Charles could hope to exercise power and

achieve any of his aims completely unimpeded. This chapter will examine the treasury entry books and minute books in detail, in order to pick out the innovations which the earl of Danby made to the office of lord treasurer in the first years of his tenure in order to improve the king's ability to move wealth from private hands centrally into the hands of the crown. It will argue that, very quickly, Danby's understanding of political economy and how to reform treasury practice led him to become a central figure in Charles' government, and a leading influence over the shape and direction of political culture for the rest of the decade.

Chapter two aims to assess how the rifts which emerged in parliament during the tense and fragmented sessions of 1675 led Charles to prorogue them for over a year, and to move even closer to a personal style of rule. It will explore how throughout this long prorogation the king sought to engage with and command a political culture which had moved almost exclusively into the public sphere for want of a parliamentary session in which to engage with politics. As the summer of 1675 turned to autumn, and as a slew of new publications began to criticise both the king and proceedings in parliament, Charles redoubled his efforts to control the effects which the press was having on public discourse, both through pre-publication regulation and through a network of post-publication regulation officials. It will study the form and content of a series of proclamations which the king made at the end of 1675 and beginning of 1676, and will then use a specific instance of press regulation at this time to identify the system of control through which Charles tried to engage with the public challenges to his government and policies. It seeks to examine these measures to explore how Charles tried to stem the flow of public information in order to limit his opponents' knowledge of and access to policymaking, and to reduce the transparency of his own government and increase his ability to implement his policies himself.

Chapter three will explore how by the end of 1677 the relationship between king and parliament was rapidly deteriorating and how by the spring of 1678 parliament moved from simply opposing the king's policies to actively trying to deconstruct his means of developing policy at all. Throughout 1677, Charles tried to safeguard England's position in Europe in the face of continuing French and Dutch war, by seeking to strengthen relations with France whilst keeping Dutch aggression at bay through a marriage between his niece and William of Orange. As the nature of the king's negotiations in Europe emerged, however, a growing number of parliamentarians began to become increasingly frustrated by the expense of the king's policies and their lack of return and, even worse, by what the king's approach to Europe demonstrated about his view of how power should be distributed in domestic politics. By May 1678, then, the king's opposition in parliament began to unite behind the idea of

regaining their ability to participate in policymaking and politics by attacking that most important of influences over the king's decisions, the earl of Danby.⁴⁵ This chapter will examine the Commons' debates in the run up to their decision to try to remove Danby from office, in order to explore their reasons for wanting to attack one of the most powerful politicians in the country. And it will assess how the Commons then went about trying to remove him from office, and how their impeachment created tensions between the king and parliament, between both houses, and within the house of commons itself.

And chapter four will explore how in the last three parliaments of Charles II's reign the competition for control of policymaking grew to a height never before seen in the Restoration period. It aims to examine how parliament persisted in trying to remove the king's ability to make policy independently of them, by refusing to renew the 1662 Printing Act when it was due and continuing to attack his ministers and government officials. It will explore the reasons for the temporary lapse of licensing in 1679 and how that lapse was not just the contingent side-effect of other political, religious and social debates, but was in fact designed by politicians in opposition to the king to reduce his ability to control and implement policy. So it will study the case which politicians made in print and parliament for a freer press. And it will try to suggest how, once the statutory basis for pre-publication censorship had disappeared, one of the main ways by which Charles had been able to exert his will over his subjects and to limit their ability to exert theirs over him, the king tried to re-impose his control over the movement and availability of information and to regain his ability to turn his ideas into reality. And finally, the thesis will explore how parliament sustained their attacks on officials in the king's government and state and how those attacks contributed to the final dissolution of parliament and the breakdown in the Restoration constitution.

This thesis hopes, out of the policies, practices and processes of the main participants in Restoration-period political culture, to be able to read into the ideologies which drove those politicians to practise politics how they did, and which were the basis of the changes which occurred in the period. Rather than becoming tangled up in contemporary rhetoric, or imposing overly-neat or even anachronistic readings of ideas, issues and identities onto the past, the thesis hopes to let the actions of the actors in Restoration-period political culture speak for themselves. In the first five years of the 1670s Charles II was able to enjoy a relatively stable period of government, largely assisted by his ability, for the most part, to control the means of developing and implementing policy independently of parliament. But

⁴⁵ Throughout this thesis phrases used to talk about the king's opposition refer to the people critical of and opposed to the king, rather than to an official parliamentary opposition in the modern sense.

by the spring of 1678, as his negotiations in Europe began once again to take a downturn, his ability to rule personally in domestic politics began to disappear. By the end of that year, parliament were beginning consistently to present a real threat to Charles' ability to develop policy and to exercise power at all. So much so, that in March 1681, after only a week of sitting, the king dissolved the Oxford parliament and did not call another one for the rest of his reign. This thesis will study, and hopes to do some justice to, this most interesting of periods in English political history.

Chapter 1: The king learns government

By the start of his second decade as king, Charles II had been at war with his European rivals, Holland and France, almost constantly for six years. As the 1670s began, his armed forces were broken, his coffers were empty, and his enthusiasm for conflict was waning. At home, the old parliamentary calls for a speedy and decisive redress to ‘the wrongs, dishonours, and indignities, done to his majesty by the subjects of the United Provinces ... [to] the greatest obstruction of our foreign trade’, were becoming an increasingly distant memory.¹ So, riddled with debt, and facing ever-louder criticism of both his domestic and foreign policy decisions in both houses of parliament and in a growing pamphlet literature, in 1672 Charles reached crisis point.

For a long time, the ordinary royal revenue had not been enough to cover the king’s expenditure, and any extraordinary supplies voted to him by parliament for the purposes of the war had quickly been spent. As a result, Charles had had to take on more and more private loans, at crippling interest rates, and was starting to sink to an impossible level of public and private debt. On 2nd January 1672, then, in a desperate attempt to try to recover his revenue, he made A proclamation announcing the stop of the exchequer.² The proclamation, ‘considering the great charges that must attend [the lingering likelihood of war]’ and ‘not finding any possibility to defray such unusual expenses by the usual ways and means of borrowing moneys’, postponed all warrants and orders for the payment of the crown’s debts to its creditors, the London bankers, until the end of the following December.³

The stop was designed to allow Charles to retake control of his cash flow. Before his proclamation, the treasury’s income was automatically, and immediately, paid back out of the exchequer to the crown’s creditors. The theory was then, that, by stopping the exchequer Charles would be able to free his revenue from the payment of his debts, and instead use the money which would ordinarily have been paid straight to the bankers to invest in the state and to shore up the system of royal revenue collection. He told the bankers that, as compensation for the stop, the debts which he owed them would accumulate at an annual rate of six per cent, which he would pay to them in the following years as compound interest. But Charles’ plan did not quite work. In the short-term, he seriously injured the bankers and their

¹ *LJ*, vol. 11, p. 600.

² The proclamation was printed in the *London Gazette* a few days later. See fn. 3 below for the date.

³ *London Gazette*, 4-8 January 1672; According to Gilbert Burnet the earl of Shaftesbury proposed the stop of the exchequer to Charles. *Burnet*, p. 555.

trade, and left them facing lawsuits and even gaol sentences on their own transactions which they could now no longer honour.⁴ The goldsmiths believed the situation to be so bad that ‘no man will ever hereafter run the like hazards when he shall consider upon what contingency he puts moneys into goldsmiths’ hands’, and as a result they remained cagey about lending money to the crown for some time.⁵ But, even worse for the king, was that, in the months after the stop, he began to slide back into conflict in Europe. By April 1672 he was at war again with the Dutch, once more accruing all the expense and parliamentary opposition which he had hoped his proclamation earlier that year would rid him of. As Charles’ new war with the United Provinces continued, his debts accumulated, his foreign and domestic policies became more and more desperate, and his ability to exercise power both at home and abroad became more precarious.

This chapter seeks to explore the important relationship, underlined during the stop of the exchequer, between the crown’s ability to raise revenue and its ability to develop and implement policy. It will argue that as the 1670s began, Charles II tried to achieve his political ambitions by cultivating a personal monarchy, and that his attempts to do so were based around, and flawed by, his need to maintain a financial independence from parliament.

It will ask three main questions. Firstly, it will examine how Charles’ financial position and his ability to realise his political aims were connected. It seeks to explore how problems in his revenue were used by his opponents in parliament to turn their own ideas into policy, and how he began in response to try to build a ministry and state which was capable of compensating for his constitutional weaknesses and improving his ability to govern. And in doing so, it will focus on the influence which the earl of Danby began to have on Charles’ government and style of governance and will discuss the solutions which Danby presented to the king and which led him to being promoted to lord treasurer. Secondly, it will ask how Danby shaped the office he acquired in order to improve the king’s ability to develop and implement policy effectively. The chapter aims to investigate how Danby interpreted his responsibilities and developed both his own practices and those of the treasury officials beneath him, to create a machinery of state which was capable of realising and enhancing the king’s ambitions. So, it will closely read the treasury records, which so far have received relatively little, and often perfunctory, scholarly attention. While, as we will see, Danby was careful to avoid leaving a paper trail which explicitly revealed the political intent behind his

⁴ A petition to the king in spring 1673 from the main goldsmiths in London outlined the problems they were facing as a result of the stop. SP 29/441, n. 311.

⁵ Richard Langhorne in a letter to Lord Hatton, 6th January 1672. BL Add MS 29553, f. 358.

innovations in the treasury, and while he often obscured the details of certain transactions by running them through the ambiguously-named secret service budget, read in the correct way the treasury records contain a wealth of information about how Danby shaped the king's economic policy and how that policy related to ideas of kingship and Charles' ability to govern. And thirdly, it aims to indicate, given the answers to the first two questions, what it was in Danby's practices that eventually made his opponents want to remove him from office. It will ask why, since in many respects Danby clearly performed well as treasurer, he provoked such opposition to himself and the crown and such interventions against the king in policymaking and statecraft. Overall, this chapter seeks to explore how parliament and the crown tried to build, shape and contest the processes of state in order to be able to develop and implement policy more effectively and to make their ideas become reality. It aims to bridge the gap between the history of ideas, allowing us to think about why historical agents wanted power and what they based their claims to legitimacy on, and economic history, allowing us to take a process-based look at how power was exercised and constitutional functions contested through finance.

I

The restored king had, for a decade, been trying to establish an English presence in Europe, and had involved himself throughout the 1660s in a series of wars within the wider conflict between Holland and France. As Louis XIV and the United Provinces had contested the balance of power on the continent, Charles had been drawn into a number of treaties with his European neighbours which had contradicted each other, and which had eventually left him obliged to offer military and financial aid to both the French and Dutch at the same time. So, as the first decade of his reign had come to a close, Charles had repeatedly asked parliament to 'take my debts effectually into your considerations', because 'the uneasiness and straightness of my affairs cannot continue without very ill effects to the whole kingdom'.⁶ But these continual appeals to parliament had begun to create tension in both houses about why the king was not following a more affordable and sustainable policy in Europe, and what, by taking the approach he had done, he was trying to achieve. Parliament had therefore only partly supplied their king's ambitious plans. Charles had found himself then, as the 1660s became the 1670s, with no clear foreign policy, with a growing opposition in

⁶ *LJ*, vol. 12, p. 251; *Ibid*, p. 287.

parliament, and increasingly unable to influence a conflict which was costing his country a fortune.

After years of struggling to sustain war, therefore, and in light of parliament's dwindling financial support, in May 1670 Charles negotiated and signed the Treaty of Dover with Louis. In the Treaty both the English and French kings promised to declare war on Holland, at which point Louis would pay Charles an enormous three million livres a year for the war's duration. The French king would then make an additional payment of two million livres when Charles converted to catholicism. Both kings agreed to uphold the Treaty of Aix-la-Chapelle, which meant that Charles could observe the terms of the triple alliance and therefore not draw Dutch attention to his new Anglo-French agreement.⁷ And Charles tried to avoid suspicion at home by keeping the terms of the Treaty of Dover secret, and allowing the cabal ministry to sign their own treaty with France the following December. Theirs turned out to be virtually the same as the one their king had made, except for the promises of Charles' conversion.⁸

Charles tried to use the Treaty of Dover to develop a personal style of monarchy. By negotiating the Treaty in secret and deciding what approach to take in Europe by himself, Charles cut both parliament and public opinion out of policymaking and removed their opportunity to determine the coming course of events. He also hoped that French subsidies would, whilst in large part funding his coming wartime expenditure, enable him still to continue supplying his domestic expenses too. In accordance with the terms of the Treaty, and in order to consolidate his relationship with Louis and to safeguard the French king's financial support, in the years after the Treaty Charles developed and pursued two main policies. The first was renewed war in Europe, and the second was religious toleration in England. But as time moved on, and as Charles tried to implement his policies, it quickly became clear that the independence from parliament and his subjects which he had tried to cultivate through the Treaty was more difficult to sustain than he had imagined. His efforts to redistribute power through the Treaty and to introduce a more personal style of monarchy began to feed back against him. After not much time at all, Charles began to realise that the way in which he had begun to try to develop and implement policy did not allow him to

⁷ For the full Treaty see *EHD*, pp. 863-867.

⁸ The differences in terms between the two treaties are recorded in A. Fraser, *King Charles II* (London, 1979), pp. 275-278; Miller, *Restoration England*, pp. 68-70; R. Hutton, 'The Making of the Secret Treaty of Dover, 1668-1670', *The Historical Journal*, Vol. 29 Issue 2 (June 1986), pp 297-318; Jones, *Charles II*, ch. 5; R. Hutton, *Charles the Second: King of England, Scotland, and Ireland* (Oxford, 1989), ch. 10; Harris, *Restoration*, pp. 70-71.

achieve his political ambitions, and in the end led him to having to reassess the nature of his kingship and his role as policymaker.

Charles' attempt at personal rule relied on the success of his first policy of making war in Europe. The king and his ministers had for years favoured an aggressive form of political economy, which saw war both as a means of reducing the ability of other countries to compete in trade and of improving England's share of a collective European wealth. 'A war with Holland', Charles had written to Louis on 24th January 1670, 'would in all respects suit with the interests of England and be very advantageous to it if the king of Great Britain had force ready to be master of the seas: so on the other hand if the Hollanders should be strongest at sea nothing in the world could be so pernicious to England as that war. All our trade, being so considerable in many stations and parts in and out of Europe, would be exposed as prey to our enemy'.⁹ Charles' aim by engaging the United Provinces in what became the third Anglo-Dutch war, therefore, was to run their resources down to such a degree that he could dictate to them new more favourable trading agreements and gain the upper hand in foreign trade and relations. In early March 1672, he sent orders to his fleet 'to seize and make stay of all such ships and vessels as belonging to the States General'.¹⁰ But by September that year he wrote to William of Orange in bewilderment that the Dutch had not sent 'the least signification that my offers were acceptable to you'.¹¹ After six months of renewed and expensive war, then, Charles' aggressive approach to European economics and his attempts to bully the Dutch into negotiations were clearly not working. Instead of improving his share in the European economy and producing the kind of wealth which would sustain his independence from parliament, his first policy actually began to ruin him financially.

In April 1671 Charles had prorogued parliament, since the subsidies he was getting from France meant that he no longer needed parliamentary votes of supply to help him fund his government and the state. But by early February 1673, Charles recognised that Louis' money was not compensating for his first policy's lack of success. He had no choice, then, but to recall parliament from twenty months of prorogation and to ask them to vote him a supply which would cover the growing cost of his pursuit of war. 'The last supply you gave me', he said, 'did not answer the expectation for the ends you gave it, the payment of my

⁹ Charles' 'Statement of position in regard to France in the event of a war with Holland', 24th January 1670, in A. Bryant (ed.) *Letters of Charles II*.

¹⁰ Charles to the duke of York, 5th March 1672, in *Letters of Charles II*.

¹¹ Charles to William of Orange, 20th September 1672, in *Letters of Charles II*. In a series of letters which Charles wrote to William from July to September 1672, the English king's realisation that his war was not going as well as he had hoped becomes increasingly apparent. See *Letters of Charles II*.

debts: therefore I must ... recommend them again to your especial care'.¹² But recalling them spelled disaster for his hopes of independent rule. Not only did he invite them back in to politics and policymaking after having ruled without them for nearly two years, but by admitting that he was reliant on their money he gifted his opponents the leverage they needed to intervene in his plans and gain the upper hand themselves.

Very quickly, his opposition in the Commons organised the house enough to refuse to help the king financially as long as he pursued religious toleration how he was doing. On 15th March 1672, during the prorogation, Charles had made a Declaration of Indulgence for Tender Consciences, which suspended the penal laws for nonconformists and allowed catholics freedom of worship in their own homes. When he recalled parliament on 5th February 1673 and informed them of his debts, instead of immediately addressing his problems as he had wanted, parliament began to question his Declaration.¹³ Many, particularly in the lower house, were anxious that the content of Charles' Declaration and a greater toleration would not, as they said in their first address to the king on the matter, 'secure and maintain unto us the true reformed protestant religion'.¹⁴ But by far their main concern was whether or not Charles' use of his prerogative powers in making his Declaration and the way in which he had bypassed their ability to intervene had been legal. 'We own the king's power to dispense with the punishment, by pardon', Colonel Strangways observed to the Commons, 'but the king cannot dispense with a man to be a papist, or nonconformist'.¹⁵ And Edward Vaughan, leading the king's opposition in the Commons by example, argued that 'this declaration is a repeal of forty acts of parliament, no way repealable but by the same authority that made them'.¹⁶ 'As liberty of the subject consists in his right', Vaughan said, 'so would have it measured by law. This prerogative is illegal'.¹⁷

Many in the Commons, of which Vaughan was among the most vocal, believed that it was part of their privilege and legal right that they had the authority to make acts of parliament which would then pass into law. And legislation which they had passed into law, they held, could then only be amended by parliament afterwards. So, when Charles sought by his Declaration to amend laws already passed by parliament relating to the punishment of catholics and protestant dissenters, he was undermining the Commons' privilege and the process by which parliament could engage with and participate in politics. The Declaration,

¹² *LJ*, vol. 12, p. 525.

¹³ *Ibid*, p. 525.

¹⁴ *CJ*, vol. 9, p. 252.

¹⁵ *Grey debates*, vol. 2, p. 17.

¹⁶ *Ibid*, p. 21.

¹⁷ *Ibid*.

Thomas Meres observed, stood to ‘shake the law and property of the subject, if the king and council can suspend and make void a law’.¹⁸ When the Commons resolved on 10th February 1673, therefore, ‘to do in a legal way, as now the declaration does in an illegal’, they were, as well as taking measures to see toleration effected properly, ‘now modelling the government’.¹⁹ By rejecting Charles’ Declaration and negotiating their own legislation for toleration, the Commons were reasserting what they saw as their right to participate in the development and implementation of policy, a right which, by the king’s Declaration, had temporarily been taken away from them.

It quickly became clear that the king’s opposition in the lower house wanted to use Charles’ financial troubles as leverage to re-enter the policymaking process and to regain their means of exercising political power. Two days after Charles had recalled them, the house of commons resolved to give him supply of 70,000L a month for eighteen months, but they did not pass a bill releasing that money to the king until they had addressed the constitutional problems which they thought his pursuit of toleration had created.²⁰ Edward Vaughan told the house on 4th March that while ‘the bill of supply may have quick dispatch enough’, ‘the people expect an account from us of this great affair of religion, and we cannot answer the delay of it to them’.²¹ On 21st March, when the supply bill was finally ready and on the table to be read to the house for the last time before passing, the Commons were again more concerned, as William Garroway said, ‘to see this bill of popery dispatched’ and therefore to ‘have the money-bill, for the present, laid aside’.²² So by adjourning the committee to draw up the bill of supply ten times and by concentrating more on the legislation with which they hoped to replace Charles’ Declaration, the Commons managed to delay the supply bill’s passage through parliament, and to prolong Charles’ agony, for seven weeks.²³

¹⁸ Grey debates, vol. 2, p. 9. Thomas Meres was referring to the declaration of Breda when he made this observation about the king subverting laws.

¹⁹ Ibid, p. 18; The Commons voted that day, 10th February, that ‘penal statutes, in matters ecclesiastical, cannot be suspended, but by act of parliament’. They began thereafter to discuss parliamentary alternatives to Charles’ Declaration. Ibid, p. 15; *CJ*, vol. 9, p. 252.

²⁰ *CJ*, vol. 9, p. 250; The amount the lower house finally agreed on was a little less than initially discussed, at 68,819L a month for 18 months. The final amount voted for the king’s supply was therefore 1,238,750L. *CJ*, vol. 9, p. 251.

²¹ Grey debates, vol. 2, p. 82.

²² Ibid, p. 137.

²³ The Commons had originally tasked the attorney general with drawing the supply bill up, but then referred the matter to a committee of the whole house on 18th February. The bill’s passage through the Commons and all the adjournments of the committee run *CJ*, vol. 9, pp. 251-278; In place of Charles’ Declaration, the Commons debated three new bills of their own for toleration, which together covered and amended Charles’ version of the policy. They were A bill for ease to protestant dissenters, A bill for naturalisation, and A bill to prevent the growth of popery.

Finally therefore, as his opposition in the Commons had planned, on 24th March Charles sent a message to them which signalled that their tactics had worked. Henry Coventry, secretary of state for the northern department, told the Commons that day that the king ‘expects an expedition of such bills, as are of most importance; the bill of popery, and that of supply, particularly’.²⁴ Charles’ message showed the Commons that he could wait no longer for them to give him supply. And by urging them to finish and deliver to him their bill regarding popery, he showed the Commons that he would relent in his push for religious toleration, as set out in his Declaration, if they would deliver him the money he had requested. Two days after receiving Charles’ message, on the 26th, the Commons passed ‘An act for raising the sum of twelve hundred thirty-eight thousand seven hundred and fifty pounds’ for the supply of the king.²⁵ In return, the king assented to parliament’s ‘Act for preventing dangers which may happen from popish recusants’, and told both houses that ‘what you have now left undone, I hope you will finish at your next meeting’.²⁶ He then asked them to adjourn until the following October.

By the time parliament adjourned on 29th March 1673, therefore, Charles had failed, as he had been doing for the past decade, to turn his hopes of improving England’s financial and political standing in Europe into reality. But even worse, he had been forced out of policymaking, a process which by signing the Treaty of Dover he had tried to take sole control of, and was having to listen while his opposition in parliament dictated their plans to him. His design to achieve his aims personally, without parliament, had come crashing down as his first policy of trying to fund himself through a new Dutch war began to fail. At that point, his opposition in parliament had managed to expose and exploit the crown’s reliance on their votes for supply to great effect, and had managed to turn the king’s attempt to exercise power on its head and hold power over him until he relented. In this way, Charles’ attempt to turn his ideological position into reality through a specific, personal type of policymaking fed back on itself and eventually forced him to reshape his original idea and to put his vision of how he wanted to rule on hold.

But he could not afford to stop trying for a greater level of independence from parliament when they could so easily turn his policies into constitutional deadlock by exploiting his financial weaknesses. His negotiations with France and the events of the years which followed demonstrated both to Charles and to his opposition that the king could only

²⁴ *CJ*, vol. 9, p. 274.

²⁵ *Ibid*, p. 278.

²⁶ *LJ*, vol. 12, pp. 584-585.

achieve his political ambitions either if he could afford to fund his policies himself or if he could get parliament to agree with them and to fund them for him. Neither of those requirements could ever be guaranteed, and both meant that the king would never be able to rely fully on any policy which he designed himself in order to achieve his ideological aims. This constitutional weakness meant that parliament did not need to engage with the king's ideas in debate. They only had to withhold their money when he asked for it, and his policies would become inert. If he was going to improve the reliability of his policies and realise his ambitions, therefore, he had to make himself sufficiently financially independent to allow him to make and implement plans without needing parliament's money to fund them. He tried to regain his agency by promoting the earl of Danby to the office of lord treasurer.

Danby succeeded to his father's title of baronet of Kiverton in 1647, and through the first decade of the restored king's reign held a number of public offices, rising from being high sheriff of Yorkshire, through other posts, to being made commissioner of the admiralty in 1673.²⁷ He was made viscount Osborne in Scotland in February 1673, and from that point, given that he was, as John Evelyn said, 'a man of excellent natural parts, but nothing generous or gratefull', was fast-tracked through the English peerage as well.²⁸ Over the following summer, between parliamentary prorogations, he was made baron Osborne of Kiverton and viscount Latimer. His first transactions as lord treasurer were made on the 19th June 1673, and he was first introduced in the house of lords as treasurer on 20th October 1673.²⁹ That day in the upper house, Danby presented his patent, dated 15th August in the 25th year of Charles' reign, 'which being done, he was placed at the lower end of the earls' bench; and afterwards placed near the upper end of the earls' bench, as lord treasurer of England'.³⁰ He became the earl of Danby in late June 1674, and his yearly revenue was almost immediately improved by over 720L, by the king granting him several fee farms in Wales.³¹

The office of lord treasurer, at any given time, was an influential institution in Stuart politics, since it was responsible for supervising the king's accounts and managing royal cash flow. In the mid-sixteenth century William Paulet had turned it into the central and efficient office which came to dominate government under William Cecil in Elizabeth I's reign. And

²⁷ For the sake of continuity, the man born Thomas Osborne will always be referred to as the earl of Danby, because that was his title for most of the period which interests us here.

²⁸ *Evelyn's Diary*, vol. II p. 92; SP 57/2, f. 164.

²⁹ BL Add MS 28077, f. 1; BL Add MS 28074, f. 231.

³⁰ *LJ*, vol. 12, p. 586.

³¹ BL Add MS 28075, f. 69 records the fee farms' yearly value at 723L.

by the end of the Stuart age treasury business rarely came before the rest of the king's ministers but was settled directly between the crown and its treasurer, thus giving anybody who held the office a degree of autonomy in government which other ministers did not have.³² As lord treasurer to Charles II then, the earl of Danby exercised all the privilege and influence of the office he held and played an important role in policymaking and governance. Historians who have studied Danby's role in policymaking have so far tended to explore how he managed the king's influence in parliament by bribing and bullying politicians into loyalty to the crown. By extending lines of patronage between the court, parliament and the state through the offer of offices and pensions Danby was able, these historians have shown, to increase the voting power of the king's supporters in the legislature and the bureaucratic power of his loyalists in the executive.³³ Other historians have explored Danby's efforts to control propaganda and public politics, and have drawn out how he sought to supplement his private attempts to win Charles influence over parliament and the state with a public campaign to win the king support among his subjects.³⁴ But while these histories have revealed Danby to have been a ruthless and talented public and private politician, they have left us little idea of how he interpreted and shaped his office. We do not yet have any real sense of how Danby sought to use the mechanics of his role as treasurer in order to make interventions in royal policymaking and to develop a specific style of governance for the king.

On the few occasions that political historians have touched on Danby's financial practices, they have missed the significance of the changes he made in the king's revenue because they have focussed only on the debt of over two and a half million pounds which he left the king when he was removed from office.³⁵ Because this amount was more than the crown had to contend with at the stop of the exchequer, these historians have suggested that Danby's effect on the king's financial position was negative, his fiscal policies must have been 'uncreative', and his value to Charles' government obviously lay in other areas.³⁶

³² For the evolution of the office of lord treasurer, see D. M. Loades, *The Life and Career of William Paulet (c.1475-1572), Lord Treasurer and First Marquis of Winchester* (Aldershot, 2008); D. M. Loades, *The Cecils: privilege and power behind the throne* (London, 2008); Trevelyan, *England under the Stuarts*; Plumb, *The growth of political stability*.

³³ Knights, *Politics and Opinion*; Scott, *Algernon Sidney*; Hutton, *Charles the Second*; Jones, *Charles II*.

³⁴ Harris, *London Crowds*; Knights, *Politics and Opinion*..

³⁵ J. R. Jones in his *Charles II*, Ronald Hutton in his *Charles the Second* and Mark Knights in his *Politics and Opinion* all cite the debt as being a little over £2.5 million after Danby's departure, in order to comment on the value of Danby's practices as treasurer.

³⁶ Knights describes Danby's fiscal policy as uncreative in his, otherwise enviably comprehensive, *ODNB* article on Danby.

But there are a number of very basic observations to make about historians' attempts to assign a total numerical value to the effectiveness of Danby's tenure as treasurer by looking at national debt figures. Firstly, comparing the total of any national debt to a previous one does not in itself tell us how effectively a country's finances were run. By the time he was restored to the throne, the interregnum governments had left Charles with a debt of a little over 2,000,000L.³⁷ This figure was smaller than the amount which Danby left the king at the end of the 1670s. But since the national debt of twenty-first century Britain runs into the trillions, we might just as easily suggest that recent chancellors are less politically effective than their counterparts in the 1650s.³⁸ All that comparing figures in this way does is tell us that the wealth of a country changes over time, without outlining what the reasons for that change were.

Secondly, citing a single figure of around 2,700,000L for the national debt at the end of Danby's tenure is misleading, because it does not tell us how much of that sum Danby had budgeted for and, therefore, what type of debt he left. An estimate made in the treasury on 31st March 1679 figured the king's debt to be 2,720,194L. However, it also importantly suggested that, of that total, 1,490,757L was funded debt in the form of advances and tallies.³⁹ While the total figure at the end of Danby's tenure was quite large, it did not mean that the crown was necessarily worse off than it had been before he took office. Danby had scheduled over half of the debt he presided over to be repaid, meaning that it did not necessarily count against the overall financial position of the crown. His use of anticipated revenues in budgeting a lot of the time actually reflected his sound understanding of the relationship between capital and cash flow, rather than a disastrous slide into the red.

And thirdly, try as any of them might to improve the reliability of the king's revenue, the financial position of the crown was not solely dependent on the treasurer's actions. At times, the best a treasurer could hope to do by managing treasury practice was to limit the damage done to the king's finances by outside circumstances. For instance, when parliament voted x amount of supply, that sum rarely actually materialised and arrived in to the exchequer. Most significantly, the allowance for the annual ordinary revenue which would support the king, which the cavalier parliament voted Charles as part of the Restoration settlement at the end of 1661, was only reached twice in the first two decades of Charles'

³⁷ *Cal. treas. bks.*, vol. 7, introduction.

³⁸ I have my suspicions that some of them might well be, but the figures here, alone, do not prove it.

³⁹ BL Add MS 17019, f. 27.

reign.⁴⁰ And in many other instances the amount received fell short of the amount promised. The eighteen months assessment, for example, voted by parliament in February 1673, was supposed to raise 1,238,750L, but in the end only yielded 1,166,238L.⁴¹ Although Danby was aware at the beginning of 1674, that ‘att the end of three yeares [the eighteen months assessment] ceases’, and so ‘the sinewes of monarchy are to bee recovered in these three yeares or niver’, the overall unpredictability of the revenue was out of his hands.⁴² While, as we will see, Danby was very influential over Charles’ economic policy, holding any treasurer solely responsible for any level of national debt does not take into account the range of other influences acting over a country’s economy at any given time.

Modern economists have for a long time shown that the way in which a government chooses to accumulate national debt tells us much more about how that government is seeking to operate than simply whether or not it is governing effectively. For at least the last century economists have explored how economies are stimulated or depressed depending on the approaches taken by governments to saving and spending, and it is now widely accepted that the accumulation of public debt is not necessarily a bad thing in all circumstances.⁴³ While there is always debate about how governments should treat debt in different circumstances, economists are now unified in the understanding that the accumulation or reduction of debt is a tool which governments can use to change rates of private consumption and saving, influence national exports, adjust levels of foreign investment, or change the strength of domestic currency. In light of these modern economic debates, therefore, it is wrong for historians simply to presume that the earl of Danby was an ineffective treasurer simply because he presided over a large national debt.

Rather than assigning a total numerical value to the worth of Danby’s tenure as treasurer then, we need to look beyond that final figure to the processes which contributed to it. Having built on the arguments of economists, economic historians have begun to draw out a range of influences over the Restoration economy and the changing financial position of the king and his governments throughout the period.⁴⁴ While collectively less consolidated than

⁴⁰ *Cal. treas. bks.*, volume 5, introduction.

⁴¹ *Ibid*, volume 4, introduction.

⁴² BL Add MS 28042, f. 3.

⁴³ The literature on this subject is extensive, but for a good general overview of the main approaches to national debt in the twentieth century see D. W. Elmendorf and N. G. Mankiw, ‘Government Debt’, in J. B. Taylor and M. Woodford (eds.) *Handbook of Macroeconomics vol. 1 part C* (1999), pp. 1615-1669. I am very grateful to Richard Huzzey for making me aware of this essay.

⁴⁴ *Cal. treas. bks.*, vols. 1-7, introductions; C. D. Chandaman, *The English public revenue, 1660-1688* (Oxford, 1975); H. Roseveare, *The Treasury, 1660-1870: The Foundations of Control* (London, 1973); J. K. Horsefield, ‘The ‘Stop of the Exchequer’ Revisited’, *Economic History Review*, n.s. 35, no. 4 (November 1982), pp. 511-

their political counterparts, these economic histories have explored how in the face of periods of inflation and deflation, peace and wartime, or crisis and stability politicians and civil servants adjusted their fiscal and economic policies in an effort to improve their means of generating and collecting revenue for the government. Crucially, these historians have demonstrated the knowledge and creativity with which Restoration statesmen applied themselves to their craft, and have shown how contemporaries' innovations in public borrowing, or the customs service, or direct and indirect taxation allowed the British economy to develop to the extent that it did in later periods.

More important still have been the handful of histories which have explored the political significance of these innovations.⁴⁵ A few valuable histories have shown how Restoration politicians changed their economic and fiscal policies in order to exercise power in specific ways and to gain precedence for their cause or interest. These historians have shown us how the details of the daily practice of Restoration government explain the changes which took place in political culture at this time. They have revealed how it was the day to day battles between governments and their opponents to identify and secure different sources of revenue for different purposes, or the struggle between competing politicians and bureaucrats to allocate government funds in certain ways, or the fight for influence over how public money was spent and debt accumulated which made or broke politicians' abilities to realise their plans for the world around them and ultimately led to change.

If we are to assess Danby's significance in policymaking in the early 1670s, therefore, we need to ask how he shaped his office to change the king's revenue, what innovations he made and what they were designed to do, who he empowered in the treasury and who he disempowered, how he spent money and how he accumulated debt, and how those smaller processes contributed to his overall political project and relationship with the king. It is only through asking these questions that Danby's significance in Charles' government throughout the 1670s properly emerges. Danby's main contribution to Restoration policymaking was to shape the royal revenue and administrative practices in order to create the financial independence which the king had lacked for the last thirteen years. Through his innovations, Danby began to construct a system of state which was able to provide the king with the financial security needed to be able to develop and implement policy as effectively and independently as he wanted and to achieve his broader political ambitions.

528; R. D. Richards, *The Early History of Banking in England* (London, 2012); W. B. Stephens, *The Seventeenth-Century Customs Service Surveyed: William Culliford's Investigation of the Western Ports, 1682-84* (London, 2016).

⁴⁵ Seaward, *The Cavalier Parliament*; Braddick, *The Nerves of State*; Brewer, *The Sinews of Power*.

As the third Anglo-Dutch war rumbled on, a growing opposition pamphlet literature recognised that Charles was not managing to force the Dutch into new trading agreements, and was therefore extending neither the political nor financial influence of the English crown among its European neighbours. This literature had begun, as a result, to insist upon a more peaceful and sustainable approach to European politics. As public debate of the war grew in print, more consolidated views of how England's interests would best be secured emerged, both for and against the conflict. Much of the material published in opposition to Charles' pursuit of war was Dutch propaganda, which represented the United Provinces as being naturally godly in their desire to uphold peace throughout Christendom and panned Charles and his ministers for breaking the Triple Alliance. But many English publications also sought to persuade their audience that peace would be more conducive to successful trade and commerce and therefore to English greatness.⁴⁶

Historians have long observed the concurrence of this mounting public pressure on the king's approach to Europe and his gradually diminishing taste for the war, but they are yet to give any real sense of how this pressure filtered through into him actually taking steps to withdraw from the conflict.⁴⁷ The earl of Danby, on the other hand, as much as a year before he was appointed treasurer and whilst still only a member of the house of commons, moved beyond hoping, as the contemporary pamphlet culture was doing, that an alternative European policy represented in print would create sufficient intellectual pressure on the king for him to change his ideas. In 1672, he recognised, as the intellectual culture thrived around him, that to influence royal decision making the ideas represented in public had to be diverted inwards to Charles and his ministers' private conversations about policy. He therefore sent his patron and at the time one of the king's chief ministers, the duke of Buckingham, one of the many opposition publications to try to move him to reflect in council on how beneficial the pursuit of war really was for English interests. Danby had read the pamphlet, written by Slingsby Bethel, and now pitched Bethel's theory at Buckingham to try to get him to consider it and act on it in policy. Instead, however, Buckingham read Bethel's pamphlet and responded, adding to the growing literature on the matter, by publishing his own work on England's interests and continuing to champion the war.

⁴⁶ See, for example, S. Fortrey, *England's interest and improvement: Consisting in the increase of the store, and trade of this kingdom* (London, 1673); J. Hill, *The interest of these United Provinces. Being a defence of the Zeelanders choice* (Middelburg, 1673); C. Reynell, *The true English interest, or, An account of the chief national improvements* (London, 1674); R. Haines, *The prevention of poverty, or, A discourse of the causes of the decay of trade, fall of lands, and want of money throughout the nation* (London, 1674).

⁴⁷ K. H. D. Haley, *William of Orange and the English Opposition: 1672-4* (Oxford, 1953); Jones, *Charles II*; Scott, *Algernon Sidney*; Harris, *Restoration*.

Danby and Buckingham agreed that the basis for a nation's prosperity was success in trade. 'Trade', Bethel wrote 'must be the principal interest of England', 'as without trade, no nation can be formidable'.⁴⁸ He said that Britain, of which England was the greatest part, was more suited to prospering in trade than other countries, because the younger sons of the English gentry were allowed to train in trade and commerce rather than sitting idle as they were taught to elsewhere. And because the gentry were deferential to the king, it followed that for the king to increase his prestige and standing, both at home and abroad, he needed to nurture trade amongst his subjects.⁴⁹ Buckingham, in response, 'approve[d] of [Bethel's] stating the true interest of England to be trade, of his observation of some of our customs which are useful to it, [and] of his proposals of new laws made for the advance of it'.⁵⁰

But where Danby and his predecessors' theory of political economy differed was in their view of how England's foreign trading interests should be secured. Buckingham, and the old ministry, believed 'that we ought to keep a good correspondence with Spain, that we should hinder the ruin of Flanders, and that we are to use our utmost endeavours to preserve the command of the Baltic sea from falling absolutely into the hands, either of the king of Denmark, or the king of Swedland'.⁵¹ 'The interest of the Hollanders and ours, as to that point, are the same', he admitted, 'but why therefore we should be so far transported as not to care what prejudice they do us in other matters, is a piece of policy I do not very well understand'.⁵² Buckingham thought that 'the same reason which should make us endeavour the growth of trade in our own country, must by necessity oblige us to do all we can to obstruct it in another'.⁵³ Danby, however, in pitching Bethel's pamphlet at the king's council, advocated a much more co-operative policy in Europe. While Bethel did not encourage trading with France, because the French were catholic and there was 'a natural unaptness for business in that religion', he sought 'a firm and perpetual friendship and union' with Holland and the other protestant northern European states.⁵⁴ In contrast with Buckingham then, by promoting Bethel's pamphlet, Danby demonstrated his belief that England had, 'as peace is the advancer of trade, to seek it, and not war, except an unavoidable necessity require it'.⁵⁵

⁴⁸ S. Bethel, *The present interest of England stated* (London, 1671), p. 2.

⁴⁹ *Ibid*, pp. 2-4.

⁵⁰ G. Villiers, *A letter to Sir Thomas Osborn, one of His Majesties Privy Council, upon the reading of a book called The present interest of England stated* (London, 1672), p. 5.

⁵¹ *Ibid*.

⁵² *Ibid*, p. 6.

⁵³ *Ibid*.

⁵⁴ Bethel, *The present interest*, p. 21; *Ibid*, p. 28.

⁵⁵ *Ibid*, pp. 34-35.

Through his pamphlet exchange with Buckingham, Danby insisted, to the highest levels of government, a new approach to Europe, which, instead of actively seeking to suppress competitors' shares in a finite European wealth through war, as the king and his ministers had tried to do to no gain for years before, asserted that what benefitted one European country in trade would benefit all of its partners too. He had managed to take that idea beyond the public debate which was taking place at the same time, and had tried, perhaps out of genuine concern for the state of the nation and perhaps in a bid just to be promoted in politics, to force it directly into royal policymaking and to influence the king's ideas about foreign politics and political economy.

But whatever his original motive, once he took office in the summer of 1673, he gained a direct channel of communication with the king and became part of the policymaking process himself. As summer turned to autumn, then, and as the fortunes of the war against the United Provinces turned from bad to worse, Danby redoubled his efforts and in a series of private memoranda implored the king to change his approach to Europe.⁵⁶ In October 1673, the new treasurer told the king, in a memorandum which was strikingly reminiscent of the pamphlet he had endorsed the previous year, to 'keep firme to the triple alliance, and to indeavour to bring all protestant princes into itt'.⁵⁷ In December, in another memorandum, the new treasurer set out the 'state of the present condition of the crowne, which cannot bee amended but by force or compliance'. 'If by compliance', he wrote, 'then itt must bee by parliament or infinite reducement of expence'.⁵⁸ 'If otherwise, and that expedient should bee force', he noted, 'there must bee a large provision of money to begin with', which, of course, there was not.⁵⁹ Either way, the king would only be able to achieve his aims, Danby told him directly in these memoranda, if he got his finances under control. By the end of the year, therefore, Danby had begun, even more than he already had been, to urge the king to recognise the relationship between the state of his finances and his ability to exercise power. Through the end of 1673, the Commons refused to grant the king any more money to continue his war, thus making Charles' financial situation as bad as it had ever been.⁶⁰ So finally, due to the extent of his debts and under the weight of Danby's encouragement,

⁵⁶ The continuing failure of the war is apparent in a string of letters which Charles wrote to his new commander of the fleet, Prince Rupert, in August 1673. By the beginning of September that year Charles was actually advising Rupert 'to avoid coming to the hazard of a battle all we can'. BL Lansdowne MS 1236/105, f. 172.

⁵⁷ BL Add MS 28042, f. 15.

⁵⁸ Ibid, f. 17.

⁵⁹ Ibid.

⁶⁰ *CJ*, vol. 9, p. 285.

Charles signed the Treaty of Westminster for peace with Holland in January 1674, and presented it to parliament on 11th February.⁶¹

Danby's advocacy of a co-operative approach to Europe was almost certainly not the result of some altruistic preference of peace over war. Rather, he encouraged Charles to withdraw from conflict and to develop a more co-operative approach to trade because he recognised how the unpredictability of war inflamed the king's constitutional weakness. Danby showed in his pamphlet exchange with Buckingham in 1672, and then even more pointedly in his memoranda to the king of a year later, that he recognised that Charles' pursuit of war was impairing the crown's ability to exercise political power effectively. He had observed, by the previous ten years of conflict, that war was not an effective means of producing the circumstances in which trading agreements could be meaningfully renegotiated. The new treasurer knew that if the king withdrew from war, and practised a more peaceful European policy, his expenses would be reduced and his finances would become more stable. Then, if the expense of war was gone, there was less chance that the king would have to keep returning to parliament with increasingly precarious requests for financial assistance. And if Charles was less dependent on parliament's votes of supply, he did not have to entertain their interventions in his policy decisions quite so much. While Danby at this stage probably did not know about Charles' secret negotiations at Dover three years earlier, his more co-operative approach to European politics and the political economy which he sought to enable had the potential to empower the king to develop and implement policy as independently and effectively as Charles had been trying to do for years before. By presenting the king with an alternative approach to European politics, which constituted nothing less than an attractive paradigm shift in the theory of Charles' government, Danby positioned himself at the centre of Charles' attempts to address the instabilities in royal finances and domestic politics which had dogged the restored monarchy for the previous decade.

II

As lord treasurer, Danby applied himself to building a treasury which was much more suited to Charles' attempts to rule personally than it had been before. So, he tried to nurture the king's sources of revenue so that they produced more taxable wealth; he attempted to

⁶¹ *LJ*, vol. 12, p. 632; For the full Treaty see *EHD*, pp. 880-881.

improve the efficiency and reliability of the means of collecting that revenue and moving it back centrally to the exchequer; and he developed his own control over the revenue stream so that, on the crown's behalf, he could more effectively apply the king's wealth to public uses. He sought meticulously to produce the reliability and scale of revenue, which he had first discussed in relation to Europe, necessary for the king to be able to develop and implement policy independently.

As treasurer, Danby inherited a vast and complicated network of officials and processes, in which the lines between the roles and duties of offices were blurred, and individual officials and departments commonly removed themselves from responsibility and passed it on to others. As such, it was impossible for Danby to manage the revenue in a linear way; problems were barely ever connected in a series which if solved in order would lead to the liberation of the king's finances. Being treasurer was a difficult and creative business which required the development of a range of solutions to a variety of issues. This section will try to preserve the complexity of the job which Danby faced, whilst still clarifying the system and the processes he encountered as much as possible. Hopefully, it will give some sense of how the network of revenue officials operated, what their responsibilities were, and how Danby tried to manage them.

