

THE 1654 UNION WITH SCOTLAND

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Introduction

2004 sees the 350th anniversary of the union of Scotland with and under England. It was the first time that Scotland and England had been fully united as a single polity under a single constitution. The experiment lasted barely five years, for while the political union survived the remainder of the Protectorate, it effectively collapsed in 1659-60 and was reversed at the Restoration. The road to full political union had been opened by the Scots' continuing support for the royalist cause after the execution of Charles I, causing the English republican regimes of the early 1650s to deploy England's military might against them. The defeat of Scottish-royalist armies and the conquest and occupation of Scotland itself by English forces made possible a political and constitutional union which was assumed in the new written constitution of December 1653 – proclaimed to be a constitution for 'the Commonwealth of England, Scotland and Ireland' – but which was fleshed out and given substance by various measures issued by the Protector and his Council during 1654. In particular, several conciliar ordinances of spring and summer 1654 made clear the form and nature of the union, provided a statutory basis for the new secular and ecclesiastical administration of Scotland and began the process of remoulding Scotland to bring it closer to English ways and forms.

The Ordinances of 1653-54

The written constitution of December 1653, the Instrument of Government, established and empowered the new Protectoral regime and set out the form of government. It gave extensive legislative power to an assured succession of elected parliaments, the first of which would assemble on 3 September 1654. Thus the constitution created an interval of almost nine months before a parliament would meet, during which the new regime could establish itself, set out its policies and provide a stable context for the holding of elections and the meeting of a parliament. During such periods, when parliament was not in session, the constitution vested power in the executive arm, comprising the head of state, Lord Protector Oliver Cromwell, and a permanent executive Council of State, whose fifteen founder-members – a mixture of soldiers, politicians and a few provincial worthies – had been named and appointed in the constitution itself. Protector and Council, acting together, would run the country in the intervals between parliaments, with control over the deployment of the armed forces, the spending of state finance and the appointment of senior officers of state. But, recognising that the opening period of the Protectorate would be particularly difficult and that the executive arm needed firmly to establish the regime in its opening months, before the first parliament met, the Instrument gave Protector and Council some special, additional powers, which they were to hold only during the first nine months of the regime and which would automatically lapse, never to return, when parliament assembled on 3 September 1654. These included authority to name and appoint a small number of additional Councillors of State and power to raise money to pay for 'the present extraordinary forces, both at sea and land', for unless they were provided for, 'disorders and dangers...might otherwise fall out'. But tacked on rather clumsily to article xxx of the constitution was another, seemingly rather curious provision,

which granted Protector and Council temporary powers during the opening months of the Protectorate ‘to make laws and ordinances for the peace and welfare of these nations where it shall be necessary’.

Quite why the authors of the Instrument of Government included this provision and what use they expected Cromwell and his Councillors to make of it remain unclear. Presumably, it was realised that some of the fixed-term Acts of Parliament passed by the Rump and Nominated Assembly in the early 1650s were due to expire between December 1653 and September 1654 and that, unless provision was made to give Protector and Council power to renew them, some useful or important existing legislation would lapse. Certainly, during the winter and early spring Protector and Council did use their power to renew or extend several earlier Acts of Parliament, issuing ordinances to reactivate expired or expiring parliamentary legislation for the probate of wills and the redemption of captives (two of the earliest ordinances passed, both completed and issued on 24 December; the Act for the probate of wills was further renewed by another ordinance of 3 April), for specifying the powers of various bodies of financial commissioners (31 December), for establishing a militia commission for London (1 February), for levying an imposition upon coal and the general customs duties (both 20 March), for granting legal indemnity to parliamentary troops (23 March), for authorising the impressment of seamen (23 March), for the appointment of Admiralty judges (29 March) and for prohibiting tobacco growing in England (11 April).

However, Protector and Council quickly decided to use their temporary legislative powers far more extensively, and between 24 December 1653 and 2 September 1654 they completed and issued as law around 180 ordinances. Of these, around 80 were printed and published at the time and their texts have come down to us. The remainder were not published or widely disseminated at the time and, although the texts of at least 15 survive in manuscript form, in many cases little more than their bare title is extant and our knowledge of their contents is meagre. A further 50 or so ordinances were considered at some stage but were never completed and issued, some of them because Protector and Council decided to drop the measure, to tack the business onto another ordinance or to make the change via a simple Council order rather than a full statutory ordinance. Other draft ordinances simply failed to complete their passage by 2 September, for as the lapsing of their temporary legislative power loomed, Protector and Council tried to clear the backlog – no less than 61 ordinances were passed and issued between 21 August and 2 September – and inevitably some measures failed to meet the deadline.

