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## Reconciliation and Oblivion in the English Republics<sup>1</sup>

Imogen Peck

In the spring of 1651, a silver spoon went missing from the house of the Essex villager John Kendall. He strongly suspected that it had been stolen by a local glazier, Hollenshead, who had been working in the house ~~at the time~~. When confronted, Hollenshead denied the accusation and Kendall, being, at that time, ‘full of business’ decided not to take the matter any further.<sup>2</sup> His servants, however, clearly ~~had~~<sup>did</sup> not ~~forget~~<sup>forgot</sup> the incident, and a year later Hollenshead presented two of them to the local magistrate for speaking scandalous words against him. Outraged, Kendall penned a letter to the local justices, complaining that Hollenshead had been emboldened by the recent passage of the Act of General Pardon and Oblivion.<sup>3</sup> This ~~Act~~<sup>act</sup> sought to ensure that ‘all Rancour and Evill Will’ occasioned by the recent Civil Wars ‘may be buried in perpetual Oblivion’, and, to that end, it stipulated that certain treasons and felonies committed before ~~the 3~~<sup>3rd</sup> September 1651 were to be pardoned – including, in Hollenshead’s view, his alleged theft.<sup>4</sup> Kendall concluded his own missive with ~~a plea the assertion~~ that ‘if th~~at~~<sup>is</sup> Act p[ar]doned him (who by stronge suspicon did the fact) surely there cann acrewe but small damadg’ to ~~his~~<sup>his</sup> servants ‘if they did speake of it’.<sup>5</sup> In this small community, an Act intended to heal the divisions wrought by England’s domestic conflicts had served to re-inflate other, non-political tensions.

Declarations of oblivion were a common response to civil conflict in early modern Europe. The 1598 Edict of Nantes, which provided the foundation for the peaceful settlement of the French state following its long-running religious wars, dictated that ‘the memory of everything which occurred on one side or other since the beginning of March 1585 [...] will remain extinguished and suppressed, as things which did not happen’.<sup>6</sup> Its articles established a legal amnesty for acts of war committed by both sides, granted the Huguenot minority a degree of toleration, and encouraged all French citizens to forget the divisions of the recent past. Similarly, the terms of the 1576 Pacification of Ghent between the northern and southern provinces of the Low Countries stated that all that had occurred in that nation since the rebellion of 1566 should be ‘forgotten and be regarded as not having occurred’.<sup>7</sup> In the English context, historians have tended to focus on the Act of General Pardon, Indemnity,

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<sup>1</sup> I would like to acknowledge and thank Prof Bernard Capp, Prof Ronald Hutton, and the members of the University of Warwick ECR forum for their insightful comments on an early draft of this chapter.

<sup>2</sup> Essex Record Office, Q/SBa2/80/Midsummer 1652/letter by John Kendall.

<sup>3</sup> Ibid.

<sup>4</sup> ‘February 1652: An Act of General Pardon and Oblivion’, in *Acts and Ordinances of the Interregnum, 1642-1660*, 2 vols., edited by C. H. Firth and R. S. Rait (London: Wyman and Sons, 1911), ii, pp. 565-577 (p. 565).

<sup>5</sup> ERO, letter by John Kendall.

<sup>6</sup> Diane C. Margolf, ‘Identity, Law, and the Huguenots in Early Modern France’ in *Memory and Identity: The Huguenots in France in the Atlantic Diaspora*, edited by: Bertrand van Ruymbeke and Randy J. Sparks (Columbia: University of South Carolina Press SC, 2008), pp. 26-45 (p. 32).

<sup>7</sup> Judith Pollmann, *Memory in Early Modern Europe, 1500-1800* (Oxford: Oxford University Press, 2017), p. 142.

and Oblivion, introduced following the Restoration of Charles II in May 1660, and the opposition to oblivion posed by the Cavalier Parliament and disgruntled Royalist veterans.<sup>8</sup> By comparison, its forerunner, the 1652 Oblivion Act – its rationale, reception, and the repercussions it had for men like Kendall – has received rather less scholarly attention.<sup>9</sup> In part, this reflects a general tendency among scholars of Civil War memory to overlook the memorial culture of England's republican interval in favour of the years after the Restoration.<sup>10</sup> However, it may also be a product of the nature of the 1652 Act itself, which, by conceiving of oblivion as a constrained, and conditional, legislative amnesty it lacked the more wide-ranging and censorious ambition of other early modern oblivion acts, not least the Act of 1660, which sought to suppress speech that revived the divisions of the recent past and not just as well as legal action.<sup>11</sup>

Yet, as this chapter will show, the 1652 Oblivion Act is not best understood as a half-hearted version of its more famous forebears and successors, but as a response to a distinct historical situation. Its one whose ambiguities and inconsistencies illuminate the approach to, aims of, and limits on, reconciliation in republican England. Tracing the Act from its inception through to the Restoration, this chapter explores the difficulties that successive governments faced when attempting to negotiate, implement, and interpret oblivion, difficulties that have haunted states emerging from periods of civil conflict across time and space, albeit with markedly different results. It points to a consistency in the challenges that confront post-war states that runs through the historical record, while also emphasising the extent to which particular outcomes remain historically contingent. In the 1650s, the multifaceted aims of oblivion, which sought to reconcile some individuals both to the fledgling state and their former enemies by pardoning certain wartime activities, while simultaneously excluding others, securing the acquiescence of opponents, preserving financial stability, and maintaining state security produced an Act which proved itself open to a significant degree of (re)interpretation, contestation, and co-option.

<sup>8</sup> Paulina Kewes, 'Acts of Oblivion, Acts of Remembrance: Rhetoric, Law, and National Memory in Early Restoration England', in *Ritual, Routine, and Regime: Institutions of Repetition in Euro-American Cultures, 1650-1832*, edited by: Lorna Clymer (Toronto: University of Toronto Press, 2006), pp. 103-131; Matthew Neufeld, *The Civil Wars After 1660: Public Memory in Restoration England* (Woodbridge: Boydell and Brewer, 2012), esp. pp. 4-20; Melanie Harrington, 'Transitional Justice Theory and Reconciling Civil War Division in English Society, 1660-1670', in *Civilians and War in Europe, 1618-1815*, edited by: Erica Charters, Eve Rosenhaft, and Hannah Smith (Liverpool: Liverpool University Press, 2012), pp. 68-87; Andrew Barclay, 'Recovering Charles I's Art Collection: Some Implications of the 1660 Act of Indemnity and Oblivion', *Historical Research* 88, no. 88.242 (2015), pp. 629-649; Pawel Kaptur, 'Oblivion and Vengeance: Charles II's Policy Towards the Republicans at the Restoration of 1660', *Crossroad: A Journal of English Studies* (2017), n.p.

<sup>9</sup> The most comprehensive discussion of the 1652 Act remains Paul Hardacre, *The Royalists During the Puritan Revolution* (The Hague: Nijhoff, 1956). For another, shorter, discussion see Blair Worden, *The Rump Parliament* (Cambridge: Cambridge University Press, 1974), pp. 265-270.