Beneath Danby, there were, broadly, two types of revenue officer.⁶² There were the administrative officials employed directly by the treasury, who were involved with recording and auditing the processes of the revenue. And there were the collection officials involved in receiving the revenue and moving it back to the exchequer. The most senior administrative officials were the masters or treasurers of the major departments and streams of revenue into and out of the treasury.⁶³ They were responsible for the day to day running of their departments, and for turning the policies developed by the treasurer into practice. They received the lord treasurer's warrants for funds and orders for payment, which often ran into the thousands or tens of thousands of pounds, and had to manage the budget assigned to them in order to keep the machinery of state in operation. The next important administrative roles in the treasury were the auditors and comptrollers. Auditors were assigned to different departments or sources of revenue, and were responsible for inspecting and managing its

⁶² The following overview of the revenue collection system is derived from reading the treasury books. While it is difficult to trace any individual transaction's progress through the system due to unclear or insufficient records, it is possible by reading multiple transactions together to map the system through which revenue passed to reach the exchequer and the roles of the participants in it.

⁶³ The major departments were the excise, the customs, the navy, the ordnance, the army, the great wardrobe, the royal household, the works, the robe, and the treasury of the chamber. The customs and excise did not have masters, but were governed by the lord treasurer through commissioners.

accounts. They were particularly important during disputes or actions for and against the treasury, and made sure that the amounts supposed to be coming into or leaving the exchequer, from or to a particular source, were actually doing so. Comptrollers were also assigned to specific sources of revenue. They oversaw the preparation of accounts, and certified them to be cleared and delivered in to the treasury. Similarly important to the auditors and comptrollers were the surveyors, who gathered the information which allowed states of particular parts of the revenue to be made up, on which the revenue was calculated and anticipated. The surveyors also collated much of the data needed for the treasury to create strategy and to decide where to allocate funds. And under all of these positions, there was a vast network of junior or local administrators and accountants, such as port officials or town clerks, who performed the day to day tasks assigned to them by the above, more senior officers. These lower-level officials created the records that eventually allowed the treasury to document and project the movement of goods and money in, out, and around the country through trade and commerce.

The highest of the other type of officer, the collection officials responsible for the receipt and delivery of the revenue to the exchequer, were the revenue farmers and commissioners. The farmers leased the right to collect taxes on some of the most profitable branches of the revenue, and were a significant part of the collection process because the terms of their loans to the king and the yield of their receipts influenced the solutions for revenue collection which the treasury could develop and enforce. The revenue commissioners were the managers of collection, like the heads of department, and were there to convert the treasurer's directions on specific branches of the revenue into practice. They received the treasurer's warrants for payment, saw to the staffing of the offices beneath them, and co-ordinated the collection of revenue from their particular source. Beneath them came the revenue receivers and collectors, who performed similar roles to each other but on a different scale. The receivers were area managers who oversaw the receipt of revenue across a series of smaller, regional areas, and who took direction from and fed back to the commissioners. The collectors were the local officials at the point of contact with private trade and commerce, and were generally, therefore, the first of the revenue officers to handle the king's money.

There was, then, a well-developed theory of revenue collection, which incorporated a number of officials and processes. If it operated in its perfect form, if, for example, in April 1674 a merchant imported a shipment of wheat into Plymouth, he was obliged, according to the 1670 'Act for improvement of tillage and the breede of catle', to pay sixteen shillings per

quarter sold at market, where that quarter did not exceed a sale price of fifty three shillings and four pence.⁶⁴ At that time, the ship bringing the wheat into port might have been met by George Jackson, recently appointed tidesman at Plymouth, who would have directed the cargo into the hands of the correct port officials for registration.⁶⁵ Once the wheat had been logged, it would have left the port and been taken to and sold at market. Its price of sale would have been established and recorded by the market clerk, and the account would have been passed to the comptroller for verification.⁶⁶ The comptroller would then have returned the account to the excise office in London, where it would have been received and logged by the auditor of the excise. In the meantime, the collector for Plymouth, at that time William Coleman, would have calculated and levied the duty due on the grain according to the Tillage Act. He too would then have passed his account of the duty collected to the comptroller.⁶⁷ The merchant would then have had a fixed time to pay to the collector the amount of duty levied. Once he had received the duty money, Coleman would then have passed it along to the next link in the chain which was the receiver for Devon, a post then occupied by William Godolphin. Godolphin would have checked the payment to make sure the correct amount had been levied and passed to him, and then would have paid it, via the country excise commissioners, into the exchequer.

The process is obviously described here in its perfect form, to give a general sense of how money was supposed to make it from private hands into the exchequer.⁶⁸ But in reality, of course, there were a number of potential blockages, leaks and inconsistencies in the system, all of which frequently led to a loss of money and a less reliable revenue overall. For example, the weights and measures used across the country, while in theory having been standardised numerous times since the Magna Charta, were still by the 1670s not uniform in practice.⁶⁹ As a result, a quarter, for instance, might have been measured differently in Bristol than it was in Boston. Different amounts of tax were therefore levied on what was

⁶⁴ This is a simplified, hypothetical example, because now, due to incomplete or inadequate records, accurately tracking the movement of money from the bottom of the system to the top is very difficult indeed; 'An Act for Improvement of Tillage and the Breede of Catle', in *Statutes at Large*, vol. VIII pp. 685-686.

⁶⁵ Jackson was appointed tidesman on 26th December 1673. See Entry Book, 26th December 1673.

⁶⁶ The comptroller of Plymouth at that time was Lewis Stukely. See Entry Book, 26th June 1675.

⁶⁷ Coleman was appointed collector on 15th April 1674. See the Entry Book on that date.

⁶⁸ It does not mention any other fees, like port fees or any fines or diminutions which might have been levied on the transaction at any point. Also, many of the categories of officer described above were divided further within themselves. For instance, the scale of comptroller work ranged from sub-comptrollers, who operated on a smaller, more local scale, to comptroller generals, who supervised the accounts for whole branches of the revenue. Or the scale of surveyors ranged from working on a particular piece of woodland, to being, for example, surveyor general for the whole of the crown lands.

⁶⁹ R. E. Zupko, *Revolution in Measurement: Western European Weights and Measures Since the Age of Science* (Philadelphia, 1990), pp. 25-31.

purported to be the same quantity of goods, depending on which port they passed through or which market they were sold at. These local and regional variations made it very difficult for the treasury, being based centrally in London, to anticipate accurately its overall customs and excise receipts and, therefore, to budget effectively on its expenditure. Another major problem was that there was no guarantee that the revenue officials would levy the correct duty or that the merchant or tradesman would pay the right amount of money once the tax had been calculated. Many of the statutory bases for levying taxes contained, like any legislation, imprecisions, ambiguities or contradictions. And even if the legislation had been flawless, the treasury did not always have the resources or infrastructure to enforce it completely effectively anyway. In the instance of grain, for example, the regulations of the Tillage Act superseded those of the Tonnage and Poundage Act of a few years earlier, meaning that many of the new duties and terms for regulating the trade contradicted the old ones and caused confusion among both merchants and revenue officials alike.⁷⁰ And perhaps the most significant problem of all was that because the commodities being traded and the money collected from them had to pass through so many hands, between the initial transaction being made and the correct level of duty arriving in the exchequer, both honest and fraudulent mistakes in the movement of revenue could be made at virtually any point. Try as any treasurer might, they constantly had to contend with ‘a usual fraud of very many thousand pounds hitherto practised year by year’.⁷¹

Danby recognised early on that he had to rectify these inadequacies in the regulation and collection of the king’s revenue in order to improve its reliability and efficiency. He realised, and he told the king as much, that previous officers of the revenue ‘have been under the dilemma that if they did not lett you undoe yourselfe they were to be undone by making themselves uneasy to you’.⁷² He urged the king to understand ‘that all the [recent] miscarriages have been wrong measures in your revenue, and by which all your undertakings have still falne for want of money, and all this for want of forecast’.⁷³ From the time of his appointment, therefore, Danby characterised his tenure through his constant effort to take a central role in the control of the treasury and the processes of revenue collection and to oversee and improve the transparency of all of the processes beneath him.

Once he gained office, Danby began to try to manage the treasury and revenue collection system in such a way that the king would have ‘to suffer no diminution nor

⁷⁰ This problem was identified and investigated in July 1674. Entry Book, July 1674.

⁷¹ Entry Book, 7th July 1675.

⁷² BL Add MS 28042, f. 3.

⁷³ Ibid.

imbezelmment of the revenue either in England or Ireland'.⁷⁴ His approach demonstrated early on that he realised that, for the reliability of the king's finances to improve, as lord treasurer he had to address two kinds of problem in the revenue. He had to try to address any problems in the collection of revenue, or the process by which money passed from the hands of the private individuals who owed it to the king into the hands of the officials of state. And he needed to make sure that, once money had been collected by the revenue officials, it passed efficiently back through the system to arrive centrally in the exchequer where it could be put to public use. Danby knew that, for the king, 'while differences continue prerogative must suffer, unlesse hee can live without parliament. [But] the condition of his revenue will not permitt that'.⁷⁵ His practices as lord treasurer demonstrated time and again, therefore, his belief that only when the problems in the revenue had been solved, and steps had been taken towards improving the efficiency and reliability of the king's income, could the crown achieve a greater financial independence, and compensate to any meaningful extent for the constitutional problems which it had been prey to throughout the previous decade.

III

Throughout his tenure, Danby closely managed the practices of both kinds of revenue official, from the top of the process to the very bottom. As his early memoranda showed, he intended always to improve efficiency and reliability, to cede more knowledge and control of the system centrally to himself, and, wherever possible, to improve the yield and stability of the revenue for the crown. Danby shaped the roles and responsibilities of the administrative officials by introducing and re-emphasising a number of accounting and clerical techniques. His main priorities through these innovations were to improve royal cash flow, to allow officers to audit accounts more effectively, and to force them to keep clearer records of the movement of money around the system of revenue collection. He knew that, in order to improve the reliability of the king's revenue, he needed to clear any blockages and miscommunications which were both preventing the king's debts from being cleared as quickly and accurately as they should be and which meant that the treasury was contending with unnecessary levels of interest on overdue loans, and which were preventing the state departments from being funded as well as they might be and which meant that the king's orders were not being transferred downwards into action.

⁷⁴ Ibid, f. 15.

⁷⁵ Ibid, f. 13.

He was particularly concerned with nurturing the crown's cash flow, as it was that which allowed him to clear debts and keep a machinery of state running which was able to turn the king's policies into practice. To this end, one of the most important innovations he made was in the method of issuing and executing orders for payment. On 14th January 1674, Danby identified that the current format of orders was 'disturb[ing] much the course of payments by [him] settled on the said lists', meaning that revenue officials were being left unsure of which money to use to pay which debt or to fund which department.⁷⁶ Danby therefore told the auditor of the receipt, Robert Howard, to change how the orders were made. He wanted them from then on to record the principal sum to be repaid, the amount of interest payable on that sum, the source of revenue from which the interest would be paid, and an indication of the stage in the overall schedule of payment at which the order was issued.⁷⁷ In a similar instance, on 16th February, Danby noted many irregularities 'occasioned by orders registered on several branches of the revenue' but so far unassigned (or as yet unpaid).⁷⁸ So, he directed that all unassigned orders should be brought in and deposited with the auditor of the receipt, the chancellor, and himself. The auditor was then to document, in a dedicated ledger, all the orders which were returned to him in this way, and to record the name of the person to whom the order was payable, the date of the order, the sum for which it was issued, the part of the revenue it was being paid out of, and the total amount left on the account it was paying.

By amending the format of orders so that they contained both the sum to be issued and the branch of the revenue out of which it was to be paid, Danby was implementing a rudimentary form of double-entry bookkeeping.⁷⁹ The most basic aim of this type of accounting is to record the effect of each transaction on a corporation's overall financial position.⁸⁰ By making two equal and offsetting account entries for every transaction, one

⁷⁶ BL Add MS 28076, f. 186

⁷⁷ Ibid.

⁷⁸ Entry Book, 16th February 1674.

⁷⁹ Double-entry bookkeeping had existed for centuries before Danby made these changes, and had been used by merchants across Europe and the Middle East for a long time. Generally, however, states lagged behind private individuals in using the technique. The claim here is not anything like that Danby invented this form of accounting, or that he introduced it England. But he certainly reasserted the principles of double-entry bookkeeping in treasury practice, and tried to enforce them continually through his tenure. There were a number of contemporary works on this style of accounting in seventeenth-century England, but one of the more important ones for the Restoration period was R. Dafforne, *The merchants mirrour. Or, directions for the perfect ordering and keeping of his accounts* (London, 1660).

⁸⁰ For a brilliantly eccentric, but generally clear, summary of the principles of double-entry bookkeeping, see C. M. Cleve, *Principles of double-entry bookkeeping* (New York, 1913); for important discussions of the historical significance of double-entry bookkeeping, see J. Winjum, 'Accounting in its Age of Stagnation', *The Accounting Review*, Vol. 45 No. 4 (October 1970), pp. 743-761, and B. S. Yamey, 'Notes on Double-Entry

debit and one credit, an ongoing record can be kept of the total value of capital owned. If, for instance, Danby issued a warrant to pay the master of the ordnance 50,000L out of the fifth quarter of the eighteen months allowance, the order would show that the ordnance account was to be credited with 50,000L, while the eighteen months allowance was to be debited with the same amount. If the master of the ordnance then used part of the 50,000L sent to him to buy a quantity of guns for cash, to the value of, say, 1,000L, in his accounts he would credit the person from whom he bought the guns with 1,000L, and debit his own cash account with that amount. But, he would also credit another of his accounts with the value of the guns just purchased. The double-entry method therefore shows the bookkeeper how one transaction has two different and corresponding effects on the overall capital.

For Danby, making the amendments which he did to the format of orders for payment gave him a number of advantages in managing the king's revenue which he would not have had if he did not use the double-entry method.⁸¹ This technique allowed him, and his administrative officers, more clearly to assess changes to the total value of cash and goods held by the king, and therefore to keep track of the effects of each individual transaction on the overall financial position of each treasury department. In theory, therefore, it empowered his officials to keep a clearer account of the state of their budget, and Danby to balance income and expenditure across the exchequer more effectively. His use of the double-entry method also meant that his accounts regulated and checked themselves for accuracy. The double-entry method meant that, at all times, the total debits across all his accounts had to equal the total credits. If they did not, Danby was able to see that a mistake had been made in the account. By increasing the use of this technique, then, Danby was trying to make it easier for his officials to verify the accuracy of their accounts, and easier for himself to check the king's financial position at any given time. And finally, using this type of bookkeeping allowed Danby more effectively to account for payments which were due, but which he did not yet physically have the money to meet. The double entry method allowed him, if he knew that a source of revenue was likely to bring in a certain amount of cash in the future, accurately to record a transaction which debited an anticipated revenue before the money had actually arrived in the exchequer. Danby's insistence that use of double-entry bookkeeping

Bookkeeping and Economic Progress', *Journal of European Economic History*, Vol. 4 Issue 3 (1975) pp. 717-723.

⁸¹ There are a number of very useful studies which discuss how the practice influenced the arching development of history. See, particularly, J. Soll, *The Reckoning: Financial Accountability and the Making and Breaking of Nations* (New York, 2014), and J. Gleeson-White, *Double Entry: How the merchants of Venice shaped the modern world - and how their invention could make or break the planet* (Sydney, 2011).

was extended is one of the clearest indicators we have that he intended to improve the reliability of the king's revenue and his ability to control it at any given time.

But as well as double-entry, Danby sought to improve royal cash flow by using tallies to improve the treasury's ability to pay balances on anticipated revenues. Tallies were struck, as one contemporary and anonymous economist wrote, 'in all cases of necessity, and in defect of money'.⁸² They promised specific sources of revenue to specific payees and therefore meant that Danby could avoid straining the treasury's liquid capital too much because he did not have to pay bills or debts all at once which were too large for the sources of revenue assigned to fund them. Tallies were never struck on speculation that at some point in the future funds to their value would somehow be found. They represented, rather, a form of good, or funded, debt accumulated in relation to scheduled exchequer receipts, as 'an acquittance or discharge for the same, in order to their quietus'.⁸³

On 15th December 1673, for instance, Danby forwarded to the customs cashier, 'to the end the persons concerned may see and be satisfied in what course their moneys are to be paid', a list of tallies drawn on the anticipated customs receipts for the following year.⁸⁴ Rather than having to pay the list's full amount of over 200,000L in one go out of the ready money in the exchequer, then, which would have left the treasury very little money to fund anything else, by issuing tallies Danby was able to spread his payments throughout the near future over a sustained and steady source of income. He was able to appease creditors and treasury departments by settling a realistic schedule for payment on relatively secure future incomes and at the same time to keep the cash flow of the exchequer up and to sustain the treasury's ability to pay for the processes of state. Danby's use of these accounting techniques was ultimately designed, then, to improve his ability to manage how money moved around the exchequer, and to record changes in the king's revenue. And if he could do both of those things, he stood more of a chance of stabilising the king's finances and of reducing the likelihood that in ordinary circumstances he would have to appeal to parliament and rely on its subsidies.

⁸² Again, tallies had been used for centuries before Danby came to office. But since he developed and depended so heavily on the concept of capital, they were an important feature of his practice. For a history of the use and development of tallies from medieval to early modern accounting, see C. Desan, *Making Money: Coin, Currency, and the Coming of Capitalism* (Oxford, 2015), ch. 4; Anon, *An humble proposal, whereby his majesty may raise and extend his credit to the annual value of his revenue without interest or damage to the kingdom* (London, 1674), p. 7.

⁸³ Anon, *An humble proposal*, p. 8.

⁸⁴ Entry Book, 15th December 1673.

The lord treasurer also tried to improve the accuracy of the records with which he and his administrative officials were dealing, so that they represented the king's rolling financial position more precisely. His main concern was that records submitted to the treasury must provide an 'exact view and inspection of the said revenue and the current cash thereof'.⁸⁵ So, he ordered changes in the format of finished accounts and in the process by which they were drawn up, in order to make it easier for both him and his officials to audit records as they were being created and at any time after they had been submitted.

On 22nd January 1674, for example, Danby changed the format of the ordnance accounts so that they more accurately reflected departmental transactions. He noted that 'several inconveniencies have heretofore happened for want of a due and exact method in the accompts of the lieutenants of the ordnance and of the treasurer and paymaster of the ordnance'.⁸⁶ So, he ordered that the clerk of the ordnance from then on had to draw the accounts up as two ledger books, one to be sent to the auditor of the imprests at the treasury, and the other to be kept in the ordnance office. The books were to be submitted to the auditor at the end of every June, and they had to contain all the debentures and quarterly payments of wages from the past year. Danby tried to ensure that the clerk made accounts which were an accurate record of the department's holdings and procedures, by instructing the auditor 'not [to] make any allowance for any other payments than what shall agree exactly with the debentures and quarter books'.⁸⁷ Any payment which was not accounted for in the finished ledger books would be identified by the auditor and corrected by the treasury as soon as possible.

The treasurer also tried to empower his officers to audit accounts as they were being created, to ensure that the records, once submitted, were more reliable. On 19th August 1674, for instance, he instructed his comptrollers to change how they oversaw the production of accounts for one of the least dependable branches of the revenue, the excise. He issued an eight-point list of instructions 'to be observed by the deputy comptrollers of the excise' while regulating the excise commissioners' accounts.⁸⁸ He told the sub-comptrollers that they had to make sure that the commissioners made their collections in pre-determined public places, instead of in private as they often had done before. Once the sub-comptrollers knew when and where the commissioners were collecting money, they had to sit with them so that they could 'carefully and truly enter down all sums of money paid in by every person chargeable

⁸⁵ Ibid, 22nd December 1675.

⁸⁶ Ibid, 22nd January 1674.

⁸⁷ Ibid.

⁸⁸ Ibid, 19th August 1674.

with excise', and to 'sub-sign all acquittances given [by the commissioners] for all moneys received'.⁸⁹ And the sub-comptrollers were always to inform their senior official, the comptroller of the excise, if they were impeded in their duties at any point.

By changing the format of departmental records and the way in which they were made, then, Danby was trying to increase the transparency of the revenue system and the accessibility of records and money in the hands of revenue officials. He wanted to make sure that the accounts submitted to him were an accurate record of the money collected and held by his officers, so that sources of revenue became more predictable and easier to budget against. And he wanted to increase both his own, and his officers', control over accounts, by making sure that treasury officials had access to the process by which departments compiled their records. He therefore tried to make sure that a range of revenue officials were involved in the accounting process and that their records could be cross-referenced at any point during production or after submission. It was, he realised, only accurate records of the system operating beneath him which would allow him to manage the king's revenue effectively, and which would mean that the royal revenue was reliable enough for it to be a solid basis upon which the crown could create and implement policy.

Danby also created and managed low-level administrative positions concerned with auditing and regulating the day to day operations of trade and commerce. He constantly oversaw the staffing of low-level offices, in order to make sure that their records and processes were remaining as conducive to the creation and identification of taxable wealth as possible, and that the necessary information for tax collection was being kept.⁹⁰ Throughout his tenure, Danby regularly issued warrants to employ and replace searchers, tidesmen, surveyors, waiters and other low-level officers on ports as widespread as London, Boston, Hull, and Weymouth, and even in the American colonies and the Caribbean. These officers were responsible for meeting ships as they discharged their cargo and for directing goods to the correct port officials for registration, or preventing the movement of goods until they had been documented in port records, or for registering and managing ships sailing abroad and goods marked for export.⁹¹ Or he sent dozens of warrants directing the employment and activities of forest wardens, rangers, keepers and regards, to make sure their management of the forests on the king's behalf was safeguarding the health of trees, securing logs from theft

⁸⁹ Ibid.

⁹⁰ Danby issued several warrants recording his management of this type of official during every month of his tenure. As such, there are too many to list here as examples. In many instances his instructions were sent to replace individuals who had been dismissed, very often for neglecting their duties.

⁹¹ For general summaries of these officers' roles, see, C. Jarvis Rupert, *Customs Letter-Books of the Port of Liverpool 1711-1813* (Manchester, 1954), glossary, pp. 169-172.

and decay, or packing logs properly and accurately for their transportation and sale. Or he made regular orders for new leases for fishing, or for the naturalising of boats, or for erecting and managing new fisheries in various parts of the country. And when his customs commissioners dismissed officers themselves, he required them to submit a report detailing their reasons, which he would then either endorse or investigate.⁹²

One of Danby's major concerns as treasurer was to preserve the conditions in which trade and commerce could carry on effectively. He therefore created offices aimed at preventing the importation and movement of prohibited goods which could not be taxed and which damaged legitimate trade throughout the country. On 23rd February 1674, Danby appointed Giles Dowle 'to implead, sue, and prosecute' everyone planting, setting and sewing tobacco in England 'to the apparent loss of the king's customs, the discouragement of the plantations in America, and the great prejudice of the trade and navigation of the realm'.⁹³ On 1st June 1674, he appointed Robert Cragg, a haberdasher, and Jeremy Caitlin, a weaver, 'to make legal search for all such contraband and prohibited goods, &c., as they shall discover to have been imported into this kingdom, and for all other commodities for which the due custom has not yet been paid, and to seize the same and deliver same to the warehousekeeper of London port'.⁹⁴ And on 31st July that year, he ordered the customs commissioners to appoint John Hobbs and John Thomlyn as officers of the customs, 'to seize and prosecute to condemnation any prohibited or uncustomed goods'.⁹⁵ Danby's involvement in the employment and administration of the low-level officers revealed his desire to improve the overall efficiency of the receipt of the customs and excise. While he focussed heavily on the practices of the more powerful officials involved with the major sources of income for the crown, and on the larger administrative processes of the revenue, he was still aware that one of the most important points of contact which the treasury had with the trade and commerce it taxed was through the lower-level officers in the ports, mines, forests, forges and workshops throughout the country. Without regulating their proceedings, Danby knew he could not hope to maximise the reliability, yield and independence of the crown's income and give the king the platform he needed to construct his financial and constitutional independence from parliament.

⁹² See, for instance, Entry Book, 19th November 1673, and the commissioner's dismissal of Henry Finch from his position as landwaiter and searcher at Sandwich.

⁹³ Entry Book, 23rd February 1674.

⁹⁴ Ibid, 1st June 1674.

⁹⁵ Ibid, 31st July 1674.

Danby's amendments and additions to the techniques used by the administrative revenue officers and to the methods of treasury accounting were designed to improve the treasury's access to and command of the system of revenue collection. He closely managed the ways in which the revenue was audited and administered, in order to empower his administrative officers to make better checks and more reliable verification of the king's many sources of income. And he tried to give himself a greater command of royal funds, at whatever stage of the system those funds had reached. Danby aimed, by making these changes throughout his tenure, always to improve the reliability and yield of the king's income and to increase the stability and independence of the royal finances. In doing so, he was slowly trying to build a royal revenue system which could compensate for the constitutional weakness which Charles' financial position had produced in the past. By changing the practices of his administrative revenue officers, then, Danby was aiming to reform one half of a system of revenue collection which would sustain independent policymaking, and which was, therefore, fit for a personal monarch.

And the same was true of the way in which he closely monitored the network of collection officials responsible for collecting and moving the revenue to the treasury. Broadly speaking, respecting the collection officers, the treasurer wanted to improve two things. Firstly, he tried to shape the practices of his officials at their point of contact with trade and commerce. By doing so, he wanted to make it easier for money to pass from the hands of the private individuals who owed it to the king into the hands of the officials of state. And secondly, he aimed to improve the processes through which revenue moved to the treasury once it had been collected. He wanted to make sure that when revenue officials received money it could then pass efficiently through their hands to the exchequer, where it could be put to public use. As with the administrators and auditors, by constantly shaping and enforcing new and existing practices and processes among his collection officers, Danby was trying to increase his control over the crown's income, and ultimately, to make the revenue more reliable.

One of the most important ways in which Danby engaged with the collection officers was by managing the roles and activities of the revenue farmers. While during his tenure the majority of branches of the revenue were managed by treasury departments, some of the most profitable sources of income, such as the excise, the hearth money, the Irish excise, and the

excise in Barbados, were still farmed.⁹⁶ Revenue farming was a basic form of privatisation, whereby the government would farm, or lease, the right to collect tax on behalf of the state to private individuals. By the time Danby came to office, farming was a long-established method by which English governments could raise revenue and had been used to varying degrees of success for hundreds of years. In principle, it was a sound financial strategy for any early modern government, because in this period the state was rarely rich or powerful enough to take on fully the responsibility of collecting taxes itself. Farming was an attractive option, therefore, because it was a quick and relatively secure way of raising funds. It provided a large, short to medium-term source of revenue for the crown, because by buying the lease, farmers made a high-risk but potentially high-gain investment. As a result, the treasury was able to command both a high annual rental value for the lease and to extract a large advance payment as part of the competitive bidding process between prospective farmers.⁹⁷ And, since the value of the lease was calculated on anticipated revenues, farming also allowed the treasury to move much of the risk and responsibility, inherent in collecting taxes on fluctuating and unpredictable sources of income, away from the state and onto the leaseholders. But the system was not perfect and was vulnerable to embezzlement from the farmers and all of the agents beneath them. Danby therefore devoted a lot of his time and effort as treasurer to settling the terms of the farms and to shaping the roles and responsibilities of those involved with them. As always, he aimed to improve their efficiency and to reduce any abuses or leaks in the system.

Danby's main method of exercising control over revenue farming, as it was for any treasurer, was the negotiation of new leases and the enforcement of the terms of those which already existed. In 1674 alone, he negotiated new farms for all four of the major sources of farmed revenue mentioned above, which amounted to over half of the king's annual income. As treasurer, it was Danby who received the prospective farmers' proposals for new leases before the old farm expired and who brokered the terms of new farms with the successful bidders. The bidders made offers on how much the annual lease should be, how large an

⁹⁶ The customs had been farmed until 1671, at which point negotiations for a new farm broke down and the management of that part of the revenue was given over to commissioners. For a description of this transition, and for the best study of revenue farming and its impact on state building in early modern England, see Michael Braddick's superb *The Nerves of State*, esp. ch. 3. But see also F. Dietz, *English Public Finance: English Government Finance, 1495-1641, vol II* (London, 1964); L. Stone, *The Crisis of the Aristocracy: 1558-1641* (Oxford, 1965); Chandaman, *The English public revenue*; B. G. Caruthers, *City of Capital: Politics and Markets in the English Financial Revolution* (Princeton, 1999), esp. chs. 2 and 3.

⁹⁷ The annual rental value was an estimate, based on the anticipated revenue, of what the farmers were likely to be able to pay into the exchequer every year. The advance was a loan, which they would pay to the king at the start of their lease, in relation to the value of their farm.

advance they would give the crown, and what defalcations, abatements or salaries they would expect as compensation for loss of revenue in various unforeseeable circumstances.

Through his negotiations with prospective farmers, Danby was able to shape the king's income so that he would know what the yield of certain revenues was likely to be at specific points in the near future, and could therefore budget against the anticipated revenues by using the administrative techniques mentioned above. For the hearth money, for example, Danby accepted one of several proposals for an annual lease of 151,000L and an advance of 100,000L.⁹⁸ He then negotiated the schedule of payment for the advance from the farmers to the crown, and the repayment of that loan from the crown to the farmers. He agreed with the new leaseholders that they would pay their advance in instalments of 10,000L at the end of April that year, 20,000L in May, 40,000L in June, and 30,000L in July, 'and if the king shall require itt 25,000L to bee advanced the 20th of November next 1674'.⁹⁹ If the king took the extra advance in November, Danby said, his first instalments repaying the advance money to the farmers would be 25,000L in March 1675 and 25,000L in September. If the king did not take the extra, though, the first repayments would only be 12,500L in both March and September 1675.¹⁰⁰ The treasurer also agreed with the farmers that he would add war to the list of circumstances in which defalcations would be claimable if there was a loss of revenue.¹⁰¹

Having negotiated the farms, Danby tried to ensure that their anticipated yield would be met and delivered to the treasury by covenanting with the leaseholders. His negotiations for a farm of the excise, for instance, were settled in November 1674 and set an annual lease value of 550,000L and an advance of 65,000L.¹⁰² The previous June, however, Danby had agreed articles with the farmers, later written into the great seal confirming their contract, which aimed to secure the terms of their lease and to make sure the anticipated revenue actually materialised. The farmers were to pay the agreed monthly and quarterly amounts within forty days of the due date or else forfeit the six per cent interest they commanded on their loan of the advance money.¹⁰³ They also had to surrender their lease if they failed to pay the full amount of the advance, and then pay any outstanding balances on their account immediately.¹⁰⁴ In terms of inspecting the farmers' proceedings, as well as being able to

⁹⁸ BL Add MS 28077, f. 105-106.

⁹⁹ Ibid, f. 105.

¹⁰⁰ Ibid, ff. 105-106.

¹⁰¹ The other contingencies were fire and plague.

¹⁰² Entry Book, November 1674.

¹⁰³ They were to forfeit the interest due on 50,000L of the advance money. Entry Book, November 1674.

¹⁰⁴ Entry Book, 5th June 1674.

apply to them all of the auditing and accounting techniques of his administrative officers, Danby made the leaseholders agree to perform all of his future orders and directions. He insisted that the leaseholders had to permit the sub-comptrollers of the excise to inspect and take copies of their records whenever he directed and that ‘every six weeks or two months’ they had to submit to the comptroller of the excise full accounts of the revenue and duty they had collected. But he also reassured them that if the value of their lease in any way diminished because of acts of parliament, he would abate their payments appropriately to compensate for their losses.¹⁰⁵

Revenue farming therefore presented Danby with a relatively secure and generally predictable source of income. His role in and command of the farming process allowed him to make more accurate projections of the king’s income and expenditure, which he would not have been able to do as easily if the treasury had collected the revenue itself. He knew, for instance, because he negotiated the schedules for payment, that after May 1674 the Irish inland excise, ale and beer licenses, quit rents, chimney money, and wine licenses would be paid in quarterly instalments of 27,000L, and that the Irish customs would be paid in fortnightly instalments of 3,000L.¹⁰⁶ He was therefore able to budget against these figures in advance, and to secure treasury expenditure against the schedules. By embedding himself in the process by which the treasury anticipated revenue and assigned payments on projected incomes, Danby became intrinsic to the management of the exchequer’s cash flow, the king’s income and expenditure, and the overall financial position of the crown.

But he could only anticipate the revenue accurately if he could ensure that the treasury was physically capable of collecting the money it was owed from the king’s various sources of income. He worked hard as treasurer to make sure that collection officials at the point of contact with sources of revenue could properly calculate the correct taxes and collect them once they had been levied. And he tried continually to make the process of collection more reliable or to improve the likelihood that the money to which the king was entitled could be collected in the first place.

There were few instances in which the problem of moving money from private hands into the exchequer, and then Danby’s solution to that problem, was more apparent than in the collection of revenue from the tin industry in Devon and Cornwall. Danby’s dealings with the tanners continued through the whole of his tenure and were characterised by his frustration that the tanners, through their practices, seemed to ‘suppose the king will let this

¹⁰⁵ Ibid, November 1674.

¹⁰⁶ BL Add MS 28077, f. 113.

important branch of the revenue lie dead'.¹⁰⁷ 'The king, the whole country and the trade of this important commodity', he wrote to the earl of Bath in October 1674, 'is abused by the interest of a few persons'.¹⁰⁸

The governance of the tin industry was a complicated process, involving a large network of local officials, a parliament of tanners, and a convoluted and changeable set of bylaws called the stannary laws.¹⁰⁹ The industry was divided into districts called stannaries, each of which had a court in which disputes between tanners could be heard. Each stannary contained a number of coinage towns, wherein the business side of the tin industry took place. By law, tin had to be melted and refined into blocks of a standard weight in an authorised public blowing house. From there, it was taken to a coinage town, where it was subjected, in the coinage hall, to assessment by a number of officers. While each officer was important to the process in his own way, the main ones were the peizer, who weighed the tin, the assay and deputy assay masters, who tested the tin for its purity and sent it to be rewrought if it fell short of the standard, and the numerator, who recorded the number of blocks brought in to the coinage hall. Only when the tin had been passed by all of these officials could it receive the king's stamp and be considered coined and ready for trading. For each hundred weight of stamped tin, the tanner had to pay to the revenue collector in his area a coinage duty of four shillings.

By the time Danby came to office, however, the rigours of the coining process were often being avoided and coinage duty was regularly going unpaid. The industry had regressed into private and unapproved hands, and tanners had begun illegally to melt the tin down into smaller bars than they should, in order to debase the metal and to reduce the tax that they had to pay on it.¹¹⁰ As a result, cheap, unauthorised tin had flooded the market, causing problems for the trade at large because it had driven prices down, and for the king's revenue because of the reduction in his coinage duty receipts. Danby recognised that the

¹⁰⁷ Danby in a letter to the earl of Bath. Bath, for most of Charles II's reign, was the lord warden, or the king's main representative to the tanners, in the stannaries. Entry Book, 27th October 1674.

¹⁰⁸ Ibid.

¹⁰⁹ For a more satisfactory explanation of the governance of the tin industry in Cornwall than is provided here, see R. Carew, *Carew's Surveys of Cornwall* (London, 1811). And for a more expansive and general history of the administration of the region, see C. S. Gilbert, *An Historical Survey of the County of Cornwall*, 2 vols. (London, 1817).

¹¹⁰ John Tregagle, receiver general for the country of Cornwall, proved to the treasurer during the debate about the state of the tin, on 26th February 1674, 'that the melting down of tin into small bars hath been the great occasion of defrauding the king in the coinage duty and debasing the metal'. BL Add MS 28077, f. 86; SP 44/36, f. 173.

king's income from tin was an important part of the overall excise receipt, so he worked hard to restore it.¹¹¹

His solution to the reduction of income from tin was to shape the method by which the tanners paid the king his share of the revenue from their trade. The king's right to receive some income from tin, Danby never tendered for discussion. But he gave the tanners the option either to accept the king's right of pre-emption, or to increase their coinage duty payments per hundredweight of tin, in lieu of the pre-emption. Both of these options would mean that the king would not have to suffer any further diminution of income from tin. And crucially, both stood to revitalise the treasury's control over the tin revenue, by empowering the collection officials and the process of collection.

Danby developed his offer to the tanners through a long process of consultation with the receivers of the revenue in Cornwall and the judges, in order to understand the state of the trade better, and to determine what legal power and prerogative rights the king had over it. On 3rd July 1673, only weeks after he had come to office, Danby ordered William and Charles Harbord, the auditors of the revenue in Cornwall, to send in to the treasury a state of the tin trade, along with the leases of the coinage and pre-emption of tin in Cornwall and Devon.¹¹² Over the following months, Danby, the judges and the receivers found that while the king did not have sole exportation rights or the power to set the price of tin (as previous monarchs had insisted), he did have the right to pre-emption, which gave the crown the opportunity to buy the tin before anybody else and to forbid its exportation when it did not bear the king's stamp.¹¹³ Through his consultation with the receivers and judges, Danby began to recognise that the revenue from tin had fallen because the tanners had stopped taking it to the centres of revenue collection, the coinage halls.

As a result, by the start of 1674 the treasury had come perilously close, the receivers and judges said, to 'the end of coinage' altogether, which meant that it had lost the ability to check the tin, to regulate it, and to levy and receive duty on it.¹¹⁴ Danby made the tanners the offer he did, then, because whichever choice they made would reintroduce their obligation to take the tin to the coinage halls. If the tanners chose to accept pre-emption, they would have

¹¹¹ To give an idea of the contribution which tin made to the overall revenue, at Charles' restoration William Smith offered the king 15,000L per annum for the king's right of pre-emption, the coinage duty, and the right of exportation. After that, Richard Ford farmed the tin revenue for ten shillings per hundred bars. And then Billott and Ennis farmed the coinage duty for 2,000L per annum. It was, therefore, a sizeable portion of the crown's overall excise receipts BL Add MS 28077, f. 85.

¹¹² Entry Book, 2nd August 1673.

¹¹³ BL Add MS 28077, ff. 18-19.

¹¹⁴ Ibid, f. 86.

to take the tin to the coinage halls either so that the king's officers could assess it and buy it themselves or so that it could be checked, stamped and made legal for trading with other private individuals. And if they chose to increase their payments of coinage duty, the tin would still need to be brought to the coinage halls so that it could be assessed and have the correct taxes levied upon it and collected.

In reality, Danby's negotiation with the tanners did not go as planned. At various points in the years after his offer to the convocation, he issued warrants to the customs commissioners to try to force the tanners to take their tin to be coined. He told his commissioners to instruct the customs officials to seize all tin brought to the ports for sale or exportation which did not carry the coinage stamp. He asked the revenue officials, once any tin had been seized, to send an account of it to him at the treasury and then to send particulars of their seizure to the receiver general so that he could prosecute the offenders.¹¹⁵ And he told his receivers to presume that if tin was unwrought it was because the tanner was trying to avoid coinage duty.¹¹⁶ But in spite of Danby's constant efforts that 'an effectual course be taken that all the tin be brought to his majesty's coinage houses', the convocation were able to hold off, for years after the treasurer first gave them the choice, on deciding between settling pre-emption and an increase in coinage duty.¹¹⁷ And even as he, and then parliament once he was removed from office, neared a settlement later in the decade, the convocation still resisted ceding any of their power at all over the tin to central government. The significance of Danby's proposition, therefore, rather than how successful or effective it may or may not have been, was the end to which it was designed and what it demonstrated about Danby's motivations as treasurer.

By trying to force the tanners to take their tin to the coinage halls, Danby was attempting to avoid the 'late great frauds ... whereby the revenue is decayed and fair dealing merchants discouraged'.¹¹⁸ He wanted to secure and, if possible, to increase the king's revenue from tin, by empowering his revenue officials to be more capable of levying duties and receiving payment. Danby's proposal to the tanners demonstrated his broader ambition to extend the reach of central government and force private individuals into an encounter with the officers and processes of state. If he could enforce this encounter and increase both the presence of his collection officials in trade and commerce throughout the country and their

¹¹⁵ Entry Book, 9th April 1674.

¹¹⁶ BL Add MS 28077, f. 86.

¹¹⁷ Danby in a letter to the earl of Bath. Entry Book, 17th June 1674.

¹¹⁸ Entry Book, 9th April 1674.

ability to collect tax, he could rely more on tax receipts as a source of revenue for the king and move Charles closer to the financial independence he desired.

But empowering his collection officers at the point of collection was only part of the problem which Danby faced in trying to improve the king's revenue. He was conscious throughout his tenure that he still had to get the king's money back to the exchequer once it had been collected. As we have seen, he made changes to the practices of the auditing and administrative staff to give them greater access to the king's revenue as it moved through the revenue system, in an attempt to make the passage of money through that system more efficient. But, to a similar end, he also removed the collection officials' power to hold money in their own accounts once they had collected it. On 2nd October 1673, for example, Danby issued a warrant to the commissioners of the hearth money, observing that there were many hearth money receivers who, for a long time, had not sent the treasury their accounts or kept to schedule on payments into the exchequer.¹¹⁹ Danby noted that before he took office the hearth money receivers had been allowed to hold the money they collected until a tally was sent to them, instructing them to pay the money on to somebody else.¹²⁰

But the receivers' entitlement to hold money created two problems for the king's income.¹²¹ Firstly, it meant that the money collected by the receivers often did not make it centrally into the exchequer, making it that bit more difficult for the treasury to hold them to account and to know what contribution their branch of the revenue was making to the treasury's overall receipts. And secondly, when they received tallies instructing them to pay money on, receivers often renegotiated a lower fee with the person to whom they were meant to make the payment in order to keep the difference for themselves. The treasury therefore found it difficult to keep an accurate record of which of its debts it had honoured and which remained outstanding. By threatening to prosecute collection officials, therefore, unless they quickly paid their receipts into the exchequer and submitted their accounts for approval, Danby was trying to divert the flow of revenue out of local officials' hands and through the exchequer at the centre of the state, in order to bring it further under the treasury's control.

For all of his scrutiny of the collection officials' practices, however, and all of his effort to make sure that their collections were efficient and their returns speedy and accurate, Danby was mindful not to smother private individuals' ability to make the money which he sought to tax. He believed that '[no] mans interest was thought equall to the lord treasurer's

¹¹⁹ Ibid, 2nd October 1673.

¹²⁰ Ibid, 4th October 1673.

¹²¹ Danby outlined these two problems in his warrant at *ibid*, 2nd October 1673.

in promoting of trade in England'.¹²² So, while he made sure that 'the chief business that is to be considered in the regulating the letting of wine licences is the improvement of his majesty's revenue', or tried to monitor 'whether [the Irish farmers] have received any more money for the customes then what they have certified and returned', he also wanted to make sure he made those kinds of checks 'favourably as not to interrupt their trade'.¹²³ Throughout his tenure, Danby tried to shape his office in order to balance between building the presence of an efficient and active revenue collection system within private trade and commerce, and doing so sufficiently sensitively as to safeguard the prosperity of those sources of income so that they were not impeded in their production of taxable wealth. He was conscious that if his network of revenue officials became too intrusive, bureaucratic or corrupt, they would become pernicious to the king's sources of income and the crown's overall financial position.

One of the ways in which he sought to nurture trade and revenue sources was by regularly, himself, acting as chief intercessor during disputes in which private individuals contested their contact with or payments to the state. In February 1674, for example, Danby presided over the London brewers' complaint that the excise commissioners were not giving them fair tax allowance on exported beer, according to the 'Act for exporting of beere, ale and mum'. The Act directed excise commissioners to deduct one shilling per ton from the excise on exported beer, and then to repay that deduction to the brewers.¹²⁴ The commissioners calculated the duty and deductions by gauging the volume of beer at the guile stage of the brewing process, which was long before it was ready to be exported. The brewers complained that the beer reduced in volume between the stage at which the commissioners made their assessment and the point at which it was settled and ready for exporting. They insisted, then, that, while the commissioners were calculating the rate of abatement to be on only three barrels in every twenty three, because of the reduction in volume by the time of exportation the abatement should have been made on three barrels in every twenty.¹²⁵ The brewers, who represented 'the main sinew of the excise', reckoned that the miscalculation meant that the commissioners had withheld from them abatements worth 360L since the Act had passed.¹²⁶

Danby was quick to address the brewers' complaint, because through their malpractice the commissioners had not tended to 'the advancement of trade and

¹²² Danby in a letter to the mayor and aldermen of York, 16th September 1673. BL Add MS 28051, f. 28.

¹²³ Entry Book 1st September 1673; BL Stowe MS 203, f. 249; *Ibid*, 3rd October 1674.

¹²⁴ The Act passed through the Commons on 24th January 1671, and was eventually passed into law on 26th June that year. *CJ*, vol. 9, p. 193; *Statutes of the Realm*, volume 5 p. 723.

¹²⁵ BL Add MS 28077, ff. 76-77.