Taken together, this programme of ordinances appears very impressive, a body of legislation far more substantial than most seventeenth century parliaments managed to pass over a comparable duration. However, surprisingly few of these ordinances made a major impact upon public policy or altered state policy. Roughly half the completed ordinances referred to private or local business. Thus over 50 ordinances related to one or two named individuals and affected their position, granting arrears of military pay, allocating money or land, pardoning past actions or ending sequestration proceedings, settling disputes over estates or entitlement to particular places and naturalising foreigners resident in England. For example, ordinances allowed Charles Cavendish, Viscount Mansfield, benefit of the Act of Pardon and Oblivion (6 February), settled the lease of Hartland rectory in Devon upon John Dury (31 March), ordered payment of money due to Daniel Hutchinson and Michael Casteel (2 June), certified that George Raleigh and Henry Clark had benefit of the articles issues upon the surrender of Oxford in 1646 (25 July), naturalised Joachim Hane (27 July), settled Irish lands upon Colonel Robert Hammond (23 August) and ordered payments of £1336 to Lionel Beacher of Barnstaple (30 August) and of £1000 to Sir William Dicke (2 September, probably the final ordinance to complete its passage and to be issued by Protector and Council).

Another 30 or so ordinances related to a particular town, county or locality, including those authorising assizes to be held at Lancaster (28 February) and appointing judges there (21 June), appointing a chief justice and assistant justice for the North Wales circuit (20 March), imposing a new duty on ale and beer sold in and around Edinburgh (23 March), permitting the county court to meet at Northwich rather than plague-hit Chester (16 May), authorising the repair and maintenance of the drainage works of the Great Level (26 May), permitting the assize court to meet at Durham (9 June), regulating hackney-coaches in London (23 June, with a second ordinance of 2 September), reforming the administration of St Peter's school in York (14 July), addressing abuses committed by water-men on the Thames and Medway (11 August), funding the repair of Pidley church (14 August), uniting two rectories in Dorset (29 August), authorising and helping to fund the repair of Berwick bridge (29 August), reviving plans to drain and protect from flooding coastal areas of Norfolk and Suffolk, providing support for the Windsor almshouses, confirming the articles made at the surrender of Barnstaple, appointing a preacher at West Cowes on the Isle of Wight and clarifying the financing of St Catherine's hospital at Ledbury (all passed on 2 September). Protector and Council gave over a surprising amount of time to the passage of private and local ordinances of this type, even during August and early September when their legislative powers were about to lapse and they were clearly desperate to complete as much legislative business as possible before 3 September.

Of the remaining ordinances, those relating to wider, 'public' or state business, many were quite minor. Some continued existing provisions, such as a series of ordinances continuing and periodically renewing the excise (24 December, 17 March and 4 May), while others made limited changes to existing laws and provisions to bring them into line with the new Protectorate forms – altering the wording used in courts and judicial proceedings (26 December), redefining treason (19 January, spawning a further explanatory ordinance of 17 February) and abolishing the oath of allegiance to the republican government (19 January). Many ordinances sought to reform and make more efficient the handling and administration of state income and revenues, including those appointing commissioners for the better organisation of the excise, inspecting treasuries and to act as treasurers at war (29 December, 31 December and 28 January respectively), on the handling of sequestered estates (10 February), renewing the regular assessments in England and Wales (6 June), directing that all public revenues should pass through the single, central Treasury (21 June, with a further ordinance to similar effect on 2 September) and appointing new commissioners to survey former royal lands and properties (21 August). The laws and judicial processes relating to creditors, debtors and poor prisoners clearly worried Protector and Council and a whole string of ordinances attempted to modify the existing procedures and set out something better. A major ordinance reformed the operation of the Court of Chancery (21 August) and, following a string of ordinances appointing or modifying the procedures of the Admiralty judges, Protector and Council revoked the jurisdiction of the Court of Admiralty (2 September). A desire for moral reformation and a need to ensure security probably both lay behind ordinances to prohibit cock-matches (31 March), duels (29 June) and horse-races (4 July), while other worthy public legislation included ordinances for the better repair and maintenance of the highways (31 March, spawning an explanatory ordinance of 16 May and a separate ordinance of 12 April appointing surveyors of the highways), allowing old soldiers to enter any trade of their choice, free from apprenticeship and guild regulations (2 September) and both reforming and laying down regulations for the running of the post office and the handling of internal and foreign posts (2 September). Another clutch of ordinances sought to improve the administration and quality of the state church in England and Wales, appointing 'triers' to judge the quality of future appointees to livings (20 March, which spawned additional ordinances of 23 June and 2 September), appointing 'ejectors' to judge the quality of existing incumbents and to remove those deemed unfit (29 August) and setting out