<sup>10</sup> For recent studies that focus on the memory of the wars after the Restoration see Neufeld, *The Civil Wars after 1660*; Erin Peters, *Commemoration and Oblivion in Royalist Print Culture, 1658-1667* (Cham: Palgrave Macmillan, 2017); Edward Legon, *Revolution Remembered: Seditious Memories after the British Civil Wars* (Manchester: Manchester University Press, 2019). For the first account of the memory of these conflicts during the 1650s see my forthcoming book Imogen Peck, *Recollection in the Republics: Memories of the British Civil Wars in England, 1649-1659* (Oxford: Oxford University Press, forthcoming 2021).

<sup>11</sup> 'An Act of Free and General Pardon Indemnity and Oblivion', in *Statutes of the Realm: Volume 5, 1628-1680* (London: Records Commission, 1819), pp. 226-234. For further discussion of the differences between these acts see below, pp. xx.

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The Civil Wars that raged in Britain between 1642 and 1651 rank among the most destructive in the island's history. Estimates put the number of people who died either in fighting or from war-related disease at around 4% of the population, a larger proportion than in World War One.<sup>12</sup> As with so many domestic conflicts, civilians as well as soldiers were severely affected: cities were besieged, animals and goods were plundered, and families were forced to quarter soldiers in their own homes. Ultimately, the Royalist cause was defeated by the superior forces of the Parliament and, in 1649, King Charles I was tried and executed for treason against his own people. Both [the](#) monarchy and the House of Lords were abolished, and the nation's old system of government was replaced with a republic, known as the Commonwealth. In 1651, the deceased King's son, Charles Stuart, marched into England at the head of an army ~~16,000 strong~~, comprised predominantly of Scottish troops. His eventual defeat at the Battle of Worcester on ~~the 3<sup>rd</sup> of~~ September ~~3<sup>rd</sup>~~ marked the end of more than a decade of domestic conflict in England and the victory of the Commonwealth state.<sup>13</sup>

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With the fighting finally at an end, the fledgling republic was faced with the challenge of reconciling the war-torn English populace, both to the new state and to one another. In the months following the King's death, the Parliament professed its desire to 'establish a firm and safe peace, and an oblivion of all Rancor, and ill will occasioned by the late troubles'.<sup>14</sup> On ~~25~~-April ~~25<sup>th</sup>~~, ~~it~~[they](#) voted to prepare an act of oblivion.<sup>15</sup> Following its first and second readings in July 1649 the progress of this bill stalled, probably delayed by the resumption of hostilities north of the English border.<sup>16</sup> It did not reappear in the Commons journals until ~~16~~ September ~~16<sup>th</sup>~~ 1651, two weeks after the state's final, decisive victory at ~~the Battle of~~ Worcester.<sup>17</sup> When the ~~A~~[act](#) passed into law on ~~24~~-February ~~24<sup>th</sup>~~-1652, its preamble explicitly rehearsed the loyalty and affection that the English people had shown to the Commonwealth through their 'ready Assistance' against the forces of Charles Stuart.<sup>18</sup> It went on to articulate the government's aspiration that they should 'make no other use of the many Victories the Lord in mercy hath vouchsafed unto them, ~~the~~[an](#) ~~[sic]~~ a just Settling of the Peace and Freedom of this Commonwealth' and ~~theire~~[their](#) hope that the nation 'might be Composed, Settled and Secured, and that all Rancour and Evil Will occasioned by the late Differences may be buried in perpetual Oblivion'.<sup>19</sup> To that end, the ~~A~~[act](#) offered most English citizens a legislative pardon for their wartime activities in return for their loyalty to

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<sup>12</sup> Blair Worden, *Roundhead Reputations: the English Civil War and the Passions of Posterity* (London: [Allen Lane](#), 2001), ~~p~~-3; Ian Gentles, *The English Revolution and the Wars in the Three Kingdoms, 1638—1652* (Abingdon: [Routledge](#), 2007), ~~p~~-437.

<sup>13</sup> Though military campaigns continued in Ireland until 1653. See Micheál Ó Siochrú, *God's Executioner: Oliver Cromwell and the Conquest of Ireland* (London: [Faber and Faber](#), 2009).

<sup>14</sup> Anon, *A declaration of the Parliament of England, expressing the grounds of their late proceedings, and of settling the present government in a way of a free state* (London, 1649), ~~p~~-25.

<sup>15</sup> *Journal of the House of Commons: Volume 6, 1648-1651* (London: [His Majesty's Stationery Office](#), 1802), ~~p~~-195.

<sup>16</sup> *Ibid.*, ~~p~~-250.

<sup>17</sup> *Journal of the House of Commons: Volume 7, 1651-1660* (London: [His Majesty's Stationery Office](#), 1802), ~~p~~-19.

<sup>18</sup> 'An Act of General Pardon and Oblivion', in *Acts and Ordinances*, ii, ~~p~~-565.

<sup>19</sup> *Ibid.*

the republican state.<sup>20</sup> Officials who attempted to prosecute an individual contrary to the terms of the [Act](#) would be required to pay a £10 fine, as well as damages to the injured party.

Prior to this legislation, though the Parliament's supporters had received limited protection from the Committee for Indemnity, which shielded individuals from prosecution if they could demonstrate that they had acted in service of the Parliament, there was nothing to stop their opponents from being prosecuted for their actions during the wars.<sup>21</sup> Under the terms of the Act of General Pardon and Oblivion, if a legal suit had not already commenced before passage of the [Act](#) then the individual concerned could no longer be prosecuted.<sup>22</sup> In contrast to the emphasis that many contemporary post-war states have placed on offering victims the opportunity to recount the injuries of the past, not least through truth and reconciliation commissions, for the republican government forgetting past actions was considered the best means to secure a lasting peace.

This approach was one that had a lengthy pedigree, as Robin Osborne's chapter in this collection demonstrates. Following the reign of the Thirty Tyrants in 403 BC, the Athenian state had also chosen to grant a pardon to all bar the most senior regime officials.<sup>23</sup> In 1658, the writer John Spencer made this similitude between ancient and contemporary notions of reconciliation explicit, noting that:

*Forgetting of Injuries past is necessary, upon a making of Peace [...] Thrasibulus got the People to joyne with him in a Law, which they called Amnestia, that all former wrongs should be forgotten, and that they should live lovingly and peaceably hence forward one with another, as if such breaches had never been amongst them. Thus, when God shall restore peace to a Kingdome or State, and set all to right, the addition of such an Amnestia, an Act of Oblivion, will be very necessary, not to rip up old things, but that there be a line of forgetfulness drawn over them; otherwise, such will be that extream bitter exasperation, and deadly rage of mens hearts one against another, that whatsoever peace shall be concluded, if it be not made exceeding sure, the Pacification is like to be but the foundation of greater evils to come.*<sup>24</sup>

Here, Spencer evoked the Greek example to demonstrate that, even once a formal peace had been established, an amnesty for past acts was necessary in order to ensure a corresponding settlement between individuals. Without this, not only would citizens continue to set themselves against one another, the state ~~itself~~ would face the threat of renewed conflict as ~~continui~~[ongoing](#) divisions between individuals perpetuated national cleavages. Oblivion,

<sup>20</sup> The 1652 Act of General Pardon and Oblivion applied only to England and Wales, not Scotland or Ireland. In April 1654, Scotland received its own act. See 'An Ordinance of Pardon and Grace to the People of Scotland', in *Acts and Ordinances*, ii, pp. 875-883.