¹²⁶ Entry Book, 7th July 1675.

encouragement of the tillage and manufacture of this realme' as the Act for Exporting Beer required. He ordered the excise commissioners to submit to him their accounts for the previous two years and then took advice from the attorney general and Colonel Birch, the auditor of the excise, on how the law should best be applied. Birch told Danby that while the law was clear for the brewers it did 'not justify the actings of the commissioners'.¹²⁷ The treasurer therefore ordered the commissioners to repay to the brewers, either outright or by defalcation, the funds which they had misappropriated.¹²⁸

Danby's approach to the collection from beer demonstrated a holistic view of the function of the collection officials. While he was keen to ensure that the yield and reliability of the revenue was as great as possible, he was also mindful of retaining the health and prosperity of the sources which produced it. For Danby, the collection officers were a conduit between private industry and the treasury, and he tried to balance how he used them and how they behaved, in a way which would look after the interests of both. He tried to make sure that, while the state should be able to collect the full and lawful amount from the people who owed it, it should do so without 'vexation likely to prove so great to the subject', and to the detriment of the sources of revenue from which they collected.¹²⁹

Overall then, Danby tried to manage the king's revenue in a way which would maximise its yield and reliability, and which would therefore provide the king with the level of financial independence he needed to develop policy away from the influence of parliament. His tenure was characterised by his constant efforts to create and nurture a system in which money flowed as easily as possible from private sources to the point in the exchequer where it could be put to public use. He constantly scrutinised the dealings of his collection officers to make sure that they identified the correct sources and levels of income, and then collected money and delivered it back to the exchequer in the proper way. And he shaped the techniques and responsibilities of his administrative staff in order that they could effectively audit the collection and movement of revenue around the system, and at any given point hold the process to account.

Danby's practices were based on the principles which he had first tried to bring to the king's attention by sending Bethel's pamphlet to the duke of Buckingham in 1672. He aimed to maximise cash flow so that the king would remain solvent and could avoid having to rely on the goldsmiths or parliament too much as he had done in the run-up to the stop of the

¹²⁷ BL Add MS 28077, f. 76.

¹²⁸ Entry Book, 3rd February [sic] 1674.

¹²⁹ BL Add MS 28077, f. 46.

exchequer and during the third Anglo-Dutch war. He wanted always to be able to see where the money was which had been collected by his officials and to check that what funds he had were correct and sufficient. He tried to reduce any sources of instability in the revenue, so that he could more accurately predict what money would arrive in the exchequer in the future and then budget against it. And he wanted to be able to rely on the flow of money never drying up by ensuring that the king's sources of revenue were secured and dealt with consistently by his revenue officers. By underpinning his practice at every turn with his clear desire to improve the yield and reliability of the king's revenue, Danby placed himself at the heart of Charles II's government and made himself the lynchpin for Charles' hopes of making policy independently of parliament and of achieving his aims in their uncompromised fullness.

IV

While Danby's approach to his office and the royal revenue could not remove the possibility altogether that the king might again one day have to rely on parliamentary supply, he was able to decrease the likelihood that Charles would have to. As Danby developed treasury practices and his role in Charles' government, then, parliament became increasingly aware that his innovations were marginalising them in politics. The king's parliamentary opposition knew that if Danby managed to make the crown financially independent of them, they would not be able to force the kind of constitutional deadlock which they had done in 1672 so easily and their ability to oppose the king's policies would therefore be dealt a severe blow.

Up to now, this chapter has tried to demonstrate that many of the bureaucratic and procedural innovations contained in the treasury records reveal how the government was trying to achieve its political ends through day to day political practice. But equally politically significant is what the treasury records do not contain. As Danby's tenure wore on, parliament became especially concerned that, at the same time as trying to increase the yield and reliability of Charles' revenue, Danby was deliberately obfuscating his practices and making them inaccessible to anybody but himself and a select few of his revenue officers. Not only was he clearly trying to provide the king with the financial basis for making policy independently, but he was also destroying the administrative paper trail which could show the king's opposition how he was doing it. It was this practice more than any other which made some members of parliament begin to suspect that Danby was trying to give Charles the personal monarchy which he had been aiming for.

The clearest example of Danby deliberately removing information about his transactions from the treasury records, and the one which worried the king's opponents most, was his use of secret service warrants to divert money around the exchequer to the benefit of the crown. Throughout his tenure he regularly issued money warrants for secret service, until February 1676 to the paymaster of the forces, Stephen Fox, and then after that time to the secretary of the treasury, Charles Bertie.¹³⁰ Where Danby made other types of money warrant bear the specific purpose for which they were being issued, he did not do so for secret service because he wanted to be able to apply large sums of money for the king's use without specifying why or what they were for.

So, money warrants issued to the goldsmiths were made out specifically for the payment of 'interest on the principal debt', the value of which was stated in the warrant along with the interest to be paid.¹³¹ Warrants issued to the cofferer of the household were 'for the service of the household' (meaning the payment of the king's servants' wages), or those to the treasurer and paymaster of the ordnance were 'for the service of the ordnance' (meaning the payment of wages and invoices in that department).¹³² Warrants issued for the payment of wages and pensions for other offices were made for 'three months ordinary as ambassador in ordinary to the French king', or for 'one quarter's pension as gentleman of the bedchamber', for instance.¹³³ Or those issued to local officials were 'for one year for the keeping of the bridge[s] in repair', or to 'repair substantially the mounds, gates and stiles of the enclosures in forest[s]'.¹³⁴ But unlike these other warrants, and while he later claimed that he had only ever ordered payment for secret service 'for expedition of publick services upon sudden occasions, or to save paying of greater fees', the warrants which Danby issued to Fox and Bertie were rarely made out to be more specific than just 'for secret service'.¹³⁵

These warrants, and the way he issued them, were a cornerstone of the financial independence which Danby was trying to create for the king. They allowed him, on the king's behalf, to move funds around the exchequer in private and beyond the scrutiny of auditors or opponents, which meant that if anybody became interested in where the money funding a particular royal policy had come from there were little or no records for them to

¹³⁰ Throughout February and March 1676 the balance on Fox's account for secret service was paid and his salary and allowances were settled. Charles Bertie received his first privy seal for secret service on 29th February 1676, and his first money warrant on 6th March. See Entry Book, 29th February 1676.

¹³¹ For example, Entry Book, 16th June 1675.

¹³² For example, Entry Book, 2nd October 1675.

¹³³ Entry Book, 1st February 1675; Ibid, 10th February 1676.

¹³⁴ Ibid, 18th June 1674; Ibid 17th June 1674.

¹³⁵ Anon, *An Impartial state of the case of the Earl of Danby* (London, 1679), p. 6. While it was published anonymously, it is almost painfully obvious that it was Danby who penned this impartial statement.

check. As one well-informed but anonymous commentator wrote after Danby had been removed from office, by issuing warrants in the way he did the treasurer made sure that ‘there are none in the exchequer that can know what any secret service money is applied to; for the orders are in a us’d name, and no service mentioned’.¹³⁶ Between Michaelmas 1674 and Michaelmas 1678, Danby managed to divert payments for secret service out of the exchequer at an average of a little over 100,000L a year, which was around eight per cent of the king’s average expenditure in those years and a huge increase on previous administrations.¹³⁷ Through this technique, then, he was still able to balance the books properly, because each warrant told him how much money was being moved, the source of revenue it was being paid from, and that it was being paid to either Fox or Bertie. But by making the warrants no more specific than ‘for secret service’, Danby was able to apply money for the king’s use without fear of having to justify the expenditure to anybody who began to scrutinise his dealings.¹³⁸ In doing so, he managed to remove another important way in which Charles’ opposition could criticise the king’s use of money in policymaking and obstruct his attempts to rule personally.

By April 1675, a growing number of Commons were becoming sufficiently wary of Danby’s practices and what they meant for the nature of Charles’ kingship to allow them to go unchecked any longer. On the 26th of that month, William Russell, who had been in opposition to the crown since Charles’ exorbitant spending on the third Anglo-Dutch war had emerged, made a speech advocating the removal of the treasurer by impeachment.¹³⁹ Samuel Barnardiston seconded Russell’s motion, and brought seven articles of impeachment against the treasurer into the lower house, which, he hoped, would make the Commons recognise Danby’s ‘ill management of the treasury, and his arbitrary proceedings in it’.¹⁴⁰ Barnardiston’s articles were serious enough for the Commons to resolve to discuss them one by one, because, if they turned out to be true, the articles demonstrated that Danby was gradually removing the lower house’s ability to participate in politics. They agreed,

¹³⁶ Anon, *An Examination of the impartial state of the case of the Earl of Danby in a letter to a member of the House of Commons* (London, 1680), p. 10.

¹³⁷ The actual figures were (Michaelmas-Michaelmas): 1674-75, 114,946L; 1675-76, 84,673L; 1676-77, 96,639L; 1677-78, 111,161L. By way of comparison, the amount diverted out of the exchequer for secret service in 1667 was only 23,910L, and in 1668 it was just 17,875L. The figures for Michaelmas 1669 to Michaelmas 1672 are incomplete, but, from the three half-yearly declarations which were made in this period, it is clear that the issues for secret service would still have been way down on the figures during Danby’s time in office. The data here is taken from the introductions of vols. 2, 3, 4 and 5 of *Cal. treas. bks.*

¹³⁸ Unless, that is, they were to criticise the concept of using funds for secret service itself. As we will see below, in the end Danby’s concealment and diversion of funds through secret service warrants was one of the main grounds for the opposition which grew against him in the Commons.

¹³⁹ William Russell, *History of Parliament*; HLRO DER/1 f. 22.

¹⁴⁰ Grey debates, vol. 3, p. 41.

therefore, to ‘hear such proofs, instances, and circumstances relating to each article, as are requisite to an impeachment’.¹⁴¹ Over the next few days, they took evidence from a number of witnesses, and discussed ‘the instruments by which [Danby supposedly] engross’d the revenue into his owne hands’ ‘and alter’d the ordinary course of the exchequer’.¹⁴²

The first, third and fifth articles complained of the harmful effects of Danby’s practice as treasurer. The remaining four related to Danby’s actions towards the marriage of his son to Robert Vyner’s daughter, to the stop of the exchequer which happened before his tenure, to gifts he had acquired from the king, and to his part in the banishment of an unnamed member of the privy council.¹⁴³ The first article concerned the central and domineering role which Danby had fashioned for himself in the treasury, and accused him both of ‘overthrow[ing] and violat[ing] the ancient course and constitution of the exchequer, by perverting the method of receipts, payments, and accounts, contrary to law’, and of ‘ingross[ing] into his own hands the sole power of disposing almost all the king’s revenue’. The Commons proceeded on this article on the 27th and 28th, by examining a number of treasury officials, including Robert Howard, Stephen Fox, Richard Mounteney and John Duncombe, over how his patents empowered Danby to move money on the king’s behalf and how the flow of revenue might have changed. Henry Powle, among the loudest voices in the group opposing the treasurer, urged the lower house to recognise that ‘the checks and controls in the [exchequer should be] perpetual evidence of what is done, no money being paid or received, but a record is kept of it’.¹⁴⁴ Danby on the other hand, Powle insisted, ‘has removed the money into other hands, that thereby no record may be kept of it’, and had thus disposed of the Commons’ opportunity to scrutinise his dealings.¹⁴⁵ But in spite of Powle and the opposition’s vehemence that by the practices described in the first article Danby was undermining their right to access treasury proceedings, the lower house voted comfortably that ‘there was no matter in [the first] article to ground an impeachment upon’.¹⁴⁶ So, in the following days, they moved on to discuss the second article about Danby’s son’s marriage.

Their examination of this article also led to its dismissal, and meant that it was not until the 3rd May that the Commons came to discuss the next article relating to Danby’s treasury practices. But by this stage Danby’s opponents had struggled so much to produce

¹⁴¹ *CJ*, vol. 9, p. 324.

¹⁴² Coleman newsletters, 30th April 1675. I am very grateful to Stephen Taylor for inadvertently permanently lending me a transcript of these newsletters.

¹⁴³ See Appendix I for the articles in their fullness.

¹⁴⁴ Grey debates, vol. 3, p. 41.

¹⁴⁵ *Ibid.*

¹⁴⁶ HLRO DER/1 f. 26.

both witnesses and evidence for their articles against him that their project had begun to falter. Edward Dering, throughout the debate on the impeachment that week a supporter of the treasurer's, noted in his diary on 30th April that he was 'very willing to hear [the witnesses], yet even then some consideration was to be had, how far they were competent and credible testimonies'.¹⁴⁷

In their discussion of the third article, which was concerned with the 'far greater sums than ever issued for secret service without account', and in, what was to be, a final attempt to convince the lower house, Lord Cavendish claimed that 'there has been 2,600,000L spent, and little of it gone to the use of the navy', so 'by consequence therefore it was wastefully spent'.¹⁴⁸ 'Is it not for yours and the nation's benefit', Thomas Clarges therefore asked the house, 'that maleversions should be examined of great officers?'.¹⁴⁹ The house of commons was, Clarges said, 'the grand jury of the nation, as the freeholders are of a county', and, 'for decency's sake', needed therefore to be able to inspect the treasury's proceedings in their entirety if they saw fit.¹⁵⁰ But it was to no avail, and the lower house resolved that there was nothing in any of the articles upon which to ground an impeachment.

For the time being, then, the treasurer, his practices and the king's revenue were safe from the Commons' scrutiny. At this time, it was only a minority in the lower house who were willing to speak out against Danby's changes in the treasury, and even then they could not organise themselves or their impeachment enough for it to gain traction. In April 1675 there were many Commons who saw some improvement in the country's finances due to Danby's practices, and were happy to let him carry on as he had been doing. For them the king's prosperity bode well for the fortunes of the nation, so anything which Danby did to improve Charles' financial position was alright by them. And there were others who tested the legal basis for the articles through the debate in the week after they had been presented, and found that there simply was not enough proof to proceed on them. They thought that while some of Danby's practices looked suspicious, there was neither enough evidence nor enough urgency to start trying to remove him at that time. So for now, Danby's supporters, who on the night his impeachment was raised had 'met at Wallingford house with [him], and heard what answers he could give to every particular', were 'so much too strong for his enemies' and the attack failed.¹⁵¹

¹⁴⁷ Ibid, ff. 30-31.

¹⁴⁸ Grey debates, vol. 3, p. 88.

¹⁴⁹ Ibid, p. 84.

¹⁵⁰ Ibid, pp. 84-85.

¹⁵¹ HLRO DER/1 f. 12; Coleman newsletters, 30th April 1675.

But in spite of Barnardiston's articles being defeated so easily in the spring of 1675, the fears on which they were founded never fully went away. A still sizeable portion of the lower house, those men, as Thomas Meres described them, 'who come out of the country, and would keep the king's revenue from ingrossing', had become increasingly concerned that, for example, 'the patent for the excise runs "to pay the money as the lord treasurer shall direct;" this empowers him to give verbal orders, which are never recorded, which is against common law'.¹⁵² This group, then, in 1675 still a minority, made the startling connection between what the treasurer was doing in office to try to stabilise the king's revenue, and their ability to participate in politics and policymaking. Certain members of the lower house strongly suspected that Danby's practices meant that 'no enquiry, either for the king or the subject, can be made what becomes of the money'.¹⁵³ As a result, their ability to use the king's financial position to intervene in his broader policy decisions, one of the main methods by which they could exercise their political power and prevent Charles from governing personally and arbitrarily, was being subverted. It did not take long for this tension to emerge again.

¹⁵² Grey debates, vol. 3, p. 64; Ibid, p. 56.

¹⁵³ Ibid, pp. 41-42.

Chapter 2: The king does government

As the house of commons debated Samuel Barnardiston's articles of impeachment against the earl of Danby, the house of lords were locked in a similar debate about the nature of their house and how they should be trying to make policy and to practise politics. On 3rd May 1675, the same day that the house of commons rejected the last of Barnardiston's articles, the upper house read and agreed to a preliminary order 'to preserve freedom of debate'.¹ The order was a reaction to the progress of a bill to prevent the dangers arising from persons disaffected to the government, which the Lords had been debating for a number of weeks, and aimed to safeguard parliament's 'just ancient freedom and privilege of debating any matters or business which shall be propounded or debated in both or either of the said houses'.² As the upper house had developed the disaffected persons bill, a number of powerful Lords, including Shaftesbury, Buckingham and Halifax, had become concerned that it sought to impose an oath on them which, if not taken, would deprive them of sitting and voting in parliament. This penalty for refusing the oath, these Lords said, was 'the highest invasion of the liberties and privileges of the peerage that possibly may be, and most destructive of the freedom which they ought to enjoy as members of parliament'.³

Instead of submitting to the terms of the disaffected persons bill, the Lords who entered their dissent against it insisted that their role in politics was innate and permanent, because, they said, they received their privilege at birth and it could not then be taken away 'but what by the law of the land must withal take away their lives, and corrupt their blood'.⁴ Since their privilege was not conferred upon them by anybody else, the nature of their participation in politics could not be changed or controlled by anybody else either. Rather, their ability to direct parliamentary proceedings themselves was an 'ancient freedom', which they retained out of a sense of duty for the 'redressing of any public grievance'.⁵ And their means of addressing these public concerns, they said, should be through the 'repeal or alteration of any old, or preparing any new laws'.⁶

The Lords' debate on the bill dragged on through the second half of April and the whole of May, and had still not been resolved by the time parliament was prorogued on 9th

¹ *LJ*, vol. 12, p. 674.

² The Bill to prevent the dangers arising from persons disaffected to the government received its first reading in the Lords on 15th April. *Ibid*, p. 659; *Ibid*, p. 674.

³ *Ibid*, p. 665.

⁴ *Ibid*, p. 677.

⁵ *Ibid*, p. 665; *Ibid*, p. 677.

⁶ *Ibid*.

June. As a result, the bill was abandoned, and it never appeared in the house of lords again. But while it did feature in the upper house, the debate around the disaffected persons bill was important, in one sense because it revealed how the Lords were conceptualising politics and their role in policymaking and practice at that time, and in another sense because it was at the heart of the disunity in parliament which came to determine the course of politics over the ensuing twenty months.

The way in which the dissenters presented their view of the bill demonstrated a deep preoccupation in the upper house with how their status as Lords gave them a constitutional privilege which entitled them to participate in politics in a certain way. Their argument during the spring of 1675 revealed that many in the upper house at this time were trying hard to think about and shape the relationship between the status which they could claim as Lords, the type of power and constitutional role which their claim of status gave them, the means of participating in politics which their role allowed them, and the ends to which their participation should be directed. This was, then, a broad and practically-minded conception of politics in which the Lords recognised how their ability to manage their constitutional position for themselves affected their ability to turn their ideas into reality through political process and planning.

The debate around the disaffected persons bill was one part of a broader competition at that time, between different groups in both houses of parliament, between both houses, and between both houses and the king, for the ability to intervene effectively in policymaking and to be able to realise wider political ambitions. Through the spring of 1675, as groups within the Commons and Lords tried to shape the nature and function of their houses and to compete to secure what they saw to be their rightful constitutional position, relations within and between the houses gradually broke down. As these debates continued, the king became increasingly frustrated that the growing tensions within parliament were preventing them from acting as a single, cohesive legislative unit as he wanted them to be. By 22nd November 1675, therefore, he had had enough, and, in a new bid to rule personally, he prorogued and ruled without them for over a year.

This chapter will explore how by the mid-1670s different groups in both houses of parliament viewed their status in politics, and how from their diverse positions they derived, thought about, and tried to shape or preserve their constitutional role and their means of exercising power. It will examine parliamentary proceedings in the run-up to the long prorogation of 1676, and will look at how Charles regarded their discussion and why he decided to intervene how he did. And it will ask how parliament engaged with politics and

tried to pressure the king's policies once he had prorogued them. Charles' decision to prorogue parliament for over a year forced political debate out into the public sphere in the pages of printed material. This chapter will therefore seek to explore how politicians tried to engage with politics and to shape policy publicly, and how Charles attempted to control these public attempts to intervene in his decisions through regulating the press and public discourse.

I

Through April 1675, the house of lords, in, what they saw as, their capacity as the highest equity court in the land, received a number of petitions of appeal asking them to prosecute private suits.⁷ As May arrived, they began to call on the disputants to answer their appeals. But three of the petitions which the Lords received that spring related to members of the house of commons, and, as the Lords called them to answer their appeals, the lower house began to resist what they deemed to be a gross breach of their privilege. By the second week of June 'the differences between the two houses [were] risen to a strange height', and what had begun as a regular series of private disputes had turned into an out and out battle of privilege against judicature between the upper and lower houses.⁸

On Tuesday 11th May, the Commons received information that an appeal had been brought against John Fagg, member for Steyning, by Thomas Sherley, one of the king's physicians in ordinary.⁹ The upper house, the Commons were told, had begun to proceed on the petition and had entered 'an order in their book that no member of either house should have priviledge against writs of error or appeales brought before them'.¹⁰ Many in the Commons were outraged that the Lords would presume to make orders relating to their privilege without consulting them first. So, on the 14th, in an attempt to slow the Lords' proceedings down and to catch up with a process which had begun without them, the lower house resolved that the appeal which Sherley had brought into the Lords was 'a breach of the

⁷ For the development of the equity court, otherwise called the chancery court or court of conscience, in early modern England, see Dennis Klinck's comprehensive *Conscience, Equity and the Court of Chancery in Early Modern England* (Farnham, 2010). For the development of the house of lords as a court for private litigation through the seventeenth century see J. Hart, *Justice upon Petition: The House of Lords and the Reformation of Justice, 1621-1675* (Hammersmith, 2005).

⁸ HMC Le Fleming, no. 1634 p. 120.

⁹ 'John Fagg', *History of Parliament*; Sherley's petition had first been presented to the Lords on 30th April. *LJ*, vol. 12, p. 673.

¹⁰ HLRO DER/1 f. 41.

undoubted rights and privileges of this house'.¹¹ But the same day, the lower house was informed that two more of their members, Arthur Onslow and Thomas Dalmahoy, both members for Guildford, were 'facing writs of error or appeales in the lords' house' as well.¹² The Commons commanded Onslow and Dalmahoy not to proceed any further in the cases pending against them in the Lords, and the following day, on the 15th, resolved that if anybody else appeared in the Lords to prosecute any suit against a member of the lower house, they would be 'deemed a breaker and infringer of the rights and privileges of this house'.¹³

In the following weeks, in a series of conferences requested by both houses, relations between the Commons and Lords, and between different groups within both houses, continued to break down. By the end of May a deep rift had opened up between the upper and lower house, as neither one was willing to accept the other's claims about the issue in hand. On the surface, the problem they were discussing was whether or not the Lords had the right to prosecute petitions of appeal, and then whether, if a petition related to a member of the lower house, the Lords' judicature superseded the Commons' privilege to sit unhindered during a session of parliament. The Lords insisted, on the one hand, that in them 'the last resort of judging upon writs of error and appeals in equity, in all causes, and over all persons, is undoubtedly fixed, and permanently lodged'.¹⁴ The Commons, on the other, could not find 'by Magna Charta, or by any other law or ancient custom of parliament, that your lordships have any jurisdiction, in cases of appeal from courts of equity'.¹⁵

But, underneath all the rhetoric, their discussion was based in a deep concern, on both sides, about the effects which the Lords' prosecution of appeals stood to have on the balance of power between the houses and the nature of their roles in politics. Many in the lower house became concerned that if the Lords had the power to draw individual Commons away from the proceedings of their house in order to prosecute private appeals, they had the power to disrupt the business of the lower house and thereby to obstruct the Commons' ability to participate in politics. The Commons insisted that 'it is the undoubted right of this house, that none of their members be summoned to attend the house of lords during the sitting or

¹¹ *CJ*, vol. 9, p. 337.

¹² 'Arthur Onslow', *History of Parliament*; 'Thomas Dalmahoy', *Ibid*; HLRO DER/1 f. 44; Nicholas Stoughton's petition of appeal against Onslow was first read in the Lords on 23rd April. *LJ*, vol. 12, p. 666; Nicholas, John and Thomas Crispe's petition against Dalmahoy had first been read in the Lords on 19th April. *Ibid*, p. 663.

¹³ *CJ*, vol. 9, p. 339.

¹⁴ *Ibid*, p. 352.

¹⁵ *Ibid*, p. 354.

privilege of parliament'.¹⁶ They tried to make it clear that it was the public which they served and not the Lords. It was, many Commons thought, against 'the right of a commoner to be sued, without the consent of the house', since it was impossible for a member to be 'tied to personal attendance publickly to one place, [and yet] called to another'.¹⁷

But for the Lords, if the Commons could resist their power as the highest court in the country, they were claiming a political and legal authority equal to that of the upper house which undermined the Lords' rightful constitutional seniority. When, on 27th May, the Commons sent Thomas Lee to the upper house to desire a conference regarding their privileges in the prosecution of their member Arthur Onslow, the Lords agreed, but only on the condition that the Commons would stick to a discussion of their privilege. If the lower house tried to enter into a debate on the Lords' judicature, on which the upper house refused to allow the Commons to comment, the managers of the conference from the Lords were to 'withdraw from the said conference, and resort to the Lords, without further attendance'.¹⁸ It was, the upper house maintained, their undoubted right 'in judicature, to receive and determine, in time of parliament, appeals from inferior courts, though a member of either house be concerned, that there may be no failure of justice in the land'.¹⁹ Any attempt by the lower house to dispute, obstruct or control the orders or judgments of the upper house, the Lords said, 'tend[ed] to the subversion of the government of this kingdom, and to the introducing of arbitrariness and disorder'.²⁰

The answer which the Lords returned to the Commons' request for a conference on the 27th fractured the lower house into a number of different groups, according to what they viewed their role in politics to be, how policy should be made in order to maintain that role, and how the issue in hand should be resolved. Two groups in the lower house maintained the Commons' autonomy and sought to safeguard their ability to participate in politics on their own terms, in order that they could better attend to the requirements of the public which they sought to represent. But even these two groups were divided on how to translate their belief into action. The first, which Edward Dering noted in his diary included Thomas Meres and Robert Howard, wished to go to conference with the Lords and ignore their proviso of not mentioning judicature.²¹ According to this group, such a restriction on the debate would not allow the lower house to speak frankly on the matter of their breached privilege, and would

¹⁶ Ibid, p. 340.

¹⁷ Grey debates, vol. 3, p. 144.

¹⁸ *LJ*, vol. 12, p. 706.

¹⁹ *CJ*, vol. 9, p. 340.

²⁰ Ibid, p. 352.

²¹ HLRO DER/1 f. 52.

therefore not allow them fully and finally to address the imbalance which the Lords' prosecution of appeals had created. The other of these groups, however, opposed the conference altogether, for the broader reason that since the Lords had this time told the Commons 'what they should not say, the next time they might enjoin us what we should say'.²² This group was keen to practise their right to intervene in politics on their own terms, rather than accommodating the Lords in conference and running the risk of setting a precedent which might restrict them to having to submit to the Lords' will and superiority from then on. Such a submission would not allow the Commons to fulfil their constitutional role, which was to serve the needs of the public.

A third, more moderate, group, of which Dering was a member and which at this time was the largest in the house, thought that, while the lower house had been right in their votes to be 'declaratory of the common law of the land', it would be better for the Commons to 'take a little more time for deliberacion than usually we did'.²³ For this group, parliament was there to discuss possible courses of action and to make the legislation which was required to solve any problems which they encountered. They hoped, therefore, to attend the conference, and to persuade the Lords that placing a proviso on such occasions rendered 'the whole conference vaine and indeed dumb', and undermined the more discursive relationship which the two houses should be trying to foster.²⁴ Dering himself, always vocal on the matter of what role the lower house should be taking in politics, urged the Commons a number of times to 'come to a good understanding with the Lords', and warned that, if the Commons sought total independence from the upper house, parliament risked 'splitting upon that rock we are now very neare striking upon'.²⁵ And two more groups insisted that the Commons should be much more compliant in the debate than they currently were being. One suggested that the Commons should prioritise any action which would allow for the more effective application of the law and the better preservation of justice. It would be worse, they said, for the right to prosecute petitions to be 'under the determination of a chancellor or in a judge's breast; much better under so many judges in the lords house'.²⁶ And the other urged the Commons not to exceed their privilege and to upset the established balance of power by seeking to restrict the Lords' authority in their current debate. The Lords should be able to

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid, f. 57.

²⁶ Grey debates, vol. 3, p. 169.

exercise jurisdiction over the Commons, this group said, since ‘the Lords are perpetual, and privilege attends them, and they are in parliament for ever. Privilege here is but accidental’.²⁷

By the beginning of June, then, the debate between the Lords and Commons had become much more than a theoretical discussion about who should have the right to prosecute petitions of appeal and whether or not the house of lords should be able to act as a court of equity. Underneath the differences of opinion between the houses on this issue, ran a much deeper current of practical concern about the very ‘essence of parliamentary proceedings’.²⁸ The Lords’ assumption of a supreme legal authority, which would empower them to divert the Commons’ attendance in their own house and to interrupt their proceedings, was not acceptable to many in the lower house because, as Edward Vaughan, one of the main defenders of the Commons’ privilege put it, ‘the lives, and liberties of the people you are to represent, are at stake’.²⁹ It was not the Lords’ insistence that they had the authority to prosecute appeals itself, then, which made tensions run as highly as they did, but the implications which that authority had for the distribution of political power between the houses and their ability to participate in politics and to achieve their political ends.

The dispute which emerged out of the Lords’ prosecution of appeals was part of a broader contest between different groups in parliament and between both houses, to shape or maintain the distribution of political power and the correct level of access to policymaking. The Commons’ debate of the articles of impeachment against the earl of Danby, the Lords’ discussion of the disaffected persons bill, and both houses’ debate of the petitions of appeal were all based in a deep concern in both houses for how best to maintain the ability to exercise power, to develop political plans, and to realise ideas in practice. All of these topics and the tensions which grew around them hastened a downturn in relations throughout the spring of 1675 within and between the two houses, which did not fully recover for the rest of Charles II’s reign. These debates in parliament in the long-run, and as we will see in the following chapters, meant that from then on parliament spent much of their time thinking about what the practical implications might be of the policies which they were discussing, instead of focusing on solving the issues which had required them to develop policy in the first place. As the earl of Shaftesbury was supposed to have replied when the bishop of Salisbury at this time asked the upper house whether the hearing of causes and appeals ‘be so

²⁷ Ibid, p. 171.

²⁸ Newdigate, l. c. 189. I am very grateful to Alex Barber for providing me with an electronic transcript of these useful newsletters, which, otherwise, would have remained in an archive beyond the reach of both my student budget and growing fear of flying.

²⁹ *CJ*, vol. 9, p. 171.

material to us, that it ought not to give way to the reason of state, of greater affairs that press us', 'this matter is no less then your whole judicature, and your judicature is the life and soul of the dignity of the peerage of England'.³⁰

But, in the shorter-term, this preoccupation with how policy and practice might affect the balance of the constitution and the distribution of power meant that both houses of parliament became unable and unwilling to address the issues which Charles had recommended to their care on beginning the session. On 13th April that year, having recalled them from over a year of prorogation, the king had asked them to make legislation which 'may give content to all my subjects' in terms of religion, and had laid before them 'the consideration of the fleet'.³¹ But as the session had continued, those considerations had become completely subordinated by the debates surrounding parliamentary privilege. Neither the bill for securing the protestant religion, nor the bill for preventing papists from sitting in parliament, both being developed in the house of lords, managed to pass through the house before Charles prorogued them the following November.³² And likewise, the house of commons' bill for raising supply for the navy was read for the first time on 20th November, but, again, did not reach a second reading before the prorogation.³³ As both houses continued to clash as the year moved on, opinion fragmented, particularly in the lower house, and their ability and will to act as a coherent legislative body, as Charles had asked them to when he opened the session, quickly disappeared.

It was not long, then, before this diversity of opinion within parliament, and which was gradually preventing them from acting how Charles wanted them to, incurred the king's displeasure. As the tensions grew, and as the Lords' and Commons' debate moved into June without showing any sign of being resolved, Charles became increasingly frustrated with his parliament's inability to address the issues which he had recommended to them, and to attend to their constitutional function by making the laws which he asked them for. On 5th June, he called both houses to the banqueting house, and told them that he viewed the differences between them to be 'a most malicious design of those who are enemies to me and to the

³⁰ This exchange was recounted in the anonymously authored pamphlet entitled *Two speeches I. The Earl of Shaftsbury's speech in the House of Lords the 20th of October, 1675, II. The D. of Buckingham's speech in the House of Lords the 16th of November, 1675* (Amsterdam, 1675).

³¹ *LJ*, vol. 12, p. 653.

³² The bill for securing the protestant religion did not get as far as a first reading, and the bill for preventing papists from sitting in the house received its first, and last, reading on 16th November that year. See *LJ*, vol. 13, p. 24.

³³ The full title of the bill was A Bill for raising a Supply for the Building, and towards the Guns, Rigging, and other Furnishing of Twenty Ships of War; and for appropriating the Customs to the Use of the Navy. *CJ*, vol. 9, p. 381.

church of England'.³⁴ Parliament existed, he made no mistake in telling them that day, in order to assist him in addressing the issues which he deemed to be most pressing at any given time. As a result, he told them directly 'that whilst you are in debate about your privileges, I will not suffer my own to be invaded'.³⁵ His warning thus issued, he allowed parliament to continue sitting, and again told them to consider the problems to which he had previously drawn their attention. But, after only four more days, as they still showed no signs of reconciliation, on 9th June he called both houses to him again and told them that because he had 'designed the matter of [the session] for the procuring of good laws' 'in the matters both of religion and property', and because 'those unhappy differences between my two houses are grown to such an height, I find no possible means of putting an end to them, but by a prorogation'.³⁶ While he then recalled them the following October, it did not take long for the same tensions to emerge in parliament, as the Lords renewed their prosecution of appeals and the Commons became wary of the same invasion of their privilege as they had done in the spring. By 22nd November that year, then, Charles was ready to suspend them again, only this time he prorogued them for over a year, until 15th February 1677.

Charles intervened in parliamentary proceedings in the summer and autumn of 1675 in order to bypass the political deadlock which had arisen in and between both houses. He made it clear that he had no intention of suffering a parliament which was more concerned with shaping their own means of developing policy, than they were with actually making the policies which he had asked for. So by refusing to wait any longer for them to help him in passing legislation on religion and the navy, Charles was once more taking a personal approach to rule. But his prorogations throughout 1675, and their disruption of parliament's ability to participate directly in politics by sitting, had another important effect on political culture. They forced his opponents' attempts to intervene in politics out into the public sphere, in the pages of printed material and popular debate instead.

II

Charles' decision to suspend the session for fifteen months at the end of November issued in a new period of personal rule. He removed his opponents' access to the constitutional mechanisms by which they could directly participate in policymaking, and thus bypassed the

³⁴ *LJ*, vol. 12, p. 725.

³⁵ *Ibid.*

³⁶ *Ibid.*, p. 729.

blockages in parliamentary politics which had dogged their previous two meetings. But in doing so, Charles forced his opponents to think of new ways in which they could influence his decisions and bring him to rethink any policies which they did not like. Having removed his opponents' ability to participate in politics directly through a parliamentary session, then, the king, perhaps inadvertently, galvanised a public political culture which had for some time been growing alongside parliamentary proceedings.

As the relationship between the upper and lower houses and the king had broken down through the summer and autumn of 1675, a growing pamphlet literature began to try to draw the issues of privilege and judicature, the nature and constitutional roles of both houses and the crown, and the king's continuing attempts to manage parliament and to rule independently, out of the wreckage of the parliamentary session, and to sustain the debate of those issues in public. As the prorogation progressed, the differences of opinion which had emerged within parliament in the run up to the deadlock became exacerbated and compounded in the pages of printed material, and in the minds of the people who read and discussed it. Within a year of his decision to rule personally, Charles faced some of the strongest public opposition which he had yet seen in his reign, and needed once again to adjust his style of policymaking accordingly.

This section will explore how Charles and his opponents sought to use and control the publication of information in order to make policy. How did they conceptualise their role in policymaking, and how did they seek to support that role by opening up or shutting down the availability of the data upon which political decisions could be based and the details of the decisions which were being made? And how did they seek to use and control publication and press restraint in order to make their political and constitutional ideas influence policymaking? The chapter will examine what debates the emerging pamphlet literature was seeking to shape, and how the authors of those pamphlets were trying to use their audiences to influence the policies which Charles was making. And it aims to suggest how public opinion practically made it into the policymaking process. How, did authors try to make sure that their published points of view would come to feature in the conversations of policymakers and influence their decisions? It then seeks to show how Charles tried to control public access to information, and to prevent public intervention in his policymaking and governance. What were the processes and procedures by which Charles sought to restrain the press and public discourse? And how did he seek to modify and improve this system during the long prorogation of 1676, to be able to make policy independently and rule how he wanted?

Historians have tended to view the long prorogation as a period of relative calm in Restoration politics, characterised by a series of ineffectual efforts by Charles' prorogued opposition to put pressure on the king, and equally unremarkable attempts by the government to suppress those now unpersuasive opposition voices. The prorogation has commonly been confined, then, to the space of a few paragraphs by scholars impetuous to get to the events and themes of the next parliamentary session.³⁷ Where the events of the prorogation have been studied, historians have treated them as the by-product of a gradually developing intellectual culture of opposition to the crown, as a bridging point between the ideas of interregnum radicalism and their more mature Restoration counterparts in the last three parliaments of Charles' reign.³⁸ But if we take the efforts of those attempting to participate in politics and to shape political culture during the prorogation a little more seriously, we see a continuing, and very earnest, desire from a still active royal opposition to influence the decisions which their king was making, and the policies which he was seeking to develop. Just because the public effort to influence policymaking was not immediately successful, and although many of Charles' measures to regulate public participation during the prorogation were ultimately ineffective, does not mean that they do not tell us anything about the way in which the personal government of 1676 and its opponents were trying to develop the policies which would come to fruition in the following years.

Most of the pamphlets which sought to publicly sustain the parliamentary debates which had led to the prorogation were published anonymously, and it is difficult now to say for certain how many of them were authored by the same person, or whether any of them were written by groups of people consciously writing together towards a shared goal. They ranged from being relatively well-produced, seemingly well-funded folio pamphlets, which the authorities noted were 'too well printed for a private press', to manuscript doggerels scribbled over single sheets of paper.³⁹ What is clear, though, is that many of their arguments were based on the same conceptualisation of the constitution and the nature of the roles of each political institution. It is also striking how closely many of those arguments resembled addresses and debates which had taken place in the upper house in the run up to the prorogation. In particular, they drew heavily from, or even fully reproduced, the speeches of the earl of Shaftesbury and the duke of Buckingham. So much so, in fact, that when, for

³⁷ Miller, *Popery and politics*, pp. 143-144; Jones, *Charles II*, pp. 120-121; Hutton, *Charles the Second*, pp. 332-334; An important exception is K. H. D. Haley's massive *The First Earl of Shaftesbury* (Oxford, 1968).

³⁸ De Krey, *London and the Restoration*, pp. 141-150; Harris, *London Crowds*, pp. 92-94; M. Goldie, 'Annual Parliaments and Aristocratic Whiggism', in J. Spurr (ed.) *Anthony Ashley Cooper, First Earl of Shaftesbury, 1621-1683* (Farnham, 2011), pp. 82-86.

³⁹ HMC Lords 1676-1677, p. 66.

instance, one of the pamphlets came to the attention of the upper house in early November 1675, shortly before Charles prorogued them, 'some of their own members [became] suspected for it'.⁴⁰ And it is also noticeable that, as the authorities investigated these publications and began to make arrests and prosecutions, many of those whom they identified were known associates of Shaftesbury and Buckingham, or were even members of groups such as the Green Ribbon Club. But at any rate, whether or not the swell of publications through the long prorogation was the result of a truly organised propaganda campaign, co-ordinated by a single central party or interest, we should still read them as the authorities came to; as a coherent body of political opposition to the crown and Charles' now personal government.

As parliament lurched from one fragmented meeting to another through the second half of 1675, and then as the prorogation continued, pamphlets emerged which were based on the same belief in a collaborative form of government that represented the will and ambitions of the English people, which had been so rigorously asserted by many in parliament in the months leading up to the prorogation. The form of government these publications preferred was one in which each political estate was at the same time reliant on and supportive of the functions of the other two. 'You have in our English government', one pamphlet published at the end of 1675 told its readers, 'the house of commons affording the sence, the mind, the information, the complaints, the grievances, and the desires of all those people whom they serve ... The second estate in this government, is the Lords, who are the councill, the wisdom, and judgement of the nation ... The last, and supream of all, is the king, one who gives life and vigour to the proceedings of the other two'.⁴¹ Fairly simply, then, 'the house of commons' business is to complain', the house of lords' 'to redress', and the king was there 'to seek the welfare of the whole' by turning 'the will and desires of the people, approved by the wisdom and judgment of the Lords', into law.⁴² Within this constitutional structure, as 'taken out of the parlement rolls, which declare it throughout from the beginning to the end, both in the ancient records, and in the modern journal books', the roles of each estate were absolutely rigid.⁴³ It was only through maintaining this correct distribution of power, in which each estate made a distinct and unique contribution to the making and implementation

⁴⁰ William Denton in a letter to Ralph Verney, 11th November 1675. HMC Verney, p. 493.

⁴¹ Anon, *Two seasonable discourses concerning this present Parliament* (Oxford, 1675), p. 4.

⁴² *Two Speeches. I. The Earl of Shaftesbury's Speech in the House of Lords the 20th. of October, 1675. II. The D. of Buckinghams Speech in the House of Lords the 16th. of November 1675.* , p. 4; *Two seasonable discourses*, pp. 3-4.

⁴³ Anon, *The case stated concerning the judicature of the House of Peers in the point of appeals* (London, 1675), p. 17.

of policy, that the grievances of the nation could be addressed, and the laws, liberty and property of the subject be protected. If the structure broke down, ‘all our ancient rights [would be] raped from us and our posterity forever; and our living child of liberty and property, silyly stolen from our side’.⁴⁴

More and more as the prorogation dragged on, however, the pamphlets began to insist that that structure had indeed started to break down, because of the excessive length of the current parliamentary session. By the end of 1675, Charles had not sought an election for fourteen years. As a result, the pamphlets said, parliament ‘were not the representatives of the one half of the people of England’ anymore, because the continuous session meant that no politicians ever returned to their constituencies to hear the will of the people.⁴⁵ Even worse, the over-length of the session left both houses of parliament open to corruption and faction building. ‘Honours, offices, pensions, money, imployments and gifts’, one pamphlet said, could be bestowed and accepted in a lengthy session, in order to service ‘caballs, and parties, and the carrying on of private interests and court-factions, rather than the publick good’.⁴⁶ And in that instance, ‘the government, as in France, Denmark and other countries, [would be] made absolute and at the will of the prince’.⁴⁷

The pamphlets almost unanimously agreed, then, that the only solution to the current imbalance of power, as a number of Lords including Shaftesbury and Buckingham had also insisted in the upper house two days before the long prorogation, was the immediate dissolution of the current parliament and the election of a new one.⁴⁸ Only through a policy of ‘short and frequent parliaments’ could the correct balance of power be returned and sustained.⁴⁹ Only through that policy could the government ensure that the people would

⁴⁴ Anon, *The Long Parliament dissolved* (London, 1676), p. 3.

⁴⁵ *The Long Parliament dissolved*, p. 4.

⁴⁶ *Two seasonable discourses*, p. 6; *Ibid*, p. 4.

⁴⁷ *Ibid*, p. 6.

⁴⁸ *LJ*, vol. 13, p. 33; A number of the pamphlets suggested this solution. For instance, Anon, *The causes and remedy of the distempers of the times in certain discourses of obedience and disobedience* (London, 1675). Or W. Penn, *England's present interest discover'd with honour to the prince and safety to the people* (London, 1675). Or Anon, *An account of the proceedings at Guildhall, London, at the Tolke-Moot, or Common Hall* (London, 1676). Or Anon, *A seasonable argument to persuade all the grand juries in England to petition for a new parliament* (Amsterdam, 1677). Or Anon, *Some considerations upon the question, whether the Parliament is dissolved by it's prorogation for 15 months* (London, 1676); And there were a number of other publications, now not surviving in print but which Joseph Williamson kept notes on, which criticised the length of the session and Charles' decision to rule personally through 1676. See, for example, Williamson's note at *CSPD* March 1676-February 1677, p. 215, about a pamphlet entitled *Jenkes his case*, which recorded his speech at the Common Hall of London about a possible dissolution. There is also a manuscript transcription at SP 29/391 f. 161, of a pamphlet called *The grand question concerning the prorogation of this parliament*. There is also a transcription of a letter to an unnamed lord from ‘the officers of the Royal Regiment of Fops’ at SP 29/379 no. 72, or notes on two satirical verses at SP 29/381 no. 78.

⁴⁹ *Two seasonable discourses*, p. 7.

have ‘a continued assurance and a perpetual satisfaction that their liberties should continue in status quo’.⁵⁰ And only through that policy could they prevent the further slide towards personal monarchy and the pursuit of private court interest in the future.

But it was one thing for the authors of the pamphlets to present this rival vision of how government should be done in order to secure liberty and property, and quite another for them to implement their policy of regular parliaments. No matter how rhetorical they got, or how many statutes they quoted, the pamphlets could never have hoped to convince Charles, a divine right monarch who did not share their desire for collaborative governance, and who had shown through the prorogation was not receptive to competing visions of politics, that their argument about the imbalances in the constitution was correct and needed addressing how they described. They needed, rather, as politicians in parliament had regularly done before, to find some way of forcing Charles to account for their ideas in his policy decisions in spite of not agreeing with them himself. So how did the authors of the pamphlets try to implement this plan to return political culture and policymaking to a more collaborative form of government through short and regular parliaments? Alongside their alternative political theory, how did the pamphlets hope to drive their calls for dissolution, their solution to the problems in contemporary politics, into Charles’ decisions in government?