provisions for the better maintenance and encouragement of ministers, including the uniting of parishes (2 September).

Last but by no means least, Protector and Council passed a number of ordinances in 1653-54 relating to Ireland and Scotland. Those dealing with Ireland tended to be quite specialised, including measures making better provision for maimed soldiers and military widows and orphans in Ireland (31 March, with a further ordinance of 2 September), encouraging the Adventurers, soldiers and other planters there (23 June, with a second ordinance of 1 August appointing a committee of Adventurers for lands in Ireland), giving legal indemnity to English Protestants in Munster (27 June) and providing for the more equal distribution of Irish land to the English soldiers who were serving or had served there (2 September). The ordinances relating to Ireland were all much narrower than those dealing with Scotland, and they lacked the broad sweep and settlement attempted by some of the Scottish ordinances, especially those which provided the legislative foundation and framework for the union of England and Scotland attempted by the Protectoral regime in 1654.

The Background to the Union

The English republican regimes of the 1650s took very different approaches to Ireland and Scotland. The English had long claimed sovereignty over Ireland and treated it as a dependant kingdom, almost as a subordinate colony, and in 1541 the English parliament had declared that thenceforth the king of England would automatically also be king of Ireland. By the early seventeenth century England had effectively conquered the whole of Ireland and ran it through a devolved English administration based in Dublin. Although during the sixteenth and seventeenth centuries the English and Scottish settlers brought their own, Protestant religion to Ireland, the native population held true to Roman Catholicism. In autumn 1641 much of the native Irish Catholic population rose up in rebellion against the existing English control of Ireland, killed thousands of English and Scottish settlers there and established a semi-autonomous Irish Catholic government and administration. Although the internal English conflicts of the 1640s long delayed an effective military response from England, almost as soon as the king had been executed and monarchy abolished in 1649, the new English republican regime determined to crush Irish resistance and bring Ireland back firmly under English and Protestant control. This was achieved through sometimes brutal but very effective military campaigns led by Cromwell and others which crushed Irish Catholic opposition and re-imposed English control, by an efficient, military-backed English administration of Ireland during the 1650s and by the imposition of rigorous and at times oppressive policies to disarm, control, punish and overawe the native Irish Catholic population, in the course of which many lost their land and property and were forcibly relocated to the province of Connaught.

Scotland was viewed very differently and its treatment by the English in the 1650s was correspondingly much milder than the treatment of Ireland and the Irish. Scotland was a fully independent kingdom, over which England had no plausible historical claims. Although from 1603 onwards Scotland and England had shared the same monarch, James VI's and I's plans for a fuller political or constitutional union had been opposed on both sides and came to nothing and the two kingdoms remained separate, with their own political systems and constitutional arrangements, their own laws and local governments; it was a regal union but little more. Scotland was also a fellow-Protestant nation, even though the form of Protestantism adopted in the course of the Scottish Reformation – a Presbyterian system, organised on a 'bottom-up' principle, in which power rested with individual congregations and local or regional groups of congregations – was different from the 'top-down' state-run