<sup>21</sup> 'An Ordinance for Indemnity or saving harmless all those that have acted or done any thing by Sea or Land for Authority of Parliament', in *Acts and Ordinances*, i, pp. 936-938.

<sup>22</sup> As the act put it, 'this Act nor anything therein contained, shall not extend to discharge or take away any Action or Suit whatsoever which was commenced or depending before the third day of September, in the year of our Lord, One thousand six hundred fifty and one, for any thing done in relation to the late Wars'. 'An Act of General Pardon and Oblivion', in *Acts and Ordinances*, ii, p. 574.

<sup>23</sup> Adriaan Lanni, 'Transitional Justice in Ancient Athens: A Case Study', *University of Pennsylvania Journal of International Law* 32, no. 32-2 (2010): 551-594.

<sup>24</sup> John Spencer, *Things new and old, or, A store-house of similies, sentences, allegories, apophthegms, adagies, apologues, divine, morall, political* (London, 1658), p. 23. Spencer's synthesis drew on a longer passage penned by the Independent minister Jeremiah Burroughes in his 1646 text *Irenicum: to the lovers of truth and peace, heart-divisions opened in the causes and evils of them* (London, 1646), pp. 286-2867.

conceived of as amnesty, helped to foster reconciliation on two levels. On the one hand, it protected the state's opponents from punishment for their actions against the Parliament, ~~while~~ ~~On~~ the other, it sought to prevent individual citizens from pursuing each other for offences committed in the course of the wars.

During the conflict, the King had repeatedly – if unsuccessfully – proffered his opponents a free pardon in return for their obedience. Like Spencer, he appealed to both precedent and pragmatism, arguing that ‘after intestine trouble, the wisdom of this and other kingdoms hath usually and happily, in all ages, granted general pardons, whereby the numerous discontentments of many persons and families otherwise exposed to ruin might not become fuel to new disorders, or seed of future troubles’.<sup>25</sup> ~~Though~~ in their negotiations with the King the Parliament had opposed extending a pardon to those who were in league with Charles I or were already under Parliamentary investigation. ~~However~~, when it came to settling the English nation on their own terms they were keenly aware that to continue to penalise their erstwhile enemies – or allow other citizens to do so – would only ~~serve to~~ fuel further resistance. As the MP for Surrey, Francis Drake, put it, the Act of Oblivion was ‘the best expedient to procure our peace, and quiet the spirits of our enemies’.<sup>26</sup>

However, despite lofty claims that oblivion aimed to ‘take away all seeds of difference and separation’, such that the ‘hearts of the Nation, unhappily divided, might chearfully and affectionately meet in mutual Interest’, the ~~Act~~ included a lengthy list of conditions and exceptions.<sup>27</sup> The terms of these restrictions varied, and ~~are~~ ~~reveal~~ ~~ing of~~ some of the constraints that the government faced, and goals it sought to achieve, in its attempts to foster reconciliation. Perhaps most significantly, the benefits of oblivion were only to be extended to those citizens who had taken the Engagement oath, or who did so before the 1st February 1653. This ~~oath~~ required adult citizens to pledge their allegiance to the Commonwealth state ‘as it is now Established’, without demanding their approbation for the events of the recent past.<sup>28</sup> By excluding those who refused to subscribe to this relatively generous formulation, the government ~~looked~~ ~~sought~~ to persuade its enemies to formally accept the new regime, while also retaining the right to pursue some of its more intransigent opponents. Other clauses that served to help maintain state security included the exclusion of those who were already imprisoned by the direction of the Parliament or Council of State prior to January 1651, people held as prisoners of war, and the exemption of ‘all maner of High Treasons’ and levying of wars, rebellions, and conspiracies against the government since the King’s execution (bar crimes of speech).<sup>29</sup> This latter condition ensured that the government retained the right to bring charges against those who had raised troops against the state during the third Civil War.<sup>30</sup>

<sup>25</sup> Samuel Rawson Gardiner, *The Constitutional Documents of the Puritan Revolution, 1625-1660* (Oxford: Clarendon Press, 1906), p-315.

<sup>26</sup> John Rutt, (ed.), *Diary of Thomas Burton esq., member in the parliaments of Oliver and Richard Cromwell, from 1656 to 1659*, 3 vols (London: H. Colburn, 1828), i, p-314.

<sup>27</sup> Anon, *A declaration of His Highnes by the advice of his council shewing the reasons of their proceedings for securing the peace of the Commonwealth upon occasion of the late insurrection and rebellion* (London, 1655), pp-4-5.

<sup>28</sup> ‘An Act for Subscribing the Engagement’ in *Acts and Ordinances*, ii, pp-325-329.

<sup>29</sup> ‘An Act of General Pardon and Oblivion’, in *Acts and Ordinances*, ii, p-568.

<sup>30</sup> In fact, very few people were prosecuted for their involvement in the third Civil War after the passage of the ~~Act~~. One notable exception was the execution of the notorious highwayman and Royalist James Hind, who,

Other offences ~~that were~~ exempted included the embezzlement and detainment of public money, non-payment of certain taxes and debts, and ‘Imbezelling or Purloining’ the goods of the late King and his family.<sup>31</sup> To pardon these acts would have had serious financial ramifications for the already cash-strapped government. The King’s goods, for example, were, under the terms of a 1649 ~~Act~~, considered forfeit and the government used the ~~finerich~~ collection of paintings, furnishings, and other possessions that they had inherited to pay their substantial debts and raise money for the state’s military forces.<sup>32</sup> Thus, ~~goods~~ belongings ~~of the~~ the royal family taken without consent or payment denied the government valuable ~~incomefunds~~, and could not be allowed to pass into oblivion. Financial pressures also ensured that the ~~Act~~ did not relieve former Royalists of their duty to pay fines on lands that had already been sequestered prior to 1 December 1651. Under the terms of the Sequestration Ordinances of 1643 and 1644, Royalist estates valued at over £200 had been confiscated, and their rents paid to the Parliament until the owner (if eligible) had paid a fine proportional to their value, known as a composition.<sup>33</sup> While the ~~Act~~ drew a temporary halt to new sequestrations, this clause ensured that the government did not lose revenue from estates that had already been confiscated, and avoided the complicated —and costly— process of returning ~~to their original owners~~ estates that were either awaiting composition or had been sold on ~~back to their owners~~.<sup>34</sup>

Murder, petty treason, buggery, piracy, rape, witchcraft, bribery, perjury, and offences made a felony by ~~the the passage of the recent~~ ~~Act~~ ‘to restrain all persons from Marriage until their former ~~W~~wives and ~~former H~~usbands be dead’ were also excluded.<sup>35</sup> In part, these exemptions may reflect the government’s desire for moral and religious reform, and its unwillingness to pardon ‘~~De~~testable and ~~A~~abominable’ vices such as buggery.<sup>36</sup> Equally, however, while many such offences had undoubtedly occurred *during* the wars, they had not occurred *because* of them – such crimes were not a direct consequence ‘of the late Troubles [...] or publique Differences between the late King and Parliament’.<sup>37</sup> Many thefts, by contrast, could be intimately connected to the wars. ~~S~~During their course supplies had ~~often~~ been requisitioned, ~~horses borrowed~~, and lead ~~objects stolen and melted~~ ~~objects melted~~ for bullets, a situation that helps to explain why, unlike other apparently apolitical crimes, this particular felony was not explicitly exempted. During the 1640s, the experience of the Indemnity Committee had thrown into sharp relief the difficulties that arose when attempting to distinguish between acts committed in the service of the Parliament and acts committed for

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having received a reprieve from manslaughter under the terms of oblivion, was executed for high treason in September 1652.