At the heart of their attempts to force the dissolution and to re-enter policymaking was a clever campaign of defamation, which aimed to induce a popular passive resistance to the king’s government and policies and thus to cut off the domestic private sources of money which the king had previously used to keep his government independent. As well as offering their vision of collaborative governance, the pamphlets wished to bring their readers ‘within these walls for one half day’ so that they may see ‘the strange make and complexion that this house is of’.⁵¹ Then having transported their readers inside government, they openly challenged and criticised the character, motives and decisions of Charles and his ministers. They wanted to demonstrate to their audiences that the current threat to liberty and property by the over-long session and prorogation was not just the unhappy coincidence of political circumstance, but was the responsibility of a king who was more concerned with making policy for his own benefit than for his subjects. The pamphlets sought, therefore, to depict the current form of government, in which the king ruled with the assistance of a tight-knit and opaque cabal of ministers, whilst spurning all other estates, as so disagreeable to the interests

⁵⁰ *The Long Parliament dissolved*, p. 6.

⁵¹ Anon, *A letter from a Parliament man to his friend, concerning the proceedings of the House of Commons this last sessions, begun the 13th of October, 1675* (1675), p. 1.

of his subjects that they would begin to resist him and to seek and prefer alternative styles of governance. This defamation represented a problem for Charles, because once his subjects' minds were alienated from him, their pockets could soon follow.

The king's more vicious critics attacked him personally, more often than not drawing upon his very public preference of wine, women and song over the business of government. One such author compared Charles to Timur, the founder of the Timurid empire in central Asia, since both kings were renowned for having many different wives and lovers.⁵² But many of those seeking to defame the king in this way published their work as manuscripts, since that allowed them to circulate their ideas without having to find the assistance of printers and publishers who were as disaffected and unscrupulous as they were. As a result, as the surveyor of the press, Roger L'Estrange, told the short-lived Lords committee for libels in mid-November 1675, manuscript publications were even more 'bitter and dangerous' than their printed counterparts, and 'by the help of transcripts, [were] well nigh as publick'.⁵³ One of the most acerbic manuscript verses, written by John Freke, who was a member of the Green Ribbon Club and would eventually be among those tried for involvement in the Rye House plot, suggested that instead of dealing with affairs of state, 'other mens' wives [Charles] only swives'.⁵⁴ Or when the king had decided, another verse said, to turn 'the parliament out of doors', he had done so whilst 'red hot with wine and whores'.⁵⁵ The, not very subtle, suggestion which these authors were making to their audiences was that since Charles was so pre-occupied with more carnal pursuits he was regularly left with neither the attention nor the energy to govern church and state properly. To the authors of the pamphlets and verses, these errors of judgement and the lifestyle which produced them rendered the king, at best, the colonel of a regiment of similar fops, and, at worst, an 'infestious punk', neither serious nor moral enough to make the kinds of decisions needed to do government correctly.⁵⁶

But beyond these more rhetorical complaints of Charles' libertine tendencies, the pamphlets tried to show how his whole personal government was unfit for purpose and

⁵² Williamson made notes on this printed work, entitled *Hattige or Les Amours de Roy Tamerlain*, in April 1676. SP 29/380, f. 208.

⁵³ HMC Lords 1676-1677, p. 66.

⁵⁴ Williamson recorded Freke's verse, entitled *The chronicle*, on 3rd May 1676. See SP 29/381, f. 78; See Raymond Anselment's *ODNB* article on John Freke for mention of his membership in the Green Ribbon Club. His appearances before the privy council for involvement in the Rye House plot run passim through SP 29/427 and 428.

⁵⁵ This verse, entitled *The Busse or the Royal Kiss or Prorogation*, was recorded by Williamson at the same time as he recorded Freke's. SP 29/381, f. 78.

⁵⁶ SP 29/379, f. 72; SP 29/381, f. 78.

willing to make policy only for themselves. Charles, 'like a soverraigne wise and holy', they said, had constructed a government in which he had placed 'very doggs at counsell board', had packed the judiciary with men who were too young to know what they were doing, and had made 'bishops those that love a wench'.⁵⁷ This new 'distinct party from the rest of the nation' saw 'no reason why any of the king's officers should consult with parliament men', and were thus, for their own ends, making 'monarchy as well as episcopacy to be *jure divino*, and not to be bounded, or limited by humane laws'.⁵⁸ Even worse, Charles was supposedly trying to extend his court and church party into parliament, and had already recruited 'several papists, fifty outlaws, and pensioners without number' across both houses.⁵⁹ This whole process was being done, the opposition authors insisted, 'to leave [parliament] as an instrument to raise money, and to pass such laws, as the court, and church shall have a mind to'.⁶⁰ After all, they said, Charles did not consider himself to be 'made for the people, but the people for him'.⁶¹

Having attached the blame for the current insecurity of church and state to Charles and his personal government, the opposition authors urged their audiences to resist a king who was knowingly and willingly making decisions and policies which were upsetting the balance of political power and threatening the liberty and property of the subject. While very few of the pamphlets went as far as moving their readers to 'pull all British tyrants downe', as John Freke had done in his *Chronicle*, many others pressed their audiences to practise a form of more passive resistance to the government. Since 'the laws, and with them the lives, liberties and properties of every English-man is at stake', one pamphlet said, 'we, with all other our fellow English-men, are under the highest obligation to break our guilty silence'.⁶² There was now a 'duty', another agreed, 'obliging us to a valiant resistance of impietie growing potent'.⁶³

By the summer of 1676, both the pamphlets' rally to resist the king and their vision of collaborative government had begun to gain traction among the civic elites in London. On 24th June that year during the sheriff's elections, Francis Jenks, a linen draper from Cornhill, made an impassioned speech at the Guildhall, in which he urged those then present to put their own business aside and to focus instead on 'first tak[ing] care to remedy those many

⁵⁷ SP 29/381, f. 78.

⁵⁸ Anon, *A letter from a person of quality to his friend in the country* (London, 1675), p. 27; Ibid, p. 1.

⁵⁹ *A seasonable argument*, p. 23.

⁶⁰ *A letter from a person of quality*, p.2.

⁶¹ SP 29/379, f. 72.

⁶² *The Long Parliament dissolved*, p. 3.

⁶³ *The causes and remedy of the distempers of the times*, preface.

mischiefs and grievances which the city now groans under'.⁶⁴ Jenks insisted that London, and all other major ports around the country, lay under a great danger of firing, like that which, he said, had started the great fire ten years before. There was, also, such a 'general decay of trade, as if not remedied, must inavoidably bring the whole city to poverty and ruine'.⁶⁵ And, 'worse than all the rest', he said, 'is the just apprehension that is upon the minds of good men, of danger to his majesties person, and the protestant religion'.⁶⁶ Made desperate by the diminution of trade and the threat of popery from the growing strength of France and the duke of York's continuing presence at court, and seeing no solutions to their problems coming from within the king's now personal government, Jenks insisted, as the opposition pamphlets had for some time also done, that the only solution was a return to regular parliaments. Some members of the corporation, he said, must immediately 'wait upon my lord mayor and the court of aldermen, to desire that a common council might speedily be held, humbly to petition his majesty, that for the quieting and satisfying the minds of his liege people ... he would graciously be pleased ... to call a new parliament'.⁶⁷

Jenks was arrested two days after addressing his peers and hauled before the king in council to answer for what he had said.⁶⁸ But his speech had met with widespread approval in the common hall, and his calls for a dissolution to redress the grievances of the nation were reiterated and debated by the London merchants for the rest of the year. In an address on 20th July, later circulated along with Jenks' speech in a cheap pamphlet, another member of the common hall demanded to know what condition the country would be in 'if we shall wait eight or nine months for the parliament's meeting'.⁶⁹ 'What can save this city', this second speaker asked, 'but laws fitted by a parliament for every grievance?'.⁷⁰ And on 28th October that year, one of Williamson's informants, Thomas Barnes, told the secretary that the previous day at the common council 'there were many debates about the petition or address to his majesty for redress of grievances, and they voted to every paragraph of it'.⁷¹

⁶⁴ Anon, *An Account of the proceedings at Guild-Hall, London, at the Tolke-moot, or Common-Hall, held 24th of June 1676* (London, 1676), p. 1.

⁶⁵ Ibid, p. 2.

⁶⁶ Ibid, p. 3.

⁶⁷ Ibid, p. 4. Where I have put ellipses here, Jenks was citing the statutes according to which Charles was obliged to call a new parliament.

⁶⁸ SP 29/366, f. 203.

⁶⁹ SP 30/F, f. 243. The pamphlet was published anonymously, and no attribution is given for this second speech. It was, according to Joseph Williamson, given on 20th July, and not to the same audience as Jenks', as Gary De Krey suggests in his *London and the Restoration*, p. 146.

⁷⁰ SP 30/F, f. 243.

⁷¹ SP 29/386, f. 135.

The merchants' calls for dissolution represented a worrying development for the king in the growth of public opposition to his continued personal rule. It was one thing for the pamphlets to be publicly casting doubt on the motives and character of Charles and his government. But the merchants' growing desire for dissolution and a government based on parliamentary decisions showed that the ideas being represented in the pamphlet literature, or at least ideas very similar to them, were beginning to take hold among some of his most powerful and wealthy subjects. In addition, through 1676 Charles observed a growing link between the corporation of London and the strongest opposition Lords in parliament. In the first months of that year, both the duke of Buckingham and the earl of Shaftesbury had moved their urban residences from Westminster into the city of London, and had begun publicly to 'vent out all [their] thoughts and designs' for the government.⁷² They had also begun to associate regularly with some of the more vociferous members of the corporation, such as Jenks, Thomas Player, and James Winstanley, who had begun to feel that 'since they cannot be so entirely well with the king, as they could wish, they must take care not to lose themselves elsewhere'.⁷³ How much these different groups coordinated their opposition to the king is difficult to say. And whether this coalition can truly be seen as the 'developing roots of party', as one historian has recently suggested, or whether their association was a more opportunistic arrangement based on shared shorter-term interests, remains to be seen.⁷⁴ But when Jenks was arrested and brought before the privy council in June 1676, Charles and his ministers could barely conceal their suspicions that the merchants were receiving directions from more powerful men. 'Who made you a councillor to dissolve parliament?', the king himself asked. And the lord chancellor was even more forthright, enquiring of Jenks directly by whose advice he had made his speech at the common hall.⁷⁵

On 4th October, the duke of Buckingham, in the company of several corporation men, 'had taken a cup of tea and drunk a health to another parliament or a new parliament, and to all those honest gentlemen of it that would give the king no money'.⁷⁶ By making that toast, Buckingham alluded to the problem which public alienation from the king, particularly if it was based on a collaboration between opposition Lords and the City, presented to the independence of his government and policymaking. By defaming the king and showing how his government was unfit for protecting property and liberty, Charles' opponents during the

⁷² Notes by Williamson on information he had received from Lord O'Brien, 18th February 1676. SP 29/379, f. 43.

⁷³ Ibid.

⁷⁴ De Krey, *London and the Restoration*, p. 149.

⁷⁵ Notes by Williamson on the examination of Jenks before the privy council, 28th June 1676. SP 29/366, f. 203.

⁷⁶ SP 29/385, f. 245.

prorogation sought to alienate the minds of his subjects from him. In itself, nurturing disaffection was not a means of influencing the king's policies, because, as a divine right monarch, Charles' kingship was not reliant on the consent of his subjects. But what he did, regularly, rely on, were the sources of extraordinary revenue which parliament and the members of the city corporations controlled. If he lost the affections of those bodies of men, Charles would make it even more difficult than it already was to negotiate their packages of financial assistance to help fund his government and policies. As Buckingham had intimated, then, it was not popular opinion itself which allowed the king's opposition to influence his policies and to push their own agenda back into the frame. It was the connection between public opinion and the private money which it controlled which meant that it was in the king's interests not to let the affections of his subjects wander too far from him. By supplementing their calls for dissolution with an intense campaign of defamation, then, Charles' opponents threatened to turn his independence in government into outright isolation. And as Danby wrote to the king soon after the prorogation came to an end and parliament reconvened, 'when mens feares are growne both so generall and so great as now they are', and when 'the hearts of the people [are] so alienated from the government, there will bee few concerned for the change of itt to whatever offers ittself'.⁷⁷ So how did Charles seek to engage with his opponents' attempts to influence his decisions in government? Did they succeed in forcing him to dissolve parliament and to call a new session? Or did he find some other way of evading their demands and continuing to rule independently?

As the opposition pamphlets grew in number and became more and more critical of Charles' approach to government, the king, his ministers and government officials began to take notice of the public disaffection that the publications were starting to induce. As early as mid-November 1675, while only relatively few pamphlets had been published in opposition to Charles' government, William Denton, physician to the king, wrote to his nephew, Ralph Verney, that the court was concerned by how far the recent libels were 'like to make a great disturbance'.⁷⁸ Within a year of Denton's letter and Charles' decision to prorogue parliament, however, this apprehension had grown, and local government officials across the country were writing to Secretary Williamson to acquaint him with 'what evil spirits are still roving about the world', and how they were writing 'papers into the country and to several

⁷⁷ Danby in a memorandum to the king, 4th April 1677. BL Add MS 28042, f. 9.

⁷⁸ HMC Verney, p. 493.

corporations, whereby people are infected with a belief that our government is in a much more sticky condition than it is'.⁷⁹

Not long into the prorogation, therefore, the king began to take notice of 'the great complaints that were being made day by day to his majesty of the licence that was taken ... to utter most indecent, scandalous and seditious discourses'.⁸⁰ He set about cultivating a system of regulation officials whose 'main and principal duty' in this time, 'when faction is so bold as to be bare-fac'd; and false and seditious news is openly talk'd, and greedily embrac'd', was 'to suppress all open force, and private confederacies; not thinking any thing little that attempts the publick safety'.⁸¹ As the public pressure on his government mounted, then, Charles sought to reinvigorate and develop the processes of public restraint, in order to prevent information about his government from reaching the public, and his subjects' ability to process that information and to pressurise his policy decisions.

Since the early 1660s, and the Restoration settlement, Charles had relied on the same laws to regulate the publication and public discussion of information. The 1662 Printing Act empowered him to restrain the publication of printed material through a process of pre-publication licensing and censorship, in which works were submitted to the government for approval before being published, and post-publication regulation and censure, in which unlawful and harmful works were investigated and prosecuted.⁸² And the 1663 Excise Act empowered him to manage the proliferation of the venues of public discourse, because by that Act one of the chief venues for public debate, the coffeehouses, all had to be licensed as well.⁸³

According to the Printing Act no books, pamphlets or papers could be published lawfully, unless they had first been entered into the Stationers Company register, and submitted to be 'licensed and authorized to be printed by such person and persons only as

⁷⁹ Henry Fowler in a letter to Williamson, 30th September 1676. SP 29/385, f. 190. Fowler was an alderman and coroner of Gloucester, and a regular correspondent in matters of press regulation with Williamson; Jonathan Trelawny in a letter to Joseph Williamson, 2nd October 1676. SP 29/385, f. 218. Trelawny was MP and a justice of the peace for Cornwall. See 'Trelawny, Jonathan I (c.1623-81), of Trelawne, Pelynt', in *History of Parliament*.

⁸⁰ Newdigate, l.c. 269; HMC Le Fleming, no. 1693 p. 123.

⁸¹ W. Scroggs, *A speech made by Sir William Scrogg, one of His Majesties Sergeants at Law* (London, 1676), pp. 4-5; Scroggs' speech drew so much public attention that it eventually became difficult to find a copy left for sale. Edmund Verney to Ralph Verney, 23rd November 1676. HMC Verney, p. 467.

⁸² The full title of the Act was An Act for preventing the frequent Abuses in printing seditious treasonable and unlicensed Bookes and Pamphlets and for regulating of Printing and Printing Presses.

⁸³ The full title of this Act was An Additionall Act for the better ordering and collecting the Duty of Excise and preventing the Abuses therein.

shall be constituted and appointed to license the same'.⁸⁴ The Act said that books concerning the common laws of this realm were to be licensed by the lord chancellor, the lord keeper of the great seal of England, the lord chief justice, or the lord chief baron. All books of history or affairs of state were to be licensed by the principle secretaries of state. Books of heraldry, titles of honour and arms were to be licensed by the earl marshal, or, if there was not an earl marshal at a particular time, by the 'three kings of armes garter'. And all other books, 'whether of divinity, physick, philosophy, or whatsoever other science or art', were to be licensed by the archbishop of Canterbury or the bishop of London.⁸⁵ The Printing Act further decreed that a new book should be delivered to the correct licenser so that it could be checked for content which was 'contrary to christian faith, or the doctrine or discipline of the church of England, or against the state or government of this realme, or contrary to good life or good manners'.⁸⁶ When the licenser had checked the book he would send it back to the printer or owner of the imprint, having made any amendments or additions he felt necessary to bring it within the law and to make it agreeable to the interests of church and state. At that point the book could be printed, as long as a final copy was returned to the licenser so that it could be kept in the public registries as a record of the licensed, and legal, version.⁸⁷

If a work was not submitted to the rigours of the licensing process before it was published, which, as we will see below, historians have been at pains to point out they often were not, the king relied on a centrally controlled network of post-publication press regulation officials. At the centre of the network was one of the two principal secretaries of state. Throughout the Restoration period, neither the secretary for the northern department nor the secretary for the southern department necessarily took the lead in co-ordinating press restraint. But from the time of his appointment on 11th September 1674, Joseph Williamson, as secretary for the northern department, became the lynchpin of Charles' system of press regulation. As secretary of state, Williamson was responsible for issuing warrants, sometimes at the direction of the king or council and at other times autonomously, for the search of, apprehension, prosecution and imprisonment of anybody deemed to have contravened the true meaning of the Printing Act. He took the depositions on oath of suspects, and compiled and kept their files on record. And he presided over a vast network of

⁸⁴ An Act for preventing the frequent Abuses in printing seditious treasonable and unlicensed Bookes and Pamphlets and for regulating of Printing and Printing Presses. See *Statutes of the Realm*, vol. 5, pp. 428-435.

⁸⁵ *Ibid.* The vice-chancellors of both universities could also license the books under the authority of the bishops of Canterbury and London, when those books were printed within the universities. Any of the licensers could delegate their duty to another person, if they deputed them in the correct way.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

informants and correspondents, which he nurtured with frequent ‘tokens of kindness’ and used in order to monitor public discourse in venues and conversations which the government would have struggled to gain access to otherwise.⁸⁸ Williamson was a voracious reader and a proficient bureaucrat, who saw his work as secretary of state as ‘the great business of my life’.⁸⁹ He soon gained a reputation for the ruthlessness with which he prosecuted his office, which he often did, Andrew Marvell noted, with a ‘plenipotentiary grimass for his majestys service’.⁹⁰

Beneath Secretary Williamson were the agents of press control. Outside of London, justices of the peace or the liverymen of city corporations were responsible for receiving and executing Williamson’s warrants, and for reporting their proceedings back to him and keeping him abreast of public discourse in the localities. But inside the capital, the two main agents of press control were Roger L’Estrange, surveyor of the press, and the Stationers Company. In the first couple of years after the Restoration, L’Estrange acted as an informer on anti-government publishing and book selling.⁹¹ He was nominally recognised as surveyor of the press on 24th February 1662 in two warrants from the secretary of state for the southern department at the time, Sir Edward Nicholas. One of these warrants empowered L’Estrange to search for any ‘seditious, scandalous or unlicensed [publications], to bring away or deface the same, and the letter press, taking away all the copies, and to search for and proceed against all printers, authors, publishers, or dispersers of the same’.⁹² The other empowered him to seize all those ‘seditious books and libels, and to apprehend the authors, contrivers, printers, publishers, and dispersers of them, and bring them, before [the secretary of state], to be proceeded against according to law’.⁹³

L’Estrange was officially made surveyor of the press by warrant on 15th August 1663, and was thereby given ‘power to search for and seize all treasonable and schismatical books and papers’, made free from the Stationers Company, and put in charge of a number of messengers whom he could command to assist him in prosecuting his office.⁹⁴ As surveyor, L’Estrange was one of the chief instruments of regulation used by the secretaries of state in

⁸⁸ SP 29/384, f. 205.

⁸⁹ Cited in A. Marshall, ‘Williamson, Sir Joseph’, *ODNB*.

⁹⁰ Anon., *An account of the growth of popery, and arbitrary government in England* (Amsterdam, 1677), p. 85.

⁹¹ L’Estrange is a fascinating character and an important facet of Restoration press regulation. His life and career have supported a number of very good studies. See, in particular, Hinds, *The Horrid Popish Plot*; D. Turner, ‘Roger L’Estrange and the Print Culture of the Restoration’, unpub. Ottawa PhD thesis (1996); J. Sutherland, *The Restoration Newspaper and its Development* (Cambridge, 1986); A. Dunan-Page and B. Lynch (eds.), *Roger L’Estrange and the Making of Restoration Culture* (Aldershot, 2008).

⁹² SP 29/51 f.17.

⁹³ *Ibid*, f.13.

⁹⁴ SP 29/78 f.182.

exposing and prosecuting seditious material. As a measure of how useful he made himself to the secretaries, in the nine months after officially being made surveyor, he received nine warrants to apprehend persons wanted in connection with unlawful publications. And he remained similarly active through the following decade and a half. Like Joseph Williamson, L'Estrange set about making the prosecution and improvement of his office his life's work, and, as a result, soon earned himself the nickname 'the devil's bloodhound'.⁹⁵

The Stationers occupied a similar role to the surveyor in press regulation, in that they received their legitimacy from the government and their direction from the secretaries of state.⁹⁶ The Company received a royal charter in 1557, which granted it a monopoly over publication, and said that once a member of the Company had entered their ownership over copy in the Company register, no other person was lawfully allowed to print that work without that member's approval. Nobody who was not a member of the Company, unless given special dispensation from the crown, was lawfully allowed to print or sell any books, pamphlets or papers whatsoever. And nor was anybody allowed to erect a printing press without first telling and gaining the approval of the Company. The Stationers' utility in press regulation came from this monopoly over the English stock. If the Company allowed material which it did not own to be published, this competition would break their monopoly and their profits would suffer. In theory, then, it was in the Stationers' interests to keep unlicensed, un-entered material off the market, and to inform the authorities when it did appear. The Company's protection of its monopoly therefore provided the government with a valuable source of information about material which had not been printed and published legally through the correct channels and an extensive set of agents through which to prosecute such material if it appeared.

The regulation of the venues in which public debate took place was based on the 1663 Excise Act. That Act said that, 'noe person or persons shall be permitted to sell, or retaile any coffee, chocolate sherbett or tea without licence first obtained and had by order of the generall sessions of the peace'. If a person wished to sell coffee, they had to enter into recognizances of twelve pence with the chief magistrate or justice of the peace in their area, before a license would be given. Only when the license had been received could an individual begin to sell the coffee, and even then they could only retail for the duration of

⁹⁵ This moniker was applied to L'Estrange by Ralph Wallis in a letter intercepted by the post office in June 1664. SP 29/99, f.111; Wallis was 'an old libeller of Gloucester now lurking in London'. Giles Webbes in a letter to col. Philip Frowde, 18th January 1664. SP 29/90, f. 111.

⁹⁶ The most comprehensive histories of the development of the Stationers Company are still C. Blagden, *The Stationers' Company: a history, 1403-1959* (London, 1960), and W. W. Greg, *Some Aspects and Problems of London Publishing, between 1550 and 1650* (Oxford, 1956).

their license. Anybody caught selling coffee without a license would forfeit the sum of fifty pounds for every month they continued to retail without it. The system of excise officials described in chapter one enforced the terms of the Excise Act and reported those in contravention of the law if they found them.

This system of public restraint has in recent years received a great deal of attention, and criticism, from historians. The main line of enquiry which they have followed has been to ask how effectively the king was able to apply the processes of restraint, in an attempt to measure how successfully he was able at any given time to marshal the participation of his opponents, and to transfer his own political, religious and social agenda downwards onto his subjects. This question of effectiveness has allowed these historians very successfully to reconstruct the physical processes by which Charles aimed to regulate public politics, and then how people tried to subvert and circumvent that system in order to continue participating in debate. They have therefore managed to show how people in the early modern period creatively used paratextual elements and coded language in their publications, in order to mask the intended meaning of their work so that censors would allow it to reach its more knowing audience in its uncompromised fullness.⁹⁷ And they have shown how a tight-knit society of coffee drinkers nurtured their common interest in maintaining an environment in which their diverse and frank political discussions could flourish.⁹⁸ The triumph of examining the effectiveness of public restraint has been that these historians have managed to describe why publications physically appeared in public with their particular form and content and why people's conversations about that material took place how they did. But we should not relax into assuming that the only way in which policy made a difference was by being effective, and that if policies were not implemented totally effectively they were

⁹⁷ For discussions of the effectiveness of the measures taken during the prorogation, see, in particular, A. Patterson, *Censorship and Interpretation: The Conditions of Writing and Reading in Early Modern England* (Madison, 1984); T. Crist, 'Francis Smith and the Opposition Press in England, 1660-1688', unpub. Cambridge PhD Thesis (1977); D. Wilson, 'Reading Restoration Freethought: Charles Blount's Impious Learning', unpub. Royal Holloway PhD Thesis (2003). And for more general, and important, uses of this approach, see S. Lambert, 'Richard Montagu, Arminianism and Censorship', *Past and Present*, No. 124 (1989), pp. 36-68; S. Lambert, 'State Control of the Press in Theory and Practice: the role of the Stationers' Company before 1640', in R. Myers and M. Harris (eds.) *Censorship and the Control of Print in England and France, 1600-1910* (Winchester, 1992); A. B. Worden, 'Literature and Political Censorship in Early Modern England', in A. C. Duke and C. A. Turner (eds.) *Too Mighty to be Free: censorship in Britain and the Netherlands*, vol. 9 (Zutphen, 1987), pp. 45-62; L. Schwoerer, *The Ingenious Mr Henry Care, Restoration Publicist* (Baltimore, 2001); A. Bellany, 'Libels in Action: ritual, subversion and the English literary underground, 1603-1642', in T. Harris (ed.) *The Politics of the Excluded, c. 1500-1850* (Basingstoke, 2001); J. McElligott, *Royalism, Print and Censorship in Revolutionary England* (Woodbridge, 2007); C. S. Clegg, *Press Censorship in Jacobean England* (Cambridge, 2001).

⁹⁸ Pincus, 'Coffee politicians does create'; Cowan, *The social life of coffee*; Harris, *London Crowds*; Harris, *Restoration*.

therefore inert. In fact, focussing too heavily on how successfully the processes of public restraint were applied, or for that matter any other measures taken to adjust or enforce the processes of governance, can obscure an important set of tensions within political culture and which influenced how people tried to make and implement policy.

People in opposition to each other in the Restoration period did not only base their own attempts to participate in politics on which of their opponents' policies had turned out to be successful. This is because waiting to find out which of their opponents' policies were effective could potentially render any later opposition obsolete. When some members of the house of lords opposed the oath in the disaffected persons bill, for instance, they did not wait to find out whether the oath would actually be successful in taking away their liberties and ability to participate in politics before they began to resist it. If they had waited to find out whether the oath was effective, and it had indeed turned out to be, their opportunity to resist it would have come and gone; the oath would have removed the liberties necessary for them to be able to oppose it. So, the oath's opponents resisted it at the earliest possible stage, in part because of the potential damage it was capable of doing to their ability to participate in politics, and in part because of what those pushing the oath revealed about their own political ambitions by seeking to introduce it. In this sense, as one eminent historian has recently explained, there are two types of reality in history: 'most importantly what the averagely informed contemporary knew or thought they knew about what had just happened, was happening now, and might be about to happen next ... [and] what subsequent historians have, in fact, found out about what was 'really happening''.⁹⁹ Studying effectiveness goes some way to exploring the latter. But it was the former which at the time influenced people's decisions and the competing policies which they developed and sought to implement.

We must recognise, then, as some historians of other periods have already begun to, that policy could create change whether it was effectively implemented or not. Politicians, on all sides, developed policy, not when the effectiveness of their opponents' plans became apparent, but when their opponents' plans revealed their broader political ambitions, how they viewed their role in politics and the roles of others, how they thought power should be distributed and what tools for engaging with politics different people should be allowed to use, where they sought to draw their legitimacy for governing from, and who they thought should be allowed to make plans and to develop policy.¹⁰⁰ In this way, Charles adjusted and

⁹⁹ Lake, *Bad Queen Bess?*, p. 469.

¹⁰⁰ Historians seeking to study systems of state in order to read into broader political and religious agendas are indebted to Christopher Hill's 'Censorship and English Literature', in *The Collected Essays of Christopher Hill*,

developed the processes of public restraint during the long prorogation not because his opponents were actually successfully removing his ability to develop and implement policy how he wanted, but because his opponents had revealed their intention to remove his ability to make policy independently and had started trying to do so.

To explore these tensions in political culture more fully, we need to move beyond trying to measure how effective government attempts to control the flow and consumption of information were, and to consider instead, as contemporaries did, what those attempts revealed about people's diverging political agendas. So, we need to contextualise instances of press regulation and the suppression of popular politics and to look at the specific reasons for why governments tried to take those measures. And we should read the sources which reveal a government's methods of regulating public participation in politics not only in terms of their content, but, more holistically, in terms of their form and function as well. In doing so, the measures which Charles took to restrain public participation in politics through the long prorogation not only reveal that he wished to restrain the press and public opinion at that time, but also how he aimed to support the role which he was seeking to take in politics and the nature of the power which he was seeking to exercise, by trying to develop and implement policy in a specific way and through certain processes.

At the beginning of December 1675, Charles began trying to contain the accumulating pamphlet literature and public discourses, by prosecuting the people authoring, distributing and discussing harmful publications through a series of small-scale and specific orders in council. On the 6th of that month, Joseph Williamson issued two warrants, on Charles' direction, for the apprehension of Edward Stisted 'for spreading false and seditious news'.¹⁰¹ On the 9th, Charles ordered that the 'attorney generall should prosecute the authors of that false and seditious news about selling of Tangier and the plantations with all vigor'.¹⁰² And in another case on the same day, 'one Green was committed to the gatehouse for publishing and dispersing seditious and treasonable papers'.¹⁰³ But by the end of the month, as more pamphlets tried in a similar way to defame and destabilise his government and to pressurise

Vol. 1: writing and revolution in seventeenth-century England (Brighton, 1985), pp. 32-72. Hill's method has, I think, been the starting point for many of the best histories of political and religious thought in the earlier and later parts of the seventeenth century. See in particular Milton, 'Licensing, Censorship, And Religious Orthodoxy'; Bulman, 'The Practice of Politics'; Barber, 'The continued importance of scribal news'; Barber, 'Censorship, Salvation and the Preaching of Francis Higgins'; A. W. Barber, "Why don't those lazy priests answer the book?": Matthew Tindal, Censorship, Freedom of the Press, and Religious Debate in Early-Eighteenth Century England', *History* vol. 98 issue 333 (December 2013), pp. 680-707.

¹⁰¹ *CSPD* 1675-76, p. 434.

¹⁰² Newdigate, l.c. 262.

¹⁰³ *Ibid.* Unfortunately the newsletter writer does not give any more information about Green, and the order for his commitment has not survived in the state papers or HMC records.

his policies, Charles and his ministers began to reflect on the means which he had available for regulating this upsurge in public opinion. He started to reshape and reinvigorate those processes in an attempt to match the scale and coherence of the pressure which the pamphlets and their audiences were starting to exert on his government. The innovations which Charles made revealed a king trying to retain control of both the information about his government to which his subjects had access, and their ability to process that information into political opposition, at a time when it looked like that control might be starting to be drawn away from him.

The main way in which Charles sought to adjust his system of public restraint during the long prorogation was by shaping the laws on which it was based, through a series of proclamations at the end of December 1675 and the beginning of January 1676. Since Edward Coke had advised James I on the legal power of proclamations in the first decade of his reign, politicians had largely accepted that they were not equal to the making of new laws and nor could they contradict the terms of old ones either.¹⁰⁴ By the Restoration period many in both houses of parliament were confident that ‘all the judges of England were of opinion, that the king’s proclamation had not the force of a law’.¹⁰⁵ But, written in consultation with his judges and ministers, proclamations were the closest the king could get to real legislative power. They enabled him, at times when he did not have a parliament, or when he could not rely on the parliament which he did have to give him the legislation which he needed, to reshape and reinvigorate the laws which already existed, in a way which he determined personally and which suited a particular set of circumstances or a specific requirement in his political agenda.

Two of the proclamations which he made during the long prorogation, on 29th December 1675 and 8th January 1676, were issued against the ‘very evil and dangerous effects’ which coffeehouses were beginning to have on the public consciousness. ‘For that in such houses’, which, his first proclamation said, were the ‘great resort of idle and disaffected persons’, ‘divers false, malicious and scandalous reports are devised and spread abroad, to the defamation of his majesties government and to the disturbance of the peace and quiet of the realm’.¹⁰⁶ And the third, issued on 7th January 1676, was made against the ‘divers malicious and disaffected persons [who] do daily devise and publish, as well by writing, as printing, sundry false, infamous, and scandalous libels, endeavouring thereby, not only to traduce and

¹⁰⁴ Coke’s advice to James I on the function of proclamations is very lucidly related by Philip Hamburger in his *Law and Judicial Duty* (Cambridge, MA, 2008), ch. 2.

¹⁰⁵ Grey debates, vol. 1, p. 302.

¹⁰⁶ *A proclamation for the suppression of coffee-houses* (London, 1675).

reproach the ecclesiastical and temporal government of this kingdom, and the publick ministers of the same, but also to stir up and dispose the minds of his majesties subjects to sedition and rebellion'.¹⁰⁷

By issuing these proclamations, Charles sought to reshape and embellish certain parts of the 1662 Printing Act and the 1663 Excise Act, in order to match his growing public opposition. In his proclamation against coffee houses, Charles reshaped Clause XIV of the Excise Act. That clause had prohibited the sale of coffee 'without licence first obtained and had', and set the penalty for the unlicensed sale of coffee at the 'summe of five pounds for every moneth he or they shall continue selling or retailing the same'.¹⁰⁸ In his proclamation at the end of December 1675, Charles re-enforced that clause in the Excise Act, by retaining the penalty for the unlicensed selling of coffee, while at the same time 'recall[ing] and ma[king] void all licenses heretofore for the selling of any coffee' and prohibiting the issue of 'any such license or licenses' in the future. In the week after his first proclamation against coffee houses, the coffee house owners complained of the losses that Charles had inflicted on them by prohibiting the sale of the large stocks of coffee which they had already bought and paid the duties upon. So, Charles suspended the terms of his first proclamation until 24th June 1676, and allowed the coffee house owners in the meantime to continue selling their existing stocks, provided that they entered into recognisances of 500L. He also empowered his justices of the peace and magistrates to issue new licenses for the sale of coffee until the 24th June, but only if the coffee house owners gave assurance that they would prevent all illegal material from being brought into their establishments, and made the authorities aware of any scandalous conversations or the disclosure and discussion of false news reports which took place there.¹⁰⁹ In a similar way, the proclamation against libels retained the terms of the 1662 Printing Act, but, so that they might be observed more closely, added to them the promise of 20L to anybody who revealed the place of publication or the people involved in carrying a libel to the place of publication, and 50L if anybody revealed the name of the author, printer or publisher of an illegal publication.

By using proclamations to reshape the law, then, Charles aimed to control what type of information was available to his subjects, and the environments in which they encountered it. His proclamations were designed to reduce the publication of information which reflected badly on his government and which could incite resistance and to remove the venues in

¹⁰⁷ *A proclamation for the better discovery of seditious libellers* (London, 1676).

¹⁰⁸ Additional Act for the better ordering and collecting the Duty of Excise and preventing the Abuses therein.

¹⁰⁹ SP 29/378, f. 40.

which material of that nature had started to appear, by reinvigorating the means by which opposition could be identified, pursued, investigated, apprehended, and prosecuted. His proclamations offered an incentive to his subjects to identify illicit material to the authorities. They then empowered the executive, by further codifying, beyond the statutes which already existed, the grounds on which opposition could be apprehended and prosecuted. And, for his judges, they laid out the fines and penalties which could be inflicted on transgressors in both the existing laws and in the proclamations themselves. By allowing him to shape laws of his choosing, in order to empower the officials of state which he wanted, all on the advice of his judges, proclamations offered the king a precise and relatively spontaneous way in which he could personally fuse legislative, executive and judicial power together for the service of his own ends and towards a single goal. Since proclamations were developed, issued and enforced solely by the king and people of his choosing, they were the perfect tool for him to use to try to cultivate and sustain his independence in government.

Beyond the issue of proclamations, though, Charles also deputed Joseph Williamson to improve the methods of pre- and post-publication press restraint. Since many of the opposition pamphlets which were emerging concerned affairs of state, one of the main innovations which Williamson oversaw was in the licensing of books of that nature. On 3rd February 1676, the two secretaries of state wrote to the Stationers Company regarding the licensing of history books and books concerning affairs of state. By law, this type of publication had to be licensed by the secretaries, or by those deputed by them.¹¹⁰ Secretaries Williamson and Coventry had received reports that ‘dayly many things come out of the presse, pretended to be licensed by some person or persons deriving their authority from us’.¹¹¹ But this could not be the case, they said, because they had not yet appointed any such deputies. In their letter of the 3rd, then, the secretaries wrote that when they had deputed somebody to license this kind of material, they would be in touch with the Stationers so that the Company would be aware of who was now responsible. As promised, three days later, on 6th February, Williamson sent the Company notice that he had appointed his long-time friend and informant, Henry Oldenburg, ‘to license the imprinting of such bookes, or reprintinge thereof with any addition or amendments as according to the direction and intent of the [Printing Act]’.¹¹²

¹¹⁰ SP 44/43, f. 72.

¹¹¹ Ibid.

¹¹² SP 30/F, f. 73; The Stationers entered Williamson’s order in their court book on 7th February. See McKenzie and Bell, p. 102; M. Boas Hall, ‘Oldenburg, Henry [Heinrich]’, *ODNB*.

Oldenburg proved a conscientious and committed deputy, completing a great deal of work in his post and consulting with Williamson on how best to regulate the press. Oldenburg took an intelligent and considered approach to licensing, which was not solely based on smashing dissent wherever he saw it, but was designed instead to increase the number of books which were passing through the licensing system before reaching their audiences. He aimed, he said, to ‘do my duty to the public by preventing the dispersion of scandalous books, and yet shew[ing] myself honest to private men’.¹¹³ In doing so, he hoped to be able to inform Williamson of the seditiousness of certain publications ‘before they were divulged’, so that they could be pursued if the secretary deemed fit, while at the same time making sure not to ‘[make] men shy of me by seising and keeping the books they brought me’.¹¹⁴ Oldenburg believed that if he prosecuted all controversial material which was brought to him without giving its creators time to amend their work, ‘those mercenary men would then endeavour particularly to spread them much further than, methinks, they can doe, when they bring them to the licenser’.¹¹⁵ After less than three months in his position, however, Oldenburg returned the deputation he had received from the secretary, because it took up a great deal of time and effort, and the criticism of his more considered approach to licensing was becoming too much to bear.¹¹⁶

After Oldenburg’s resignation, the licensing of books ‘of a political nature’ reverted to the secretaries of state.¹¹⁷ But Oldenburg’s retreat from public office aside, Williamson’s deputation of a licenser for political books was designed so that the Stationers would know whether a book had been licensed properly. Before Williamson had deputed Oldenburg, the Stationers had not known whether a license was legitimate or not. After February 1676, though, the Stationers knew that if they encountered a publication of a political nature and it had not been licensed by Oldenburg or by either of the secretaries, then it had not actually passed through the correct channels in government and was not therefore legal for publication. Williamson’s adjustments to the licensing of political books was an earnest attempt to salvage some agency for the government from a licensing system which up to that point had been ludicrously inefficient, and to improve the king’s means of identifying and prosecuting opposition publications.

¹¹³ Oldenburg in a letter to Williamson, 18th April 1676. SP 29/380, f. 193.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Oldenburg’s resignation letter is at SP 29/381 f. 33.

¹¹⁷ This was a phrase used by Oldenburg in his resignation letter, to describe the kind of material that this post was responsible for.

Williamson sought to galvanise the Stationers further in their pursuit and prosecution of opposition publications by, throughout the prorogation, seeking to improve their Company by-laws. Until the end of 1675, the Stationers had been notoriously blasé about pursuing illegal material, in large part because, as the king recognised in his proclamation regarding libels, they had been ‘at considerable charges in discovering and prosecuting’ it.¹¹⁸ At that time, Charles had tried to remedy the Company’s inactivity by promising them ‘any penalties and forfeitures due to his majesty upon any offence committed against the lawes for printing’.¹¹⁹ But as 1676 moved on, the Stationers remained inactive. Even worse, however, was that, Williamson suspected, the Company often seized illegal books but then sold them themselves at a higher price. Or stationers confiscated legal books from individuals whom they did not like, or from competitors who were retailing printed material as members of a different livery company.¹²⁰ It seemed clear, then, that the Company was more interested in protecting its own profits than in actually suppressing illegal material.

In July 1676, therefore, Roger L’Estrange delivered to the Stationers two by-laws for the better regulation of the English stock. The first suggested that no member of the Company should print without a license, or conceal their knowledge of the printing of anything without a license, which by law ought to have one. This first by-law should be read, L’Estrange suggested, to every freeman of the Company upon taking the oath, and then printed and given to them along with the oath. And a printed copy should be delivered to every existing member of the Company, so that none of them could pretend ignorance. Then, all discoveries according to this by-law should be set down in a book specifically for that purpose, so that transgressions were recorded and could be checked if needed. The second by-law suggested that the Company should, as by law they were already meant to, prosecute all transgressions and inflict the punishments within their power, such as taking away shares in the stock, the levying of fines or the denying of pensions.¹²¹ The following September, having heard nothing from the Company about his new by-laws, L’Estrange enquired after his suggestions. The Company agreed to the first by-law, but said they had already made provisions congruent to the second one in other ordinances. Again, however, in spite of promising to make the additions to their by-laws the Company continued without action.

So, on 26th October, Williamson ordered the Company to draw up an abstract of all their by-laws concerning the printing and publishing of unlicensed books and to attend him

¹¹⁸ McKenzie and Bell, p. 101.

¹¹⁹ Ibid.

¹²⁰ SP 29/366, f. 263.

¹²¹ SP 29/391, f. 96.

with it, which they did on 4th December.¹²² He informed them that ‘they should be call’d to account before the king and council for their contempt: upon this they promis’d fair, and Mr L’Estrange press’d them to call a court, and finish: and forthwith to present the project of the by-law to the judges’.¹²³ At the end of December the Stationers, on Williamson’s order, met to decide what to do about the by-laws for the better government of their Company.¹²⁴ And on 7th February, the Company approved the by-laws and submitted them to the lord chief justice ‘in order to the passing and confirming the same’.¹²⁵ It had taken a long time to address the lethargy of the Company in prosecuting unlawful material, and even after Williamson had intervened the Stationers were never as diligent as L’Estrange or as their charter said they should be. But the additions to the by-laws were designed to make the Company more accountable for their activity. It had become possible for them to operate in a microcosm, in which members protected their own interests and the Company’s monopoly, as set out in their charter, but failed to observe the other aspects of the charter which required them to execute the law as well. By threatening to hold them to account before the king, which would mean that their charter came under scrutiny, Williamson was trying to re-energise an important aspect of the king’s ability to identify, apprehend and prosecute illegal publications, and to prevent the growth of public opposition.

III

During the prorogation, the opposition literature which emerged and the resistance it sought to inspire collectively presented a real threat to the independence of Charles’ government. Not only did the opposition authors have a firm idea both of how and why politics should be done and a clear plan for realising that vision, but they managed to find a way of forcing the king to confront that policy as well. The pamphlets presented their audiences with a lucid argument for how establishing a more collaborative form of parliamentary monarchy would better secure the liberty and property of the subject. And they gave a clear sense of how that system should be achieved. It was only through a policy of short and regular parliaments, frequently called and dissolved by the king, which would enable each political estate to solve the country’s problems and which would safeguard against corruption and private interest. But this policy, and the idea which it was designed to support, was so contrary to Charles’

¹²² McKenzie and Bell, p. 122.

¹²³ Ibid, p. 123.

¹²⁴ Ibid, p. 125.

¹²⁵ Ibid, p. 127.

attempts to build a government which would help him to develop his own policies independently, that the king's opposition could never hope for him to change his method of rule simply on their suggestion. It was, of course, Charles' prerogative, as a divinely appointed monarch, to meet passive resistance from his subjects with active indifference. His legitimacy as head of church and state did not rely on his being popular, and while it had happened to his father, and would, in another decade, happen to his brother too, there was not much popular desire at this time to remove the king forcefully from the throne. But the wealth which was attached to public opinion did mean that Charles had to countenance his subjects' point of view, and the opposition literature forced him to develop a strategy to protect the reputation and efficacy of his government.

