

# OLIVER CROMWELL, KINGSHIP AND THE HUMBLE PETITION AND ADVICE

*by Roy Sherwood*

On 31 March 1657 Oliver Cromwell was formally presented with the Humble Petition and Advice of the knights, citizens and burgesses now assembled in Parliament 'that your Highness will be pleased to assume the name, style, title, dignity and office of King of England, Scotland and Ireland and the respective Dominions and Territories thereunto belonging; and to exercise the same according to the laws of these nations'.<sup>1</sup> The presentation ceremony took place in the Banqueting House at the Palace of Whitehall.

There followed six weeks of agonising and debate until 8 May when Protector and Parliament assembled again in the Banqueting House for Oliver's final answer.\* In his speech to Parliament the Protector re-addressed a doubt he had already expressed concerning the offer of the crown. In essence this was that while he had no objection to occupying the office of King he saw no reason why he could not do so with his existing title. Why, he effectively asked, should the person in whom the supreme authority resides be any less a King simply because his title is spelled P-r-o-t-e-c-t-o-r? 'Signification goes to the thing, certainly it does, and not to the name.' Surely, the Protector argued, as the office in question was being offered to him by Parliament it was therefore Parliament's to dispose of. Consequently Parliament had a perfect right to change the name of the kingly dignity to anything it wished without changing the nature of the office. This alone would make the title of Protector as conformable to the law as that of King had been.<sup>2</sup>

Returning to this issue in the speech which many had hoped would be Cromwell's formal acceptance of the crown, the Protector spoke to the assembled Members of Parliament of the unhappiness he had experienced 'not to be convinced of the necessity of that thing that hath been so often insisted upon by you, to wit, the title of King'. But he still could not see why the kingly title was 'in itself so necessary as it seems to be apprehended by yourselves'. And he did so 'with all honour and respect to the judgement of Parliament'. He therefore concluded that Parliament's Humble Petition and Advice 'doth consist of very excellent parts in all but that one thing, the title as to me.... I cannot undertake this government with the title of a King, and this is mine answer to this great and weighty business.'<sup>3</sup>

Accordingly, it was ordered that the title of King be replaced in the Humble Petition and Advice by Cromwell's existing title of Lord Protector and a parliamentary committee was delegated to consider how this replacement title 'may be bounded, limited and circumstantiated'.<sup>4</sup> A thumbnail sketch of the committee's deliberations bequeathed to us by Secretary of State John Thurloe in one of his many missives to Henry Cromwell in Ireland<sup>5</sup> records that it was initially proposed that 'the power of the Protector should be referred to that of the King, expressing it, that he should exercise the same powers, and no other, that any King of England might lawfully do'. The argument in favour of this proposal was that once the title had been altered from King to Lord Protector in the Humble Petition and Advice there really was no other way of setting limits to the Protector's authority. Otherwise the Protector would be looked upon only as a military officer without any bounds and limits with all the privileges of a King but able to avoid all that which the law imposed on a King regarding the liberty of the people.

At first, Thurloe tells us, it was thought that the formulation of the Protector's authority in terms of regal powers was by general agreement. Such explicit reference to the kingly dignity did not, however, please those members of the committee who were opposed to kingship. Their answer to the argument that there was no other way of limiting the Protector's authority was that the Protectorship should be somehow circumscribed in such a way as to make it a new office altogether. But this idea, 'appearing to be an endless business', was abandoned even by those who proposed it and some of their number returned to the initial proposal but expressed in such a way as to avoid specific mention of the kingly office by name. Even so this did not meet with universal approval among the military men on the committee, Protectoral Privy Councillors General John Lambert (one of the principal opponents of the offer of the crown to Cromwell) and Colonel William Sydenham and others speaking, according to Thurloe, 'very earnestly against it and very few of the soldiers pleased with it so far as could be perceived'. Nevertheless kingship in relation to the office of Protector was implicit in the amended Article 1 of the Humble Petition and Advice submitted by the committee to Parliament. The revised Article, to which Parliament gave its assent, read:

That your Highness will be pleased, by and under the name and style of Lord Protector of the Commonwealth of England, Scotland and Ireland and the Dominions and Territories thereunto belonging, to hold and exercise the office of chief magistrate of these nations, and to govern according to this Petition and Advice in all things according to the laws of these nations.<sup>6</sup>

It should be noted that Oliver is not described as head of state, as Lord Protector, of a Commonwealth but as holding and exercising the 'office of chief magistrate of these nations', which was how former sovereigns had been known, 'by and under the name and style of Lord Protector of the Commonwealth'. The distinction is subtle but important because this was, as had been intended, kingship in all but name. As reported in a newsletter among the papers of Army Secretary William Clarke:

The fundamental laws of the nation shall run in their direct and proper channel, and be construed, deemed and taken to have full force, effect and virtue to all intents and purposes under the title of Protector as supreme magistrate as under the title of King, and that his Highness's power and authority shall be equivalent.<sup>7</sup>

'And so at length his Highness and Parliament agreed upon a government.'<sup>8</sup> Apart from the change to the title, the government agreed upon, and to which Cromwell formally gave his assent on 25 May 1657, was the Humble Petition and Advice as originally submitted to him. In fact Cromwell had been required to consent to the Humble Petition and Advice in its *entirety* with the title only altered:

Mr Speaker acquainted his Highness that the Parliament had commanded him to acquaint his Highness with the alteration in the Petition and Advice and to desire his consent to the whole, *mutato nomine tantum*, and his Highness presently gave his consent.<sup>9</sup>

Thus, king-like, as chief magistrate with the title of Lord Protector, Cromwell would govern with the *advice* of his Privy Council and be *pleased* to call Parliaments (consisting of two Houses), whereas under the Instrument of Government, by which Cromwell became Lord Protector in 1653, Oliver had governed with the *assistance* of a Council, and a single chamber Parliament *had* to be summoned on a date specified.<sup>10</sup>

Indeed at this point the Humble Petition and Advice was so unchanged from its original form with the title of King that one of its clauses still retained an actual reference to both the title and the office of King. This was Article 15 which declared that:

All acts which have passed, or shall pass, this Parliament, shall have the force and effect of acts of Parliament, whether your Highness's assent thereunto hath been, or shall be, given by the name, style, title and office of Lord Protector, or by the name, style, title and office of King.

This Article had originally been included to ensure that legislation passed in the name of the Lord Protector during the current Parliament should still 'stand good' after Cromwell's title had been changed to that of King.<sup>11</sup>

Now that Cromwell had refused the title of King the continued existence of this clause in the Humble Petition and Advice was clearly anomalous. This did not go unnoticed. During the parliamentary debate on Cromwell's speech accepting the Humble Petition and Advice, which took place on 27 May, two days after that acceptance, Protectoral Privy Councillor Colonel William Sydenham pointed out:

Something in the 15th Article is scarcely sense, that about laws being of force whether under the title of King or Protector, for in the beginning you say the title of Protector shall be the title.

Sydenham's point was, however, ignored and the debate continued as though he had never spoken. Undaunted Sydenham returned to the matter:

There is something in the Petition and Advice which needs not only some explanation but an expunging. You say that in the 15th Article all acts shall be valid under what title soever they pass, either as Protector or King, and surely you will not make laws in both names and leave the nation at a loss which you do adhere to.

This finally brought a response from George Downing, who had been one of the prime movers in Parliament's offer of the crown to Cromwell. Downing retorted that the alteration of the title of King to Lord Protector in the Humble Petition and Advice 'was only in compliance with his Highness's conscience. I would have it [Article 15] stand as it does. It may be that his conscience may receive conviction.' In other words, there was a possibility that the Protector could yet change his mind and accept the title of King.

In what could be interpreted as an attempt to draw attention away from the vexed question of Article 15 Lord Chief Justice John Glynn, another of the prime movers in Parliament's offer of the crown to Cromwell, interjected with a proposal that the House should return to one of the points raised earlier on in the debate before any new motions were introduced. But Captain Henry Hatsell would have none of it. 'The usual way to thrust out one motion is to make another', he countered. Hatsell went on to echo Colonel Sydenham's sentiments regarding the anomalous nature of Article 15 and expressed concern over the uncertainty engendered by the continued existence of the title of King in this clause. In view of this he recommended that the nation be left in no doubt that Parliament was agreed on the

alteration of Cromwell's title in the Humble Petition and Advice from King to Lord Protector. To which Major-General William Jephson, said to be the originator of the first definite proposal to make Cromwell King, replied wryly: 'There are some so out of love with those four letters [K-i-n-g] that we must, I think, have an act to expunge them out of the alphabet. And that is my humble motion.' In the end this and other matters arising from the debate were referred to a committee which when it proposed a month later that the Humble Petition and Advice should be printed, also proposed that this should be with the omission of Article 15.<sup>12</sup> The contemporary printed version of the Humble Petition and Advice therefore has no Article 15. The articles run consecutively from 1 to 14 and then from 16 to 18, leading some historians, including S.R. Gardiner and J.P. Kenyon, as well as the editor of *The Diary of Thomas Burton*, to make the incorrect assumption that the articles had simply been misnumbered.