<sup>31</sup> ‘Act of General Pardon and Oblivion’, in *Acts and Ordinances*, ii, p. 571.

<sup>32</sup> ‘An Act for sale of the goods and personal Estate of the late King, Queen and Prince’, in *Acts and Ordinances*, ii, pp. 160–168. For further discussion of the implications of this legislation see Jerry Brotton, *The Sale of the Late King’s Goods: Charles I and his Art Collection* (Basingstoke: Pan Books, 2007).

<sup>33</sup> ‘An Ordinance for sequestering notorious Delinquents Estates’, in *Acts and Ordinances*, i, p. 106; ‘An Ordinance for Explanation of a former Ordinance for Sequestration of Delinquents Estates with some Enlargements’, in *Acts and Ordinances*, i, pp. 254–260; and ‘An Ordinance for the better execution of the former Ordinance for Sequestration of Delinquents and Papists Estates’, in *Acts and Ordinances*, i, pp. 437–441. About 60 named delinquents, all Catholic recusants in the King’s army, and all participants in the 1641 Irish rebellion were denied pardon by the Parliament’s peace propositions and therefore could not compound.

<sup>34</sup> Hardacre, *The Royalists During the Puritan Revolution*, p. 93.

<sup>35</sup> ‘Act of General Pardon and Oblivion’, *Acts and Ordinances*, ii, pp. 568–569.

<sup>36</sup> Ibid; Bernard Capp, *England’s Culture Wars: Puritan Reformation and Its Enemies in the Interregnum, 1649–1660* (Oxford: Oxford University Press, 2012), pp. 132–151.

<sup>37</sup> ‘Act of General Pardon and Oblivion’, in *Acts and Ordinances*, ii, p. 574.

private gain.<sup>38</sup> By pardoning all thefts, the government removed the need to try and untangle the “real” motivation behind a particular act.

Perhaps unsurprisingly, given the lengthy list of exceptions, the Act of General Pardon and Oblivion received short shrift from many of the state’s Royalist opponents. One satirical pamphlet sarcastically asked its readers to consider ‘whether the Cavaliers are not infinitely obliged to the State for the Act of Oblivion, which in the beginning forgives all, in the middle some, and in the end none?’<sup>39</sup> Others poked fun at the provisions surrounding sequestration. In 1652, a satirical list of acts included ‘An Act of *Oblivion* for Malignants to forget that ever they had Estates’, while the ballad *Upon the general pardon pass’d by the Rump* observed that ‘where there’s money to be got / I find this Pardon pardons not / Malignants that were rich before / Shall not be pardon’d till they’re poor.’<sup>40</sup>

In addition to the limitations embedded in the [Act](#) itself, there can be little doubt that the professed aims of oblivion were in conflict with other measures introduced by the government, many of which placed considerable constraints on former Royalists. In the arena of office holding, for example, an ordinance of 1647 forbade any person who had fought for or aided the King from holding municipal posts in corporate towns ‘without the allowance of both Houses of Parliament’, or from acting as electors in these contests.<sup>41</sup> While initially intended as a temporary measure, this provision was renewed again in October 1652 with an extended scope that precluded persons ‘who hath been aiding or assisting the late King’, were subject to sequestration, or were otherwise ‘Enemies of the Parliament’ from being selected for any ‘office or place of trust’, or from voting in these contests.<sup>42</sup>

To justify these restrictions, the government’s supporters appealed both to practical considerations, primarily the need to maintain state security, and to the precedent set by earlier states – for, in early modernity, nothing helped to lend an action legitimacy quite like demonstrating that it was old.<sup>43</sup> In the spring of 1652, one edition of the newsbook *Mercurius Politicus* deployed both strategies. Defending the ongoing limits on office holding, and particularly the exclusion of former Royalists from the Parliament, it argued that to readmit ‘the *Old Enemy*’ to power would be ‘the ready way to destroy the Government, and by a promiscuous mixture of opposite interests, to turn all into Confusion’.<sup>44</sup> It went on to note that ‘according to the Law and *Custom of Nations*; that such as have commenced war, to serve the lusts of Tyrants against the People’s interest, should not be reckoned any longer a part of the People, but may be handled as *Slaves* when subdued’.<sup>45</sup> As examples, it cited the [‘old Common-wealths of Greece’ and the treatment of those who had sided with the Tarquins](#)

<sup>38</sup> John A. Shedd, ‘Thwarted Victors: Civil and Criminal Prosecution against Parliament’s Officials during the English Civil War and Commonwealth’, *Journal of British Studies* 41, no. 41-2 (2002), 139-169.

<sup>39</sup> Anon., *Paul’s churchyard. Libri theologici, politici historici, nundinus Paulinis (una cum templo) extant venales* (Unknown, [1652]), p. 19 [mispaginated, actually p. 3].

<sup>40</sup> Anon., *Paul’s Church-yard. Libri theologici, politici, historici, nundinus Paulinis (unà cum templo) prostant venales* (London, 1652), sig. B2r. William Walter Wilkins, (ed.), *Political Ballads of the Seventeenth and Eighteenth Centuries*, 2 vols (London: Longman, 1860), i, p. 98.

<sup>41</sup> ‘An Ordinance for disabling Delinquents to bear Office, or to have any voyce in the election of any’, in *Acts and Ordinances*, i, pp. 1023-1025 (p. 1023).

<sup>42</sup> ‘An Act for disabling Delinquents to bear Office, or to have any Voice or Vote in Election of any Publique Officer’, in *Acts and Ordinances*, i, pp. 620-621.

<sup>43</sup> Judith Pollmann, *Memory in Early Modern Europe, 1500-1700* (Leiden, 2017), pp. 54-60.

<sup>44</sup> *Mercurius Politicus*, 11 March-18 March, no. 93 (London, 1652), p. 1458.

<sup>45</sup> *Ibid.*, p. 1459.

against the Roman republic, classical states of Greece, Rome, and various Italian city states, a reading of history that was in sharp contrast to the use of the Athenian example to buttress oblivion.<sup>46</sup> According to *Mercurius Politicus*, the right of domination that was bequeathed by foreign conquest might equally be applied to domestic opponents, and, as a result, the King's supporters should consider themselves lucky to have retained any rights at all.