Church of England which the English crown had established. Moreover, in the late 1630s Scotland led the way in opposing Charles I, rising up in successful opposition to royal policies and offering clandestine co-operation with English opponents of the king, and during the main English civil war of 1642-46 the Scottish regime allied with the English parliament and provided strong and effective military aid which did much to turn the tide of war in parliament's favour through a victorious combined campaign in northern England in 1644. Thereafter the Scots and the English parliament had drifted apart, especially when differences opened up over the shape of the post-war settlement of England. Late in 1647 a faction within Scotland made a separate treaty with Charles I, in the wake of which a Scottish-royalist army was raised north of the border and launched a rather ineffective and poorly-planned invasion of England in summer 1648, only to be torn apart and defeated utterly by Cromwell in a series of engagements around Preston and in southern Lancashire in mid and late August. In consequence, the pro-royalist faction lost power in Scotland and was replaced by a new Scottish government which initially sought to re-establish peaceful relations with the English parliamentarians. Despite the wobbles of the latter half of the 1640s, the new English republican regime established early in 1649 probably hoped that Scotland could again be a good friend and ally and was probably happy enough to let the Scots go their own way, as an independent, sovereign state, so long as they maintained good and peaceful relations with their southern neighbour.

The Scots, however, took a different path. In return for the military support they had given the English parliamentary cause in the mid 1640s, they had expected to be involved in shaping the post-war settlement of England (and Ireland), only to find themselves largely ignored and excluded by the English regime. Worse still, in January 1649 their king had been tried and executed by the English regime, without any Scottish involvement or consultation. In February 1649 the Scottish government decided to proclaim Charles I's eldest son and heir as king, but they proclaimed him not as king of Scotland alone – a move which would certainly have made the English regime uncomfortable but which they might just have accepted – but as king of 'Great Britain' and thus by definition king of England and Ireland as well as of Scotland. The English republican regime rightly saw this as a direct threat and challenge. The consequences unfolded slowly, both because this development caused division and uncertainty within Scotland and the Scots found it very difficult to pin down Charles Stuart and reach a firm agreement with him, and because the English regime used this breathing-space to tackle the more urgent problem of Ireland. But by summer 1650, with Irish resistance broken and clear signs that the Scots were raising troops with an eye to a possible invasion of England, the English regime decided to send an army north to crush Scottish royalism. In 1650-51 Cromwell led a major campaign which established English military control over most of the lowland zone, ending with a ploy which tempted the Scottish army out of its highland stronghold and lured them into a doomed invasion of England, culminating in crushing defeat at Worcester. Other generals, including George Monck, John Lambert and Richard Deane, commanded English troops left in Scotland or sent there after Worcester to mop up. By spring 1652 most open and armed resistance from the Scots was at an end and the English army effectively controlled Scotland.

These very successful English military campaigns opened the way for and necessitated changes to the government and administration of Scotland. The shattering defeat at Worcester, followed by the capture of other Scottish politicians in an English raid on Alyth, meant that by early 1652 most of Scotland's political and military elite were either dead or captives, she had no plausible government or army left in existence and her political and military independence was at an end. With English troops occupying and controlling the Scottish homeland, day to day administration of the country passed to the English military, obeying directives received from the English parliament. Thus during winter 1651-52 the

English army began levying and collecting regular taxes in Scotland and some senior officers began sitting as judges, hearing and determining legal and criminal cases. But by autumn 1651 the English parliament, the Rump, began debating more systematically what was to be done with Scotland. Initial plans for England simply to annex Scotland, crudely asserting the right to control the territory, its people and resources, were dropped in favour of a more moderate and thoughtful political and constitutional settlement, involving a degree of Scottish involvement, and based upon the idea of a union of England and Scotland as a single 'Commonwealth'. These proposals were set forth by the Rump in a Declaration of Parliament 'concerning the settlement of Scotland', drawn up in October 1651, debated by parliament during the autumn and issued in its final form in December. The Declaration made clear parliament's intention, on grounds of 'freedom' and 'security', that Scotland should be 'incorporated' with England into a single 'Commonwealth', and also implied that English-style toleration of various Protestant faiths would be extended to Scotland. All crown lands in Scotland were to be appropriated and all Scots who had supported the royalist cause and royalist operations against England and the English would also lose their lands; thus all those who had been involved in the Scottish-royalist invasion of 1648 as well as in the renewed war of 1650-51 would lose their estates. Finally, the Declaration promised peace, protection and the enjoyment of their 'Liberties and Estates' to all other Scots, in the process pledging to abolish all feudal duties still attached to the holding of land in Scotland, freeing people from their former 'dependencies and bondage-service' and so creating 'free people' who held land on 'easie rents' and 'reasonable conditions' – not only creating a more free and modern system of landholding in Scotland but also in the process undermining the influence which the Scottish landed elite could exercise over the people.