What makes Article 15 so interesting is that it was still part of the Humble Petition and Advice when Cromwell accepted it and there was obviously a desire in certain quarters for Article 15 to remain in the hope that the Protector would yet change his mind and accept the title of King. Clearly, there being no alteration in Cromwell's title, legislation already passed would not be affected and so Article 15 became redundant.

But if Cromwell's title had not changed, the nature of the office under that title, as we have seen, had. Parliament, opined Lady Conway, had 'settled the government which they proffered under the style of kingship to one as absolutely regal and hereditary, only altering the name to Protector'.<sup>13</sup> This generally held view of the Humble Petition and Advice as representing the assimilation of the office of Protector to the kingly dignity was shared by the Venetian envoy in London, Francesco Giavarina:

Besides the resolution confirming Cromwell's title as Protector, Parliament has passed another by unanimous vote which appropriates to that dignity all the articles previously granted in the event of his Highness accepting the crown. Thus, by consent of the three kingdoms, Cromwell will enjoy all the privileges, prerogatives and possessions of the former Kings exactly as if he had the royal title, so that he holds the supreme power as if he actually was a King.... They are now arranging a bill to substitute the title of Protector or Highness for King or Majesty in all the laws wherever these occur, leaving all the rest in force.<sup>14</sup>

This is what Cromwell had in effect asked for - to rule as King but with the title of Lord Protector. All that was required was a formal ceremony of recognition of that very fact. Which is why Cromwell's second investiture

as Lord Protector in historic Westminster Hall on 26 June 1657 was to all intents and purposes a king-making ceremony, a coronation without a crown. It even included the administration of an oath 'according to the usage of former chief magistrates', that is to say, a monarch's traditional coronation oath. As one Member of Parliament had pointed out during the debate on what form this ceremony should take:

You are making his Highness a great Prince, a King indeed, so far as he is Protector. Ceremonies signify much of the substance in such cases, as a shell preserves the kernel or a casket a jewel.<sup>15</sup>

Accordingly Cromwell now began exercising prerogatives which the Humble Petition and Advice did not specifically confer upon him but which were automatically available to those occupying the office of King. Not least among these was the creation of hereditary peers. The letters patent for a Cromwellian ennoblement depict the Protector wearing royal robes and holding a sceptre and declare regally that: 'Amongst other of the prerogatives which adorn the imperial crown of these nations none is of greater excellency or doth more amplify our favours than to be the fountain of honour.'<sup>16</sup>

Even so, and notwithstanding its acceptance by Cromwell's own contemporaries, some modern-day historians would argue against the regal interpretation of the Cromwellian regime under the Humble Petition and Advice. They cite a biblical allusion made by Oliver in a speech during the kingship debate: 'I will not seek to set up that which Providence hath destroyed and laid in the dust, and I would not build Jericho again.' This is taken to imply that Cromwell would never accept either the title or the office of King because both had been providentially 'blotted out' by God with the execution of Charles I. But Oliver was only referring to the *title*, not the office: 'Truly the prudence of God hath laid aside this title.' The 'name or title' had been eradicated, Cromwell argued. God had 'blasted the title'. Indeed it was in this very same speech that Cromwell had asked, in essence, why could he not occupy the office of King but with the title of Protector, signification going to the thing and not to the name.<sup>17</sup>

The kingly dignity that Cromwell exercised as Protector Royal, as some contemporaries called him, for the last fifteen months of his life was in any case not the monarchy of Charles I. Oliver had not built Jericho again. His was a reformed New Model Monarchy, a parliamentary monarchy in accordance with the Humble Petition and Advice of the knights, citizens and burgesses now assembled in the Parliament of this Commonwealth. Which is why the officiator at Cromwell's second investiture was the

Speaker of the House of Commons. 'The occasion of this great convocation and intercourse', Mr Speaker solemnly affirmed at this glittering ceremony,

is to give an investiture to your Highness in that eminent place of Lord Protector, a name you had before but it is now settled by the full and unanimous consent of the people of these three nations assembled in Parliament.<sup>18</sup>

In its offer of the crown to Oliver, which evolved into kingship without the royal title, Parliament too had invoked divine providence: 'God who puts down and sets up another, and gives the kingdoms of the world to whomsoever he pleaseth' has 'by a series of Providence[s] raised you [Cromwell] to be a deliverer of these nations and made you more able to govern us in peace and prosperity than any other whatsoever.'<sup>19</sup>