Indeed, some of the Commonwealth's own supporters were of the view the Act of Oblivion was, if anything, rather too lenient. One local commissioner complained that the 1652 Act 'exceedingly heightens the spirits of the enemy, and makes them jeer at those whom they have wronged', and while several aldermen from Carlisle observed that its passage had 'animated the spirits of the malignant partie'.<sup>47</sup> In 1653, the anonymous author of the pamphlet *A letter written to a Christian friend* likened the Act of Oblivion to Agag and the 'sparing [of] many of the fat cattle'.<sup>48</sup> In the book of Samuel, Saul's decision to spare Agag and his cattle, in direct contravention of divine orders, provoked God's ire.<sup>49</sup> For this writer, the By comparing the defeat of the King's party to the defeat of Agag and the Amalekites, this writer implied that the imposition of a harsh settlement on the Royalists was justified, and and that any attempts to favour them were an affront to God, who had given the victory to the Parliament. Such providential interpretations of the recent past were widespread in republican England, and go some way to explaining why, though the Commonwealth sought to reintegrate former Royalists, it was not averse to memorialising the Parliament's victories in other ways, from hymns and histories to the naming of warships.<sup>50</sup>

For others, the main source of their chagrin was seeing members of the defeated party prosper, while many of the Parliament's own supporters continued to face financial hardship. As two county commissioners from Devon put it, oblivion was a measure that favoured those 'sons of violence, who have enriched themselves by the spoil of poor sufferers', particularly as it discharged Royalists who had not yet been sequestered from paying composition fines on their estates.<sup>51</sup>

Dissenting voices also ~~Others~~ maintained that crimes committed by the Parliament's enemies during the wars should not simply be wiped clean. For William Knight, a minister from York, the execution of the Parliamentarian officer 'Beef' Thompson by the Royalist general Sir Hugh Cholmley of Whitby was one such incident. According to Knight, Cholmley had hanged Thompson in cold blood after he refused to defect from the Parliament. He concluded that if there be 'holes in the *Act of Oblivion* to let *lesser fish* escape' he hoped that there would be 'none big enough for this *Leviathan* of *Whitbey*'; For I see no reason but inquisition may be made for this blood'.<sup>52</sup> Such criticisms illustrate the hostility towards the 1652 Act from Parliamentarians as well as Royalists. Even this relatively restricted pardon was not

<sup>46</sup> Ibid., pp. 1459-1460

<sup>47</sup> Mary Anne Everett Green, (ed.), *Calendar of the Committee for Compounding*, (London: Her Majesty's Stationery Office, 1889), vol. G 257 Feb 1652, p. 549; The National Archives, SP 18/123, f. 100.

<sup>48</sup> Anon, *A Letter Written to a Christian Friend* (London, 1653), p. 9.

<sup>49</sup> 1 Samuel 15.

<sup>50</sup> For further discussion of these aspects of aspects of republican memorial culture see my forthcoming book *Recollection in the Republics*.

<sup>51</sup> Green (ed.), *Calendar of the Committee for Compounding*, vol. G 257 Feb 1652, p. 543.

<sup>52</sup> William Knight, *The Case and Vindication of William Knight* (London, 1653), p. 19. For another objection to oblivion that derives from its leniency see Anon, *Hypocrisie Discovered* (London, 1655), p. 3.

popular with all Commonwealth supporters, many of whom wanted to see their defeated enemies suitably punished.

## II.

In December 1653, following rising tensions within the Little or 'Barebones' Parliament, the Commonwealth government was replaced with a Protectorate. Its constitution, the *Instrument of Government*, laid out the executive powers that were to be vested in a Lord Protector and Council of State, and specified who might vote for, and serve as, an MP, including a rather expansive requirement that all candidates should be of 'known integrity, fearing God, and of good conversation'.<sup>53</sup> On the issue of former Royalists, however, the Protectorate ~~system~~ was rather more lenient than its predecessor. Instead of barring all those who had supported the King from sitting or voting, the Instrument made provision for the inclusion of those men who had been 'since in the ~~Parlaments Service~~~~service of Parliament~~, and given signal ~~T~~estimony of their good ~~A~~ffections thereunto'.<sup>54</sup> After three successive triennial Parliaments this was to be extended to all eligible men, except Roman Catholics and those involved in the 'barbarous and bloody' Irish rebellion, a limitation which suggests that some acts were thought to lie beyond the realms of what might ever be forgiven and forgotten.<sup>55</sup> The purpose of this formulation was to ~~make ensure that a~~ 'fitting provision' ~~was made for maintaining ensuring that~~ power ~~lay~~ 'in the hands of those who have approved themselves faithful'.<sup>56</sup> ~~while At~~ at the same time, ~~it also aspired to ensure ensuring~~ that a 'just and probable foundation is laid for extinguishing all animosities, and putting into oblivion the memory of all those Feids ~~[sic]~~ and divisions contracted by Civil War'.<sup>57</sup> In his speech to the first Protectorate Parliament in September 1654, Lord Protector Cromwell laid a similar emphasis on reconciliation. Though the date of the Parliament's first sitting was ~~the 3<sup>rd</sup> of~~ September ~~3<sup>rd</sup>~~, the anniversary of the state's decisive victory at Worcester, Cromwell self-consciously avoided recalling the divisions of the recent past. ~~Rather, he, -exhorteding~~ the House to focus instead on what he judged 'to be the end of your meeting', namely, the task of 'Healing, and ~~Settling~~' the nation.<sup>58</sup>

However, any further moves towards the reintegration of the King's former supporters into the political nation came to an abrupt halt when, in the early months of 1655, the government unearthed a Royalist plot to overthrow the republic and restore the King.<sup>59</sup> Though the uprising ~~itself~~ was poorly coordinated and swiftly suppressed, it hardened the authorities' approach towards ~~s~~ their erstwhile opponents, prompting a series of reprisals against former Royalists, regardless of whether they had been actively involved in the rebellion. These

<sup>53</sup> Gardiner, *Constitutional Documents*, p. 411.

<sup>54</sup> Anon, *A True state of the case of the Commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging; in reference to the late established government by a Lord Protector, and a Parliament* (London, 1654), 31. ~~Ibid.~~, p. 410.

<sup>55</sup> ~~Ibid.~~ Anon, *A True state of the case of the Commonwealth of England, Scotland, and Ireland, and the dominions thereto belonging; in reference to the late established government by a Lord Protector, and a Parliament* (London, 1654), p. 31.

<sup>56</sup> ~~Ibid.~~, 32.

<sup>57</sup> ~~Ibid.~~, p. 32.

<sup>58</sup> Anon, *His Highnesse the Lord Protector's speeches to the Parliament in the painted chamber, the one on Munday the 4th of September* (London, 1654), pp. 4-5.

<sup>59</sup> For accounts of this incident see Austin Woolrych, *Penruddock's Rising, 1655* (London: [Historical Association](#), 1955) and David Underdown, *Royalist Conspiracy in England, 1649-1660* (New Haven: [Yale University Press](#), [Hamden: CT](#), 1960).

included orders that all individuals who had been in arms against Parliament during the wars should leave London, its lines of communication, and all places within twenty miles of these lines, unless it was their place of residence.<sup>60</sup> A new county militia was established ~~with~~ the country ~~was~~ divided into ten regions, each governed by a Major General, who ~~was~~ ~~o~~ was responsible for suppressing unlawful assemblies, disarming Royalist malignants, and generally maintaining state security.<sup>61</sup> To fund this system the Protector and the Council of State introduced a new charge, known as the decimation tax. This required all those who had fought for the King, or had been sequestered, to pay an annual levy of 10% on lands worth over £100 a year, and £100 on every £1,500 of personal property.<sup>62</sup> In some cases, immunity was granted to those who could prove that they had abandoned the King's interest and were above suspicion of complicity in the recent plots. In October 1656 the London merchant Sir George Pratt successfully convinced Major General Goffe of his loyalty to the republican state and was granted an exemption, though many more who tried the same tactic were unsuccessful.<sup>63</sup> These new measures, and particularly the decimation tax, placed the Act of General Pardon and Oblivion back at the centre of political debate.