The Declaration of autumn 1651 became the basis for the attempted English settlement of Scotland over the ensuing two years. In some ways, much progress was made. Thus from January to April 1652 commissioners sent by the English parliament met elected representatives of the towns and counties of Scotland in Dalkeith, to present and explain the Declaration and to obtain from the Scottish representatives pledges that they would accept those terms. The commissioners did secure such acceptance from an overwhelming majority of the Scottish representatives. Between October 1652 and April 1653 a select group of Scots, chosen by elected representatives of Scottish towns and counties, held further discussions in London with the Rump parliament and its agents. The English parliament drew up and debated a Bill for the Union of Scotland, which would also give Scotland the right to send MPs to sit in future in single Anglo-Scottish parliaments, as well as a separate Bill of Oblivion, confirming that most Scots would enjoy pardon, peace, freedom. In Scotland itself the parliamentary commissioners began reconstructing the Scottish administration. New town charters were issued, restoring elected officials and bodies in many towns; sheriffs were appointed in each county, and they began restoring local justice, holding sheriff's courts in each shire; seven commissioners of justice were appointed, a mixture of English and Scots, to oversee and conduct central justice in Scotland, while the four English commissioners would also go around Scotland on assize circuits from time to time; other bodies were appointed to regulate the Scottish universities and to oversee the confiscation and disposal of the estates of prominent royalists, for even though the English parliament had yet to decide and pass legislation detailing exactly who was to be excluded from the general pardon and what they were to suffer, by 1652 sequestration procedures had begun against a small number of very prominent royalists, mainly those killed or captured at Worcester and Alyth in autumn 1651; and regular assessments were imposed upon and collected in Scotland, in theory amounting to £10,000 per month, though that proved to be an unrealistically ambitious figure. At the same time, continuing English military operations mopped up remaining strongholds in the central and northern highlands and many members of the Scottish landed elite made their peace and pledged to obey the new regime.

On the other hand, all did not run smoothly. The draft legislation made quite slow progress through the Rump and although the Bill for Union had been read twice, it was still far from complete when the Rump was expelled in April 1653. The Nominated Assembly then began work on a new Bill for Union, but it too was incomplete and fell when the Assembly resigned in December 1653. Moreover, the situation in Scotland deteriorated during 1653 in the face of a series of sporadic royalist risings which, for a time, seriously undermined English control of the highlands and islands and left even the lowland zone vulnerable to raids and disturbances. The English commander, Robert Lilburne, struggled to control and contain this widespread, royalist activity, often known as 'Glencairn's Rising', and repeatedly called upon the English regimes for assistance and military reinforcements to help him counter the guerrilla tactics adopted by the royalists. Military conditions on the ground seemed to be imperilling England's control over Scotland and her ability to impose a settlement there, just as political problems in England and the shortcomings and hasty removal of successive regimes had delayed the completion of the legislative framework on which such a settlement would rest.

The Ordinances of 12 April 1654

In this area, as in many others, the new Protectoral government which took power in England in mid December 1653 moved quickly to break the log-jam and to advance new or existing policies. The written constitution itself, the Instrument of Government, paved the way for union, for it implied and stated that the political and constitutional union was a fact, repeatedly stressed that it was a British not an English constitution, speaking of England, Scotland and Ireland, too, comprising a single Commonwealth, and allocated Scotland a small number of seats in the new, elected, single-chambered parliaments which were to meet from time to time. In line with this, Protector and Council wasted little time in beginning work on a quartet of ordinances to flesh out and give substance to the union. For example, on 20 January an ordinance for uniting Scotland and England was read twice, though it clearly needed further work, as there was reference to clauses 'not yet perfected'. The other three ordinances with which it was associated were also underway by this stage. Political progress was made much easier by a transformation in the military situation in Scotland around the same time. During winter 1653-54 Lilburne secured a string of victories over the royalists, pushing them back north further into the highlands, and when George Monck returned to Scotland in April 1654 to supersede Lilburne as military commander and governor of Scotland in all but name, the position was stabilising. Reinforced and strongly supported by an English regime which was no longer distracted by war against the Dutch – peace was concluded in April 1654 – Monck ran a vigorous and effective campaign during the rest of the year and on into early 1655 which led to the defeat, submission or departure abroad of the remaining rebel leaders and restored full English military control over Scotland, cemented by a strong military presence and a string of garrisoned strongholds.