The effective assimilation of the Cromwellian Protectorship to the office of King (but with the Protector owing his title to Parliament) was accomplished in spite of the hostility to kingship within the army. Giavarina, the Venetian envoy, gives a very succinct interpretation of how he thought this had been achieved:

The simple soldiers seem quite quiet and satisfied with the refusal of the title [of King] not realising that even without it the Protector has all the powers of a King. But the officers who desire a disturbance and who do not want his Highness to have so much authority labour to impress the truth upon them, though so far without the least success. The soldiers will not listen to what they say, their objection and aversion being for the title alone and for the rest they care nothing, being content with the surface of things without piercing the marrow.<sup>20</sup>

Giavarina, like many others, also regarded Cromwell ruling under the Humble Petition and Advice with the title of Protector as a purely interim measure pending the Protector's ultimate assumption of the title of King. Giavarina describes the prorogation of the second Protectorate Parliament on 26 June 1657, the day of Cromwell's second investiture, as a decision taken by the government 'so they might labour in the interval to remove the obstacles against the royal title'.<sup>21</sup> And in his report of the investiture itself the Venetian envoy opined that the Protector 'lacked nothing but the crown to appear a veritable King, and no doubt if he lives it will be placed on his head'.<sup>22</sup> By implication Secretary of State John Thurloe seems to have shared Giavarina's view of Cromwell's new status as a purely interim measure. In his previously referred to letter to Henry Cromwell in Ireland Thurloe described the accepted version of the Humble Petition and Advice

as 'this step made towards the freedom of this nation, although all that might be wished cannot be arrived at at one time'.<sup>23</sup> It was a sentiment with which Henry Cromwell fully concurred. In his reply to Thurloe Henry confessed that he liked 'gradual proceedings best'. He was content that a final settlement be deferred 'till a competent trial hath been made of the present way' before at last returning 'to that very form which was of old',<sup>24</sup> which was his father ruling as King in name as well as in fact.

A return to that very form which was of old, but this time under Parliament, looked a real possibility at almost any time over the next year or so. This is evidenced by the large number of people, from the Quaker George Fox to the French ambassador, Antoine de Bordeaux, and the Venetian envoy, who recorded persistently voiced speculation to the effect that Cromwell was about to adopt the title of King.<sup>25</sup> There was even a motion during the short-lived re-convened second Protectorate Parliament of late January/early February 1658 that 'now we are a free Parliament' a bill should be drawn up investing the Protector with the kingly title, 'Providence having cast it upon him'.<sup>26</sup> While only a few months before Cromwell's death on 3 September 1658, it was reported that two crimson and velvet caps of state worn by Kings as badges of rank in place of a crown were being made up on the orders of the Protectoral Master of the Wardrobe in obvious anticipation of the Protector's adoption of the royal title.<sup>27</sup>

If Oliver had lived to adopt the royal title then it would have been no more than a consummative formalisation of the Protector's already regal status which had remained implicit in Parliament's Humble Petition and Advice even after the title had been changed from King to Lord Protector. The Humble Petition and Advice having remained the same with the title Lord Protector as it had been under the title of King all that would have been required was a reversion to 'the name, style, title, dignity and office of King' in place of 'the office of chief magistrate', held and exercised under the name and style of Lord Protector of the Commonwealth, in Article 1, and the re-insertion in its vacant place of Article 15 declaring the continuing validity of laws made under the title of Lord Protector.

- \* For a full discussion of Parliament's formal offer of the crown to Cromwell and the ensuing kingship debate see my book *Oliver Cromwell King In All But Name 1653-1658* (Sutton Publishing, 1997).
1. *Journal of the House of Commons, Volume VII* (London n.d.), pp. 511, 516; *Mercurius Politicus*, 26 March-2 April 1657.
  2. *Monarchy Asserted to be the best, most Ancient and legal form of Government, in a conference had at Whitehall with Oliver, late Lord*

## 'THE FLANDRIC SHORE': CROMWELLIAN DUNKIRK

by Thomas Fegan

Cromwellian Dunkirk (Dunkerque) is an oft neglected site. The town did not remain in English hands very long and its history is, of course, overshadowed by the more recent events of 1940 when British and French troops were evacuated from the beach of Malo-les-Bains in Operation Dynamo. In the late 1650s, however, the Battle of the Dunes and the capture of Dunkirk were of the utmost significance. The destruction of Charles Stuart's force and the setbacks accorded the Spanish removed the threats of royalist invasion and continental support for royalist risings in Britain. Further, England's power and influence in Europe were greatly enhanced - enhanced out of all proportion to the tiny foothold arms had won. Today, although little remains from the seventeenth century in what is now an important industrial centre, with travel to the continent easier than ever before since the Channel Tunnel opened nearby, Dunkirk is worth at least a detour if only to reflect on the renown achieved there all that time ago, as well as to think of it as a little bit of Cromwellian here over there.