Many Royalists, aggrieved at being required to bear the costs of their own repression, argued that the imposition of decimation was contrary to oblivion. Sir John Monson, one of the King's former commissioners, refused to pay the tax on the grounds that the 1652 Act freed him from any further retribution for his wartime actions and that, since he had submitted to the government since the war, it was unjust for them to demand further fines.<sup>64</sup> His objections cut little ice with Major General Whalley: he was confined to his house where fifty soldiers were quartered, with the threat of five hundred more if he did not submit. In a verse addressed to the assessors at Penrith and signed '*Your most devotionall decimated Servant*', the poet Richard Braithwaite implored the authorities to reduce his charges and to maintain:

The *Bounty* and great *Pity* you have showne  
To *State-Delinquents*! when with face to face  
They'r look'd upon like *Children of Grace*.  
As th' late *Act of Oblivion* seem'd to approve,  
That we were all One Familie of love.<sup>65</sup>

<sup>60</sup> Anon, *A proclamation commanding all persons, who have been of the late Kings party, or his sons, to depart out of the cities of London and Westminster* (London, 1655).

<sup>61</sup> Christopher Durston, *Cromwell's Major-Generals: Godly Government During the English Revolution* (Manchester: Manchester University Press, 2001), p. 5.

<sup>62</sup> Mary Anne Everett Green, ed., *Calendar of State Papers Domestic: Interregnum, 1655* (London: Her Majesty's Stationery Office, 1881), pp. 346-347. For discussion of the implementation of decimation see J. T. Cliffe (ed.), 'The Cromwellian Decimation tax of 1655: The Assessment lists', *Royal Historical Society Camden, Fifth Series*, 7 (1996), 403-492.

<sup>63</sup> Mary Anne Everett Green, ed., *Calendar of State Papers Domestic: Interregnum, 1656-7* (London: Her Majesty's Stationery Office, 1883), p. 218, 134.

<sup>64</sup> Mary Anne Everett Green, ed., *Calendar of State Papers Domestic: Interregnum, 1655-6* (London: Her Majesty's Stationery Office, 1882), p. 50; Margaret Verney, *Memoirs of the Verney Family*, 3 vols. (London: Longmans, Green and Co., 1894), iii, p. 258.

<sup>65</sup> [Richard Braithwaite], *An Excellent Piece of Conceipted Posey* (London, 1658), p. 307.

That is, to implement decimation was to undermine the ‘Bounty’, ‘Pity, and ‘Grace’ of oblivion, virtues that ~~did much to~~ commended the republican state both to foreign nations and to God. For Braithwaite, the oblivion statute was a monument to the government’s mercy more enduring than ‘Marble, Topaz, Ivory, Thracian Stone’, one that they should not sully with ill-judged attempts to impose new taxes on their former enemies.<sup>66</sup> While there is a ~~certain~~ irony in ~~the fact that~~ Braithwaite’s verse transforming ~~ed~~ an ~~act~~ of forgetting into a permanent memorial to the state’s virtues, he articulated the contradiction that many Royalists perceived between the pardon ~~proffered~~ by oblivion and the imposition of charges based purely on their Civil War allegiance.

According to the pamphlet, *A letter from a true and lawful member of Parliament*, published anonymously by Edward Hyde, chief minister to the exiled Charles Stuart, any attempt to infringe upon oblivion was not solely the concern of Royalists: it was also a threat to the wider English populace. The argument Hyde presented was three-fold, and ~~was~~ clearly intended to stir up divisions among the republic’s supporters as much as to animate its Royalist opponents.

First, ~~Hyde~~ reminded his readers that it was not just Royalists who were the beneficiaries of oblivion, but all participants in the wars, ~~especially particularly~~ ‘Agitators of the Army’ and other members of the Parliamentary forces who had disobeyed their officers.<sup>67</sup> The pardon offered by oblivion, Hyde argued, was the only thing that gave these men any assurance that ‘they should not lose their heads to morrow’, and any infringement of its terms should be seen as a threat to all who might have cause to fear ~~if it was~~ ~~were it to be~~ revoked.<sup>68</sup>

Second, Hyde explicitly rejected the claim, common in pro-government defences of decimation, that the Act of Oblivion was conditional: —that it had offered a pardon in return for obedience, ~~and~~ had thus been rendered null and void when the Royalists had chosen to rebel.<sup>69</sup> For ~~him~~ Hyde, ‘nothing [was] more absolute, nothing less conditional, than an Act of Oblivion, which wipes out all that is past, without the least prospect to come’.<sup>70</sup> He likened the pardon proffered by oblivion to pardons granted for other offences, noting that if a person ~~was~~ ~~were to be~~ given a pardon for treason, and then went on to commit a new offence, they still could not be condemned for their previous crime; to do so would be to make a mockery of the very notion of a pardon.

~~Finally~~ ~~Third~~, Hyde objected to the fact that the new fiscal measure punished all the King’s supporters for the misdemeanours of only a handful of their former comrades. This, he argued, was not so much against oblivion as it was ~~contrary to~~ ~~against~~ the basic legal principle that no man should be punished unless his offence could be proved by credible witnesses.

It is clear from the debates that occurred in the Commons in the winter of 1656-7 that some members of the newly elected Protectorate Parliament had some sympathy with Hyde’s

<sup>66</sup> Ibid.

<sup>67</sup> [Edward Hyde], *A letter from a true and lawfull member of Parliament* (Unknown, 1656), p. 43.

<sup>68</sup> Ibid.

<sup>69</sup> See, for example, *A Declaration of His Highnes by the advice of his council shewing the reasons of their proceedings for securing the peace of the Commonwealth upon occasion of the late insurrection and rebellion* (London and Edinburgh, 1655), pp. 6-7; Richard Flecknoe, *The Idea of His Highness Oliver, Late Lord Protector* (London, 1659), pp. 45-46.

<sup>70</sup> [Hyde], *A letter*, p. 40.

objections. In December 1656, John Desborough, MP and the Major General for the West Country, sought to make the decimation tax permanent, a proposal that threw into sharp relief the cleavages within Parliament over the levy's legitimacy.<sup>71</sup> ~~While M~~most MPs agreed that, in the heat of rebellion, the Major Generals had been justified in their sometimes oppressive efforts to secure the state. ~~But~~—they were rather more ambivalent about establishing decimation on a permanent basis, not least because to do so would be contrary to the terms of the Act of Oblivion. Lord Claypole, for example, commented that he could not see how the tax could be implemented without violating oblivion, 'For, by the Bill, you punish men wholly for an offence before committed. It lies altogether upon retrospection'.<sup>72</sup> ~~On~~ this interpretation, the pardon ~~granted offered~~ by oblivion not only protected individuals from prosecution for their wartime activities; it precluded any future attempt to penalise former Royalists on the grounds of their wartime service. Thomas Bampffield made a similar case. Appealing to the biblical story of the Gibeonites, who tricked the Israelites into covenanting to live peacefully with them, he pointed out that when Saul broke this covenant and murdered the Gibeonites God sent a great famine. This case, he argued, ran 'parallel with the case of the Cavaliers. There was deceit used to gain that league'—but, even so, the Parliament should honour their commitments, or risk ~~incuringvoking~~ the wrath of God.<sup>73</sup>