Against this improving military background, the four key ordinances for the union of Scotland and England were passed as law and issued by Protector and Council on the same day, 12 April. By that time, Monck's appointment and instructions had been finalised and he was about to take up his appointment, for he established his HQ in Dalkeith on 22 April. The ordinances were largely consistent with and followed on from the secular policies and goals set out in the Rump's Declaration of autumn 1651, though in some respects they were milder and more moderate and they said nothing about religion, ignoring the Declaration's pledge to extend English-style toleration to Scotland.

The ordinance uniting Scotland with England as a single Commonwealth probably drew upon the incomplete Bills of the Rump and Nominated Assembly of 1652-53. It confirmed the arrangements enunciated in the Instrument of Government, declaring Scotland to be a single Commonwealth with England and confirming that Scotland would receive 30 seats in the Protectorate parliaments. It formally abolished both the separate Scottish parliament and monarchy in Scotland and discharged the people from any allegiance to the Stuart line and family. This political union was to be matched by an economic union, for goods were to travel freely between England and Scotland and Scotland would be encompassed within the single, Commonwealth-wide tax system. The cross of St Andrew was henceforth to be incorporated within the arms of the Commonwealth. Following up another clause in the Rump's Declaration, the ordinance went on to abolish almost all the remaining elements of the feudal tenurial system in Scotland and with it all feudal obligations imposed upon land and land tenure, including 'servitude', 'vassallage', military service and the separate judicial powers of landowners.

**Ordinance for uniting Scotland into one Commonwealth with England.
[12 April 1654]**

His Highness the Lord Protector of the Commonwealth of England, Scotland, and Ireland, &c. taking into consideration how much it might conduce to the glory of God, and the peace and welfare of the People in this whole Island, That after all those late unhappy Wars and Differences, the People of Scotland should be united with the People of England into one Commonwealth, and after and under one Government; and finding that in December, One thousand six hundred fifty and one, the Parliament then sitting did send Commissioners into Scotland to invite the People of that Nation unto such a happy Union; who proceeded so far therein, that the Shires and Burroughs of Scotland, by their Deputies convened at Dalkeith and again at Edenburgh, did accept of the said Union, and assent thereunto; For the compleating and perfecting of which Union, Be it Ordained, and it is Ordained by His Highness the Lord Protector of the Commonwealth of England, Scotland and Ireland, and the Dominions thereto belonging, by and with the advice and consent of His Council, That all the people of Scotland, and of the Isles of Orkney and Zethland, and of all the Dominions and Territories belonging unto Scotland, are and shall be, and are hereby Incorporated into, Constituted, Established, Declared and Confirmed one Commonwealth with England; And in every Parliament to be held Successively for the said Commonwealth, thirty persons shall be called from, and serve for Scotland.

And for the more effectual preservation of this Union, and the freedom and safety of the People of this Commonwealth so united, Be it Ordained, and it is Ordained by the Authority aforesaid, That all the people of Scotland, and of the Isles of Orkney and Zethland, and of all the Dominions and Territories belonging unto Scotland, of what Degree or Condition soever, be discharged of all Fealty, Homage, Service and Allegiance which is or shall be pretended due unto any of the Issue and Posterity of Charles Stuart late King of England and Scotland, or any claiming under him; And that Charles Stuart, Eldest Son, and James, called Duke of York, second Son, and all other the Issue and Posterity of the said late King, and all and every person and persons, pretending Title from, by or under him, are and be disabled to hold or enjoy the Crown of Scotland, and other the Dominions thereunto belonging, or any of them, or to have the Name, Title, Stile, or Dignity of King, or Queen of Scotland, or to have and enjoy the Power and Dominion of the said Kingdom and Dominions, or any of them, or the Honors, Manors, Lands, Tenements, Possessions and Hereditaments belonging or appertaining to the said Crown of Scotland, or other the Dominions aforesaid, or to any of them, Any Law, Statute, Usage, Ordinance or Custom in Scotland to the contrary hereof in any wise notwithstanding.