There are several reasons why Cromwell set his sights on Spanish controlled Dunkirk in the 1650s. One was to combat the pirates there who were a constant menace to English shipping. But it was the soldiers Charles Stuart was recruiting in Flanders who posed a greater threat. Expelled from France after the Anglo-French treaty of 1655, Charles had sought support from Spain. Philip IV promised him 6,000 men to assist his restoration in the event of establishing a foothold in England, and allowed Charles himself to raise six regiments.<sup>1</sup> Taking Dunkirk, therefore, would deny Charles and the Spanish a prime staging post for a royalist invasion of England. And taking Dunkirk as part of an alliance with France would also allow Cromwell to take advantage of French aggression in Flanders.<sup>2</sup> Mazarin had offered Dunkirk to England as the basis of an alliance as early as 1651 (while it was still in French hands) but nothing substantial came of the idea until the later 1650s after the French had suffered military reverses against the Spanish and the English feared France and Spain would make peace. A new Anglo-French treaty was therefore sought out of necessity by both sides, although Cromwell did have Sir William Lockhart, his ambassador (and husband of his niece, Robina Sewster), insinuate that France was an ally 'not out of necessity, but choice'.<sup>3</sup> With the pretence of genuine goodwill, then, the details were signed in March 1657, determining that France would provide 20,000 men, and England 6,000 men and her

- Protector, & a Committee of Parliament*, attrib. Bulstrode Whitelocke (London, 1660), pp. 28-33; Roy Sherwood, *Oliver Cromwell King In All But Name 1653-1658* (Stroud, 1997), p.84.
3. *Monarchy Asserted*, pp. 111-12.
  4. *Commons Journal*, VII, p. 535.
  5. T Birch (ed), *A Collection of the State Papers of John Thurloe, Esquire* [hereafter *TSP*] (7 vols, London, 1742), VI, 310-11.
  6. *Commons Journal*, VII, p. 537.
  7. C H Firth (ed), *Selections from the Papers of William Clarke* (4 vols, London, 1891-1901), III, 109.
  8. *TSP*, VI, 311.
  9. *Commons Journal*, VII, pp.538-9; J T Rutt (ed), *Diary of Thomas Burton, Esquire* (4 vols, London, 1828), II, 123-4.
  10. *The Humble Petition and Advice, etc.* (London, 1657), pp. 3, 11; J P Kenyon, *The Stuart Constitution, 1603-1688: Documents and Commentary* (2nd edn, Cambridge, 1986), pp. 308, 309.
  11. *Commons Journal*, VII, pp. 511, 512.
  12. Rutt, *Burton's Diary*, II, 135-41, 302; *Commons Journal*, VII, p. 540.
  13. Public Record Office, London, SP 18/113, f. 220.
  14. A B Hinds (ed), *Calendar of State Papers and Manuscripts...in the Archives and Collections of Venice...*, 1657-9 (London, 1931), pp. 61, 63.
  15. Sherwood, *Oliver Cromwell King In All But Name*, Chapter 8; Rutt, *Burton's Diary*, II, 303.
  16. Mark Noble, *Memoirs of the Protectoral House of Cromwell* (2 vols, Birmingham, 1787), II; Sherwood, *Oliver Cromwell King In All But Name*, pp. 97, 105-6.
  17. *Monarchy Asserted*, pp. 41-2.
  18. Sherwood, *Oliver Cromwell King In All But Name*, p. 96.
  19. Firth, *Papers of William Clarke*, III, 94.
  20. Hinds, *Calendar of State Papers Venetian, 1657-9*, p. 71.
  21. *Ibid.*                                  22. *Ibid.*, p. 82.
  23. *TSP*, VI, 311.                              24. *Ibid.*, VI, 330.
  25. Hinds, *Calendar of State Papers Venetian, 1657-9*, pp. 89, 149, 155-6, 167, 176, 189, 226, 228; Sherwood, *Oliver Cromwell King In All But Name*, pp. 130-4.
  26. Rutt, *Burton's Diary*, II, 424.
  27. Firth, *Papers of William Clarke*, III, 150.

© Roy Sherwood, 1999

Roy Sherwood, author and historian, is well known for his work on the regal aspects of the Cromwellian Protectorate. His books include: *The Court of Oliver Cromwell* (Willingham Press) and, most recently, *Oliver Cromwell King In All But Name 1653-1658* (Sutton Publishing).