In 1677, Andrew Marvell reflected on what Charles' solution to the growth in public opposition had become. When the Spartans had adopted Lycurgus' laws, Marvell said, they found a 'rigid discipline' in which 'the world was better ordered' and 'the number of virtuous men was then greater'.¹²⁶ But since then, governments had tampered with secular and Christian law so much, reshaping it to suppress their enemies and to meet their own ends, that they had come to 'have little else to shew for their Christianity ... but a parcell of sever laws concerning opinion or about the modes of worship, not so much in order to the power of religion as over it'.¹²⁷ Charles, Marvell thought, was as guilty of that kind of government as any other arbitrary monarch. The king, Marvell said, had revealed his intention in 1672, when he had tried to enforce the declaration of indulgence, to set a precedent for 'suspend[ing] as well all other laws that respect the subjects propriety, and by the same power to abrogate and at last inact what [he] pleased, till there should be no further use for the consent of the people in parliament'.¹²⁸ While Charles had failed on that occasion, his recent attempts to render the laws restraining public politics 'most severe and generall on the subject', Marvell insisted, were symptomatic of the same old ambition.¹²⁹ By reshaping and reapplying the printing and coffee licensing laws, Charles was seeking to reduce both his subjects' access to information about the decisions which were being made in government, and their ability through print and debate to process that information and feed it back into policy decisions in the form of public opinion. Of course, Charles' attempts to regulate the press and public participation in politics were not completely effective. But, to his

¹²⁶ A. Marvell, *An account of the growth of popery and arbitrary government in England* (Amsterdam, 1677), p. 34.

¹²⁷ *Ibid.*, p. 35.

¹²⁸ *Ibid.*

¹²⁹ *Ibid.*, p. 86.

opponents, his innovations in press policy throughout the long prorogation of 1676 signalled his continuing desire to make and implement his own policies independent of parliament and his subjects. They revealed his intention, Marvell insisted, to ensure that the house of commons ‘durst not adventure [new laws] either in their own or the lords’ house as they were now governed, lest they should be further ensnared by struggling for freedom’.¹³⁰ And it was that perceived intent, coupled with their persistent fears around Danby’s command of the king’s finances, which would catalyse opposition politicians’ attempts to re-enter policymaking over the next few years.

Charles’ opponents’ attempts to use public opinion to influence his policy decisions during the prorogation were also ultimately unsuccessful. He did not dissolve the parliament and call a new one as they had wanted, and he continued to make decisions himself, with the aid of a tight cabal of loyal ministers, to keep government policy heading in the direction which he wanted it to. But during the prorogation, the seeds of public disaffection with a personal monarch had been sown, particularly among the members of the corporation of London, and political associations which would last for the rest of Charles’ reign had developed between those merchants and powerful members of the Lords. Furthermore, the opposition publications which emerged during the long prorogation managed to sustain the divisions in parliament which had prompted the king to suspend the session for such a long time at the end of November 1675. When parliament was recalled in February 1677, therefore, Shaftesbury and Buckingham, and a number of other Lords, made fiery addresses to their house, demanding, as they had done before the long prorogation and with arguments which were strikingly reminiscent of those put forward in the recent pamphlet literature, the dissolution of parliament and the calling of a new one. ‘The calling a new parliament’, Buckingham crooned to the house on the first day of the new meeting, ‘it is that can only put his majesty into a possibility of receiving supplies; that can secure your lordships the honour of sitting in this house like peers and your being serviceable to your king and country; and that can restore to all the people of England their undoubted rights of choosing men frequently to represent their grievances’.¹³¹ Buckingham’s speech was met with strong approval by Shaftesbury, the earl of Salisbury, and Lord Wharton, but ‘some high and bitter clashings was after betweene the duke of Buckingham and the treasurer’.¹³² The following

¹³⁰ Ibid.

¹³¹ *Cobbett's Parliamentary History of England, Volume 4* (London, 1808), pp. 815-823.

¹³² Lady Chaworth in a letter to her brother, 17th February 1677. HMC Rutland, p. 38.

day, on 16th February, then, Buckingham, Shaftesbury, Wharton and Salisbury, having refused to ask the house for pardon, were ordered to be committed to the Tower.¹³³

The long prorogation of 1676, as historians have observed, may well have produced some fairly ineffective domestic politicking in England. But the tensions around policymaking which emerged at this time laid the foundations for the problems of the next four years of Charles' reign, and for the eventual dissolution of the Oxford parliament in March 1681. As 1677 turned to 1678, Charles' opposition would see the seeds they had planted in the middle years of the decade flourish into a full-on assault of the king's means of exercising power.

¹³³ HMC Le Fleming, no. 1818 p. 132.

Chapter 3: Parliament fights back

By the end of March 1674, Charles' participation in the war in Europe had left his finances worryingly unstable and unpredictable and had made him so reliant on his opposition in parliament that he had become incapable of developing and implementing policy. As we saw in the first chapter of this thesis, on Danby's advice Charles had given up trying to use war as a means of financing his government and state, and had turned inwards, taking a more peaceful approach to political economy, in order to develop a fiscal and economic strategy which would allow him to fund his policies and ambitions independently from the wealth of his own kingdom. In some ways his new approach was a great success. In the year after signing the Treaty of Westminster, Charles was able to cut his annual expenditure from over 2,500,000L to just over 1,800,000L.¹ And in the year after that he reduced it back to the level of his expected annual ordinary income, thereby removing his dependence on private loans or extraordinary taxes raised by parliament to be able to balance his account books.² By Michaelmas 1676, then, Charles had retaken control of his finances and had made them much more stable, more sustainable, and more suited to independent policymaking. His change in foreign policy and his new approach to political economy undoubtedly contributed in large part to the confidence with which he was able to take the initiative in domestic politics at the end of November 1675 and to strike once again for personal and independent rule by proroguing parliament for as long as he did. And, it surely contributed to his ability to ride the growth of public opposition during the long prorogation, in spite of the connection between that opposition and the extraordinary wealth on which he had had to rely so often before.

But regardless of the English king's newly peaceful approach to political economy, the war between his European neighbours continued to rage without him. In the years following the Treaty of Westminster, many of the old alliances between the European princes melted away, and new, loose coalitions started to form in the shadow which the Sun King was beginning to cast over Flanders and the Holy Roman Empire. By early 1675, 'the king of Sweden's army of thirty thousand men were transported into Germany', at the same time 'the Danes stir[red]', and all the while Holland continued '[to] beat the drum'.³ As that year

¹ *Cal. treas. bks.*, vol. 4, introduction.

² The data here runs across the introductions from vols. 4 and 5 of *Cal. treas. bks.*; The exact amount of Charles' expenditure for this period was 1,268,532L.

³ H. Breyonberg in a letter to the duke of Albemarle, 5th February 1675. HMC Montagu, p. 172.

progressed, one by one the German princes moved into the confederates' party, leaving France 'not one friend in the Empire'.⁴ But undeterred, by the spring of 1676 the French king marched onwards 'at the head of his army in Flanders', making the people in that region 'publicly declare their wishes to be under the French dominion since Spain is not able to protect them'.⁵

As spring turned to summer in 1676, it was the old rivalry between Holland and France which began to dominate European politics and the course of the war, and which swelled the foreign news that had begun to flood back across the Channel and into the streets of London. Those reports, many of which 'doe very much disagree', began to capture the imagination of news writers, public and government alike, and soon became 'expect[ed] with impatience' by their English audiences.⁶ They described a conflict which, as it grew, at once threatened the wealth and prosperity of the English nation, the salvation of both protestants and catholics on either side of the Channel, and the balance of political power across the continent and into the colonies beyond. As one prophetic pamphleteer wrote, "'tis too sadly visible and notorious ... how nations have justled with nations, and kingdoms with kingdoms, some striving for glory and conquest, others gasping for liberty and self-preservation; whilst to the prejudice (I wish we might not say to the reproach and scandal) of our most holy faith amongst upbraiding infidels, the swords of christians have been mutually imbrued and distain'd with the blood of their slaughter'd bretheren'.⁷

In spite of having signed his treaty and settled on peace, then, Charles still kept a close eye, as his subjects had been doing by the foreign news reports, on what was happening in Europe. He soon realised that his ability to abstain from the conflict did not rest solely in his hands. While Danby had managed to stabilise royal finances in the years after his appointment, through 1676 the king and his ministers realised that, as long as the war continued as it was doing, trade and diplomacy could never be sufficiently secured to make sure that the wealth and safety of the kingdom could ever be fully guaranteed. So, as the effects of the conflict continued to exert themselves, Charles became caught between trying to avoid recommitting to the war in the manner which he had done before, and yet trying to

⁴ Newdigate, l.c. 315. Although, by summer 1676 Louis had managed to engineer a situation in which the elector of Bavaria would marry the duchess of Savoy, in order to keep the Bavarian and French interests aligned. Ibid, l.c. 328.

⁵ Newsletter, 18th April 1676. HMC Le Fleming, no. 1728 p. 126; Newsletter, 2nd May 1676. Ibid, no. 1731 p. 126.

⁶ Newdigate, l.c. 317; Ibid, l.c. 320.

⁷ W. Lilly, *Mr. Lillies new prophecy, or, Sober predictions of a peace between the French and Dutch, and their allies, speedily to be concluded* (1675), p. 3.

take sufficient measures so as to reduce the impact which the conflict was continuing to have. By 1677, it was clear that he needed to rethink his approach to Europe yet again.

This chapter will explore in two parts why Charles came in the spring of 1677 to rethink his approach to Europe and how that new policy affected domestic political culture and his relationship with parliament. The first section will contextualise his decision to make and implement new policy, by exploring the reasons why the approach which he had taken after signing the Treaty of Westminster was not completely adequate. It will ask how Charles then developed a new plan, and who he relied upon to make and implement the policy which he created. The second, and larger, section will explore how that new policy played out in domestic politics. As the king developed and sought to implement his new plan, more and more politicians in parliament became suspicious of what his changing approach to Europe demonstrated about the kind of kingship he was seeking to nurture. As 1677 became 1678, the house of commons in particular began to try once again to intervene in Charles' policy decisions and to redress the imbalances in domestic political power which his foreign policy had revealed. Their solution was one of the most ambitious political assassinations in British history; the impeachment of the earl of Danby.

I

As the war in Europe continued, it began to have an adverse effect on the health of both domestic and foreign trade, and the customs and excise receipts which Charles could expect from them. Through the first half of 1676, foreign trade began to suffer, because in open water merchant vessels were struggling to avoid the conflict between the warring princes' fleets. In March of that year, news reached England that the Danish king had ordered that 'all Hamburg ships that passe the sound and their goods though in English vessells, to be arrested soe that that citty is reduced into great perplexity not dareing to reply on its owne strength'.⁸ And throughout the summer, French privateers continued to give English merchants 'great discouragement to our trade in some seizures they have made' and even raided into and around English ports in pursuit of their prizes.⁹ In addition, in order to pay for their continuing involvement in the war, the European princes had put massive duties on imports

⁸ Newdigate, l.c. 304.

⁹ John Lowther in a letter to Daniel Fleming, 3rd October 1676. Lowther was commenting on the recent disruptions which the French had made to English trade, implying that it had gone on for long enough now to need a remedy. HMC Le Fleming, no. 1746 p. 129; The French privateers' effects on English trade is discussed in *History of England*, pp. 306-307.

of foreign goods, which had made English commodities uncompetitive abroad.¹⁰ At home, trade was suffering because, unlike the foreign markets which were controlling imports, Charles was not imposing any higher duties on goods coming into England. English merchants were therefore struggling to find buyers for their goods abroad, whilst still having to cope with the same level of foreign competition in the domestic market.

Gradually, Charles began trying to address the impact which the war was having on his merchants and on domestic and foreign trade at large. In May 1676, he ordered his committee for trade to change the way in which port passes for English and foreign ships were issued, so that only ships registered or naturalised in England and manned by English sailors were allowed to make port.¹¹ The same month, he tried to galvanise the domestic weaving trade by ordering his privy council to find ‘some effectuall means to discountenance the wearing of ffrench stuffs’ and to ‘consider how they may encourage English weavers’.¹² And in June he issued a proclamation for the security of navigation and commerce, which gave protection to ships in and around his ports and encouraged his subjects to prevent attacks on merchant vessels wherever they could.¹³

But in spite of these measures, his subjects and their commerce continued to suffer. Through the spring and summer of 1676, petitions about the impact of the war on English domestic and foreign trade flooded in to the king and his council. These entreaties complained of a range of issues, from the damage being done to merchants’ profits by the sizeable French duties on English imports, to requests for the relaxation of duties on exports of certain goods, to descriptions of the damage sustained at the hands of foreign sailors and pirates.¹⁴ And even Charles’ customs officials began to complain that the irregularity and disruption which the war was creating in European merchant traffic had begun to make it very difficult to control the now relatively unpredictable movement of foreign ships in and

¹⁰ *History of England*, pp. 306-307.

¹¹ SP 29/379, f. 99. The committee for trade was a privy council committee, on which sat, at this time, the lord treasurer, the lord privy seal, Secretary Williamson, and various other members of the admiralty board and board of trade including Ormonde, Ossory and Berkeley.

¹² Newdigate, l.c. 298; Newsletter, 21st March 1676. HMC Le Fleming, no. 1718 p. 125; The weavers sent their thanks to the king for his action in discouraging the wear of foreign manufactures soon afterwards. See *CSPD* 1675-1676 p. 211.

¹³ *History of England*, p. 307.

¹⁴ See, for instance, a petition complaining of the French duties on foreign imports, November 1675, SP 29/374, f. 158. Or the petition from a group of London wool merchants requesting the free export of woollen goods, 30th March 1676, SP 29/380, f. 78. Or the petition from Benjamin Ayloff and William Scrimshire regarding the looting of one of their vessels which ran aground at Læsö, 5th May 1676, recorded at SP 29/381, f. 85. Or the petition from John Cooke and William Welch et. al. about the activities of a pirate named Henry Jackson, 14th July 1676 SP 29/381, f. 85 annexed. Or the petition of James Thierry and Gomez Rodriguez, both London merchants, asking for the detention of a Dunkirk privateer called Arent Jansen, 11th September 1676, recorded at *CSPD* March 1676-February 1677, p. 320.

out of their ports, particularly since many of those vessels were sailing illegally under English colours to avoid the attention of their enemies.¹⁵ All in all, by June 1676, some of the merchants in the corporation of London estimated that because of the war ‘this city and kingdom doth lose eleven hundred thousand pounds every year’.¹⁶ While it is difficult to say for certain if the losses were anything like that large, the continuing disruption which the war stood to make in future customs and excise receipts had the potential to make any meaningful anticipations on the royal revenue in the future very difficult indeed. All of Danby’s work to stabilise the king’s revenue, therefore, was precariously balanced on the hope that the disruption which the war was continuing to make in English trade would not become much worse.

But beyond the continuing economic effects of the war, Charles also began diplomatically to get sucked back in to a more active role in the conflict than he had hoped to take on signing the Treaty of Westminster. He had, in early 1675, tried to secure his new peaceful approach to political economy by proposing to the foreign princes that they should also try to agree terms for peace. In February of that year, he had suggested that talks could take place at Nijmegen.¹⁷ At first his suggestion seemed to be well received, and throughout March, the princes gradually came to confirm that they would send their plenipotentiaries to negotiate terms.¹⁸ But, as the war moved on, the talks were continually delayed by the participants’ unyielding attempts to engineer an advantage for themselves in the peace negotiations.

Time and again, the foreign princes either refused to grant the passports necessary for their enemies’ plenipotentiaries to pass through their territory to attend the conference, or, perhaps purposefully, issued them incorrectly or in the wrong manner for them to be valid. By early 1676, reports were arriving in England that ‘severall defects had been likewise found in the passeports of the emperor and the Spanyards to the ffrench’.¹⁹ English commentators were in little doubt that the passports had been left deficient on purpose, ‘to gaine [Spain and the Empire] time, that soe the campagne may come on, before the assembly at Nimegen can be formed, for every day lets us see more and more the small disposition the

¹⁵ *History of England*, pp. 306-307.

¹⁶ Anon, *An Account of the proceedings at Guild-Hall, London, at the Tolke-moot, or Common-Hall, held 24th of June 1676* (London, 1676), p. 2.

¹⁷ Newdigate, l.c. 146.

¹⁸ The States General and their allies accepted talks at Nijmegen at the beginning of March 1675, *Ibid.*, l.c. 152. Joseph Williamson recorded France and Sweden’s declaration of their willingness to treat at Nijmegen on 19th March 1675, SP 44/43, f. 21.

¹⁹ Newdigate, l.c. 275.

partyes have at present to a peace'.²⁰ But the most problematic passports were those issued by France to the duke of Lorraine. In his despatch from Nijmegen on 6th January 1676, Charles' plenipotentiary, Leoline Jenkins, noted that the prince of Orange 'observes the title of duke is wanting in the Lorraine passport'.²¹ As a result, the Dutch maintained that 'till this be mended on the part of the ffrench, the passes will not be exchanged, and consequently their ambassadors will not be able to repaire thither'.²²

Having at first only suggested that the foreign princes meet for peace talks, then, and then having suggested the venue, the issue of deficient passports sucked Charles back in to the conflict. In order to solve the disagreement over passports, the European princes began to petition Charles to act as arbiter in their peace negotiations. In mid-February, in his notes of proceedings of the committee of foreign affairs, Joseph Williamson wrote that in the matter of deficient passports the Dutch 'seem inclined there to make [Charles] arbiter of the disputed points, if France will agree'.²³ At first Charles tried to resist the Dutch advances to him. He declared, when asked by his councillors in a meeting of his foreign committee on the 8th February whether 'he would have any such offer encouraged in this or other cases hereafter', that he did not 'think fit to encourage any such offers' since he was still trying to abstain as much as possible from the conflict.²⁴ But by the 12th, as the Dutch persisted in their request, Charles had accepted his proposed role as mediator, and Leoline Jenkins was receiving the congratulations of the foreign ambassadors at Nijmegen on his king's behalf.²⁵ By the end of February, it was public knowledge that Charles had 'proposed an expedient to the partyes at prsent engaged in the war for the removeing of the difficulties arrisen in the matter of the passeports'.²⁶ His solution was that he would issue the passports on the foregin princes'

²⁰ Ibid.

²¹ The nature of this despatch is recorded in the precis book of correspondence from the ambassadors at Nijmegen kept by Joseph Williamson, SP 105/256, f. 2; The passports styled him prince Charles of Lorraine, rather than duke of Lorraine, Newdigate, l.c. 276. The reason was that by a treaty of 1663 the French king was now, supposedly, pretender to the Duchy of Lorraine. So, as Leoline Jenkins wrote in notes of a meeting with the French Ambassador to the English court, the marquis de Ruvigny, Louis thought that he 'would be a giving up of that right, if he should give the title of duke of Lorraine to prince Charles'. Journal of Sir Leoline Jenkins' negotiations at Nijmegen SP 105/230, f. 9.

²² Newdigate, l.c. 276.

²³ SP 29/366, f. 311; The foreign committee was a privy council committee. Their journal books for this period are at SP 104/178-179.

²⁴ Ibid.

²⁵ The ambassador from Cleves told Jenkins on 12th February that he had been commanded by the electoral prince of Brandenburg to congratulate Charles, no doubt to secure his other orders to 'recommend the elector's interests to his majesties protection'. SP 105/256, f. 5.

²⁶ Newdigate, l.c. 294.

behalf, and ‘that such papers shall be as valued as they were given out by severall partyes respectively’.²⁷

The congress at Nijmegen did not produce any commitment to peace until August 1678, and even then it was another year before all the warring parties agreed to terms. The European princes’ prevarication over the issue of passports in 1676, however, dragged Charles back in to a much more active engagement with the conflict than he had anticipated on signing the Treaty of Westminster. But even worse, this involvement made it clear to English onlookers that all sides in the war ‘doe not desire a peace, till the posture of things are soe farr altered by the continuance of the warr, that they may be able to make it on bettr termes’.²⁸ It seemed, therefore, that, in spite of Charles’ best efforts throughout the rest of 1676 to bring them to an agreement at Nijmegen, any peaceful intervention in the war on his part was unlikely at that time to produce any lasting terms between the European princes.

By mid-1676, then, it had become clear that Charles’ policy of withdrawal from the war in Europe two years beforehand had not worked how he had hoped. While his more peaceful approach to political economy had removed a great deal of the financial excess and instability of the out and out war which he had pursued in the first decade of his reign, it had not managed to mitigate against the collateral effects of a war which continued to spill across Europe in his absence. Through 1676, a combination of the impact which the war was having on English trade and the potential revenue which he could draw from it, and his neighbouring princes’ insistence that he mediate in negotiations which never looked like coming to a fruitful end, gradually suggested to Charles that his current approach to Europe was nearing the end of its useful life.

In April 1677, then, the earl of Danby wrote to the king to reflect on the point at which Charles and England had arrived. When Danby wrote his memorandum, parliament had been back in session for nearly two months. In that time, the treasurer had managed to disrupt the strongest group of opposition to the king in the house of lords by sending Shaftesbury, Buckingham, Salisbury and Wharton to the Tower for their speeches regarding the legality of the session. Danby spared no amount of dignity, therefore, in reminding Charles that April of how central to his government and ability to exercise power he was. ‘The quietnesse of this session’, Danby wrote, ‘has not proceeded from money only, but a credit to which I thinke myselfe to have been a good deal instrumentall’.²⁹ And it was with

²⁷ Ibid, l.c. 296.

²⁸ Ibid, l.c. 338.

²⁹ BL Add MS 28042, f. 9.

that level of confidence that Danby positioned himself, once again, at the heart of the king's policymaking and to direct how Charles should proceed now in Europe.

Charles had, the treasurer wrote, 'the greatest conjunction of honour, wisdom, glory and national advantages that ever offered itself in any age to any prince or nation'.³⁰ The king was poised to be 'the redeemer of all Christendom', and 'the restorer of so many kings and princes to their just rights'. He was on the verge of becoming 'not only safe at home but great', and settling himself 'for the future both in the hearts of [his] people' and in the 'establishments of revenues'. And, he could soon have all the 'advantages of trade and treaties [which] could be desired both from Spain and Holland'.³¹ But Charles could only hope for any of this, Danby said, if he discouraged the growth of French dominance in Europe through the improvement of his fleet, and if he could convince parliament to give him the money for the refurbishment of old ships and the building of new ones. Danby had come to realise through 1676 that it was only by being 'in a condition of war' that Charles could hope to intervene in the continuing conflict on the continent, and to secure the more peaceful, and profitable, approach to political economy which had begun to stabilise his finances in the past three years. The treasurer was not advocating an all-out return to war, but rather the reinforcement of Charles' existing approach by threatening his European neighbours with the possibility of returning to war.

Through the rest of 1677 and into the first months of 1678, Danby set about executing his plan. He soon made excellent progress, as his influence in parliament was heightened by the absence of the four opposition Lords who remained incarcerated in the Tower and by the strong lines of patronage which he had cultivated in the lower house through the previous years. What is more, the continuing advance of Louis' forces across the north of Europe through the spring and summer of 1677 scared many in the Commons into agreeing with Danby's suggestions that an army might be necessary. On 16th April 1677, therefore, parliament passed an Act for Raising 600,000L for the Building of New Ships.³² The Commons also supplemented their votes with a series of addresses to the king regarding the continuing threat of the war to the security of the kingdom and urging him to a suitable defence of his subjects.³³ In their address of 25th May 1677, they insisted that Charles should enter into a 'league offensive and defensive, with the States General of the United Provinces,

³⁰ Ibid.

³¹ Ibid.

³² *LJ*, vol. 13, p. 120. The Act was entitled An act for raising the sum of five hundred eighty-four thousand nine hundred seventy-eight pounds, two shillings, and two pence half-penny, for the speedy building of thirty ships of war.

³³ They made addresses on 30th March and 13th April. See *CJ*, vol. 9, pp. 408-409, and *Ibid*, pp. 419-420.

against the growth and power of the French king'.³⁴ Then, after a summer adjournment, which actually ended up extending into the new year, parliament voted the king even more money. They had been persuaded of the king's intentions to oppose Louis by the marriage of William of Orange to Mary, Charles' niece, in late 1677.³⁵ So, on 20th March 1678, they passed a bill for a poll tax, worth 1,000,000L, to enable Charles to have a war with France.³⁶

By spring 1678, then, Danby had managed to engineer a change in Charles' policy in Europe. He had recognised that the more peaceful approach to political economy which he and Charles had begun to take in 1674 was too passive. While it had addressed many of the problems which had created the instability in royal finances through the previous decade, Charles' more peaceful approach to Europe would keep being threatened as long as the war continued to move on around him. He had, therefore, to reinforce his peaceful practices with the capability to intervene militarily. Only through possession of that capacity would the English king be able to exercise any influence over his neighbours, and finally ensure a consistent and predictable revenue and relationship with the rest of Europe. And, as we saw in chapter one, only through a consistent and predictable revenue could Charles hope to maintain any kind of independence in policymaking and governance.

But as winter turned to spring in 1678, Danby and the king were met with a new problem. Having voted money so that Charles could raise an army for war with France, parliament began to grow restless when the king did not deploy that army as quickly as they had hoped. When they returned after the Easter recess in 1678 then, the tension between the king and house of commons which had manifested the previous year in the lower house's prickly addresses about how Charles should continue in Europe, grew into strong and sceptical opposition to the king and his government. In the debates of spring 1678, a new disagreement on Charles' European policy grew rapidly in the lower house into some of the most intense scrutiny of the distribution of domestic political power and of the king and parliament's ability to turn their ideas into practice through policymaking. After not much time at all, that scrutiny escalated to become an attack on the king's ability to rule which would even eclipse Clarendon's removal of ten years earlier; the impeachment of his chief minister, the earl of Danby.

³⁴ Ibid, pp. 424-425.

³⁵ F. Mignet (ed.), *Negociations relatives a la succession d'Espagne sous Louis XIV* (Paris, 1835-42); K. H. D. Haley, 'The Anglo-Dutch Rapprochement of 1677', *English Historical Review*, 73 (1958), pp. 614-648; Jones, *Charles II*; W. Troost, *William III the Stadholder-king: A Political Biography* (Aldershot, 2005).

³⁶ *LJ*, vol. 13, p. 189.

II

Danby's impeachment has long been regarded by historians as a key moment in the later years of Charles II's reign, and our understanding of this period is now indebted to a number of excellent discussions of how and why the treasurer was removed from office. One of the most convincing explanations for why the Commons decided to impeach Danby has been that, by proceeding against him, contemporaries hoped to remove a man who would quite willingly use the standing army, raised for war with France, against the king's subjects.³⁷ There is a great deal of evidence to support this suggestion, and notes which Danby himself made in April 1677 indicate that the thought of using an army against the English people to achieve the king's ends had occurred to him.³⁸ Other historians, having focussed on the despatches which the French ambassador in London, Paul Barillon, sent back to his king in autumn 1678, have made a strong case for the importance of Louis XIV's influence over certain members of the lower house in Danby's removal.³⁹ The treasurer, these historians have suggested, was creating a blockage in the English court which was preventing the French king from exercising the influence over Charles which he might otherwise have done. Louis, through Barillon, therefore engineered the treasurer's removal by revealing to Charles' opponents information about Danby's ongoing negotiations for French subsidies to the royal revenue. Or still other historians have explored how the impeachment was shaped by personal tensions in elite politics.⁴⁰ On the one hand, these historians have suggested, the treasurer was prosecuted by men whom Danby had frozen out of positions of power and influence as he had attempted to construct a court party in parliament in the preceding years. And, on the other hand, the treasurer's defence was built on the affections of a dwindling set of court loyalists and churchmen who had benefitted from the wealth and offices which Danby had famously distributed during his tenure. These identities, formed during Danby's impeachment, thus contributed to the emergence of something resembling, though not necessarily actually, modern political parties.

The scholarship on Danby's impeachment has suggested that these issues, of the standing army, Charles' ambiguous relationship with the French king, and Danby's continuing development of a court party, hastened the disillusionment with the idea of living

³⁷ See, in particular, Miller, *Popery and Politics*; Harris, *Restoration*.

³⁸ BL Add MS 28042, f. 9.

³⁹ See, in particular, Jones, *Charles II*; Hutton, *Charles the Second*.

⁴⁰ The best of these histories is still Mark Knights' *Politics and Opinion*. But see, also, Jones, *The First Whigs*; Scott, *Algernon Sidney*.

under a powerful autonomous monarch which had been festering among Charles' subjects since his restoration. The treasurer, historians have shown, came to symbolise not a strong limited monarchy acting in the interests of its subjects but a tyrannous form of government which would continue to abuse its power in pursuit of its own arbitrary, and possibly even popish, ambitions. This traditional view of the treasurer's impeachment has thus portrayed his removal as a symptom of the almost hysterical tensions and deep divides created by broader political and ideological debates. To some degree this explanation of the intellectual causes and character of Danby's impeachment is probably true, but historians' tendency to focus on Danby as a symbol of a certain type of absolute monarchy has precluded an important set of concerns among politicians who were ideologically and politically opposed to the treasurer and king.

A decisive rebuttal to historians' tendency to focus on values, discourses, symbols, ideologies and beliefs when studying how historical characters came to make decisions and choose to act has recently been delivered by William Bulman. While Bulman acknowledges that recovering historical figures' approaches to decision making requires another look at some of the same keywords already familiar to historians of political culture, he has demonstrated that that should not be done only as an ahistorical effort to assess whether people in the past made decisions which were consistent to their beliefs, and therefore whether they were rational and tactically sound, or inconsistent, and therefore emotional and tactically incompetent. Bulman has shown that in order to understand variations in political behaviour we need to contextualise decisions and policies made by seventeenth-century politicians, and to think more about 'the manner in which values and interests are employed on a daily basis'.⁴¹

For his own work, this approach has allowed Bulman to demonstrate that 'what historians have usually referred to as 'moderate' and 'hardline' factions within the royalist party in this period are perhaps better described ... [as] competing styles of prudential decision-making, neither more inherently 'moderate' than the other'.⁴² Bulman has taken the view that what historians have traditionally described as radical or orthodox ideologies and politics are actually only competing sets of, not necessarily contradictory, methods of effecting change. But for the current thesis, reading Bulman's work makes it clear that there is a set of questions to ask of Danby's impeachment beyond which beliefs, symbols and ideologies fed into it. As Bulman has demonstrated, 'we need to focus less on the broad

⁴¹ Bulman, 'The Practice of Politics', p. 50.

⁴² Ibid, p. 53.

intellectual, educational or discursive context of such terms and more on how they were employed in practice'.⁴³ If we do so, it becomes apparent that there was more to Danby's impeachment than the personality and identity politics or his symbolism of an abhorrent ideology which historians have already studied. He was impeached because of his style of government and his approach to policymaking.

The rest of this chapter will attempt to ask how Danby's exemplification of tyrannous government actually translated into power and manifested itself in political culture as a mechanism for change. Was it just his symbolism of an idea that the king's subjects did not like which brought them to remove him, as historians have said? Or did parliament see their ability to make policy and exercise power diminished by Danby being in office, and decide on these more practical grounds to impeach him? The following pages will contextualise the impeachment in a much longer parliamentary debate about Danby's role in politics than historians have hitherto explored, to show why the house of commons decided to remove the treasurer from office and why they took the approach they did. And it will closely read the progress of the impeachment through parliament in order to suggest how the house of commons developed their policy to remove the treasurer and what that process revealed about their wider political agenda.

On Monday 29th April 1678, after the Easter recess, Charles called both houses to him and commanded the lord chancellor to acquaint parliament with his progress in Europe so far. Rhetorically at least, Charles' aim before proceeding any further in his negotiations with Holland and France was, the chancellor said, to 'take the farther advice of both his houses', 'for the fuller satisfaction of his parliament, and the better securing of his kingdoms in all events'.⁴⁴ It is unlikely that the king really wanted parliament's help with his negotiations and far more probable that he was trying to keep them just sufficiently informed of his progress as to be able more easily to return to them for further supply in the near future. The Commons had, after all, told him in their address of 25th May the previous year that they would not vote him any more money until he had made a league offensive and defensive with Holland and acquainted them with it.⁴⁵

But whatever Charles' intentions, he badly mismanaged his relationship with parliament by approaching them how he did that day. Far from prompting their obliging advice on the king's foreign policy, the chancellor's speech in fact revealed to many in the

⁴³ Ibid, p. 50.

⁴⁴ *LJ*, vol. 13, p. 207.

⁴⁵ *CJ*, vol. 9, p. 425.

lower house that there was a gap between how they thought politics should be done and how the king was actually doing it. They soon began to suspect that Charles did not see parliament as a valuable and active component of the policymaking process, but instead intended to use them only to bankroll the policies which he had already made. And it was out of this suspicion that the Commons' attention came to turn to the earl of Danby.

Charles' first mistake was that the information which he gave to parliament was too unspecific and his request for advice was too imprecise either to convince them that he really wanted their input or to channel their debate in any particular direction. Lord Chancellor Finch's speech gave away no real detail about the king's negotiations with Holland and France and instead concentrated on layering superlatives about Charles' diplomacy over excuses about why it had not yet produced any significant results.⁴⁶ Finch told parliament that throughout 1676 the king had repaired his fleet, bought stores for the navy and ordnance, and had taken steps to secure his colonies. He had also, in June of that year, sent William Temple to negotiate with the prince of Orange, 'touching those measures which were necessary to be taken for the common safety'. And upon 'giving' his niece to William, and with all the good intentions which that gesture signalled, the alliance between England and the States General was confirmed. At that point, Finch said, Charles had turned to France, and had, in November 1677, despatched the earl of Feversham to the French king with a treaty containing conditions for peace. Feversham had returned with a negative answer from Louis, at which point Charles had recalled parliament and proceeded to conclude both a league offensive and defensive and a further treaty of perpetual defence with Holland. Upon completion of those treaties, Finch told parliament, Charles had begun to try to set the conditions for war with France, but the Dutch were so desirous for peace that all of Charles' efforts came to nothing. So much so, the chancellor suggested, that whether the prince of Orange would stick to the recently made league offensive and defensive 'depends upon very many and very great uncertainties'. 'And now', Finch concluded, 'the king demands your advice, what may be fit for him to do in this difficult conjuncture; and resolves to pursue it'.

The lack of detail in the chancellor's speech left many in the lower house confused as to what Charles was asking of them. In the days after his request, prominent Commons on different sides of the debate repeatedly asked, in the words of Henry Capel, 'to know (as to

⁴⁶ The following account of Charles' negotiations is taken from Finch's speech that day. See *LJ*, vol. 13, pp. 205-207; Grey debates, vol. 5, pp. 275-277. Roger Morrice also recorded the speech in its entirety in his *Entring Book*, vol. II pp. 58-61.

order) to what points we are to advise, to war, or to peace?'.⁴⁷ And even politicians as senior as William Coventry, whom according to Gilbert Burnet had 'a perfect understanding of affairs' in the lower house, did not think that Charles had supplied enough information for 'any man here [to] have light requisite to give advice upon'.⁴⁸ So because he did not direct them any differently, the Commons took Charles' approach to them that day as an invitation to re-enter the policymaking process, to examine and make suggestions about the approach which he had begun to take in foreign relations. The problem which Charles created, then, was that by not managing their debate properly, he created a vacuum in the lower house which was filled by a debate that he did not wish for them to have.

In the Commons' addresses on supply of the previous year, a vocal group of MPs had attempted to retain access to the political data upon which future royal decisions would be made. They were aware, as they pointed out in their address of 25th May 1677, that to 'grant supplies for maintenance of wars and alliances, before they are signified in parliament' could set a precedent 'of dangerous consequence in future times'.⁴⁹ These Commons recognised that unless they knew the details of the intelligence, news and advice upon which Charles was basing his decisions in foreign policy they would find it difficult to influence his plans before he made them. They had therefore insisted on attaching a proviso to their votes of supply, which said that the king had to keep them acquainted with his negotiations in Europe as he made them. In doing so, they aimed to use the money which they were voting him as a lever with which to ensure that Charles kept them within his decision making and factored their influence in to his policies. After the chancellor's speech at the end of April 1678, this same group of MPs came to the fore and urged the house to press the king to reveal his negotiations and all the political data upon which they were based, so that they could check that his efforts corresponded with their conditions for supplying him and with the interests of the nation.

Thomas Clarges, Colonel Birch and Henry Powle, all of whom were on the committee for the address of 25th May the previous year, and the latter two according to Gilbert Burnet among the boldest speakers in the house and 'very learned in precedents and parliamentary journals', combined to overpower the king's support in the lower house and to push Secretary Williamson for as much information about the treaties as possible.⁵⁰ They rallied the Commons to make an order for all the king's treaties, 'that we may', Powle said, 'be better

⁴⁷ Grey debates, vol. 5, p. 296.

⁴⁸ Burnet, p. 89; Grey debates, vol. 5, p. 299.

⁴⁹ *CJ*, vol. 9, p. 425.

⁵⁰ *Ibid*, vol. 9, p. 424; Burnet, pp. 90-92 passim.

guided by what we have in writing than what is said'.⁵¹ And they insisted that in their request for his treaties the house include no mention of the advice which Charles had asked for. Such a promise at this early stage would be too obliging, they thought, 'and perhaps', William Garraway suggested, 'we shall have other matter to ground advice upon'.⁵² Instead, the lower house simply ordered that 'the members of this house that are of his majesty's privy council do attend his majesty; and humbly desire him, that he will be pleased to communicate to this house, all such leagues and treaties as are mentioned in the lord chancellor's speech, or relating thereunto'.⁵³

It only took hours for the king to respond to their request, but when he did he made his second mistake that day. Having been too imprecise in his first approach to parliament he now compounded that initial error by saying that he would not allow them to see all the treaties which they had requested, thus signalling his desire to keep the intent behind his policy in Europe and the information on which it was based to himself. He quite openly told the Commons that, of some of his treaties, he did 'not think fit, that papers of that sort should be produced in publick'.⁵⁴ In the end, therefore, he only allowed both houses to see the league offensive and defensive, the separate article concerning Freiburg, the separate article concerning Lorraine, the declaratory article concerning all places of the empire taken, and the declaratory article as to the dependences.⁵⁵ He did not allow them access to the terms for peace which the earl of Feversham had carried to Louis, on the grounds that that document was 'the same, verbatim, contained in the treaties offensive and defensive, already delivered in'.⁵⁶ He refused to disclose in writing the answer which the French king had returned to Feversham, because the French ambassador had told Charles 'in ordinary discourse, that the answer the earl of Feversham would bring, would be a negative'.⁵⁷ And he told the Commons that he would not tell them of the 'proportions of the ships and men, to be provided by England and the States General of the United Provinces, with the answers thereunto'.⁵⁸ Charles' prevarication between initially asking parliament to assess his negotiations and then not fully revealing the substance of his dealings in Europe left many in

⁵¹ Grey debates, vol. 5, p. 281.

⁵² Ibid.

⁵³ *CJ*, vol. 9, p. 466.

⁵⁴ Ibid, p. 474.

⁵⁵ Ibid, p. 471; *LJ*, vol. 13, p. 209. The Commons also received record of the Dutch powers to conclude the treaty, the secret articles, and the States' power to the ambassador to conclude the treaty. On 30th April, both the Commons and Lords ordered that the treaties should be translated, and the lower house appointed a committee to abstract the treaties and report back to them.

⁵⁶ *CJ*, vol. 9, p. 472.

⁵⁷ *LJ*, vol. 13, p. 211.

⁵⁸ *CJ*, vol. 9, p. 474.

the Commons suspicious of the contribution which he was expecting them to make to his foreign policy. It seemed to many in the lower house that while Charles had gladly accepted their votes of supply through the previous year, votes which collectively amounted to a year's worth of the crown's ordinary income, he was not honouring the rider which they had attached to the supply, that they should be kept informed of his dealings as he made them.

As they began to debate the content of the treaties which Charles allowed them to see, on 4th May, this suspicion grew worse, and many MPs began to believe that he was not negotiating the agreements which they had requested in their addresses, and was therefore neither correctly applying the money which they had given him nor securing church and state. They compared the terms of the treaties with the directions they had given the king in their addresses through the previous year, and questioned whether Charles' negotiations were in the best interests of the kingdom. Colonel Birch opened debate in the lower house that day with a long speech about the value of the treaties. 'The Dutch tell us, their poverty is the case', Birch informed the house. 'If, by reason of their poverty, they cannot come in with 60 Ships, I would take them with 20; and take them upon the old league'. 'Whether this new treaty be a better, or a worse, than that of Nimeguen, I know not', he continued, '[but] I protest I am glad the French king cannot, and will not accept what we proposed to him by Lord Feversham; for should he, the next day we are ruined'. And 'after all this I have said', he concluded, 'the question is, whether this league before you be pursuant to the addresses of this house?'. 'I am for voting presently, "That this league offensive and defensive, is not agreeable to the addresses of this house, nor the safety of the nation"'.⁵⁹ Birch's speech met with widespread approval, and was immediately seconded and thirded by Phillip Monckton and John Hotham.

But Henry Booth went even further than Birch. 'I have the heart of an Englishman and the courage to declare it', he began. 'I cannot say this [treaty] is for the interest of the nation ... I am for war, if it can be but for employing these new raised men anywhere. It is strange there should be such haste to raise these men and now we have nothing but towards peace'.⁶⁰ And William Coventry agreed. 'I could wish we had clearer lights in this matter', he said, 'but yet we had better go into a war, than be swallowed up by a peace. Therefore I would address the king "to go into a war, till the safety of the nation may be better provided for"'.⁶¹ In spite of the protestations of the king's supporters and more moderate politicians

⁵⁹ Grey debates, vol. 5, pp. 319-322.

⁶⁰ Ibid, p. 323.

⁶¹ Ibid, p. 325.

then, under the weight of such addresses the lower house finally resolved, by just 16 votes, that Charles' 'league offensive and defensive with the States General of the United Provinces, with the articles relating thereunto, are not pursuant to the addresses of this house; nor consistent with the good and safety of the kingdom'.⁶² The house ordered a note to be written, 'not in the usual form [of an address], by reason of the importance of the affair', to advise Charles to enter into further alliances with the Spanish king and States General 'for the vigorous carrying on of the present war against the French king, and for the good and safety of his majesty's kingdoms'.⁶³

When the lower house met again on 7th May, they moved on to debate how, having addressed Charles to advise him to make war with France twice in the last twelve months, they were now being asked to consider treaties for peace. The Commons were concerned with the legality and desirability of the maintenance of an army, which still did not have a war to fight. Early on in the debate that day, Secretary Williamson represented the king's point of view. 'I know nothing', Williamson told the house, 'that can hinder the king from raising what forces he pleases, if he pays for them himself. My argument is, you are the paymasters; if the occasion of the forces cease, how can any man think you will pay these men that are not employed to the interest you mean they should?'.⁶⁴ Williamson prevailed on the Commons to 'fall into alliances, and get Holland to come up to it, as highly as 'tis possible'.⁶⁵ He told the lower house that if Holland did not enter into an alliance with England, they should 'enter into alliances without them'.⁶⁶ But the secretary met a powerful response. If peace was the king's priority, why did the standing army still exist?

'The Petition of Right is law', thundered John Hotham, to widespread agreement. 'That petition states it thus: 'there shall be no quartering of soldiers, for continuing them here, any longer than in their passage to the place where they are to go; else 'tis a grievance to the people''.⁶⁷ John Vaughan agreed with Hotham, and added 'there can be no justification to raise any power without war. You cannot by law so much as ride armed, in *terrorem populi*'.⁶⁸ John Mallett was concerned with the expense of the army, which Williamson had mentioned, and suggested to the house that 'there is some reason for Holland's jealousy of us, for a parliament was staved off. I believe there is no want of money, when they play so much

⁶² *CJ*, vol. 9, pp. 475-476.

⁶³ *Ibid*, pp. 475-476.

⁶⁴ Grey debates, vol. 5, p. 325.

⁶⁵ *Ibid*.

⁶⁶ *Ibid*.

⁶⁷ *Ibid*, pp. 325-326.

⁶⁸ *Ibid*, p. 326.

at Whitehall'.⁶⁹ But as he had done before, Thomas Lee aligned himself more with the king, and urged the house not to 'have war abroad for no other purpose than to employ these men'.⁷⁰ Lee reproached the house, for 'it was a happy time of day, when you passed those censures on the league [for peace] that was communicated to you'.⁷¹ And, while not in support of Lee and the court, John Swynfen suggested to the house that 'the question is now, whether you will make any farther application to the king'. 'The thing being so difficult', he said, 'we are under vast danger ... My opinion is to make no farther address, of this nature, but leave it to the king'.⁷²

Clearly then, the Commons' debate of the content of Charles' European treaties revealed deep ideological divides between the king, parliament, and different groups within parliament, on the issues of England's position in Europe, the legality of a standing army, and how parliament's money and advice should be put to use by the crown. But, importantly, beyond the decisions which they thought Charles had made about foreign policy, it was the way in which he had made those decisions which alarmed many in the lower house most. By negotiating the treaties how he had done, in private and indifferent to parliament's advice, the king had not only jeopardised the liberty and security of his kingdom and subjects, as parliament had defined those concepts in their previous addresses, but he had completely bypassed their means of doing anything about it. The chancellor's speech at the end of April and the treaties which the king passed to parliament demonstrated to many in the Commons that Charles had no intention of routinely involving them in intelligence gathering, in the processing of that information into plans for Europe, or in the implementation of those plans in negotiations with the foreign princes. More than just suspecting that Charles had misappropriated the money which they had voted him then, many in the Commons began to fear that Charles was trying to manoeuvre them into a position of complete impotence, where their only role in policymaking was to fund the decisions which he had already made.

The approach to governance which the chancellor's speech revealed fomented opposition in the lower house among those who wished to see the Commons taking an active part in political decision making. In the days after the chancellor's speech, having had their attention drawn to their absence from Charles' negotiations, the same group of MPs who had pressed the king for as much information about his treaties as possible began to ask how they could re-enter policymaking and regain influence over his approach to Europe and the

⁶⁹ Ibid.