And it is further Ordained by the authority aforesaid, That the said Office, Stile, Dignity, Power and Authority of King of Scotland, and all right of the three Estates of Scotland, to convocate or assemble in any General Convocation or Parliament, and all Conventional and Parliamentary Authority in Scotland, as formerly established, and all Laws, Usages, and Customs, Ordaining,

Constituting, or Confirming the same, shall be, and are hereby, and from henceforth abolished and utterly taken away, and made null and void.

And that this Union may take its more full effect and intent, Be it further Ordained by the Authority aforesaid, That the Arms of Scotland, viz. a Cross, commonly called Saint Andrews Cross, be received into, and born from henceforth in the Arms of this Commonwealth, as a Badge of this Union; and that all the Publique Seals, Seals of Office, and Seals of Bodies Civil or Corporate, in Scotland, which heretofore carried the Arms of the Kings of Scotland, shall from henceforth in stead thereof, carry the Arms of this Commonwealth

And be it further Ordained by the Authority aforesaid, That all Customs, Excise, and other Imposts for Goods transported from England to Scotland, and from Scotland to England, by Sea or Land, are and shall be so far taken off, and discharged, as that all Goods for the future shall pass as free, and with like Priviledges, and with the like Charges and Burthens from England to Scotland, and from Scotland to England; as goods passing from Port to Port, or place to place in England; and that all Goods shall and may pass between Scotland, and any other part of this Commonwealth, or Dominions thereof, with the like Priviledges, Freedom, Charges and Burthens, as such Goods do, or shall pass, between England and the said parts and Dominions, Any Law, Statute, Usage or Custom to the contrary thereof in any wise notwithstanding. And that all goods prohibited by any Law now in force in England to be transported out of England to any Foreign parts, or imported, shall be, and hereby are prohibited to be transported or imported, by the same Law and upon the same penalties, out of Scotland to any Foreign parts aforesaid, or from any Foreign parts into Scotland.

And be it further Ordained by the authority aforesaid, That all Cesses, publique Impositions and Taxations whatsoever, be imposed, taxed and levied from henceforth proportionably from the whole people of this Commonwealth so united.

And further, to the end that all Dominion of Tenures and Superiorities importing Servitude and Vassallage may likewise be abolished in Scotland, Be it further Declared and Ordained by the Authority aforesaid, That all Heritors, Proprietors and Possessors of Lands in Scotland, or the Dominions thereunto belonging, and their Heirs, shall from and after the Twelfth day of April, in the year of our Lord One thousand six hundred fifty and four, hold their respective Lands of the respective Lord and Lords by Deed, Charter, Patent or Enfeoffment, to be renewed upon the death of every Heritor, Proprietor or Possessor (as now they do) to his Heir or Heirs, by and under such yearly Rents, Boons, and Annual services, as are mentioned or due by any Deeds, Patents, Charters or Enfeoffments now in being, of the respective Lands therein expressed, or by vertue thereof enjoyed without rendring, doing or performing any other Duty, Service, Vassallage or Demand whatsoever, by reason or occasion of the said Lands, or any the Clauses or Covenants in the said Deeds, Charters, Patents or Enfeoffments contained, saving what is hereafter herein and hereby particularly expressed and declared; That is to say, Heriots where the same are due, Fines (certain where the same is already certain, and where the Fine is uncertain, reasonable Fines) upon the death of the Lord, and upon the death or alienation of the Tenant, or any of them, where the same have usually been paid, which said Fine (not being already certain) shall not at any time exceed one years value of the Lands, and also doing suit and service to such Court and Courts Baron, as shall be constituted in Scotland, in such manner as is ordained by one other Ordinance, Entitled, An Ordinance for Erecting Courts Baron in Scotland.