For others, their main concern was less the infringement of oblivion than the perceived injustice of holding all men responsible for the actions of a few, which they regarded as contrary to the rule of law. John Trevor was rather more pragmatic, appealing principally to the ~~emotional~~ effect that extending decimation would have on their enemies. 'We do but harden and strengthen them against us', he warned, 'and oblige them to perpetual enmity'.<sup>74</sup>

Debates over the legitimacy ~~of~~ decimation were by no means the sole preserve of those who sat in Parliament. In January 1657, three men – John Pellett, Colonel Culpepper, and Henry Woodcocke – became embroiled in a heated debate on the subject in ~~an inn in~~ Lewes ~~inn~~. Hearing Culpepper curse 'The plague of God take the decimators, and all that devised the decimation', Pellett ~~defended weighed in in~~ the government's ~~position~~defence.<sup>75</sup> This prompted Woodcocke to ask Pellett if he would 'justify decimation, since it was after the act of oblivion and composition'.<sup>76</sup> ~~to which~~ Pellett replied that 'the parliament did not admit them [the Royalists] to composition, and pass the act of oblivion, to render the cavaliers able to cut the parliament's own throats'.<sup>77</sup> Further ~~exchanges insults~~ followed and the dispute ended in a violent confrontation between Woodcocke and Pellett. Though their language was ~~more colourful rather more aggressive~~, there are clear parallels between the ~~arguments put forward by these two men arguments proffered by Woodcocke and Pellett~~ and those that echoed through Parliament.

Ultimately, those MPs who opposed the entrenchment of decimation prevailed and Desborough's proposal was defeated. Nevertheless, these debates over decimation and its relationship to oblivion cast light on some of the complexities and ambiguities within the

<sup>71</sup> John Towill Rutt, (ed.), *Diary of Thomas Burton, Esq.*, 4 vols. (London, 1828), i, pp. 228-243.

<sup>72</sup> Ibid., p. 310.

<sup>73</sup> Ibid., p. 238.

<sup>74</sup> Ibid., p. 315.

<sup>75</sup> Thomas Birch, (ed.), *A Collection of the State Papers of John Thurloe*, 5 vols (London: Printed for Thomas Woodward and Charles Davis, 1742), v, pp. 772-784 (p. 780).

<sup>76</sup> Ibid., 780.

<sup>77</sup> Ibid., p. 780

~~A~~act, as well as the different ways that its purpose might be understood. Was its pardon conditional upon good behaviour? ~~O~~ffered ~~to collectively to the~~ Royalists as a ~~collective group~~, or to each individual? ~~R~~Restricted to prosecution, or to all forms of retrospective punishment? ~~Was oblivion a~~ ~~A~~-device designed to persuade Royalists to live quietly, or a genuine commitment to consign wartime divisions to the past? Despite – or perhaps because of – its significant length there were aspects of the ~~A~~act that remained open to ~~a degree of~~ interpretation. It is to some of the confusion that surrounded the ~~application~~ ~~and~~ implementation of oblivion that this chapter shall now turn.

### III.

In the weeks and months immediately following the passage of the 1652 Oblivion Act, the central authorities received a flurry of requests from various ~~c~~ounty committees ~~whiche~~ sought to clarify its effect on their business. As early as ~~13~~ March ~~13<sup>th</sup>~~, two weeks after the ~~A~~act became law, the County Committee in Gloucester wrote to the ~~C~~entral Committee for Compounding. They explained that the ~~A~~act had left them unsure about several aspects of their work, not least what to do about those persons whose estates had not yet been secured, but against whom they had many proofs of delinquency, procured at ‘great trouble and expense’ by prosecutors who had expected to see them brought to justice.<sup>78</sup> A marginal note on their letter indicates the Committee’s response: that all persons were discharged whose delinquency had occurred prior to the foundation of the republic, regardless of how much evidence the prosecutors had assembled against them. Similar queries were filed by several other county committees, and in April 1652 the central Committee issued the local Committees with formal guidance, requesting that all officials read it carefully and remain vigilant, ‘for many will plead the Act who have no right to it’.<sup>79</sup> The Committee for Plundered Ministers, which was, in part, responsible for investigating and removing malignant ministers, was similarly vexed. In May 1652, ~~it~~~~they~~ wrote to the government, complaining that in recent months ~~it~~~~they~~ had been forced to adjudicate on the cases of several ministers who pleaded the benefit of oblivion in their defence, and requesting guidance on its relevance to their judgements.<sup>80</sup>

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Such uncertainty persisted ~~into~~ well into the 1650s. In August 1654, the government issued an ordinance ‘for ejecting scandalous, Ignorant, and insufficient Ministers and Schoolmasters’, appointing ~~c~~ommissioners for each county with responsibility for investigating and removing individuals deemed inadequate.<sup>81</sup> Two years after their appointment, the Cheshire commissioners wrote to the Council, seeking advice on how to proceed in the case of John Smith, minister of Barthomley. According to local residents, Smith was ‘scandalous and unqualified’ to serve as their minister on account of his sexual impropriety, quarrelsome nature, and desertion of the Parliament’s cause at the Battle of Worcester.<sup>82</sup> However, as both Smith himself and the commissioners noted, many of these

<sup>78</sup> Green, *Calendar of the Committee for Compounding*, vol. G 257 March 1652, ~~p~~-557.

<sup>79</sup> Ibid., vol. G 258 April 1652, ~~p~~-569.

<sup>80</sup> *Journal of the House of Commons: Volume 7, 1651-1660*, (London, 1802), ~~p~~-130.

<sup>81</sup> ‘August 1654: An Ordinance for ejecting Scandalous, Ignorant and insufficient Ministers and Schoolmasters.’, in *Acts and Ordinances*, ii, ~~pp~~-968-990.

<sup>82</sup> The National Archives, SP 18/100, f. 235.

offences had occurred prior to the Act of the Oblivion.<sup>83</sup> The council responded in no uncertain terms, ~~that the~~ ‘Act of Generall Pardon and Oblivion is not at all concerned therein either one way or other’, ~~they wrote~~, and ~~that the~~ ~~commissioners~~ were free to commence a ‘full and indifferent examination’ of the articles that had been presented against him.<sup>84</sup>

Nevertheless, ministers facing removal from their livings continued to appeal to oblivion. In 1656, John Hamilton, minister of Hurworth on Tees, in Durham, petitioned the Council of State to intervene on his behalf against the local commissioners’ efforts to eject him. He ~~maintained argued~~ that though he was charged with seditious words these utterances had been spoken seven or eight years earlier and that ‘things of that nature were buried in oblivion by publicke Act or Ordinance’.<sup>85</sup> In their defence, the commissioners responded that Hamilton was not charged only with seditious words but with drunkenness ~~too~~, and that ‘that Act [i.e. Oblivion] doth not pardon drunkenness, quarrelling, and fighting in a Minister’ – and, even if it did, he had in any case been drunk twice since the Act was passed.<sup>86</sup>