⁷⁰ Ibid, p. 327

⁷¹ Ibid.

⁷² Ibid, pp. 327-328.

security of the kingdom. On the afternoon of 7th May, having come so far in their debate, the Commons began to ask who was responsible for the treaties and the poor state of the kingdom. ‘You have long advised entering into leagues for the preservation of Flanders, and all comes to nothing’, observed William Sacheverell. ‘The king is pleased’, he continued, ‘to prefer the counsels of others before those of this house ... If this will not do by our address, I believe the king will never hearken to parliaments again’.⁷³ Henry Powle agreed with Sacheverell, and said ‘now I will only sum up the ministers proceeding. In January, they got money from the parliament, upon a pretence of a war with France, and they raised an army, and now we lie under this unhappy peace ... [T]here are some persons about the king, who prevent him in what he would do’.⁷⁴ Thomas Clarges added that ‘the effects of all our addresses have been to heighten what we so addressed against. So, except we go to the root, and remove those counsellors who intercept the king’s grace and favour to his people ... we do nothing’.⁷⁵ And Thomas Meres was perhaps the most matter of fact of all. ‘This house and these ministers’, he said, ‘cannot stand together. One or the other, either this house or these ministers, must dissolve’.⁷⁶ So, by a majority of 154 to 139, the Commons resolved in the affirmative ‘that an address be presented to his majesty to remove from his presence and councils those counsellors who advised the answers to the addresses of this house of the 26th of May, or 31st of January last’.⁷⁷

The address was read in the Commons on 10th May and delivered to the king on the 11th. It did not take Charles long to respond. In the Lords, on the 13th, sitting in his robes and regal ornaments, he told the upper house

I have received an address of such a nature from the house of commons, as I cannot but resent very highly, from the ill consequences I have lived to see from such addresses. I intend therefore to prorogue them for some short time, in hopes they will consider better what they ought to do at their return. I have chosen to tell this to you first, because I would have you know I am very well satisfied with the dutiful behaviour of this house; and you will by that time be more enabled to give me your advice.⁷⁸

⁷³ Ibid, p. 329.

⁷⁴ Ibid, p. 330.

⁷⁵ Ibid, p. 332.

⁷⁶ Ibid, p. 357.

⁷⁷ *CJ*, vol. 9, p. 477. In this address the Commons referred to two of their previous addresses advising war against France. In actual fact, the first of their addresses was given on 25th May 1677, not the 26th. It is unclear why they muddled their dates here.

⁷⁸ *LJ*, vol. 13, p. 219.

And with that, the king called the Commons to him as well, the bills which had been passed that session were read, and parliament was prorogued until Thursday 23rd May.

Charles' approach to parliament at the end of April 1678 and the debate which followed in the lower house allowed opposition to solidify among a significant portion of MPs. Many in the Commons were frustrated that Charles had spent so much time offering the French king terms for peace instead of consolidating his ties with Holland and asserting himself in Europe militarily. They were concerned that he had misappropriated the funds which they had raised for him, as it had not been to support prolonged negotiations for peace that they had voted him supply. And they were nervous about the continuation of a standing army, particularly since Charles' approach to Europe did not look like producing a war to occupy his troops any time soon.

But these broader concerns were underpinned by a deep uneasiness with the way in which the king had developed and was trying to implement his foreign policy. Charles' negotiations demonstrated to many in the Commons that the terms of their votes of supply did not bind him to any particular course of action. The king had welcomed their votes, had accepted their addresses, and had even begun to receive their money into the exchequer, and he had still proceeded in Europe how he had wanted. Through that first week of May, the Commons began to recognise that once they had voted the king supply, even if they supplemented those votes with clear addresses on how and to what end their money should be applied, they still could not effectively direct the king's decisions and influence his policies.

It was this realisation which thrust impeachment back into the frame. A sizeable group in the lower house, led by Birch, Powle, Clarges and Sacheverell, understood that unless they could gain access to the king's private discussions about how to spend money, knowledge of the information on which he was basing his decisions, and influence over the public officials who were helping him to develop plans, they could not direct the fate of the kingdom and secure church and state. It was for this reason that they began to think once again about removing those ministers who were directing the king's decisions and blocking their ability to participate in policymaking. While at this time they did not refer to the treasurer by office or name, it was their debates through the first week of May 1678 which led the house of commons to another attempt to impeach the earl of Danby.

III

Through the summer and autumn of 1678 the Commons' desire to impeach was suspended by the summer recess and the popish plot revelations which dominated the proceedings of both houses once they returned. But by the end of the year the tensions around royal policymaking had returned with a vengeance. On 19th December John Ernly told the house of commons that the king had received information that his ambassador to France, Ralph Montagu, had held meetings with the pope's nuncio without Charles' instruction to do so. 'His majesty', Ernly therefore told the house, 'to the end that he might know the truth of that matter, had given order for the seizing of Mr Montagu's papers'.⁷⁹ But almost immediately, in a move reminiscent of the privilege versus judicature debates which had taken place between the Lords and Commons three years earlier, Henry Powle questioned the correctness of the king's proceeding against Montagu, who was still a member of the lower house. 'No private man, nor member's person, can be seized', Powle said, 'before the accusation be given in upon oath[.] ... I would know, whether any legal information has been given against your member'.⁸⁰ If the information upon which Charles was acting had not been given on oath, Colonel Birch told the house, 'forty more members' papers may be seized ... and then the game is up'.⁸¹ The problem for many Commons at this early stage in proceedings on the 19th was, as Colonel Titus pointed out, that 'if there be no information upon oath, then it is a breach of [the Commons'] privilege'.⁸² It was, after all, only the electorate or the lower house themselves who could put a member in or out of parliament. They therefore resolved that they could not make judgement on Montagu or the charges against him until they knew whether the information which had prompted the king's investigation had been delivered properly, according to the law.⁸³ But on attending the king, the delegates of the house were told that he was too busy to see them at that time and that they should call back when they had finished their business for that day.⁸⁴

After the delegates returned Ralph Montagu himself finally spoke to the house. The move by the king to acquire his ambassador's private papers, Montagu said, was intended to draw information about his negotiations in Europe away from public access and into his own hands, beyond scrutiny. 'I believe', Montagu told the house, 'that the seizing my cabinets

⁷⁹ *CJ*, vol. 9, p. 559.

⁸⁰ Grey debates, vol. 6, p. 339.

⁸¹ *Ibid*, p. 340.

⁸² *Ibid*, p. 341.

⁸³ Newdigate, l.c. 723.

⁸⁴ *CJ*, vol. 9, p. 559.

and papers was to get into their hands some letters of great consequence, that I have to produce, of the designs of a great minister of state'.⁸⁵ So, wary that yet more evidence of the way in which Charles was making decisions in government was about to slip from reach, the house ordered four of its members to 'take Mr Montagu's directions; and repair immediately to the place where the said writings are lodged; and bring the same to the house'.⁸⁶

When they returned, Montagu presented the Commons with two letters, written to him from the earl of Danby, which revealed the treasurer's secret negotiations with the French and Dutch. The letters were dated 17th January and 25th March 1678, and they reignited the smouldering tensions around policymaking which had burnt in the lower house in the first week of May that year. As the speaker read the letters to the house, the Commons finally found the detail about the king's negotiations in Europe which Charles had denied them when he asked them for advice eight months earlier.⁸⁷ According to Anchtell Grey the letter written in March was the more significant, and of that letter the passage which gripped the Commons' attention most was:

In case the conditions of the peace shall be accepted, the king expects to have six millions of livres yearly for three years, from the time that this agreement shall be signed betwixt his majesty and the king of France: because it will be two or three years before he can hope to find his parliament in humour to give him supplies, after the having made any peace with France.⁸⁸

Montagu's letters consolidated opposition to the king in the lower house. While some Commons remained sceptical of the content of the ambassador's letters, which, they said, had been 'barely given you by recrimination', for many here, finally, was the detail of the king's dealings in Europe which he had denied them when he had come to them for advice eight months earlier.⁸⁹ Montagu's letters revealed to the Commons that, contrary to their prior addresses on foreign relations, Danby had approached the French king both for peace and for subsidies to make Charles financially independent of his opposition at home. Furthermore, the treasurer had made no attempt to reveal his negotiations with Louis as parliament had required, so that they could monitor and check them, but had proceeded in secret through

⁸⁵ Grey debates, vol. 6, p. 345.

⁸⁶ *CJ*, vol. 9, p. 559.

⁸⁷ For full transcriptions of Danby's letters to Montagu, see *CJ*, vol. 9, pp. 559-560.

⁸⁸ See Grey debates, vol. 6, p. 348.

⁸⁹ *Ibid*, p. 354. It was John Ernly who pointed out that Montagu's revelations came as a counter-accusation to the king and treasurer.

letters which, it now emerged, he wished to keep ‘as private as is possible, for fear of giving offence at home’.⁹⁰

The Commons were outraged. Where in May opinion on the king and his ministers had been divided almost equally, now two-thirds of the house fell into opposition to the treasurer. Henry Capel, Colonels Titus and Birch, Henry Powle and Thomas Clarges, all of whom had led the calls for the king to be more transparent in his foreign negotiations earlier in the year, began to evoke powerful images of the role of the lower house as representative of the will and custodian of the liberty of the subject. ‘The lord treasurer’, thundered Colonel Titus, ‘was of one opinion; the parliament and the law of another’. ‘His crime is great, and tends to the subversion of the nation, and so it is, when the king shall have no parliaments.’⁹¹ By dealing in secret, and occluding the information and rationale on which he was proceeding in Europe, Danby had removed the Commons’ opportunity to represent the interests of the electorate and compromised the liberty and security of the subject. Now, with clear evidence of their exclusion from policymaking and rallied by the king’s more vocal opponents who were convinced that the treasurer’s actions were nothing short of high treason, the Commons began to talk impeachment.

‘Now we see who has played all this game’, Thomas Bennett raged, ‘who has repeated all the sharp answers to our addresses, and raised an army for no war. You know now who passes by the secretaries of state. I would impeach the treasurer of high treason’.⁹² William Williams told the house that ‘your laws are contemned by a great minister, and they miscarry and are laid dead’.⁹³ And ‘whether this person who forbids Montagu to reveal this’, Henry Powle reasoned, ‘and concealing it from the secretaries, and by consequence from the Lords of the Council ... now whether these private advices are not the cause of your ruin, that you have been so near and are still in danger of, [is the question]’.⁹⁴ Through their debate on the afternoon of the 19th, they arrived at the question of whether there was sufficient substance in Danby’s letters to impeach him. It was resolved in the affirmative by 179 votes to 116.⁹⁵

⁹⁰ *CJ*, vol. 9, p. 560.

⁹¹ Grey debates, vol. 6, p. 353.

⁹² *Ibid*, pp. 348-349.

⁹³ *Ibid*, p. 349.

⁹⁴ *Ibid*, p. 351.

⁹⁵ *CJ*, vol. 9, p. 560.

Historians have typically begun their discussions of Danby's impeachment on 19th December, the day of Montagu's revelations about the treasurer's negotiations with France.⁹⁶ But, as has by now hopefully been demonstrated, the tensions which Montagu's letters exacerbated in the lower house that day had been present among the Commons for at least the preceding eight months. The ambassador's letters served much more as the evidence which certain members of the lower house needed to address existing concerns about Danby's role in policymaking, than they did to provide the Commons with any genuinely new food for thought. As has also been discussed above, historians of Danby's impeachment have tended to present the treasurer's removal from office as being a product of broader ideological clashes between king and parliament; certain members of the Commons disagreed with the king on the issues of his relationship with France, the acceptability of a standing army, and the propagation of lines of patronage into the lower house, and Danby's impeachment was a manifestation of parliament starting to win the political argument on these topics.⁹⁷ That is, however, where the explanation of Danby's impeachment tends to stop. The treasurer's removal is depicted, as many other political events have been, as dropping out of the cracks between divergent political points of view, and there has been no real discussion of how, practically, the treasurer's opponents went about removing him from office. What did a successful impeachment actually involve? And how did Danby's opponents try to navigate parliamentary process to try to make their impeachment work? The rest of this chapter will try to answer these questions.

Having decided that there was enough substance in Montagu's letters to impeach the treasurer, the house of commons ordered that a committee be appointed to draw up articles of impeachment against him. Historians have recently produced excellent work on the appointment and roles of parliamentary committees in late-Elizabethan and early-Stuart parliaments. They have shown how chaotic the process of appointing committees was, and have described how MPs were elected to a committee by the calling of names from the floor of the house, which the clerk would attempt to enter accurately into the journal along with a time and place of meeting.⁹⁸ It was hoped in theory that members of parliament who had expressed extreme views one way or another on the subject which the committee was

⁹⁶ Miller, *Popery and Politics*; Harris, *Restoration*; Jones, *Charles II*; Hutton, *Charles the Second*; Knights, *Politics and Opinion*; Jones, *The First Whigs*.

⁹⁷ See fn. 96 above.

⁹⁸ C. R. Kyle, 'Attendance, Apathy and Order? Parliamentary committees in Early Stuart England', in C. R. Kyle and J. Peacey (eds.) *Parliament at Work: Parliamentary Committees, Political Power, and Public Access in Early Modern England* (Woodbridge, 2002), p. 44.

convened to discuss would not be admitted membership to the committee.⁹⁹ In practice, however, it was common for these more volatile and partisan MPs to be appointed, very often through the machination of lobby and interest groups both within and outside of parliament.¹⁰⁰ Any MP could attend a committee meeting to join in and try to direct the debate, though only members of the committee could vote on the outcomes.¹⁰¹ And very often committee members failed to attend committees, on account of having been packed into them against their will or without their prior agreement by people with a vested interest in the outcomes of the committee's proceedings.¹⁰²

The implications of this work for the study of Danby's impeachment are significant, because it encourages us to start thinking about how the treasurer's opponents might have tried to manipulate the form and function of the committee appointed to impeach him. Certainly, important members of the committee for drawing the articles up against the treasurer were aware of the advantages of such manipulation, and had previously been involved in trying to influence the type and selection of other committees in order that they would produce a specific result. For instance, less than three weeks earlier, on 2nd December, Henry Powle and Colonel Birch had tried to prevent the Commons from appointing a private committee to draft a 'representation of the state of the nation'. Such a representation, which Powle, Birch and others in the Commons were hoping would include a discussion of the threat posed to the kingdom by popery, the standing army, and the current system of government, was, Powle had said, 'too great a charge for a private committee to draw up'. 'For the clearness of the proceeding' therefore, Birch had insisted, 'I would go into a committee of the whole house'.¹⁰³ In doing so, Birch and Powle were attempting to use the process of appointing committees in order to retain a direct influence over the drafting of the representation and, crucially, a vote on whether or not the draft they produced should be presented to the house for reading.

When it came to the committee for drawing the articles of impeachment up, there is certainly evidence to suggest that Birch and Powle, among others, sought to shape the way in which that committee was appointed too. The members must have all put themselves forward vociferously enough, or had others put them forward, to find themselves on the

⁹⁹ Ibid; D. Dean, *Law-Making and Society in Late Elizabethan England: The Parliament of England, 1584-1601* (Cambridge, 1996).

¹⁰⁰ C. R. Kyle, 'Prince Charles in the Parliaments of 1621 and 1624', *Historical Journal* xli (1998), pp. 603-624; I. Archer, 'The London Lobbies in the Later Sixteenth Century', *Historical Journal* xxxi (1988), pp. 17-44.

¹⁰¹ Kyle, 'Attendance, Apathy and Order', p. 50.

¹⁰² Ibid.

¹⁰³ Grey debates, pp. 309-311.

committee. Of the twenty two MPs who were appointed to the committee, at least thirteen were recorded by Anchitell Grey to have spoken strongly against the treasurer when Montagu revealed his letters on the 19th.¹⁰⁴ We can infer, therefore, that as the committee was appointed Danby's opponents either put themselves forward, or they made sure to put men forward whom they knew would speak against the treasurer's interest. Either way, his opponents in the lower house managed to pack the committee appointed to begin the proceedings against him with men who did not want to see him stay in office.

The place and time of the committee's meeting was not recorded in the journal of the house of commons. This omission could of course have been an honest procedural error on the clerk's part, but it was certainly one which was exploited by the committee members. When the committee returned to the house with the drafted articles complaint was made that William Williams, the committee chair, had only told members who were opposed to the treasurer where the committee was meeting. Charles Bertie, the treasurer's brother-in-law, protested to the Commons that 'the committee has put a slur upon the house', because it 'did sit in holes'.¹⁰⁵ But since, as Henry Capel noted, 'the committee had their liberty to sit where they would, and they had no order for place', their authority to draw the articles up was upheld.¹⁰⁶ The result was that Danby's supporters on the committee, while outnumbered anyway, did not get chance to influence the committee's work before it was returned to the whole house for reading.

William Williams presented the articles to the Commons two days after the committee had been appointed, on 21st December. The committee produced six articles 'of high treason, and other high crimes and misdemeanors, and offences' for Danby's impeachment.¹⁰⁷ The first three articles attacked Danby's attempts to keep the details of his negotiations with the foreign princes secret 'by giving instructions to his majesty's ambassadors a broad, without communicating the same to the secretaries of state, and the rest of his majesty's council'. This concealment of the details of the decisions being made in government and the information on which they were based was done, these first articles said, to 'hinder the meeting of parliaments', and was leading to the subversion of 'the ancient and well

¹⁰⁴ The 13 explicitly against Danby were Cavendish, Sacheverell, Williams, Clarges, Vaughan, Montagu, Meres, Bennet, Powle, Winnington, Titus, Harbord, and Sawyer. Five of the committee members were recorded by Grey as making either neutral or supporting statements about the treasurer (Hampden, Lee, Coventry, Carew, and Maynard). And the remaining four were not recorded by Grey as having an input into the debate on the 19th (Trevor, Dering, Harvey, and Littleton).

¹⁰⁵ Grey debates, p. 370.

¹⁰⁶ Ibid.

¹⁰⁷ *CJ*, vol 9, p. 561; See appendix II for the articles in their entirety.

established form of government in this kingdom' and to the introduction of 'an arbitrary and tyrannical way of government' instead. Even more worrying, the second article said, was that this private form of decision making was being supported by the continuance of 'a standing army within this kingdom', which was there, the Commons supposed, to allow the treasurer if necessary forcibly to prevent the king's opponents from working their way back in to policymaking. The fourth article made similar complaint about Danby's concealment of information, this time in the investigation of the popish plot. He had suppressed evidence of the plot and 'reproachfully discountenanced the king's witnesses in the discovery of it', in order, it said, to subvert the protestant religion. And the fifth and sixth articles lambasted the treasurer for diverting the king's money around the exchequer, 'to private uses, without any account to be made of it to his majesty'. These last articles insisted that by not disclosing where the king's money was coming from or how it was being applied the treasurer was operating outside 'of the known method and government of the exchequer', and 'even contrary to acts of parliament'. Whereas in 1675 the articles of impeachment had faltered before a largely unenthusiastic lower house, unconvinced by the accusers' rhetoric and unpersuaded by the few witnesses which had been brought before them, now they steadily marched through the house of commons, each in turn voted fit for purpose. By the afternoon of 21st December 1678 then, the lower house had set its policy and the lord treasurer was to be impeached for high treason, and other high crimes and misdemeanours.

The lord treasurer's impeachment was therefore based in agile opportunism and careful management of parliamentary process. When Montagu produced his letters certain members of the Commons, led by Powle, Birch and Clarges, seized upon them as the evidence they needed to address their concerns about Danby's independent approach to policymaking. Through their speeches, they vividly made the case that the house of commons existed to represent the will and interests of the people, but that it was having its ability to practise that role undermined by the style of government cultivated by the treasurer. They used Montagu's letters to mobilise the Commons into agreeing that in order to reclaim their ability to participate in policymaking they had to remove the treasurer from office. Then, having got the votes they needed to proceed against him, they manipulated the process by which the articles of impeachment would be produced. The treasurer's opponents packed the committee appointed to write the articles with MPs hostile to him, by electing themselves and members whom they knew would vote against Danby into the committee. This management of the selection process, and their refusal to disclose where the committee would be sitting to the members who supported the treasurer, ensured that Danby's opponents

retained full control of the nature and content of the articles before returning them to the house for reading. For once, then, it was Danby's opponents who had kept the substance of their decisions secret and who sought to develop their policy free from unwanted influence.

The result of this management of the committee was that the articles which Danby's opponents brought before the house in December 1678 were much more coherent, based less on personality politics and loose ideas of morality than they had been three years earlier, and much more on a defined understanding of the constitution and how knowledge and power should be distributed across different branches of the government in order to secure church and state. Unlike in 1675, therefore, when Danby's supporters had been able with relative ease to sweep the impeachment away for want of witnesses and evidence, in the face of the damning revelations made by Montagu, the new coherent articles, and the more consolidated opposition to the treasurer, those opposed to the articles struggled to mount a defence. As Grey noted in his record, 'after divers variations of the question by the treasurer's party, for they could not agree amongst themselves what question they would have put, this was the question: "whether the articles of impeachment against the lord treasurer shall be recommitted"'.¹⁰⁸ It was resolved in the negative by 179 to 135, and, having voted on each article in turn, the Commons resolved that their impeachment and means of pursuing it were fit for purpose.¹⁰⁹

The articles were not flawless, however, and when, on 23rd December, Henry Capel carried them to the upper house to desire that Danby be committed to safe custody the treasurer managed to rally opposition to his impeachment. The articles having been read to the house, Danby made a speech which urged the Lords to be wary of endorsing an impeachment that condemned him for practices which any of them could themselves be accused of in future. He asked the upper house to 'both discern the truth of the evidence when it shall come before you and in the meantime distinguish truly what the crimes are (if they could be proved) and not what they are called'.¹¹⁰ 'I beg for all your lordships sakes as well as my own', he said, 'that your lordships will please to use the caution which will be necessary for all your lordships safetys and seats in this house'.¹¹¹ The treasurer's insistence that the Lords should proceed with caution immediately gained traction. Among the most enthusiastic responses to the treasurer came from the earl of Carnarvon who ran through each significant political impeachment of the last hundred years to demonstrate that the designers

¹⁰⁸ Grey debates, p. 373.

¹⁰⁹ *CJ*, vol. 9, p. 562.

¹¹⁰ BL Add MS 28047 f. 19.

¹¹¹ *Ibid.*

of those impeachments soon met with the same end themselves. ‘Let me see that man that dare run the earl of Danby down’, Carnarvon said, ‘and we shall soon see what will become of him’.¹¹²

But although Carnarvon’s speech flourished with rhetoric and was met by the duke of Buckingham as having been inspired by claret, and although Danby had a clear interest in seeing the impeachment defeated in the upper house before it had got going, both men’s speeches highlighted a serious concern among many Lords that day which stretched beyond the superficial concern for their own safety which historians have already referenced.¹¹³ As the treasurer urged them to understand, it was not in the Lords’ interest to allow the Commons to press through an impeachment of a member of the upper house. ‘What the house of commons may do in such a case’, he said, ‘there is no question but his majesty may do the same by his attorney and what either of them may do against one Lord they may do against more’.¹¹⁴ The opposition to the articles which Danby managed to create in the upper house then was not merely the product of self-interested Lords seeking to retain their own seats in parliament, but was rather about the house retaining its privilege and its ability to participate in politics and government. As Danby observed to the house, ‘were it not very precariously then that your lordships hold your seats here when by either [impeachment by the Commons or removal by the king] as many of your lordships as for a time might be convenient to be removed should be at the mercy of having a thing called treason whether it be so or not.’¹¹⁵ The upper house therefore asked the question ‘whether the lord treasurer shall now withdraw’, and resolved in the negative.¹¹⁶

Over the following days Danby sought to steer the opponents to the impeachment in the upper house towards undoing the articles by questioning whether the Commons’ accusation of treason had any basis in law. While the treasurer’s actions might have been unconstitutional, immoral, or even in some cases illegal, many in the upper house refused to accept that in the eyes of the law they were treasonous. This scepticism was certainly justified. Danby’s defence counsel would later explain to him that the first article had ‘no crime of soe high a nature as treason comprised in it’.¹¹⁷ ‘For incroaching to himselfe regall

¹¹² J. P. Kenyon, *The Stuart Constitution, 1603-1688: Documents and Commentary* (Cambridge, 1986), p. 433.

¹¹³ *Ibid.*

¹¹⁴ BL Add MS 28047 f. 19.

¹¹⁵ *Ibid.*

¹¹⁶ *LJ*, vol. 13, p. 434.

¹¹⁷ Danby’s defence made these observations in an undated, unsigned letter. It was probably written at the end of April or start of May 1679 when Danby was in prison and awaiting judgment on the pardon which the king had given him. It could have been written by Charles Bertie, secretary to the treasury and Danby’s brother-in-law, whom Danby had ‘intrusted ... with all matters of law’, or by the counsel assigned to him by the Lords on

power ... how greate and extravagant a presumption soever it may be, yet it is no treason. If it be it were good to know within what law'. Danby's counsel therefore told him that 'noe clause of [the first] article is felony at comon law nor treason by any act of parliament since, nor can be declared treason by parliament'. The second article was similarly tenuous, because its charge 'being only in endeavours without any overt act imports no charge of treason, for that acts, not endeavours, make offences treason'. And so was the third article, on the grounds that while 'its treason to leavy warr against the king or adhere to his enemies ... proposing peace is no treason'. The fourth article, while having insisted that the treasurer had 'traiterously' concealed the popish plot, actually therefore only 'contains but the misprision of treason'. And the last two articles, given that 'there being neither the word treason nor traitorously therein', did not support the Commons' accusation at all. Through the course of their debate on the 26th and 27th, the treasurer managed to convince many in the upper house that his actions had, by the Commons, been 'stiled treason by inserting the word traitorously'.¹¹⁸ A significant portion of the Lords agreed, therefore, as one peer observed, that the articles were either 'wholly false, and denyed', or dismissible because 'his majesty will and must warrant his lordships actings'.¹¹⁹

There were, however, a number of Lords who, in spite of the treasurer's best efforts to convince them otherwise, recognised the shortcomings of the Commons' accusation of treason and tried to shape the charge to be more effective. Lords including Buckingham, Shaftesbury and Halifax tried to turn the Commons' accusation from one of treason into one of misprision of treason, the concealment of knowledge of traitorous acts. After a long debate thereof, these Lords managed to convince the upper house, on the morning of 27th December, to ask the judges two questions about how they would proceed if a misprision of treason could be proved. The first question which they asked was whether the judges would automatically commit someone accused of misprision while the allegations were investigated and a trial prepared. And the second was whether, if a person was committed for misprision, the judges would accept bail. That day, the Lords seeking to have Danby committed were not doing so because they thought he was guilty of treason, but instead were playing on the known secrecy of his negotiations in Europe. Unfortunately for Danby's accusers, the judges told the Lords that 'the court of King's Bench may take bail for high treason of any kind, if

16th April 1679. The latter is the more probable. *Entring Book*, vol. II p. 101; 'Bertie, Hon. Charles', in *History of Parliament; LJ*, vol. 13, p. 520; The extracts from the letter here are taken from BL Add MS 28047 ff. 150-156.

¹¹⁸ BL Add MS 28047 f. 19.

¹¹⁹ *Ibid*, f. 38.

they see cause'.¹²⁰ With that advice in mind, the question was again put whether Danby should be committed, and again the upper house resolved in the negative. The Lords gave Danby a week to put in his answer to the accusations against him.¹²¹ However, fourteen Lords, including Shaftesbury, Halifax and Buckingham, entered a protest against the vote.¹²²

The course which the impeachment took through parliament between the 19th and 27th December revealed and exacerbated deep ideological, constitutional and procedural tensions within and between both houses of parliament. When Montagu brought the treasurer's letters into the lower house on the 19th, the Commons divided on the issues of how threatened the liberty of the subject was by the standing army and Charles' relationship with France, and whether or not the king had misappropriated their votes of supply. Underpinning these ideological differences was a deep concern with the effect which Danby's negotiations would have on the constitution. While a significant portion of the Commons believed that the king and his treasurer retained the nation's best interests, a powerful group of MPs recognised that Danby's negotiations were designed to improve the independence of the king's government by undermining parliament's ability to influence royal policymaking. For these MPs the security and liberty of the subject could not be secured if the king continued to exclude parliament from discussions about policy. While many Commons still refused to accept that the treasurer should be removed from office, opponents to the king's desired style of rule managed to negotiate parliamentary process well enough to make regaining their ability to participate in government through a policy of impeachment a distinct possibility.

When the impeachment was carried to the upper house it found opposition in Lords who would not see their privilege and political agency diminished by a frustrated house of commons. Rallied by the treasurer himself, many in the Lords pushed back against the impeachment, voting against committing the treasurer at the Commons' request and refusing to jeopardise their future ability to participate in government by allowing the lower house to decide which of them would retain their seats and when. While a number of powerful Lords attempted to reinvigorate the impeachment by shaping the Commons' accusation of treason into the lesser, but much more provable, crime of misprision of treason, the upper house's constitutional opposition to the impeachment meant that on the 27th December Danby still held his seat in parliament and his position in government.

¹²⁰ *LJ*, vol. 13, p. 441.

¹²¹ *Newdigate*, l.c. 726.

¹²² *LJ*, vol. 13, p. 441.

But in spite of the setbacks which the treasurer's opponents faced, their insistence that Danby be removed and the divisions in parliament which those demands created still put enough pressure on the king to force him to intervene in the impeachment and to change his approach to governance. As we have seen, for years Danby had been a central component of Charles' government. For half a decade he had worked hard to improve the king's ability to rule and to achieve his political aims independently, free from the obstructive influence of outside interests. With the impeachment still pending in parliament, therefore, on 30th December Charles could suffer the attacks on his chief minister no longer. In an attempt to seize control of the impeachment and to release the pressure which it was piling onto his government, Charles called both houses to him and prorogued them until the 24th of the following February.

The king revealed the intent behind the prorogation four days later in a private consultation with the judges at council board. Charles called Chief Justice Scroggs, Recorder Jeffreys and Justice North to him that day to ask whether the law would allow him to command the attorney general during a prorogation to proceed on prosecutions still pending in parliament in a different court. By asking these questions the king hoped to find a way of influencing the end the impeachment brought by the Commons was likely to reach by directing how and by whom it would be prosecuted. 'Suppose the k[ing] directs the attorney to proceed in an inferior court', asked Chancellor Finch on the king's behalf, 'may he not?'¹²³ The judges agreed that prorogation could not halt the course of prosecutions in parliament. Even if the prorogation was a long one, they said, 'accusation brought in parliament one session, has been judged in a following one'.¹²⁴ Scroggs, Jeffreys and North therefore made it clear to the council, that 'as the case stands', the king could not hope 'to go otherwise than by parliament'.¹²⁵ The only way in which Charles stood any chance of taking control of prosecutions pending in parliament, the judges said, and thus of relieving the pressure which the impeachment was putting on his ability to govern, would be to change the circumstances as they stood. Parliament 'being prorogued', Joseph Williamson wrote, would not allow the king to halt the Commons' proceeding against the treasurer and once more to secure his independence in government. 'But', the secretary scribbled, 'if dissolved...'.¹²⁶

Charles' consultation in council that day revealed a king forced by his opponents in parliament to adopt a policy which he had avoided for the past eighteen years. In the

¹²³ SP29/366, f. 717.

¹²⁴ Ibid, f. 718.

¹²⁵ Ibid.

¹²⁶ Ibid.

Commons' attempt to impeach the earl of Danby, in spite of the divisions in parliament and the still strong support for the crown and its ministers, Charles faced the strongest and most systematic attack on his ability to govern which the monarchy had seen in years. On 24th January 1679 then, following his consultation with the judges, Charles issued a proclamation to turn the current prorogation into a dissolution, and to bring the cavalier Parliament to an end.

IV

Historians have very effectively explored the ways in which, both publicly and privately, the election of January 1679 was fought.¹²⁷ They have shown how the earl of Shaftesbury and duke of Buckingham managed to mobilise electoral support, especially through their connections with the corporation of London, in order to make gains in parliament. And they have demonstrated how private wrangling at court between different, though comparably powerful, factions produced a new balance of power on the privy council. These historians have shown that the election at the start of 1679 saw a surge in parliamentary power, and when the electoral dust settled the king faced a greater number of MPs who were openly hostile to the prospect of absolute monarchy. With more MPs in parliament pressing to assert their own political agendas and to oppose the king's, Charles was forced to reshuffle his council and to accommodate some of his most vocal opponents as ministers. These new appointments spread power through the council much more evenly, and much more thinly, among his ministers than it had ever been before.

In the face of these changes to the balance of political power, ushered in by an election which had been forced by the Commons' attempts to impeach the treasurer, Charles finally succumbed to the calls in parliament to remove Danby from office. At the end of January, Robert Brent wrote to the treasurer to warn him that 'there is some great undertaking now transacting between my Lord Shaftesbury and that party, and the duke [of York], and great endeavours are used to persuade his highness to quit your lordship and your interest'.¹²⁸ Shaftesbury's party, Brent said, were trying 'to persuade his highness that the Commons have resolved to do nothing for his majestie soe long as your lordship has the staffe'.¹²⁹ And Brent was right. On 13th March, the king sent for Danby and told him that it would be better

¹²⁷ Miller, *Popery and Politics*; Harris, *Restoration*; Jones, *Charles II*; Hutton, *Charles the Second*; Knights, *Politics and Opinion*; Jones, *The First Whigs*.

¹²⁸ BL Add MS 28053 f. 133.

¹²⁹ *Ibid.*

for both of them if Danby resigned.¹³⁰ The king, Danby later recalled, hoped ‘parliament would forbear any further prosecution of mee and would both give him money and comply with him in what else hee should desire of them’.¹³¹

But after talking to Danby on the 13th, the king did not remove him from office quickly enough. On 17th March, the Lords ordered the committee for privileges to examine the state of the impeachments from the last session.¹³² Two days later, on the 19th, the upper house ordered that all impeachments brought up from the house of commons in the last parliament would continue ‘in status quo’.¹³³ They sent Danby a copy of his charges and gave him until the 27th to put in his answer.¹³⁴ And three days after that, on the 20th, the lower house sent a message to the Lords to remind them of the impeachment. The Commons told the Lords they desired that Danby ‘be forthwith committed to safe custody’, and they appointed a committee to draw up new articles against the treasurer.¹³⁵ The king, however, while probably at this stage privately having made up his mind that his treasurer should be removed from office, in the face of the Commons’ redoubled zeal, did not want Danby to come to harm. In a speech to both houses on 22nd March, therefore, Charles declared Danby’s innocence and granted him a royal pardon, suggesting that he ‘would grant it ten times over if his first were defective either in matter or forme’.¹³⁶

On the day that Charles declared the pardon, the Commons sent to the Lords to remind them of their last message and to demand that Danby be sequestered immediately and committed to safe custody. In the lower house, Francis Winnington, recently removed from the office of solicitor general, made an impassioned speech about Danby’s subversion of the constitution and insisted that ‘a king should be a sanctuary of the people from oppressions of evill ministers but not a refuge of enemies to the government, the protector of such an archtraitor as Danby’.¹³⁷ William Harbord agreed with Winnington, saying ‘I would have a committee to draw up a [new] representation to the king of the miserable estate of the kingdom, and that this gentleman is the occasion of it.’¹³⁸ The Commons accordingly

¹³⁰ BL Add MS 28043 f. 7.

¹³¹ Ibid. Danby’s reflections here are from a memorandum which he wrote during the preparation of his memoir, called *Memoirs relating to the impeachment of Thomas Earl of Danby, (now Duke of Leeds), in the year 1678* (London, 1710).

¹³² *LJ*, vol. 13, p. 463.

¹³³ Ibid, p. 466.

¹³⁴ BL Add MS 28047 f. 43.

¹³⁵ *CJ*, vol. 9, p. 572.

¹³⁶ BL Add MS 28047 f. 44.

¹³⁷ Winnington was removed from office on 7th January 1679. Newdigate, l.c. 729; Lutterell, *Brief Relation*, pp. 6-7; HMC Westmoreland, p. 130; Grey debates, vol. 7, pp. 25-29.

¹³⁸ Grey debates, vol. 7, p. 24.

appointed a committee to ask the chancellor about the manner of Danby's pardon, and to decide whether or not to let it stand.¹³⁹

At the same time that Winnington was speaking to the Commons, the upper house proposed a bill to be brought in for incapacitating the treasurer, making him 'for ever incapable of coming into his majesty's presence, and of all offices and employments', including his seat in parliament.¹⁴⁰ The Lords, Shaftesbury said, not strictly truthfully, were 'willing to do anything that might save [Danby's] life and estate, but they could not be for supporting the pardon'.¹⁴¹ In reality, the bill for incapacitating Danby included the confiscation of all grants of money and land given to him, except his paternal estates.¹⁴²

The next morning, on 24th March, the Commons committee attended the lord chancellor to ask about Danby's pardon. Finch told them it was 'a stamp't pardon by creacon', and was therefore legitimate.¹⁴³ Upon the committee's return to the house, the Commons immediately made a humble address to his majesty concerning 'the irregularity and illegality of the earl's pardon, and the dangerous consequence of granting pardons to any that lay under an impeachment of the Commons'.¹⁴⁴ They sent to the Lords to demand justice against Danby, and for him to be sequestered from parliament and committed to safe custody. The Lords obliged, and voted that the treasurer be committed to the Tower. The same morning, the king sent Danby a note 'under his owne hand by the earl of Bath to bee gone instantly and ... to get out of England'.¹⁴⁵ Danby went into hiding, and remained there until 14th April 1679, when parliament passed a bill of attainder for his appearing before them.¹⁴⁶ Danby surrendered himself to the black rod on 15th April, and appeared before the upper house the next day, on the 16th. He gave a brief account of himself, and requested from the Lords a new copy of the charges against him.¹⁴⁷ The Lords assented to his request, and adjudged that he be committed to the Tower 'till he shall be discharged by due course of law'.¹⁴⁸

¹³⁹ BL Add MS 28047 f. 44.

¹⁴⁰ *LJ*, vol. 13, p. 471.

¹⁴¹ BL Add MS 28053 f. 140.

¹⁴² BL Add MS 28043 f. 11.

¹⁴³ BL Add MS 28047 f. 44.

¹⁴⁴ *Ibid.*

¹⁴⁵ BL Add MS 28043 f. 7.

¹⁴⁶ At first, the Lords tried to change the bill of attainder to a bill of banishment, but the Commons would not agree, 'banishment not being the proper punishment in cases of high treason'. The bill of attainder therefore stood. HMC, Le Fleming, no. 2162 p. 158.

¹⁴⁷ BL Add MS 28043 f. 13.

¹⁴⁸ *LJ*, vol. 13, p. 520.

He appeared before them again on the 25th to deliver his plea and pray that he might have his pardon. In his plea, delivered in writing and read to the house, Danby moved through each of the Commons' articles against him and tried to account for them. He dwelt particularly on the fourth article, which related to his involvement in the plot and its investigation. He could not, he said, 'possibly imagine the reason wherefore I should be charged to be popishly affected', and he gave a detailed account of the early part of his investigation of the plot, directed by the king.¹⁴⁹ Danby, of course, insisted that he had not 'at any time suppressed any evidence, or reproachfully or otherwise discountenanced the king's witnesses in discovery of the plot'.¹⁵⁰ He described the pardon which the king had granted him, and insisted, by quoting at length from the law, that his pardon should stand.¹⁵¹ The now ex-treasurer had made an earnest defence of himself in the plea he delivered to the Lords. But it was all for nothing. By the end of April 1679, therefore, the Commons had managed to remove one of the chief instruments by which the king did government. They had impeached the earl of Danby.

By April 1679 Charles had lost his advantage in policymaking. Through the previous two years, he had moved from a position of relative strength, where he had been able to make policy independently, supported by the financial stability which his more isolationist approach to Europe had temporarily given him, to having his key advisor and policy maker, the earl of Danby, forcibly removed from office by the house of commons. Through the spring of 1667, it had become clear that Charles' decision to take a more peaceful approach to foreign policy, while having stabilised his revenue and simplified his relationship with the foreign princes in the short term, was not a policy which could be sustained indefinitely. Too many factors beyond Charles' full control, such as the continuing impact of foreign privateers on English merchants' ability to trade and return revenue to the kingdom, and the pressure which the European princes were exerting on the English king to intercede in their continuing conflict, drew Charles back towards a war which he had worked hard to release himself from not long before. By the summer of 1677, the king therefore sought to adapt his peaceful approach to Europe by reinforcing it with the threat of imminent recommittal to the conflict. Only by threatening war, Charles decided, could he hope to sustain his peaceful policy and retain the advantages to his revenue and domestic political circumstances which it gave him.

¹⁴⁹ Ibid, p. 538.

¹⁵⁰ Ibid.

¹⁵¹ Ibid, pp. 539-540.

As Charles negotiated and tried to find a more lasting means of asserting himself in Europe, the house of commons grew suspicious of what his negotiations would mean for the balance of power at home. In the spring of 1678, opposition to Charles' government grew in the lower house as they realised that he was seeking to manoeuvre himself into a position where he could make decisions about Europe and his kingdom independently, with the support of parliamentary supply but without their directions for how their money should be used or the ends to which it should be applied. Unlike in 1675 however, this time the Commons who wished to see the lower house taking a more active part in defining and protecting the security and liberty of church and state managed to produce an effective design for re-entering government policymaking. Consolidated around the evidence which Ralph Montagu brought to the house, opponents to the king's growing independence in government managed to steer a sufficiently coherent impeachment through parliament to force the king to remove his chief minister, the earl of Danby, from office. By removing Danby, the main instrument in Charles' government, by which the royal revenue was kept stable and the information on which government decisions were made kept private, the Commons managed to force their way back into an active role in government. By April 1679 then, Charles' ability to make a policy independently and to rule personally, if not already gone, lay close to ruin.

In this sense Charles' attempts to make and implement policy fed back on themselves. Charles had to revise his approach to Europe, not because he had changed his ambitions to improve the power and status of England among his continental neighbours, but because the means by which he had tried to do so had become impractical and less fit for purpose. Having revised his approach to foreign policy, the king then removed his chief minister and the lynchpin of his attempts to rule personally, not because he became more receptive to, or began more to believe in, the rights of the house of commons to represent the will of the electorate more actively in government, but because he was forced to change his approach to governance by a competing interest in the way in which government was done.

The king's attempts to make effective European policy through 1677 and the impeachment of the earl of Danby demonstrate that seventeenth-century politicians did not take a high-modernist view of policymaking, in which they rigidly set their end point and linearly worked through a plan to reach their goal. They recognised that policymaking was a fluid process, in which changing and competing outside interests or the day to day practicalities of sustaining any given plan could feed back against their ability to make and implement their designs.

Chapter 4: The constitution breaks

By the end of 1678 Charles felt that ‘he hath not been used well’.¹ As the thirtieth year of his reign came to a close a growing number of politicians in both houses of parliament were becoming increasingly concerned with preserving their own ability to participate in politics and had begun more and more to obstruct the king’s ability to make policy and realise his political aims. On 30th December, therefore, as he struggled to cope with the emerging popish plot revelations and fears of a catholic succession, with growing accusations of tyrannous and arbitrary practices among his ministers, and with placing England in a Europe which was becoming increasingly intrigued by the notion of empire, Charles called both houses to him and prorogued them until 4th February the following year. But before they reconvened, in a proclamation on 24th January 1679 ‘the king’s most excellent majesty, taking into his serious consideration the many inconveniencies arising by the over-long continuance of one and the same parliament’ turned prorogation into dissolution, bringing the session to a close for the last time.²

If Charles had begun to struggle to live with parliament, however, he was certainly not able to live without them either. Charles ended the session to halt parliamentary intervention in his policies, and prevent his parliamentary opposition from participating in politics and obstructing his plans. With a large army still to pay though and war with France and Holland still a distinct possibility, Charles found himself unable to proceed on his ordinary revenue alone, and in dire need of parliamentary assistance. As February wore on, therefore, all Charles could do was to recall parliament and hope that constitutional stability could be found. Charles opened his third parliament on 6th March 1679. The new parliament immediately resumed what the second had been prevented from doing through the dissolution, instantly justifying the anxieties around the court about the king’s growing opposition in domestic politics. On opening the session, Charles’ rhetoric betrayed his own apprehensions about how combative his new parliament was likely to be. ‘I meet you here with the most earnest desire that man can have’, he said, ‘to unite the minds of all my subjects, both to me, and to one another. And I resolve it shall be your faults, if the success be not suitably to my desires’.³

¹ From the Lords’ journal record of the king’s speech on proroguing parliament. *LJ*, vol. 13, p. 447.

² *A Proclamation, About Dissolving This Present Parliament, And The Speedy Calling A New One.* Ibid, p. 448.

³ Ibid, p. 449.

Charles met his third parliament with a powerful vision of church and state, to which he rigidly stuck for the next two years. Time and again through each of his last three parliaments, which sat between the beginning of March 1679 and the end of March 1681, Charles set out how both houses should practice politics and to what end and defined what he believed were the constitutional roles of the king, parliament, and his subjects. He left parliament in no doubt that he viewed their position in politics as supplementary to the crown's. Their place was not, as he told them on opening the first session of his third parliament, 'to promote private animosities under pretence of the public', since the public's interests were not parliament's concern. Rather, their function was, Charles said, 'in order to those good ends I have recommended to you' and to defend him 'from the calumny, as well as danger, of those worst of men, who endeavour to render me and my government odious to my people'.⁴ In this subordinate role, then, Charles believed that parliament was there to perform three functions.

The first, and simplest, was that parliament was there to vote the king supply, so that he might fund the state and the defence of the kingdom. In two of his three speeches on opening parliament between March 1679 and March 1681, Charles recommended his financial position to parliament's consideration, in the hope that they would vote him supply 'equal to my necessary expenses'.⁵

The second of parliament's functions in the eyes of the king was to provide him with a statutory basis to rule, mostly in the form of laws, particularly at this time on the descent of the crown. The duke of York's succession had been discussed since the Test Act had revealed him to be catholic in 1673. As historians have already shown at length, once the popish plot revelations were made in the autumn of 1678 debate about the duke of York turned frantic. By the time the king recalled parliament in March 1679, therefore, both houses had already begun taking serious steps towards diverting the descent of the crown, and in the last three parliaments of Charles' reign there was little that they discussed more than the succession. In his speeches to the last three parliaments, Charles urged them to offer him 'any new remedies which shall be proposed, that may consist with preserving the succession of the crown in its due and legal course of descent'.⁶ By urging parliament to create legislation on the succession, Charles was seeking to make sure that 'religion might be

⁴ *LJ*, vol. 13, pp. 449-450.

⁵ *Ibid*, p. 450. This quote is taken from Charles' speech on opening his third parliament on 6th March 1679. His speech on opening the fourth parliament, in which he also mentioned a vote of supply, is at *LJ*, vol. 13, pp. 610-611. In this second one, he had focused his request to a supply for upholding Tangier.

⁶ *LJ*, vol. 13, p. 610.

preserved, and the monarchy not destroyed'.⁷ But he was also trying regulate future parliamentary proceedings on the matter, by binding them to a codified set of laws, of their own creation, which he could uphold as 'the rules and measures of all [their] votes'.⁸

And thirdly, parliament was there, Charles said, in a more generally advisory capacity. He told parliament in a speech regarding his appointment of a new privy council, on 21st April 1679, that he saw parliament and his privy council's roles in offering the crown advice as running parallel to each other. He said that he intended to take his ministers' advice 'next to the advice of my great council in parliament'.⁹ But although he encouraged their contribution on any subject which he offered them, 'that which I value above all the treasure in the world and which I am sure will give me greater strength and reputation both at home and abroad than any treasure can do', he said, 'is a perfect union amongst ourselves'.¹⁰ For Charles, parliament was not there to challenge his rule, but to assist it in any way they could.

But certain members of the third parliament soon showed themselves to be even more concerned with limiting Charles' independence in government than the second had been at the point of its dissolution. The proceedings of both the upper and lower houses quickly began being driven onwards by the political agendas and ideological principles of strong individuals, who at different times loosely bound larger groups together as contingent moments clashed or corresponded with their shared, deeper constitutional ideals and beliefs about sovereignty. As these groups debated and developed their contrasting, and at times incompatible, ideas of where power should reside in domestic politics, and of why certain agents or institutions should hold privilege or prerogative over others, they competed for access to the processes of policymaking by shaping political practice. Charles soon replaced his third parliament with a fourth, and then a fifth. Through their short-lived meetings and the lengthy periods between sessions, both king and parliament began more and more to question the relationship between their ability to influence broader political themes and topics, and their ability to access and control information. As the 1670s became the 1680s, therefore, the negotiation of power between the king and his political opponents, and their battle to shape political practice, was underpinned by their differing views on how free information should be. In the midst of their intensifying exchanges, and as political theory and practice became forced together in debate, the 1662 Printing Act expired.

⁷ Ibid, pp. 745-746.

⁸ Ibid, p. 746.

⁹ *LJ*, vol. 13, p. 530.

¹⁰ Speech on opening the session, 21st October 1680. Ibid, p. 611.

This chapter seeks to examine the lapse of licensing in 1679 as a major instance in which different politicians sought to enhance their ability to make policy by controlling both the level of access to the decisions being made in government, and the opportunity to discuss those decisions outside of the private conversations of the king and his ministers. It aims to draw out how the king's opponents sought to improve their ability to participate in policymaking by removing the legislation which prevented them from acquiring and processing the information upon which the government was acting, and how the king tried to sustain his ability to control his subjects' access to knowledge.¹¹

The chapter will therefore pose two main questions. Firstly, it will ask why the Printing Act lapsed in 1679. It will use records of parliamentary debate, parliamentary journals, and state papers to assess the broader political context around the expiration of the Act, and will then read against the grain of contemporary printed sources and more records of parliamentary debate, to assess how contingent moments and political beliefs and agendas combined to contribute to the lapse. And secondly, it will ask how the press was regulated after the Act expired. It will use state papers, Stationers Company records and manuscript material to explore how the king tried to compensate for the absence of a legal basis for press regulation, and to gauge how the lapse influenced and was indicative of the way in which the balance of political power changed towards the end of Charles II's reign.

In asking these two broader questions, this chapter intends to assess how politicians were developing their political agendas and thinking about the ends to which they were practising politics. How did different policy change the way in which people practised politics, and how did practice influence policy? And it aims to draw out how ideas about access to and freedom of information shaped and changed the constitutional functions of parliament and the king. Once the Printing Act had lapsed, how did Charles cope with the absence of a statutory basis for intervening in print, publication and the circulation of ideas, and what effect did his new approach have on the political culture of his last three parliaments?

¹¹ This chapter builds on David Colclough's work on *Parrhesia*, namely that politicians were increasingly keen to emphasise their right to offer counsel. This political practice has been largely ignored for the Restoration. See D. Colclough, *Freedom of Speech in Early Stuart England* (Cambridge, 2005), pp. 120-195.

I

The expiration of the Printing Act in April 1679 has received relatively little scholarly attention in its own right, and where it has been studied it has largely been treated as a by-product of much larger processes or topics of debate. Some historians who have studied it have identified the lapse as an important instance in which information and expression was temporarily made freer than at other points in the early modern period.¹² Often spanning centuries, their studies have read the temporary lapse in 1679 as an earlier version, in a gradual evolution of public opinion, of the modern liberal ideals of freedom of expression which would emerge properly and permanently with the final lapse of pre-publication licensing in 1695. In doing so, they have managed to connect the lapse of 1679 with deeper and longer currents of change through the course of history and have elevated this commonly overlooked event in the latter stages of Charles II's reign to being an important component of the political and intellectual history of England and Britain.

In other histories, generally written over a shorter chronology, the lapse of 1679 has been depicted as another feature of a succession of crisis years at the end of the 1670s, in which political power was intensely contested across a diversity of political and religious topics.¹³ Historians of this approach have regarded the lapse as a by-product of parliament and the king's combined pre-occupation with other more important topics and their subsequent inability to take effective measures to renew the Act amid contingent moments of political and religious turmoil. The Act's expiration and the lack of renewal, these histories have suggested, was one of many aspects of a changing political culture, wherein elite debate moved into the public arena and politics was redefined by the search for popular approbation. By taking this approach and trying to fix the lapse in a political, religious and economic context, these histories, importantly, have taken the first steps to exploring the connection between Restoration-period discussions about information and the shape of the political culture in which they took place.

But there is still scope to study the lapse in its own right, to assess whether it was just a by-product of other processes and debates, or whether it was itself a meeting ground for discussions of state building and the negotiation of power. In spite of existing histories' many successes so far, there are still questions to be asked of how contemporaries of the

¹² R. Deazley, *On the Origin of the Right to Copy: Charting the Movement of Copyright Law in Eighteenth Century Britain (1695-1775)* (Oxford, 2004); R. Martin, *Women, Murder, and Equity in Early Modern England* (Abingdon, 2008); K. Williams, *Read All About It!: A History of the British Newspaper* (Abingdon, 2009).

¹³ Jones, *Charles II*; Hutton, *Charles the Second*; Harris, *London Crowds*; Knights, *Politics and Opinion*.

lapse thought about freedom of expression, and how they constructed and represented arguments about the role of information in society in order to try to change the world around them. So was it the case that licensing lapsed because the idea of less restrained information was creeping in to the public consciousness, and so events like this were bound to start happening more often, or that the Act expired because politicians pre-occupied with more important topics or lacking in opportunity did not manage to renew it? Or, as the end of the 1670s approached, was there any intellectual and ideological case being made for less restraint, which itself shaped the course of events and led to the lapse? Was the freedom of information something which appeared or disappeared as an end point to other processes? Or should sources concerned with the freedom of expression be read in inversion, to explore properly the relationship between people's statements about the correct role of information and broader debates about the balance of power and nature of the constitution. While historians so far have provided a number of interesting positions from which to regard the lapse, we need to take contemporary discussion of the event more seriously, and to recognise their debates as a method of describing and realising their broader political and religious ambitions. Instead of being the end point, perhaps the lapse of licensing was actually an important means to an end instead.¹⁴

The 1662 Printing Act lapsed in 1679 for two main reasons. The first is that the Commons committee appointed to renew it as it expired did not get chance to do so amid the constant disruption inflicted on parliament by the king. The second is that there was a vocal movement at the time of the lapse for a freedom of information and the liberty of the press.

The three parliaments which sat between 6th March 1679 and 28th March 1681 hosted some of the most intense political debate ever witnessed under a Stuart monarch. Discussion was dominated in both the house of commons and house of lords by open debate on the dynamic of power between king and parliament. This negotiation, and the disruptions in parliament which occurred as a result, changed how politics and religion were practised for the rest of Charles II's reign. Charles intervened so frequently as the 1670s became the 1680s because the nature and content of parliamentary debate at that time conflicted with how he thought parliament should go about 'securing the true protestant religion, and the

¹⁴ It seems vaguely absurd for a PhD student to comment on the quality of Peter Lake's work. Virtually his entire oeuvre is a masterclass in how to read sources against the grain in this way. But for particularly good examples, see his *The Boxmaker's Revenge*, and *Bad Queen Bess?*. Jason Peacey is always similarly adept, but see particularly his *Politicians and Pamphleteers*, and *Print and Public Politics*.

peaceable and happy government of this his kingdom'.¹⁵ The two main features of the parliamentary debate which therefore led to and sustained the lapse of licensing during the last three parliaments of Charles II's reign were exclusion and political impeachment.

Parliament hotly debated the exclusion, and similar policies, of the duke of York 'to inherit the imperial crown' as the 1670s became the 1680s.¹⁶ The decision to intervene against the duke of York's succession split both houses, although neither support for it nor opposition to it ever really formed into two coherent and distinct groups. Those who supported interrupting the descent of the crown, by whatever means, to the duke of York often differed greatly on how it should be done. And those against such policies often opposed them for a diversity of reasons. But broadly speaking, support or opposition to policies intervening in James' succession was based upon two things. The first thing which informed politicians' opinions on this topic was the question of whether the balance of political power should be tipped away from the king and in favour of parliament, or whether a political hierarchy should be sustained with the king at its head and with everyone beneath him subject to his judgement. The second reason why a member of either house might support or oppose interrupting the descent of the crown was based on whether or not they believed that the established protestant religion would be in danger if James was allowed to ascend to the throne.

The first bill for disabling the duke of York was conceived out of fear for James' perceived 'zeal for the promotion of the catholic religion, and carrying on the great work'.¹⁷ It was committed to a committee of the whole house in the commons on 21st May 1679, but not without dissent.¹⁸ 'I desire that there may be no farther proceeding in this bill', thundered Thomas Clarges. 'If I did think that the person of the king, laws, or religion were in danger without this bill, I would give my consent to it with as great alacrity as any body; but this bill seems to me to hazard the king's life'.¹⁹ The king agreed with Clarges, at least in part, and parliament was prorogued before the committee could make any consideration of the bill.²⁰

¹⁵ *A proclamation, about dissolving this present parliament, and the speedy calling a new one*, LJ, vol. 13, p. 448.

¹⁶ Exclusion was not the only remedy to the problem of succession suggested at this time, as a number of solutions were proposed to safeguard against the catholic duke of York from succeeding his brother. Scholars of this period are indebted to Mark Knights for teasing out the different positions on James' inheritance of the crown within both houses of parliament, in his *Politics and Opinion*.

¹⁷ Grey debates, vol. 7, p. 237.

¹⁸ CJ, vol. 9, pp. 619-620.

¹⁹ Grey debates, vol. 7, p. 313.

²⁰ CJ, vol. 9, p. 627.

The second attempt to disrupt the descent of the crown, this time as a 'bill to disable James duke of Yorke to inherit the imperial crown of England and Ireland', was read a third time in the Commons on 11th November 1680, after only a week-long debate.²¹ The strongest endorsement of the bill came from Goodwin Wharton. 'Passing this bill is in order to our security only, and therefore it is just,' he asserted. 'The duke has done his utmost endeavour to ruin this nation, and to destroy us all'.²² William Jones agreed with Wharton's sentiment, and said 'I have as much respect for the duke as any person, but I must have respect to religion above all things ... We do not punish the duke as a criminal, but we are preventing the evil that is likely to befall us from that religion he professes'.²³ But 'to hear a prince thus spoken of', Lord Castleton cried, 'I am not able to endure it!'.²⁴ And Colonel Legge observed that 'many Laws have been made about the succession of the crown, but none without blood and misery. My father was twice condemned to die for asserting the right of the crown, and I hope I shall never forsake it'.²⁵ Nevertheless, the bill was passed that day. Unfortunately for the Commons, however, it was then rejected in the Lords four days later, on the 15th.²⁶

On 20th December, the Commons made an address to the king which indicated their continuing favour of the policy of exclusion.²⁷ On 4th January 1681 the king replied, saying that he was 'sorry to see their thoughts so wholly fixed upon the bill of exclusion'.²⁸ Three days later, in contradiction to the king's reply, the Commons resolved 'that there is no security or safety for the protestant religion, the king's life, or the well constituted and established government of this kingdom, without passing a bill for disabling James duke of York to inherit the imperial crown of England and Ireland'.²⁹ They also resolved that 'untill a bill be passed for excluding the duke of York, this house cannot give any supply to his majesty without danger to his majesty's person, extreme hazard to the protestant religion, and unfaithfulness to those by whom this house is entrusted'.³⁰ Perhaps unsurprisingly, three

²¹ Ibid, p. 651; The bill was first read in the Commons on 4th Nov., *CJ*, vol. 9, p. 646.

²² Grey debates, vol. 7, p. 448.

²³ Ibid, p. 451.

²⁴ Ibid, p. 449.

²⁵ Ibid, p. 455.

²⁶ *LJ*, vol. 13, p. 666.

²⁷ *CJ*, vol. 9, pp. 684-685.

²⁸ Ibid, p. 699.

²⁹ Grey debates, vol. 8, p. 284.

³⁰ Ibid, pp. 284-285.

days later, on 10th January 1681, the king again prorogued parliament.³¹ He then dissolved it on the 18th.

Expedients for securing the protestant religion and the safety of the king's person were again debated in Oxford on 26th March 1681.³² Again, policies against the duke of York were vociferously supported. 'I have been long of opinion', Lord Russell announced, 'that nothing but excluding the duke, &c. can secure us'.³³ Sir Francis Russell agreed to an extent, but insisted that while 'a bill for excluding the duke is a good expedient; let both that and others, as they are proffered, be considered'.³⁴ The house ordered that a committee be formed to draw up a new bill to disable James from inheriting the crown.³⁵ The bill received its first reading on the 28th March.³⁶ But keen for it not to go any further than that, Charles called the Commons to him only hours later and dissolved parliament for the last time, never to call another during his reign.

At the same time as debating exclusion, parliament followed a relentless policy of political impeachment. The house of commons in particular attempted to reorganise politics by proceeding against a number of individuals who collectively made up Charles' apparatus for rule. When Charles opened his third parliament after having dissolved the Cavalier Parliament six weeks earlier, he immediately warned both houses against 'fatal differences among ourselves'.³⁷ Within a week, on 12th March, the earl of Shaftesbury called for a new consideration of the impeachments pending at the end of the last session.³⁸ The next day, the king prorogued parliament for two days in order to test whether they could 'take notice of what [he] said at the opening'.³⁹ On 26th March the Lords passed a bill to banish and disable the earl of Danby and sent it to the Commons for their concurrence.⁴⁰ The Commons rejected it and instead passed a bill for Danby's attainder.⁴¹ On 26th May, when the Lords sent a message to the Commons requesting a conference on the amendments to the Bill for the better securing the liberty of the subject, the Commons committee for that bill replied that 'since the Lords have not thought fit to give such satisfactory answers to the propositions formerly made by them as they required, they have received instructions from their house to

³¹ *CJ*, vol. 9, p. 703.

³² *Ibid*, p. 711.

³³ Grey debates, vol. 8, p. 310.

³⁴ *Ibid*, p. 314.

³⁵ *CJ*, vol. 9, p. 711.

³⁶ *Ibid*, p. 712.

³⁷ *LJ*, vol. 13, p. 449.

³⁸ *Ibid*, p. 458.

³⁹ *Ibid*, p. 460.

⁴⁰ *LJ*, vol. 13, p. 481.

⁴¹ *CJ*, vol. 9, p. 581.

give no answer to the propositions made by the Lords'.⁴² The next day, on 27th May, Charles assembled parliament and announced 'that there are such differences between the two houses, that ... very ill effects will come of them', and he prorogued parliament again, then to dissolve it six weeks later on 12th July 1679.⁴³ And again, at Oxford on 25th March 1681, the Commons sent a message to the Lords asking them to reconsider the lower house's judgment against Danby, made almost two years before.⁴⁴ As a result, on 28th March, Charles noted to both houses that 'we are not like to have a good end, when the divisions at the beginning are such', and dissolved parliament once and for all.⁴⁵

The attack on Charles' apparatus for rule which had begun with the attempts to impeach Danby were at their most intense during the second exclusion parliament, of 1680, and was one of the main reasons for why parliament was disrupted so much at this time. Having already begun proceedings against Danby, parliament began their campaign of impeachments in earnest in autumn 1680. On 10th November 1680 the house of commons ordered the committee appointed to examine the journals of the last two parliaments to sit *de die in diem*, and, starting with Lord Stafford, began the process of impeaching the five catholic lords in the Tower.⁴⁶ Three days later, on the 13th, the house resolved 'that Sir George Jefferyes, by traducing and obstructing petitioning for the sitting of this parliament, hath betrayed the right of the subject'.⁴⁷ A committee was appointed to draw up an address for his removal. On the 17th, a similar committee was appointed after it was resolved 'that an address be made to his majesty, humbly to desire his majesty to remove George earl of Hallifax from his majesty's presence and councils for ever'.⁴⁸ On the 19th, after just six days of writing, the address regarding Jeffreys was read to the Commons and ordered to be taken up to the king.⁴⁹ The next day, after Secretary Jenkins had informed the lower house that Charles would consider their address about Jeffreys, Gilbert Gerald then acquainted the Commons with articles of 'high crimes, misdemeanors and offences' against Edward Seymour.⁵⁰ Seymour was accused of mishandling money voted for the upkeep of the navy, and for abusing his position by knowingly receiving an over-payment of salary and

⁴² *LJ*, vol. 13, p. 590.

⁴³ *Ibid*, p. 595.

⁴⁴ *CJ*, vol. 9, p. 708.

⁴⁵ *LJ*, vo. 13, p. 757.

⁴⁶ *CJ*, vol. 9, p. 650. The five catholic lords had been imprisoned in the Tower on 31st October 1678, and throughout the spring of 1679 their impeachment had been debated regularly in both houses of parliament. It was only in November 1680, though, that the Commons attempted to impeach any of them individually.

⁴⁷ *CJ*, vol. 9, p. 653.

⁴⁸ *Ibid*, p. 655.

⁴⁹ *Ibid*, p. 656.

⁵⁰ *Ibid*, p. 658; *Ibid*.

fraudulently selling the goods of a seized Dutch warship.⁵¹ Two days later, on 22nd November, the address on Halifax was read in the Commons. Halifax was accused of ‘evil and pernicious counsels’ to the king, and hence of being responsible for both the prorogations of the present parliament and the dissolution of the last, and the ‘manifold dangers and mischiefs’ which grew out of the disruption.⁵² It took the king four days to inform the Commons that he did ‘not find the grounds in the address of this house to be sufficient to induce him to remove the earl of Halifax’.⁵³ Parliamentary proceedings against Halifax therefore went no further.

On 24th November, the Commons began their next impeachment, after having resolved that there was sufficient evidence to proceed against Francis North, chief justice of the court of common pleas.⁵⁴ Then, on the 26th, they decided that the articles against Edward Seymour were enough to proceed with his impeachment.⁵⁵ The same day, the committee for privileges reported in the Lords on the method of Stafford’s trial, and it was decided that the trial would begin the following Tuesday, the 30th.⁵⁶ The trial lasted for a week, with judgement being delivered on 7th December, at which point Stafford was found guilty by a vote of 55 to 31.⁵⁷ Stafford was sentenced to be hanged, drawn and quartered. But, at the direction of the king, the Lords later declared that Stafford should only be beheaded, to the agreement of the Commons two days later.⁵⁸

On 17th December, after three weeks of preparation, Edward Seymour’s impeachment was read and agreed to in the Commons.⁵⁹ It was sent up to the Lords three days later, and on 8th of January 1681 the date of Seymour’s trial was chosen.⁶⁰ On 23rd December 1680, the Commons began yet another set of impeachments. The lower house agreed with the report of the committee examining the proceedings of judges in Westminster Hall, and agreed on a number of points for action. The Commons resolved that there were four instances in which the judges’ actions had been arbitrary and illegal, one in which they had acted illegally and in ‘high breach of the liberty of the subject’, and one instance of scandal to the

⁵¹ Ibid, pp. 658-659.

⁵² Ibid, p. 660.

⁵³ Ibid, p. 663.

⁵⁴ Ibid, p. 662.

⁵⁵ Ibid, p. 664.

⁵⁶ *LJ*, vol. 13, pp. 689-690.

⁵⁷ The trial runs *LJ*, vol. 13, pp. 695-706. When the votes were first counted on 7th, the count was 54 to 32, but this figure was amended a week later on 14th December to 55 to 31, *LJ*, vol. 13, p. 704.

⁵⁸ *LJ*, vol. 13, p. 724; *CJ*, vol. 9, p. 692. Stafford was eventually executed on 29th December.

⁵⁹ *CJ*, vol. 9, p. 682.

⁶⁰ Ibid, p. 684. The date for Seymour’s trial was fixed for the 15th of January 1681. However, parliament was prorogued before this date, and Seymour’s prosecution was not picked up again before parliament was dissolved for good during Charles’ reign in Oxford on 28th March.

reformation which ‘tend[ed] to raise discord between his majesty and his subjects’.⁶¹ The lower house resolved that William Scroggs, chief justice of the court of the king’s bench, Thomas Jones, one of the justices of the court of the king’s bench, and Richard Weston, one of the barons of the court of the exchequer, would all be impeached on the strength of the report. The matter was referred to the committee already writing the impeachment against Francis North.

The next day, on 24th December, the committee appointed to examine a complaint against the clerk Richard Thompson, for misdemeanours against the privilege of the Commons by publishing controversial material regarding the popish plot, reported to the house.⁶² After over six weeks of his having been held in custody, the lower house resolved that Thompson had, among other things, defamed the king, preached sedition and attempted to subvert the liberty of the subject.⁶³ He was therefore to be impeached upon the report and resolutions of the house. On 3rd January 1681, the committee appointed to prepare the impeachment against Lord Chief Justice Scroggs reported to the Commons, and the articles were agreed to and sent up to the Lords on the 5th.⁶⁴ The lower house aimed to impeach Scroggs on a number of points, amongst which was his obstruction of a ‘bill of indictment against James duke of Yorke, for absenting himself from church’.⁶⁵ While the Lords considered Scroggs’ impeachment, the Commons next ordered on 6th January for the earl of Tyrone to be impeached for high treason for his involvement in a plot in Ireland, though the charges did not come to anything before parliament was dissolved and moved to Oxford.⁶⁶

On 7th January, the house of lords read the articles of impeachment against William Scroggs. The question was propounded whether he should be committed or not, but it was resolved that that should not be asked of the house. Instead, the Lords decided that Scroggs should pay bail of 10,000L, ‘with two sufficient sureties to be bound with him in 5,000L apiece; upon condition, that he shall attend upon this court from time to time, till he be discharged of his impeachment brought up from the house of commons’.⁶⁷ The Lords decided not to ask Charles to remove Scroggs from office.

⁶¹ *CJ*, vol. 9, pp. 688-692.

⁶² Grey debates, vol. 8, p. 198.

⁶³ *CJ*, vol. 9, pp. 693-695.

⁶⁴ *Ibid*, pp. 699-700

⁶⁵ *Ibid*, pp. 697-698. The articles of impeachment were agreed upon in the Commons and sent up to the Lords on 5th January, *CJ*, vol. 9, p. 700.

⁶⁶ *Ibid*, p. 701.

⁶⁷ *LJ*, vol. 13, p. 738.

Overall, therefore, between 10th November 1680 and 24th March 1681 (a period of just four and a half months) parliament had begun nine impeachments, six of which were against some of the most important political figures of Charles' reign. The earl of Halifax was a member of the inner privy council and the king's spokesman in parliament, and had led the opposition to the second exclusion bill in the house of lords on the king's behalf. George Jeffreys was the recorder of the city of London, which was a powerful administrative position appointed at the prerogative of the king. He had also played a prominent role in the prosecution of publishers, like Francis Smith and Benjamin Harris, who supported and printed the pro-exclusion sentiments of the earl of Shaftesbury and his supporters. Edward Seymour was the speaker of the house of commons and was an at times vocal supporter of the monarchy in his opposition to the bills to exclude James from succeeding to the throne. He had also been a privy councillor and treasurer of the king's navy, another position appointed by the king. Francis North, another privy councillor, and attorney general, assisted the drafting of the king's proclamation against petitions of 1679 (to which we will pay closer attention shortly). William Scroggs was lord chief justice of the court of the king's bench, which was yet another position appointed by and answerable to the king. As lord chief justice, Scroggs' power to interpret (or manipulate, depending on point of view) the law meant that the significance and application of legislation passed in parliament could be altered in court proceedings according to the king's direction. And the other judges, of the court of the kings bench and court of the exchequer, whom we will count as one impeachment, were again appointed by and answerable to the king.

The Commons' campaign of impeachment throughout the winter of 1680-81 was undoubtedly, therefore, an attack on the means by which the king could develop and implement policy. By directing themselves against privy councillors and judges, the Commons sought to remove both Charles' main advisors through whom his policies were developed, and the main agents by which his policies were implemented. Although the direct effectiveness of the lower house's impeachments is questionable, since the majority of them were rebuffed or sufficiently delayed by Charles' interventions for them to come to nothing, the by-product of the Commons' policy was very significant. The Commons' impeachments were one of the reasons why parliament was prorogued and dissolved so often, and therefore one of the reasons why licensing lapsed and was not renewed during Charles' last three parliaments.

Charles had dissolved the Cavalier Parliament on 24th January 1679. In the following two years, and to each subsequent parliament, he outlined his expectations of both houses a

number of times. For instance, on opening the new parliament on 6th March 1679, Charles stated his ‘most earnest desire ... to unite the minds of all [his] subjects, both to [him], and to one another’, through the continuance of a ‘healing parliament’.⁶⁸ He would not, he suggested, tolerate a parliament which would be ‘drawn to promote private animosities, under pretences of the public’.⁶⁹ Charles reiterated these intentions to both houses after the prorogations of 1680, when he insisted on ‘a perfect union amongst ourselves’, which, as he saw it, would involve ‘preserving the succession of the crown in its due and legal course of descent’.⁷⁰ And again, on 21st March 1681, upon opening his Oxford Parliament, Charles urged them to use ‘the example of the ill success of former heats [to] dispose [them] to a better temper’, in order that ‘religion might be preserved, and the monarchy not destroyed’.⁷¹ Parliament’s pursuit of the policies of political impeachment and the exclusion of the duke of York therefore directly contradicted Charles’ wishes, and forced the king to intervene.⁷²

Between calling a new session on 6th March 1679 and dismissing the Oxford Parliament on 28th March 1681, Charles disrupted debate by proroguing parliament ten times and dissolving it twice. Because they refuted his expectations of them, the king therefore allowed three successive parliaments to sit for a total of only 24 weeks in the space of a little over 24 months. Amid all Charles’ intervention, therefore, and because parliament insisted on pursuing impeachment and James’ exclusion above all else when they did meet, licensing legislation lapsed.

Clause XXIV of the 1662 Printing Act required that the legislation was considered for renewal every two years. On 13th April 1677, that year’s renewal of the Act, entitled An Act for the more effectual suppressing of unlicensed books and pamphlets, was read a third time in the Lords and was passed.⁷³ Two years later, on 22nd April 1679, the committee appointed to consider expiring laws (which included the Printing Act), was ‘impowered to send as well for licensed as unlicensed books, in order to be examined and perused by them’.⁷⁴ However, the committee did not get chance to conclude and report their proceedings to the house before

⁶⁸ Ibid, pp. 449-450.

⁶⁹ Ibid, p. 449.

⁷⁰ Ibid, pp. 610-611.

⁷¹ Ibid, pp. 745-746.

⁷² In his speeches to parliament Charles had also asked for them to consider what to do about Tangier, the state of his supply, the prosecution of the lords in the Tower, and foreign relations (which included a reformed navy). Although, none of these topics stand as areas of domestic conflict to the same extent as the policies of exclusion and impeachment, in the sense that Charles specifically asked for these latter two to be avoided but was ignored.

⁷³ Ibid, p. 114.

⁷⁴ The expiring laws committee was set up on 26th March 1679, see *CJ*, vol. 9, p. 577; The committee reported to the Commons on 2nd April mentioning all the laws due to expire before the end of the current session, among which was the Printing Act, see *CJ*, vol. 9, p. 582; Ibid, p. 600.

parliament was prorogued on 27th May. Even worse, both houses were dissolved on 12th July, meaning that the committee considering the renewal of the Printing Act ceased to exist and the legislation remained lapsed for the duration of Charles' reign.⁷⁵

There is clearly evidence to suggest, therefore, that licensing legislation expired in April 1679 and remained lapsed because parliament was not permitted by the king to meet often enough to renew it. And when they did get chance to meet, they were largely preoccupied with the pursuit of other policies. But was there the will at this time, either within parliament or outside of it, for the Printing Act to be renewed? Or did people act to make sure that after the spring of 1679 licensing legislation no longer existed? Was the lapse of licensing merely incidental, as the product of parliament's preoccupied collective mind? Or was a conscious decision ever made to allow it to lapse? This section will explore how the lapse of licensing was based in the efforts of competing political groups to support their ability to make policy at the end of the 1670s by trying to control access to the information on which policy decisions were based and their ability to debate that information in public. Perhaps the two most coherent theories of press regulation at the time of the lapse were Charles Blount's *A just vindication of learning, or, An humble address to the high court of parliament in behalf of the liberty of the press*, and Roger L'Estrange's *The free-born subject, or, The Englishmans birthright asserted against all tyrannical usurpations either in church or state*.⁷⁶ While it would be difficult to claim with any certainty that Blount and L'Estrange were directly talking on behalf of anybody else or any other movement, rather than just expressing their own points of view, both pamphlets nonetheless epitomised how people at the time were connecting the processes of press restraint with their ability to participate in politics. Reading these pamphlets begins to give us a sense of how contemporaries at the time of the lapse understood the relationship between their ability to access and discuss the information on which government decisions were being based and their ability to achieve the correct balance of power, to take an active role in policymaking, and to realise their broader politics, religious and social aims.

At the heart of both L'Estrange's and Blount's work was an examination of ideas of oppression and liberty, and the structure of the state. They both considered the value of learning and publication within politics and religion. And they both asked the question of how formalised the system of press regulation should be. In answering these questions they

⁷⁵ Licensing was only renewed in June 1685 as part of An Act for Reviving and Continuance of several Acts of Parliament therein mentioned. See *LJ*, vol. 13, pp. 68-69, and *CJ*, vol. 9, p. 754.

⁷⁶ Hereafter referred to as *A just vindication* and *The free-born subject* respectively.

presented two contradictory theories of press regulation, and their differing points of view on this subject were the result of their differing politics. As we shall see, both theories found support and subscription as the 1670s became the 1680s, and contributed to the lapse of licensing.

Charles Blount's *A just vindication* has been summarised perfectly by David Wilson, who suggests that Blount made a 'partisan intervention into the politics of the late 1670s, linking the campaign against press licensing with exclusion and the struggle against popery and arbitrary government'.⁷⁷ Blount's pamphlet, published in quarto format under the pseudonym Philopatris, put forward an alternative to the orthodox theory of press control. It began with an address to parliament. 'The parliaments of England', Blount wrote, 'have ever been formidable to their neighbours, but you above all others seem to have been reserv'd by providence, for those great and weighty affairs which are now in agitation as well at home as abroad'.⁷⁸ Blount therefore made the unorthodox assertion that parliament derived its legitimacy from god, and he insisted that only parliament was 'able to preserve that so necessary religion, and sacred property of our British Isle, by continuing (as there now is) a protestant head, upon a protestant body'.⁷⁹

Blount's pamphlet and politics were overtly anti-catholic. In *A just vindication* he described the history of books and their uses for learning, and noted that it was a papal court which first introduced 'a stricter policy of prohibiting [publication]', by licensing 'under the hands of two or three gluttonous fryers'.⁸⁰ 'Learning hath of late years met with an obstruction in many places', Blount wrote, by the prohibition of 'any book from coming forth without an imprimatur; an old relique of popery, only necessary for the concealing of such defects of government, which of right ought to be discover'd and amended'.⁸¹ 'However, as our government is not sick of the same distemper,' he continued, 'so need we not the same cure, but rather the contrary: for as an ill face cannot be too closly masqued, so neither can a good one be too much exposed'.⁸² Blount's disdain for licensing was therefore informed by English press control's resemblance to similar systems in 'those popish places where the laity are most hated and despised'.⁸³ Blount associated the theology and all the apparatus of

⁷⁷ D. Wilson, 'Reading Restoration Freethought', p. 23.

⁷⁸ C. Blount, *A just vindication of learning, or, An humble address to the high court of Parliament in behalf of the liberty of the press* (London, 1679), proem.

⁷⁹ Ibid.

⁸⁰ Ibid, p. 5.

⁸¹ Ibid, p. 2

⁸² Ibid.

⁸³ Ibid, p. 10.

catholicism, which to his mind included press regulation, with tyrannical government. ‘This licensing of books’, he asserted, ‘is one of the most dangerous and mischeivous monopolies and oppressions our government is subject to’.⁸⁴ Blount thought that to combat tyranny and popery ‘nothing would be more conducive than the propagating of wisdom and knowledge ... [and] for the more speedy effecting hereof, there hath never been discover’d any better expedient amongst men, than that of the liberty of the press, whereby whoever opposes the publick interest, are exposed and rendered odious to the people’.⁸⁵ And ‘what can be more serviceable to the world’, he asked, ‘than that which hurries men into a necessity either of acting virtuously, or of forfeiting their so-much-desired honour forever? And such I take to be the consequence of a free press’.⁸⁶ Blount believed that the reading public were able to identify seditious ideas as they encountered them and of judging a work according to a well-defined measure of religious and political acceptability. He implied that the public knew correct religious and political practice and that harmful works would make themselves plain against this standard as they appeared.

Blount said that the existing licensing system was an affront to creativity and learning. He asked

what if the author shall be of so copious a fancy, as to have many things well worth the adding, come into his mind after licensing, while the book is yet under the press, which frequently happens even to the best of writers, and that perhaps a dozen times in one book? The printer dares not go beyond his licensed copy; so often then must the author trudge to his leave-giver, that those his new insertions may be view’d; and many a journey will he make 'ere that licenser, (for it must be the same man,) can either be found, or be found at leisure; in the mean while, either the press must stand still, which is no small damage, or the author lose his most correct thoughts, and so send forth his book imperfect.⁸⁷

Blount’s criticisms of the press regulation system here were based on an idealised and somewhat extreme reading of licensing. He built his argument against censorship by considering the system in its perfect form, thereby allowing himself to believe, at least in the pages of his pamphlet, that every author or publisher consciously subjected themselves to the terms of the licensing laws. In reality Blount probably knew that printers often went ‘beyond their licensed copy’, whether intentionally or not, by publishing passages that had not been approved and were therefore technically illegal. But with this perfect system of regulation in

⁸⁴ Ibid, p. 11.

⁸⁵ Ibid, proem.

⁸⁶ Ibid.

⁸⁷ Ibid, p. 7.

mind, Blount was able to criticise censorship's preoccupation with stifling debate. He observed that 'if there be found in a book any one opinion that thwarts the licenser's humour ... the sense of [the author] shall for all posterity be lost'.⁸⁸

Blount's remedy to the problems he saw in the licensing system was therefore born out of his bleak outlook on the motive behind press regulation as it had existed up to the time of his writing and his desire for a greater freedom of the circulation of ideas. His preferred system would be based solely on post-publication regulation. 'Every author writes either truth or falshood', Blount reasoned. 'If he writes truth, why should he be oppressed or stifled? And if he delivers what is false, let him be confuted by answer'.⁸⁹ 'I am never examined before I speak what I am about to say: so let not my book be censured by one interested man alone in private, till it hath tryed the publick test; and then if there be any thing ill in it, I am ready to answer for it'.⁹⁰ Blount suggested that although licensing had already lapsed, 'supposing any such authors are taken and discovered; why, we need no other new laws for the punishing of them (as I humbly conceive) then what are already in force'.⁹¹ He concluded by asking if 'any book may be printed without a license, provided that the printers and the authors name, or at least the printers be registred, whether or no this will not have all the good, but none of the bad consequence of a licenser?'.⁹² And so Blount's just vindication of learning was complete.

Roger L'Estrange's *The free-born subject* was at the other end of the scale of press regulation theory from Blount. L'Estrange opened his book with a fairly succinct summary of his broader conservative worldview. 'By a free-born subject', he began, 'is meant a person that is born under the protection of the law; and thereby entitled to certain known immunities and privileges, as his birthright. But then he is likewise tied up; by the same law, to certain rules and measures of obedience to government. So that he seems to be free in one respect; and subject in another'.⁹³ Subjects should not, according to L'Estrange, 'so far mistake, either the force or the intent of Magna Charta, and the Petition of Right; (by which we claim to these liberties) as if by being discharged of our vassalage, we were also discharged of our allegiance'.⁹⁴ L'Estrange noted that 'it is the law that marques out the metes and bounds both

⁸⁸ Ibid, p. 8.

⁸⁹ Ibid, p. 11.

⁹⁰ Ibid, p. 12.

⁹¹ Ibid, p. 17.

⁹² Ibid, postscript.

⁹³ R. L'Estrange, *The free-born subject, or, The Englishmans birthright asserted against all tyrannical usurpations either in church or state* (London, 1679), p. 1.

⁹⁴ Ibid, pp. 1-2.

of king and people ... and teaches us to distinguish betwixt liberty and sedition'.⁹⁵ To L'Estrange's mind, then, to break the law was not just a base act of civil disobedience, it was a contradiction of the correct political hierarchy, with the king at its head, to which men were bound in conscience from birth. 'We must onely oppose legal remedies to illegal wrongs', L'Estrange insisted, 'and not think to deliver our selves from one violence by another. For popular commotions are the most criminal and dangerous of all sorts of oppressions'.⁹⁶

When the dignity of government may be vilified gratis, the kings ministers and friends bespattered with Billingsgate libels, and his professed enemies supported and encouraged: when his majesties title as well as his prerogative and reputation, shall come to be the subject of every bawling pamphlet; and the bounds of sovereign power to be debated by porters and carmen, over pots of ale: when not onely the reverend and lawful ministers, and the apostolical order of the church, shall be derided and despised; but religion it self pass onely for a sham, a piece of priest-craft, and be published in print, for no more in effect then a political art of getting a hank upon the people: when such outrages, I say, as these come to be daily committed over and over, in the very face of the sun, and the laws suffered to sleep, that should repress, and punish them: what can be the event of this inhumane license, but confusion, and ruine? And if it comes to that once, it was our own fault, for not putting a timely and a legal stop to these audacious usurpations.⁹⁷

L'Estrange then noted that 'the positions and the methods that brought on our late troubles, are now revived and practiced every day afresh: we have our queries, our remonstrances, and all things ... most manifestly tending to the unhinging of the government; and as certainly designing the subversion of the church and of the state'.⁹⁸ 'Their escaping punishment', he suggested, 'looks as if the government were afraid of the rabble; and then their passing without answer, gives a kind of credit to their doctrine'.⁹⁹

And, in a typically self-referential moment, L'Estrange aimed 'to lay open this spirit of calumny and slander' and mentioned that certain stationers had pursued his *History of the Plot*.¹⁰⁰ The Stationers, according to the surveyor, did 'not complain of any imitation of their copy, but take upon them, as if no man else were to write upon that subject'.¹⁰¹ 'At this rate', he complained, 'we shall have all sermons forfeited to the kings printers, for descanting upon

⁹⁵ Ibid, p. 2.

⁹⁶ Ibid, p. 4.

⁹⁷ Ibid, p. 11.

⁹⁸ Ibid, p. 12.

⁹⁹ Ibid.

¹⁰⁰ Ibid, p. 12.

¹⁰¹ Ibid, p. 13.

their bibles; and all books whatsoever, to the Company of Stationers, because they are made out of the four and twenty letters; and the ABC is their copy'.¹⁰²

Blount and L'Estrange therefore presented two contradictory solutions to the same problem, of how more effectively to regulate the press to the better government of the country. They both asked the same three questions in order to construct their theories of press control. The first question concerned the nature of the state and was the basis for the rest of their arguments because it informed their reasons as to why the press should be controlled, both up to the time of their writing and also as it should be controlled from then on. In answering this question both Blount and L'Estrange focussed on which agent of the political system should be most active in government. For Blount, it was parliament who was responsible for securing church and state and for making sure that the political and religious hierarchy was maintained to the preservation of protestantism and of the liberty of the subject. L'Estrange, on the other hand, maintained that power lay with the king. While tyranny and oppression should always be avoided, people should bind themselves to the king's judgement through their allegiance to him as his subjects.

With their view of correct government established, both authors could then ask the second question, of the nature of licensing up to and at the time of their writing. They both criticised the pre-lapse system of press regulation for not allowing for the maintenance of correct government as they saw it. Blount was most concerned about pre-publication censorship in the form of licensing. For him, press control as it stood before the lapse was a tyrannous oppression of what could otherwise be flowing, worthwhile and constructive debate which would benefit the entire political hierarchy and society at large. But L'Estrange insisted that as it stood licensing allowed for too much discussion of the role of government and religion, all of which undermined the monarch's authority and could ultimately lead to civil war. For L'Estrange, the current system was too open to exploitation by individuals hoping to destabilise the balance of political power or to make material gains.

With the reasons for why the press should be controlled and the ways in which the previous system had not been managing it established, Blount and L'Estrange both then moved on to suggest how the press should be regulated. Blount suggested that simply by removing pre-publication regulation, ideas would be allowed to move more freely and to prove their value during public discourse. The state would then be able to benefit from those ideas which proved their worth, while those which were not valuable or were harmful would

¹⁰² Ibid.

be identified as such and could be answered. L'Estrange wanted the opposite. He said that licensing laws were not sufficiently formal. Tighter laws, L'Estrange thought, would both allow the government more efficiently to suppress, answer and prosecute anybody spreading ideas which were harmful to church and state and to keep the processes of government decision making private and away from public scrutiny.

Blount and L'Estrange show us that a lot of thought was being put into the theory of censorship as the 1670s became the 1680s, because people recognised that the regulation of the press was a means to protecting and propagating political and religious theory and practice. The second and third answers which Blount and L'Estrange gave to the questions described above were manifestations of their answer to the first. Because Blount believed that parliament (an elected body) was the most important agent in politics, his view of the value of a press which would allow for relatively freely circulating information and the need for debate followed. By the same measure, because L'Estrange championed inherited, divinely-appointed monarchy, his view of the immunity of that institution in debate and the danger of dissent was almost guaranteed. In 1679 the political point of view adopted therefore affected ideas of why and how the press should be controlled, and the apparatus of a thus politicised regulation served to support the original political point of view. One necessarily fed into the other. Blount and L'Estrange ultimately show us that political debate and theories of censorship were not distinct. In fact, the theory of press regulation fed into the same discussions of the structure of religion and the state with which mainstream political debate was concerned. Certain agents in political debate after licensing legislation lapsed in 1679 clearly hoped censorship would remain relaxed, because the room for greater debate which followed suited their view of the correct structure of the state.