Nor was it just the members of local committees who were troubled by the ~~interpretation and~~ implications ~~and correct interpretation~~ of oblivion. Local quarter session officials also found themselves ~~obliged having~~ to judge whether a particular offence fell under the terms of the Act, both substantively and temporally. That this was not always entirely straightforward is evident from the notes that accompanied a series of informations given against the Somerset man John Tirrell in November 1652. According to two witnesses, Tirrell had told them that, on ‘May Day last’, he had gone out into the marsh fields, stripped naked, and rolled around in the dew, before going on to have carnal knowledge of three women, none of whom was his wife.<sup>87</sup> The information of a third witness, John Question, referred to an ~~more recent~~ incident ~~–~~ which had occurred only six weeks before, when Tirrell had tried to persuade one of his ~~female~~ neighbours to ‘come to my house and see wheither thou canest make me A Cuckold’.<sup>88</sup> On the surface, it appeared that Tirrell might be guilty of a number of offences, from adultery and fornication to scandalous words and disorderly behaviour. ~~However, The justices, however, remained unsure, and in~~ a note accompanying the informations the ~~justice~~ recorded that Tirrell had, for now, been bound to good behaviour, rather than indicted, because only one of these witnesses (presumably Question) proved that these acts had occurred ‘sithince the act of oblivion’.<sup>89</sup> With fines provided for those who violated the ~~Act~~ such careful consideration was perhaps not uncommon, ~~albeit though~~ explicit references to oblivion in quarter sessions papers are rare, ~~—~~ presumably because the validity of most cases was established before they reached ~~this stage court~~.

As well as adding a new layer of complexity and confusion to various legal and administrative proceedings, the terms of oblivion also ~~gave offered~~ some unscrupulous citizens an opportunity to evade punishment for prior misdeeds, much to the consternation of their victims. This chapter opened with the case of the Essexman John Kendall, who, having

<sup>83</sup> The National Archives, SP 18/100 f. 233, SP 25/76, f. 277.

<sup>84</sup> The National Archives, SP 25/76, f. 277.

<sup>85</sup> The National Archives, SP 18/123 f. 13.

<sup>86</sup> The National Archives, SP 18/123 f. 14.

<sup>87</sup> Somerset Record Office, Q/SR/85 f. 31.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

been too busy prior to the Act of Oblivion to pursue a prosecution against his troublesome spoon thief, Hollenshead, could no longer seek any legal redress for this [alleged](#) offence, as the glazier was well aware. The following year, several men from Cheshire gave evidence to their local quarter sessions about a former resident of that county, Roger Botley. Botley, they claimed, had been outlawed for burglary some ten years earlier and had not been seen in the county until the Act of Oblivion 'had p[ar]doned all offences of that kind', at which time he appears to have returned, alarming his former neighbours.<sup>90</sup> The clauses of the [Act](#) that concerned the treatment of outlaws were complex, and varied depending both on the crime (those outlawed for murder, petty treason, and wilful poisoning were expressly exempted) and on the terms and process of the original expulsion. Nevertheless, both Botley and the Cheshire residents clearly believed that the terms of the 1652 [Act](#) had absolved him. Oblivion was a measure designed to heal and settle the divisions caused by years of domestic conflicts,<sup>91</sup> but, by offering a pardon for a relatively wide range of crimes, it might also become embroiled in or re-ignite local disputes and tensions.

#### IV.

On [3](#) September [3<sup>rd</sup>](#) 1658, the anniversary of his decisive victories at both Dunbar and Worcester, Lord Protector Cromwell died. He was succeeded by his son, Richard, but within the year the new Lord Protector was removed, ~~and~~ there followed a period of acute political instability, as several new regimes were established and then fell in quick succession. In May 1660, this uncertainty was brought to an end by the Restoration of the exiled Charles II.

Prior to his return, Charles had promised his future subjects a general pardon for acts committed during the previous two decades. ~~This, an offer that~~ helped to reassure many of his erstwhile enemies that they had nothing to fear from a restored monarchy. In August, the second [Oblivion Act](#) of the decade passed into law, furnishing all but a handful of the regicides with a pardon for 'all manner of Treasons, Misprisions of Treason, Murthers, Felonies Offences Crimes Contempts and Misdemeanors Councel'd Comanded Acted or done since the first day of January in the yeare of our Lord One thousand six hundred thirty seven'.<sup>91</sup> In common with the 1652 [Act](#), its text expressed a 'heartly and pious Desire to put an end to all Suites and Controversies' between subjects, and to ~~b~~ury all Seeds of future Discords and remembrance' in oblivion.<sup>92</sup>

However, the 1660 Act differed from its predecessor in one crucial respect. ~~It~~ it contained not just a general aspiration that the animosity of the past be forgotten and the conditions of the pardon, but [in addition](#) a provision that anyone who 'within the space of three yeares next ensueing shall presume maliciously [sic] to call or alledge of, or object against any other person or persons any name or names, or other words of reproach any way tending to revive the memory of the late Differences or the occasions thereof' could be subject to financial

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<sup>90</sup> Cheshire Record Office, QJF 81/2, f. 155.

<sup>91</sup> 'An Act of Free and General Pardon Indemnity and Oblivion', in *Statutes of the Realm: Volume 5, 1628-1680*, (London, 1819), pp. 226-234.

<sup>92</sup> Ibid., p. 226.

penalties.<sup>93</sup> People were ~~not~~ just prevented from prosecuting their neighbours for wartime actions: they were forbidden even to speak of them.

In her comparative study of three early modern oblivion acts, Judith Pollmann has argued that part of the purpose of these measures was to produce a narrative that by ‘bracketing off and “forgetting”’ one part of the past, encouraged people to reinvent a new form of continuity between past and present.<sup>94</sup> By contrast, the English republic made no such attempt to compel people to silence or to require that citizens should forget the ~~major~~ events of the bloody recent past, in general terms. This was ~~probably~~ because, unlike the restored monarchy, ~~its~~ ~~their~~ legitimacy as a government was predicated ~~on on their~~ victory in the Civil Wars, an outcome that had demonstrated that God favoured the republic. ~~To order people to forget the wars would be to cast into oblivion the very events that legitimated their existence.~~ For the republic, any ‘bracketing’ of the recent past would have denied them access to those transactions that ~~best~~ bestowed them with legitimacy. In this respect, the 1652 Act emphasises the extent to which the aims and terms of oblivion were heavily context dependent, and warns against painting too broad a picture of the nature of oblivion in early modernity.

The terms of the 1652 Act, ~~then~~, were a response to a ~~very~~ specific historical situation. ~~Nonetheless, but~~ in enacting oblivion the republican governments faced a number of challenges that continue to confront states emerging from domestic conflict ~~in the present day~~. The difficulty of deciding which acts from the past can be forgiven and forgotten, and which cannot. The complexities of negotiating and implementing oblivion in a state wrought by internal division, in which the desire for reconciliation must vie with calls for justice. ~~And~~ ~~And~~ the risk that, in burying one form ~~of~~ discord, another might rise to the surface. Oblivion, it seems, is an ambition more easily achieved in statute than in ~~society, reality.~~

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[SP 18/100, f. 233, 235.](#)

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<sup>93</sup> Ibid., p. 230. The sums were £10 for a gentleman and 40 shillings for those below this rank.

<sup>94</sup> Judith Pollmann, *Memory in Early Modern Europe, 1500-1800* (Oxford, 2017), p. 154.

[SP 18/123, f. 13, 14, 100.](#)

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