The conflicting theories in Blount's and L'Estrange's pamphlets were mirrored in the practice of parliamentary debate. Amid the constant disruptions of the sitting of parliament between the start of 1679 and its final dissolution in March 1681, one of the main ways in which politicians tried still to engage the king in debate was by petitioning.¹⁰³ After Charles' proclamation forbidding tumultuous petitioning of December 1679, debates in the house of commons focussed heavily on the extent of the liberty of the press and the freedom of the circulation of ideas, because politicians were aware of how connected their political ideology

¹⁰³ Mark Knights has written the best work on petitioning at the end of the 1670s and start of the 1680s. See his *Politics and Opinion*, esp. ch. 3. There is, however, still scope for a really sustained analysis of how people in the Restoration period understood the processes of petitioning and adapted their use of it as their cause and circumstances changed in order to force their ideas into policymaking. I regret that I could not undertake this work here. For such a study of the English revolution see Jason Peacey's *Print and Public Politics*, esp. ch. 8.

was with their ability to express it freely in practice. Debate in parliament therefore became divided in much the same way that Blount and L'Estrange had been divided in their pamphlets on the freedom of the press. Whether the petitions and the responses to them from the 'abhorrrers' of petitioning were presented by two distinct polarised groups, or whether there was some flexibility in support or opposition to them, is one of the most enduring debates within the scholarship on the Restoration, and the issue of the emergence of political parties has for years received a great deal of attention.¹⁰⁴ But it is clear that at any given time, whether or not either block was made up of a consistent roster of individuals, there was strong support both for and against the liberty of the press, the sitting of parliament, and parliamentary restrictions on the institution of monarchy.

'We must come to some conclusion', Sir William Jones announced to the house of commons on 23rd November 1680. 'Here lies such a weight upon us, that we must remove it. We have "abhorrrers of petitioning for sitting of the parliament," and here is a proclamation against petitioning, &c. and a declaration of the law upon it. I am afraid, that as it has been proclaimed in every market town in England, it has so possessed the people, that it will be a hard matter to set them right in their minds'.¹⁰⁵ The Proclamation forbidding the joining in tumultuous petitions to the king had been printed in the *London Gazette* on 12th December 1679. On 27th October 1680, after months of prorogations and only a few days after parliament had been recalled, the house of commons came to discuss the proclamation. 'It is the subjects right to have liberty to petition the king', began Gilbert Gerrard.¹⁰⁶ 'Whilst the parliament is sitting', he continued, 'the king's life is safe, and those who advise the contrary would give him up'.¹⁰⁷ William Sacheverell, one of the most vociferous members of parliament throughout the 1670s, agreed with Gerrard, and went even further. 'If any man makes a question whether petitioning be our right or not', Sacheverell thundered, 'he makes a question whether we be freemen or not'.¹⁰⁸ Sacheverell even knew who was to blame for the king's action against petitioning. 'We may', he said, 'be more under slavery than France itself. If the judges shall have such power as to persuade the king to [the proclamation], they are masters of the whole government'.¹⁰⁹ The Commons resolved *nemine contradicente* that it was the 'right of the subjects of England, to petition the king for the calling and sitting of

¹⁰⁴ See, for instance, Miller, *Popery and Politics*; Harris, *Restoration*; Jones, *Charles II*; Hutton, *Charles the Second*; Knights, *Politics and Opinion*; Jones, *The First Whigs*.

¹⁰⁵ Grey debates, vol. 8, p. 52.

¹⁰⁶ *Ibid.*, vol. 7, p. 369.

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*, p. 370.

¹⁰⁹ *Ibid.*

parliaments, and redressing all grievances’, and ordered that a committee be appointed to inquire of anybody who had subverted that right.¹¹⁰ Through the next month, the committee drew evidence together against those it thought had influenced the king’s intervention against petitioning. Most significantly, Francis Wythens was expelled from the lower house for ‘promoting and presenting to his majesty an address, expressing an abhorrency to petition his majesty for the calling and sitting of parliaments’.¹¹¹ And George Jeffreys faced an address for his removal out of all public offices for ‘traducing and obstructing petitioning for the sitting of this parliament’.¹¹²

On 23rd November 1680, the debate around the proclamation peaked again in the lower house, almost a month after they had first come to discuss it. By this point the Commons were even more vigorous. ‘You ought to give this business the honour of a hearing at the bar’, asserted Colonel Birch. ‘Send for the attorney, and charge him with it, for through his hands proclamations pass. Let him give you an account who did it, if he did not; a thing by which all the people of England have been deceived’.¹¹³ The Commons ordered that the attorney should attend the house the following day. The debate then turned to the conduct of the judges in discharging the grand jury of Middlesex. The Commons thought that Lord Chief Justice Scroggs had acted illegally when he discharged the jury before the end of the term. ‘The jury was blamed by the chief justice’, William Jones said, ‘and told, “that they meddled with matters which concerned them not,” (when they tendered the petition for sitting of the parliament)’. According to Jones, Scroggs had told the jury “that the bench were too good men to go of their errands”. ‘But’, Jones observed, ‘the petition of abhorring, &c. for Essex and Kent, the judges brought very willingly to the king’.¹¹⁴ By contrast, in Middlesex when the clerk had informed the court that the petition for the sitting of parliament was upon file, according to Jones, Scroggs had replied that ‘[the clerk] is not to give rules to the court’ and had discharged the jury.¹¹⁵

This episode in Middlesex was important to the Commons, because the by their actions the judges had sought to remove the Commons’ ability to participate in policy making. The lower house believed that ‘if a grand jury be discharged whilst indictments are depending, (under favour) there can be no proceedings of justice’.¹¹⁶ ‘All misdemeanours’,

¹¹⁰ *CJ*, vol. 9, p. 640.

¹¹¹ *Ibid*, p. 643.

¹¹² *Ibid*, p. 653.

¹¹³ *Grey debates*, vol. 8, p. 52.

¹¹⁴ *Ibid*, p. 55.

¹¹⁵ *Ibid*.

¹¹⁶ *Ibid*, p. 54.

Henry Capel insisted, ‘and what is amiss in the nation, the judges must rectify’.¹¹⁷ Francis Winnington agreed, suggesting that ‘the judges are but the great trustees betwixt the king and his people ... Shall we have law when they please to let us, and when they do not please, shall we have none?’.¹¹⁸ Then, ‘would the parliament enquire into the actions of a privy-counsellor’, Colonel Titus added, ‘they are checked by a prorogation, and then they advise to dissolve the parliament’. ‘We are told by the proclamation’, he continued, “‘that petitioning for the sitting of the parliament is against law’”. And would a jury enquire after popish recusants, before they had made their presentments they are sent home’.¹¹⁹ And the discussion was summarised and concluded by Henry Powle:

Printing I take now to be free; after the dissolution of the last parliament, the act for regulating the press expired, and the old law remained. This was referred to the judges to consider, and they did agree, “that there was no remedy against the liberty of the press, without a new law”. A few days after, some of the judges were removed, and the rest were of another opinion, and an extrajudicial judgment passed, by which pamphlets were suppressed. There are two reasons for calling parliaments; one for raising of money, the other for making laws, as the legislative power, upon any new emergencies. But if judges can be found, to make new laws, by their interpretation of old ones, and if treasurers can be found, to make such retrenchments in the king’s family, you will never have a parliament.¹²⁰

The house resolved *nemine contradicente* that ‘the discharging of a grand jury, by any judge, before the end of the term, assizes, or sessions, whilst matters are under their consideration, and not presented, is arbitrary, illegal, destructive to public justice, a manifest violation of his oath, and is a means to subvert the fundamental laws of this kingdom’.¹²¹ They also appointed a committee to examine the judges proceedings in Westminster Hall, and from this point onward the impeachment of the judges, mentioned above, began in earnest.

This debate in the house of commons, on 23rd November 1680, demonstrated that discussions of the correct means of press regulation were not confined as theories to the pages of pamphlets written by those such as Blount and L’Estrange. In fact, censorship and the press were discussed openly alongside and within wider political debate. While it is difficult to know whether or not members of the second exclusion parliament (during which the above debate took place) ever read Blount’s pamphlet, the similarities between the arguments in *A just vindication* and those put forward in the lower house are striking. The

¹¹⁷ Ibid, p. 56.

¹¹⁸ Ibid, pp. 56-57.

¹¹⁹ Ibid, p. 58.

¹²⁰ Ibid, p. 60.

¹²¹ *CJ*, vol. 9, p. 661.

Commons, for the most part, saw Charles' proclamation against petitioning as an illegal intervention into the rights of his subjects. Like Blount, they maintained that the liberty of the subject from oppression must be supported by a greater liberty of the press. Men like William Jones, Francis Winnington, William Sacheverell and Colonel Titus, who dominated the Commons at this time, evidently hoped that after licensing had lapsed it would not be tightened up again. For the Commons, the lapse of licensing meant, for instance, the freedom to debate the conduct of the judges in Westminster and to propose remedies to such problems, which otherwise would not have been allowed. It is therefore understandable that they became so alarmed when Charles tried to re-formalise press control and the regulation of the circulation of information through his proclamation against petitioning of 1679. So here again, opinions about the freedom of the circulation of information were manifestations of and the basis for wider arguments about the structure of the state and the relative roles of king and parliament within the political hierarchy. Licensing lapsed because a vocal portion of parliament wanted it to do so.

II

After the expiration of the Printing Act in April 1679, the way in which the government engaged with ideas by regulating the press changed. With the lapse of licensing, the clearest expression of the theory of press control and the legal basis for the practice of censorship ceased to exist. At the same time, the disruptions inflicted on parliament by the king meant that one of the main agents of press control was inactive for much of 1679, 1680 and 1681. So, how did the lapse of licensing affect what was published? How was the press regulated after the lapse? And what effect did the lapse of licensing have on the way in which the authorities engaged with the press? This section will examine the theory and practice of how the press was regulated once the Printing Act had expired.

After licensing lapsed, there was both a quantitative and qualitative change in publication. Between the start of 1676 and the end of 1678, annual book production in London did not exceed 957 titles. In 1679, that figure rose to 1,448 titles. In 1680, 1,833 titles were published. And in 1681, 1,681 titles appeared.¹²² In addition to this increase, the annual number of entries of copy by stationers in the Stationers Company register decreased

¹²² Yet again we find that the scholar of British book history is indebted to *The Cambridge history of the book in Britain*. These statistics are drawn from J. Barnard and D. F. McKenzie (eds.), *The Cambridge history of the book in Britain, vol. IV* (Cambridge, 2008), pp. 783-784.

after the expiration of the Printing Act.¹²³ Between 1st May 1677 and 30th April 1678, 110 single entries of copy were made in the register.¹²⁴ Between 1st May 1678 and 30th April 1679, 96 entries were made in the register.¹²⁵ But in the same period for 1679-1680 the number of single entries decreased to 54, and in the last quarter of that period only four entries were made in the register.¹²⁶ Between 1st May 1680 and 30th April 1681, just 12 entries were made.¹²⁷ And in the same period 1681-1682, 21 single entries of copy were made.¹²⁸

Contemporaries of the lapse were aware of the increase in publication, and many of them attributed it to the new liberty of the press. But they also knew that there had been a change in the content of printed material as well. On 31st May 1679, a little more than a month after the Printing Act had expired, Mr Bouell wrote to Mr Watts, enclosing ‘a printed copy of the narrative and reasons of the house of commons why the earl of Danby should be tried before the five lords in the Tower’. ‘There has’, Bouell said, ‘been three several impressions of it in two days time, and twice seized: once by order of the court and once by order of our lord mayor. But this publication cannot be prevented, they are so thick brought up’.¹²⁹ Similarly, on 5th July, Robert Southwell wrote to the duke of Ormond, saying that ‘I am told that now the press is at liberty one Dr Burlace, who lives about Chester, is actually printing that narrative of the Irish rebellion, which I sent your grace’.¹³⁰ On 6th September, the judge Henry Hatsell wrote to Thomas Littleton at Plympton, informing him that London ‘swarms with pamphlets. Two or three appear each day’.¹³¹ On 25th September, John Verney wrote to his father Ralph, saying that ‘it’s the custom now of most elected members to be libelled. Yesterday came out one against Sir John Stonehouse and the Abingdon choice’.¹³²

Such observations on the volume and type of publication sustained into 1680. On 22nd January 1680, Thomas Dixon wrote to Daniel Fleming about a controversy between the

¹²³ The following statistics are a measure only of single entries of copy, and do not include large block entries, made by stationers registering their acquisition of copy through assigns from wills, for example. These statistics are taken from G. E. Briscoe Eyre, *A Transcript of the Registers of the Worshipful Company of Stationers, Volume III 1675-1708* (London, 1914).

¹²⁴ There was a block entry made by Robert Boulter and Ralph Smith on 14th September 1677. A similar entry was made by Thomas Passenger on 2nd January 1678, when he bought 1/3 of Boulter and Smith’s estate.

¹²⁵ In this period no block entries were made, but a lot of entries as per the direction of the new Wool Act were registered and have not been counted here.

¹²⁶ Excluding a huge entry by Henry Brome jnr. on 2nd October 1679, for his father’s share of the stock.

¹²⁷ Not including an entry made by Benjamin Thrale upon the death of his father, on 11th April 1681.

¹²⁸ Excluding a large entry made by John Clarke snr. on 5th September 1681, and one by Thomas Newcombe snr. on 5th December of that year, both by assignment.

¹²⁹ HMC Ormond V, pp. 119-120.

¹³⁰ HMC Ormond IV, pp. 529-30.

¹³¹ HMC Fitzherbert, p. 21.

¹³² HMC Verney, p. 475.

London booksellers and Oxford University over selling bibles. ‘Tis verily believed’, wrote Dixon, ‘the university booksellers – whereof Moses Pitt is now the cheifest – will carry it and will thereby enjoy a liberty of printing the said bibles, the prohibitory act whereby they were limited and restrained *pro tempore* being lately expired’.¹³³ On 24th June, William Denton told Ralph Verney that ‘there are most abominable libels that walk in the dark, but no getting sight of them’.¹³⁴ Two weeks later, Verney heard from his son John again, who told him that ‘there is a terrible answer to the king’s late declaration about the succession come forth of about three sheets of paper; they are thrown into coaches, and one of them dropt at the king’s feet at Windsor as he was walking in the court’.¹³⁵ And on 26th August, Secretary Jenkins wrote to Laurence Hyde, saying that another libel, called *A relation of two free conferences between father La Chaise and four considerable Jesuits*, had emerged. Jenkins hoped god would protect the king from the malice of such libels.¹³⁶

The use of quantitative data in this way is not meant to say that the expiration of the Printing Act was the only reason for the increase in publication at this time. There was a general increase in the production of printed material under the house of Stuart. But the lapse of licensing certainly led to a disproportionate increase against the general seventeenth century trend in the volume of printed material reaching the public. The licensing laws which existed until April 1679 aimed to regulate, and to an extent restrict, the flow of ideas in print. Until the lapse of licensing, it had also been a legal requirement for stationers to enter their copy in the Company register. Directly after the expiration of the Printing Act, the number of publications disproportionately increased, and stationers stopped registering their copy. And with the growth in volume of publication came a growth in the amount of sedition. Whether or not this increase in harmful material was proportionate to the increase in material overall is difficult to say, but to men like John Verney and Robert Southwell it was quite apparent that with the lapse of licensing came a noticeable increase in the publication of libels. The contemporaneity of the lapse and the changes described above suggests, therefore, that one of the main effects of the lapse of licensing in 1679 was that the volume of unchecked and unapproved publication increased dramatically.

So how did the authorities react to these changes in publication? Even though the Printing Act had disappeared, that is not to say that the authorities’ desire to engage the press had expired as well. As L’Estrange demonstrated in *The free-born subject*, there was still a

¹³³ HMC Le Fleming, no. 2245 p. 165.

¹³⁴ HMC Verney, p. 496.

¹³⁵ Ibid, p. 479.

¹³⁶ SP 44/62, f. 66.

strong case being made as the 1670s became the 1680s for the reintroduction of formal press regulation. As it always had done, a more formal press control would mean both legislation against sedition, and the prosecution of libels if and when they appeared.

As the qualitative and quantitative changes in publication played out, the agents of press control still tried to engage the press through a number of new directives and pieces of legislation. On 4th August 1679, the Stationers Company ‘ordered that noe member of this company shall hereafter print, publish, sell or expose to sale or cause to be printed, published or exposed to sale any book, pamphlet, portraiture, picture or paper unlesse such printer or printer [sic] shall thereunto print his and their name and names or the name of such person or persons that shall put or cause the same to be printed or published upon paine of forfeiting to the master and keepers or wardens and commonialty of the mistery or art of stacioners of the city of London the summe of 20L’.¹³⁷ That same day, the Stationers also appointed a committee to wait upon the lord mayor to ask him ‘to take some effectuall course for the putting down of hawkers and bawlers’.¹³⁸ The lord mayor having obliged them, on 1st September the Stationers ordered that ‘the order of sessions for suppressing of the hawkers now read by the clerk be forthwith printed’.¹³⁹ On 31st October, the king issued a proclamation offering a reward of 40L to anyone who during the next year should discover the author or printer of any of the seditious and treasonable books and pamphlets lately published. Charles also promised a pardon to any hawker or disposer thereof who discovered the bookseller or printer who supplied them, and to any bookseller or printer who identified the authors.¹⁴⁰ On 1st December, the Stationers ordered that no assignment should pass the table unless drawn up by the clerk.¹⁴¹

The new legislative attempts to regulate the press continued into 1680 and through into 1681. On 12th May 1680, Charles issued another proclamation for suppressing unlicensed news books and pamphlets of news.¹⁴² On 2nd August, the Stationers Company made another new by-law which said that stationers must put their name to publications, and ordered for it to be ‘printed and one of them to be delivered to every member of this company dealeing in books’.¹⁴³ On 6th December 1680, the Stationers Company ordered, about several

¹³⁷ McKenzie and Bell, p. 229. The Stationers made this order a Company by-law two weeks later on 22nd August, SP 29/415, f. 77.

¹³⁸ McKenzie and Bell, p. 229.

¹³⁹ Ibid, p. 230.

¹⁴⁰ *A Proclamation for the suppressing of seditious and treasonable books and pamphlets.*

¹⁴¹ McKenzie and Bell, p. 233.

¹⁴² *A Proclamation for suppressing the printing and publishing unlicensed news-books, and pamphlets of news.*

¹⁴³ McKenzie and Bell, p. 246.

printers, 'that what almanacks they have usually printed shall not be removed from such printer without order of the table for that purpose'.¹⁴⁴ On 11th March 1681, the king and privy council ordered the Stationers to put into execution their by-law of 22nd August 1679 about printers attaching their names to their publications.¹⁴⁵ And on 15th March, Secretary Jenkins wrote to the lord mayor of London, saying that the king 'approves very well of your lordships searching for armes', and asks that 'strict enquiry be made after the authors, and dispensers of such seditious papers and letters as are at this time scattered abroad in order to amuse the credulous, distract the fearfull and allarme all sorts of men'.¹⁴⁶

There were therefore persistent attempts as the 1670s became the 1680s to create legislation which would address the changes in publication after the lapse of licensing. However, the legislation which was made after the Printing Act expired demonstrated that, unlike earlier in the Restoration period, once licensing had lapsed the theoretical basis for the regulation of the press was the king's prerogative power. Parliament was completely absent from any attempt to legislate against the increase in publication and sedition. The only time that parliament intervened in post-lapse press regulation was either to protect its members or to propagate its own policies and dominant ideology.

On 9th November 1680 the Commons sent for Richard Janeway for printing a pamphlet called *The popish damnable plot* against Sir Edward Dering.¹⁴⁷ On the 13th, after having been called in, Janeway told the lower house that the pamphlet he published was printed by Everingham, Bradwell, Thomas James, Samuel Lee, and Thomas Symonds, and that Andrew Yarrington had delivered the copy from which it was printed.¹⁴⁸ Two days later, the printers whom Janeway had mentioned were called into the house and examined. The Commons declared all parts of the pamphlet which reflected on Dering to be 'false, scandalous, and libellous', and committed all of the printers into the custody of the sergent-at-arms.¹⁴⁹ By the 18th November, all of them had paid their fees and had been released.

At the end of January 1680, Benjamin Harris had been tried and sentenced for his printing and selling *An appeal from the city to the country*. By November 1680, Harris had been in prison for nine months, and had still not paid the 500L fine levied on him by the court of king's bench. On 19th November, Harris petitioned the Commons. The house resolved that 'an humble application be made to his majesty from this house, by such members of this

¹⁴⁴ Ibid, p. 258.

¹⁴⁵ SP 29/415, f. 77.

¹⁴⁶ SP 44/62, f. 141.

¹⁴⁷ *CJ*, vol. 9, p. 649.

¹⁴⁸ Ibid, p. 652.

¹⁴⁹ Ibid, p. 654.

house as are of his majesty's most honourable privy council, to desire his majesty to pardon and remit the fine'.¹⁵⁰ Four days later, on the 23rd, the Commons appointed a committee to 'prepare a further address to his majesty ... humbly to desire his majesty to pardon and remit the fine set upon Benjamin Harris'.¹⁵¹ On 24th November, Harris petitioned the Lords, asking for 'their lordship's compassion on a poor and undone protestant', but no action was taken in the upper house at that time.¹⁵² The address regarding Harris' pardon prepared by a Commons committee was agreed to in the lower house on 21st December, and was sent to the king.¹⁵³ It was read in the privy council committee of investigation on Christmas day, but 'the king did not declare his pleasure upon it'.¹⁵⁴ Unfortunately for both Harris and the Commons, no decision was reached before parliament was dissolved the following January.

The most basic observation to make about press control after the expiration of the Printing Act, therefore, is that the quantity of libellous material reaching the public became and remained higher after the lapse than it had been before. That said, we should not focus on the ineffectiveness of post-lapse regulation, but should rather ask why censorship played out how it did, and what it tells us about the period. Once the Printing Act had expired in April 1679, the regulation of the press rested on the king's prerogative. But the authorities found it difficult to engage with the press. After the lapse, the king and Stationers Company still had something to lose. The king still needed to protect his position at the head of the political hierarchy and the established church, and the Stationers Company as an institution still had an interest in preserving their commercial monopoly over publication. As a result, they legislated against and pursued works which were harmful, libellous and unauthorised as they appeared. However, the large-scale and relatively organised prosecutions which had existed before the lapse of licensing no longer took place once the Printing Act had expired. The largest and most systematic pursuit of a libel which happened after the lapse of licensing was the investigation of *A letter to a person of honour concerning the black box*. The pursuit of this publication incorporated a system of informants and messengers which would not have looked out of place before the lapse of licensing, but ultimately the investigation came to nothing. Nobody was tried as either the author or publisher of the libel, and nobody was identified as being a seller or distributor of it either. The case ended with the king making three declarations against its contents, which said that he had married the duke of

¹⁵⁰ Ibid, p. 656.

¹⁵¹ Ibid, p. 660.

¹⁵² HMC Lords 1678-1688, pp. 212-213.

¹⁵³ *CJ*, vol. 9, p. 686.

¹⁵⁴ BL Add MS 15643, f. 46.

Monmouth's mother, making Monmouth a legitimate contender for the throne, and eventually debate around it subsided.¹⁵⁵

The main reason for press regulation proceeding as it did after the expiration of the Printing Act was the relationship between the king and parliament. In the years immediately after the lapse, Charles barely allowed parliament to meet. For much of the time, then, one of the main contributors to the system of press regulation before licensing lapsed, after its expiration was not in a position to contribute. When parliament did sit, its contributions to the regulation of the press aimed only to serve its own interests. Any sense in parliament's policy towards the press of the need to preserve the political and religious orthodoxy had disappeared as licensing lapsed. Instead of acknowledging that regulation had passed to being conducted according to the king's prerogative, the Commons saw it as an arbitrary exercise of his power.¹⁵⁶ So, while the agents of press regulation had never completely pulled in the same direction, they had never quite pulled apart to the same extent as they did after the Printing Act expired in April 1679.

Overall then, licensing lapsed in 1679 for two main reasons. The first was that it did not get chance to be renewed, because parliament was disrupted due to its engagement with policies which were more immediately dangerous to the political and religious status quo than the expiration of the Printing Act. The second was that there was both a theory, in print, and a practice, in parliamentary debate, at work behind the lapse. Parliament's attacks on both the descent of the crown and the king's apparatus for rule meant that Charles intervened in their debates by not allowing them to sit for any great length of time. The renewal of the Licensing Act therefore had to be put off, in the face of the more prominent debate on exclusion and political impeachment. But within this more visible, more open, wider political debate, was taking place a more subtle discussion of the liberty of the press. Without making a comparison of importance, the debates regarding exclusion and impeachment rested on the surface, and the discussions of the freedom of the circulation of ideas underneath, the broader negotiation of the dynamic of power between king and parliament. Both exclusion and impeachment on the one hand, and the liberty of the press on the other, were part of the same debate.

¹⁵⁵ The printed version of Charles' declaration on the black box drew on two former written ones made in the privy council. His printed version is *His Majesties Declaration to All His Loving Subjects* (London, 1680).

¹⁵⁶ The main indication of parliament's point of view here is in the report of the committee investigating the proceedings of the judges at Westminster Hall, and the articles of impeachment against Scroggs. See *CJ*, vol. 9, pp.688-692, and *Ibid*, pp. 697-699,

As there had been while the 1662 Printing Act was in effect, after the lapse of licensing there was a theory and practice of press control. However, with the lapse, the boundaries between theory and practice became blurred. Because of how volatile wider political and religious debate was during the last three parliaments of Charles' reign, the government's engagement with ideas through press regulation became unsystematic, spontaneous and reactionary. The king still wanted to preserve his position at the head of the political state and the established church after April 1679 and identified publication as being unlawful and prosecuted it accordingly. But the house of commons abstained from legislating against and pursuing publications unless they directly conflicted with parliamentary interests. For the lower house, the increase in publication as a result of the lapse corresponded with their movement against tyrannical kingship.

By this point in the seventeenth century, people had realised that their ability to make policy and participate in politics depended on their ability to access the information on which government decisions were based and to discuss that information without fear of prosecution. A person's political position was informed by and fed into their beliefs about the correct extent of the freedom of the press. During Charles II's last three parliaments, liberty of the press became almost synonymous with a protestant and more parliamentary form of government. By contrast, a formal regulation of the press meant a political and religious state dominated by the king and his successors. With the lapse of licensing in 1679, therefore, press regulation became more politicised than it had ever been since the restoration of the monarchy in 1660.

Conclusion

The central concern of this thesis has been to explore how in 1670s England the crown and its opposition sought to turn their ideas into reality through making and implementing policy. It has examined a number of different means by which political power was exercised in Restoration England and has tried to show how the conflict between Charles II's continuing attempts to make policy independently as a personal monarch, and his opponents' efforts to prevent that ability and to force their own way into policymaking, shaped political culture in the 1670s and led to the final breakdown of the constitution in March 1681. In doing so, it has emphasised the importance of the practical, and often mundane, day to day constraints on the decisions made in government. And it has explored how those constraints influenced contemporary thought about the constitution, how power should be distributed and exercised, who should be able to make policy, and what ends policy should be made for.

On 17th May 1679, Thomas Preston wrote an 'admonitory address' to both houses of parliament, 'on the subject of there proceedings against the roman catholicks of England'.¹ Preston had been implicated in Titus Oates' information during the extraordinary council meeting at the end of September 1678.² He had had his house in the north of Lancashire searched for popish priests by William le Fleming the following November.³ And in April 1679, he was named in the house of commons' impeachment of the earl of Powis as an associate of the five catholic lords in the Tower, and as one of those who had 'traiterously consulted, contrived, and acted to and for the accomplishing' of the popish plot.⁴ It was from the relative safety of exile in Paris, then, that he wrote his letter to parliament that May.

Preston's design, he said, 'is not to insist on the defence of our religion: however give me leave in few words to propose to your consideration how inconsistant it is with your profession, and how unwarrantable by your owne principles to persecute on that account'.⁵ He was not interested, then, in engaging parliament in a theoretical discussion of correct and incorrect religious doctrine. It was, rather, the way in which parliament were acting on their

¹ T[homas] P[reston] in a letter to parliament, 17th/27th May 1679. HHC U DDEV/67/14, f. 1. The letter is signed T. P.. I am confident that these initials belong to Sir Thomas Preston Baronet. This man should not be mistaken for either the father or son of the same name, both of whom served as justices of the peace for Lancashire and held seats in the house of commons throughout the Restoration for Lancashire and Lancaster respectively.

² SP 29/406, f. 184; BL Add MS 38847, f. 207.

³ SP 29/407, f. 147.

⁴ *CJ*, vol. 9, p. 582.

⁵ HHC U DDEV/67/14, f. 5.

beliefs, or how they were trying to turn their ideas about religion into practice, which concerned him.

‘You have raised a most violent persecuting against roman catholicks’, Preston wrote, exasperated, ‘and all this under colour of an hellish plot’.⁶ He was enraged by the clear falsehood of Oates’ revelations, and embittered that parliament had lost all prudence, honour and shame in their prosecution and encouragement of allegations which they knew to be false. He insisted that, not only ‘Christianity, but even Turks and infidels will write against you as the common enemies of human nature’, and urged politicians to recognise that their current path would lead them to ‘the total ruine of our country, and the extirpation of our people’.⁷ And, most significantly, he explained how parliament’s current policy, of ‘thickly sow[ing]’ ‘numerous and heavy persecutions’ upon catholics, would not protect the property and religion of the subject as parliament had designed, but was so inconsistent with protestant doctrine that it would in fact ruin church and state.⁸

‘Pray reflect on this dilemma’, Preston asked. ‘Either god almighty has left us some living guide or guides here on earth for interpreting holy writt, and the directing us in all other points of religion and under paine of damnation hath obliged us to follow the same: or else he hath left us this task to each of us in particular imparting to us the authority of our being our own guides and freeing us from all necessity of submission to any other’.⁹ Parliament, as protestants, he suggested, would deny the former, because by the reformation they had assumed a liberty from the theological guidance of anybody else, on the grounds that all earthly guides were fallible and would lead their followers to eternal damnation. They must, therefore, Preston said, maintain the latter, that everyone on earth is empowered to guide themselves. But ‘do you not perceiv already that in men of your principles there is not the least excuse for penalties on religion?’, Preston asked. ‘What are dissenters in religion guilty of but of presuming to guide them selves[?]’.¹⁰ So by shaping and enforcing the penal laws as rigorously as they had, parliament, Preston said, were following a policy which was not pursuant to their professed faith and the protestant doctrine, to the extent that their chosen course of action was undermining their beliefs and contradicting their religious principles.

⁶ Ibid, ff. 1-2.

⁷ Ibid, f. 4.

⁸ Ibid.

⁹ Ibid, ff. 5-6.

¹⁰ Ibid, f. 6.

It is unclear who in parliament Thomas Preston thought would read his letter of a little over 4,600 words. Certainly, if they did, a letter from an exiled catholic which told them that they were unchristian in many of their policies and unconstitutional in many others, was unlikely to have been entertained for long. And, it is doubtlessly true that a protestant commentator would have been unlikely to have viewed parliament's policies quite as negatively as Preston did. But, in spite of its clear bias towards the catholic cause and against parliament's, Preston's letter elucidated a number of important points about Restoration political culture. Firstly, his letter exemplifies the distinction which contemporaries made between politics and policy. Secondly, Preston implied that the means of exercising power were multivalent and labile, being available in different ways to different people, and differently applicable in different circumstances. And thirdly, it demonstrated how, alongside the intellectual culture of representation and discussion, the processes of making and implementing policy could feed back into politics and change people's beliefs, ideas and designs for the world around them. These are themes which I have tried to explore in this thesis, and which, by way of conclusion, I would like to reiterate briefly here.

First of all, then, historians have long demonstrated the richness and vibrancy of Restoration-period intellectual culture. People at this time, they have said, developed, represented, challenged, and debated a range of religious, political, social, and cultural ideas, in order to understand and address the issues in their society. Politics advanced as people coalesced around different political agendas and identities, and represented their ideas in debate in order to gain intellectual dominance and precedence for their notions of why politics should be done. But this dialogic process of the representation and debate of ideas was only one side of a much broader political culture. As Preston intimated, there was another, more mundane and practical side of political culture, in which people actively tried to turn their ideas and agendas into practice. It is this other side which has been the focus of this thesis.

Contemporaries recognised that to make their ideas and ambitions become a reality, they had to command the physical, day to day processes of making and implementing plans for change. Alongside their more theoretical dialogue about why politics should be done, there was also a fierce competition around how politics should be done.¹¹ There was a central pool of means of exercising power, which were the processes of generating, collecting

¹¹ Historians of Louis XIV's France have tended to be much better at picking out these tensions within government than historians of England have been, and they continue to generate compelling results. See, for instance, Soll, *The Information Master*; Rule and Trotter, *A World of Paper*; Takeda, *Between Crown and Commerce*.

and applying wealth, of communicating and processing information, of creating, shaping and executing the law, and of access to and control over government bureaucracy. The king and different groups in parliament fought for command of these processes of governance, since it was only by controlling them in the correct measure that they would be empowered to take the role in policymaking which they wanted, and to implement that policy correctly in practice. So, the king aimed to control wealth, information, the law, and bureaucracy enough to be able to develop his own policies for solving the issues which he identified himself, and for achieving his own political aims. His opponents in parliament, however, wanted to control the means of exercising power enough to be able to hold the king to account for his decisions in government, and to be able to enforce their own will in policymaking. This competition, between a king trying to acquire the means of making policy and governing independently as a personal monarch, and his parliamentary opposition trying to institute a more shared control of policymaking, contributed to the gradual decline of relations between Charles and his parliament through the 1670s and led to the dissolution of the Oxford parliament in March 1681.

But, the second conclusion to draw is that we should be careful about viewing these means of exercising power as equally accessible for everybody who was trying to participate in government, and equally useful for them in all circumstances. While people shared the ability to exercise power through wealth, information, the law, and bureaucracy, these means of exercising power were, as historians have shown structures of belief and the contemporary methods of discussing them to have been, multivalent and labile.¹² The means of exercising power were multivalent because they were available to people in different ways depending on who they were. And they were labile in the sense that people could all shape the means available to them according to the issue they wanted to solve, or the ideological end they wanted to reach, or the circumstances in which they found themselves.

When, in the early 1670s, Charles pursued his lacklustre attempts to improve his political influence in Europe through the third Anglo-Dutch war, he practised an aggressive form of political economy based on a belief that, by reducing his European neighbours' share in the finite European wealth, he would be able to increase his own wealth and his political power along with it. As Charles began to lose the war, however, and his approach yielded no such improvement in either his wealth or power, the earl of Danby showed him a different

¹² Peter Lake has shown how beliefs and the methods by which people discussed them were multivalent and labile. See, in particular, his 'Calvinism and the English Church', or his 'Anti-popery: the structure of a prejudice', in R. Cust and A. Hughes (eds.), *Conflict in Early Stuart England* (London, 1989).

approach to political economy and a different means of using wealth in order to realise his political ambitions. In the summer of 1673, Danby believed that, rather than seeking to restrict competitors' access to European markets, a more peaceful approach to political economy would maximise Charles' and his foreign neighbours' ability to generate wealth through trade. The king practised Danby's form of political economy for two years with some success, until it became apparent that it would only produce the results that Charles wanted if he could make sure that all the other foreign princes would follow suit. As the effects of the war on the continent continued to impose themselves on English merchants' ability to trade through the summer of 1676, and Charles began to be sucked back into the conflict through the negotiations at Nijmegen, Danby changed his attempts to exercise power through wealth once again and sought to reinforce the king's peaceful approach to political economy with the raising of an English army and the threat of re-joining the war.

At the same time as Charles and Danby were trying to adjust their use of wealth to achieve their aims in Europe, parliament used wealth in their own way to attempt to shape the king's ability to realise his designs. Time and again through the 1670s, parliament sought to disrupt Charles' foreign policy by not voting him supply or by withholding supply until he compromised in his policies. The king's changing approach to political economy, then, and parliament's withheld supply demonstrate the multivalence of wealth as a means of exercising power, since different sides in politics were using wealth differently in order to influence foreign policy decisions. But wealth was also clearly labile, in the sense that Charles was seeking to use different forms of political economy in order to reach a fairly consistent end – the improvement of his standing both in Europe and at home.

And the third conclusion which I would like to draw is that policymaking and implementation was not a linear process. As people came to develop and implement policies to realise their political, religious and social aims, they often found the means of exercising power feeding back against their plans. When Charles came to develop and change his European policy and his approach to political economy, the end he wished to reach was not the only influence over the changes which he made. As he changed his policies, the status in Europe which he was seeking to cultivate remained virtually the same. It was the way in which he sought to implement his policies through the means of exercising power which fed back on itself and changed the policy he was seeking to implement. Here we can see then, a different set of influences over how policy was made from that which historians have often discussed. When we are looking at how policy was made, it is not sufficient to study merely the ideas behind the policy, or the reality which different politicians were seeking to

construct, for it was also the more practical influence of the means of executing their designs which could come to change their plans.

So where does this thesis fit in to the wider history of the seventeenth century? Looking to the earlier part of the century it is clear that robust debate about the distribution of political power characterised the middle decades of the 1600s. Thereafter, as Pepys and Coventry reflected that day in the spring of 1669 when they walked alone at the Tower, the Restoration of Charles II and the constitutional settlement which was devised in the first years of his reign did little to answer the long-standing questions about who should make political decisions and how. And in turn, this lack of clarity in the Restoration constitution could well account for why politicians in the later decades of the seventeenth century were still asking the same questions about the role of king and parliament as their parents and grandparents had been doing sixty years earlier. But as other historians have already made clear, and as this thesis has tried to argue, we should be careful about treating the restoration period, and the ways in which politicians at this time were trying to change the world around them, as simply being a bridge between two more important phases of English history.¹³ We need, rather than treating politicians' attempts to effect change through policymaking as a symptom of debate or circumstance as some historians have tended to, to work harder at contextualising the plans which people developed. We need to explore how contemporaries understood their circumstances in relation to their aims and ambitions, and sought to use the means of exercising power in order to develop plans which would allow them to navigate the world around them and to reach their desired ends. In this way, policy was not a passive part of political culture, either dropping out of a process of representation and debate or locked in to a specific form by circumstance. It was contested by politicians, reading their circumstances differently, and with different political, religious and social ideas, actively seeking to achieve their ends in different ways.

¹³ While this point was first developed by revisionists such as John Miller and J. R. Jones, it is William Bulman who has most convincingly made the case for contextualising the decisions which politicians made about how to make political change. See his *Practice of Politics*.

Appendix I

A Charge or Impeachment against Thomas Earl of Danby Lord High Treasurer of England; containing several Offences, Crimes, and Misdemeanors of a very high Nature.

(Brought to the house of commons on 26th April 1675)

I. That the said Earl hath overthrown and violated the ancient Course and Constitution of the Exchequer, by perverting the Method of Receipts, Payments, and Accounts, contrary to Law; whereby the King's Revenue is put into Confusion, and a wasteful Way of Expence; to the Destruction of his Majesty's Credit; and exposing his Majesty's Treasure and Revenue to private Bargains and Corruptions; and hath ingrossed into his own Hands the sole Power of Disposing almost all the King's Revenue; laying aside the Chancellor and Under Treasurer of the Exchequer, and other Officers: Whereby the usual and safe Government of his Majesty's Affairs relating to his Revenue, and all Checks and Comptrolls are avoided.

II. That, a Suit of Law being intended about the Marriage of the Daughter of Sir Thomas Hyde, the said Earl caused one Mr. Brandly, a principal Witness in the said Case, to be arrested by an extraordinary Warrant from one of the Secretaries of State; and to be kept for some Time in close Custody; during which Time the Agents of the said Earl did labour the said Mr. Brandly, by Threatenings and Promises of Reward, not to declare the Truth: And at Midnight he was brought, and examined before his Majesty, upon Oath; where the said Earl was present, and assisting: Whereupon the said Mr. Brandly did, by the Means aforesaid, deliver in a Testimony, contrary to his own Knowledge, and against his Conscience; he being then in Duress: By which illegal Practices his Majesty was highly abused, the Parties concerned in the said Law Suit greatly prejudiced, and the Truth suppressed, to the manifest Obstruction of Justice: And all this was done with an Intent to procure the said Heiress to be married to the Second Son of the said Earl.

III. That the Earl hath received very great Sums of Money, besides the ordinary Revenue, which have been wastfully spent, and far greater Sums than ever issued for secret Service, without Account; the King's Debts remaining unpaid, the Stores unfurnished, and the Navy unrepaired, to the Discredit and Hazard of the King and Kingdom.

IV. That the said Earl hath violated the Rights and Properties of the People, by stopping, without Authority, their legal Payments, due in the Exchequer.

V. That though the Office of Lord High Treasurer of England is always very full of great and necessary Employments, yet the said Earl hath also assumed to himself the Management of the Irish Affairs, which were in precedent Times dispatched always by the Secretaries, and passed in Council; thereby interrupting the said Secretary's Office; and neglecting his own; and subtilly enabling himself, the better to convert a very great Sum of Money out of the Irish Revenues, to his own private Advantage.

VI. That the said Earl hath procured great Gifts and Grants from the Crown, whilst under great Debts, by Warrants countersigned by himself.

VII. That about the Fourth of December 1674, at the Hearing of a Cause in the Treasury Chamber, some Acts of Parliament, now in Force, were urged against a Proclamation, and contrary to what his Lordship aimed at: Whereupon the said Earl, in Contempt of the Law, uttered this arbitrary Expression, "That a new Proclamation is better than an old Act;" several of his Majesty's Subjects being present: And, upon his Lordship's Report to the Privy Council, the Person in Question, being a Foreigner, and not obeying such Proclamation, but pursuing his Right at Law, was banished the Kingdom.

Appendix II

Articles of Impeachment of High Treason, and other High Crimes and Misdemeanors, and Offences, against Thomas Earl of Danby, Lord High Treasurer of England.

(Read in the house of commons on 21st December 1678)

I. That he hath traiterously encroached to himself Regal Power, by treating in Matters of Peace and War with Foreign Princes and Ambassadors, and giving Instructions to his Majesty's Ambassadors a broad, without communicating the same to the Secretaries of State, and the rest of his Majesty's Council; and against the express Declaration of his Majesty and his Parliament; thereby intending to defeat and overthrow the Provisions which had been deliberately made by his Majesty and his Parliament, for the Safety and Preservation of his Majesty's Kingdoms and Dominions.

II. That he hath traiterously endeavoured to subvert the ancient and well established Form of Government in this Kingdom; and instead thereof to introduce an arbitrary and tyrannical Way of Government. And the better to effect this his Purpose, he did design the Raising of an Army, upon Pretence of a War against the French King; and then to continue the same as a Standing Army within this Kingdom: And an Army being so raised, and no War ensuing, an Act of Parliament having passed to pay off and disband the same, and a great Sum of Money being granted for that End, he did continue this Army contrary to the said Act, and misemployed the said Money, given for disbanding, to the Continuance thereof; and issued out of his Majesty's Revenue divers great Sums of Money for the said Purpose; and wilfully neglected to take Security from the Paymaster of the Army, as the said Act required; whereby the said Law is eluded, and the Army is yet continued, to the great Danger and unnecessary Charge of his Majesty and the whole Kingdom.

III. That he, traiterously intending and designing to alienate the Hearts and Affections of his Majesty's good Subjects from his Royal Person and Government, and to hinder the Meeting of Parliaments, and to deprive his Sacred Majesty of their safe and wholesome Councils, and thereby to alter the Constitution of the Government of this Kingdom, did propose and negotiate a Peace for the French King, upon Terms disadvantageous to the Interest of his Majesty and his Kingdoms: For the Doing whereof he did endeavour to procure a great Sum

of Money from the French King, for enabling of him to carry on and maintain his said traitorous Designs and Purposes, to the Hazard of his Majesty's Person and Government.

IV. That he is popishly affected; and hath traiterously concealed, after he had Notice, the late horrid and bloody Plot and Conspiracy contrived by the Papists, against his Majesty's Person and Government; and hath suppressed the Evidence, and reproachfully discountenanced the King's Witnesses in the Discovery of it, in favour of Popery; immediately tending to the Destruction of the King's Sacred Person, and the Subversion of the Protestant Religion.

V. That he hath wasted the King's Treasure, by issuing out of his Majesty's Exchequer, and several Branches of his Revenue, for unnecessary Pensions and secret Services, to the Value of Two hundred Thirty-one thousand Six hundred and Two Pounds, within Two Years: And that he hath wholly diverted, out of the known Method and Government of the Exchequer, One whole Branch of his Majesty's Revenue to private Uses, without any Account to be made of it to his Majesty in the Exchequer, contrary to the express Act of Parliament which granted the same: And he hath removed Two of his Majesty's Commissioners of that Part of the Revenue, for refusing to consent to such his unwarrantable Actings therein, and to advance Money upon that Branch of the Revenue, for private Uses.

VI. That he hath by indirect Means procured from his Majesty for himself, divers considerable Gifts and Grants of Inheritance of the ancient Revenue of the Crown, even contrary to Acts of Parliament

For which Matters and Things, the Knights, Citizens, and Burgesses of the House of Commons, in Parliament, do, in the Name of themselves and of all the Commons of England, impeach the said Thomas Earl of Danby, Lord High Treasurer of England, of High Treason, and other the high Crimes, Misdemeanors, and Offences, in the said Articles contained. And the said Commons, by Protestation, saving to themselves the Liberty of exhibiting at any Time hereafter, any other Accusation or Impeachment against the said Earl, and also of replying to the Answers which the said Thomas Earl of Danby shall make to the Premises, or any of them, or any Impeachment or Accusation that shall be by them exhibited, as the Cause, according to Course and Proceedings of Parliament, shall require, do pray, That the said Thomas Earl of Danby may be put to answer all and every the Premises, that such Proceedings, Examinations, Trials, and Judgements, may be upon them, and every one of them, had and used, as shall be agreeable to Law and Justice; and that he may be sequestered from Parliament, and forthwith committed to safe Custody.

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