And be it Ordained by the Authority aforesaid, That all and every the Heritors, Proprietors and Possessors aforesaid, and their Heirs are and shall be from henceforth for ever discharged of all Fealty, Homage, Vassallage and Servitude, which is, or shall be pretended due from them, or any of them, unto any their Lords or Superiors whatsoever, claiming Dominion or Jurisdiction over them, by vertue of the said Patents, Charters, Deeds or Enfeoffments, and other rights thereof, or of any Clauses or Conditions therein contained, other then as is before Declared and Ordained; And that all the said Superiorities, Lordships and Jurisdictions (other then as aforesaid) shall be, and are hereby abolished, taken off and discharged; and that all and every the said Deeds, Patents, Charters and Enfeoffments in that behalf, be, and are hereby declared, and made so far void and null; And particularly, That all and every the Heritors, and others the persons aforesaid, and their Heirs, are

and shall be for ever hereafter freed and discharged of, and from all suits, and appearing at or in any their Lords or Superiors Courts of Justiciary, Regality, Stuartry, Barony, Bayliary, Heritable Sheriffship, Heritable Admiralty, all which, together with all other Offices Heritable, or for Life, are hereby abolished and taken away; and that all and every the Heritors and persons aforesaid and their Heirs, are and shall be for ever hereafter freed and discharged of, and from all Military service, and personal attendance upon any their Lords or Superiors in Expeditions or Travels, and of all Casualties, of Wards Lands formerly held of the King, or other Superiors, and of the Marriage, single and double avail thereof, Non-Entries, Compositions for Entries, and of all rights and Casualties payable, if they be demanded, onely or upon the committing of any Clauses irritant. And that the said Heritors and persons aforesaid be now, and from henceforth construed, reputed, adjudged and declared free and acquitted thereof, and of and from all and all maner of holding suits duties, services personal or real, and demands whatsoever (other then is before Declared and Ordained) notwithstanding the present Tenor of any of their Deeds, Patents, Enfeoffments, or any Clauses, Articles or Covenants therein contained or mentioned to the contrary in any wise; And that in time to come all and every Clause, Covenant, Article, Condition or thing to the contrary hereof, shall be omitted out of all such Deeds, Patents, Charters and Enfeoffments.

And be it further Ordained, That all Forfeitures, Escheats, Simple, or of Life, Rent, Bastardy, and last Heir, which heretofore Escheated, Forfeited and fell to the King, Lords of Regality, or other Superiors, shall from henceforth fall, Escheat, and Forfeit to the Lord Protector of the Commonwealth for the time being.

A second and separate ordinance extended to most of the Scottish people full ‘pardon and grace’, with associated rights and liberties, including the abandonment of any proceedings to punish by fine or forfeiture. Totally excluded from such pardon and security were the Stuart royal family and around two dozen named individuals who had played a prominent role in supporting the royalist cause in Scotland and opposing the English regime in arms. The ordinance did not envisage or impose death, imprisonment or exile on these people, but their entire estates were to be forfeited to the English regime. Provision was made in the ordinance for handling those forfeitures (though more details followed in a separate ordinance), for resolving uncertainties or disputes concerning those with interests in these estates and for making some allowance to the wives, widows and children of some of these individuals. A further 73 named individuals were partly excluded from pardon, in that they would retain their estates on payment of heavy fines, ranging from a few hundred to several thousand pounds; if they failed to pay, their estates were to be confiscated. Whereas the Rump’s Declaration of autumn 1651 had envisaged excluding all participants in the wars of 1648 and 1650-51 from pardon, the ordinance did not introduce blanket exclusions of this sort, adopting a far more selective policy of partly or wholly excluding a small number of named individuals. The only blanket exclusion in the ordinance covered those who had been in arms since 1 May 1652 – in other words those who had participated or were still participating in Glencairn’s Rising. The ordinance also made clear that all articles of war, that is formal terms agreed and promised by the English military commander upon the surrender of individuals, garrisons or communities, were to be honoured and continued, even where they exempted from fine or forfeiture those who would otherwise have suffered under the terms of the ordinance.

An Ordinance of Pardon and Grace to the People of Scotland.
[12 April 1654]

His Highness the Lord Protector of the Commonwealth of England, Scotland and Ireland, and the Dominions thereunto belonging, being desirous that the Mercies which it hath pleased God to give to this Nation, by the Successes of their Forces in the late War in Scotland, should be improved for the good and advantage of both Nations, and the People of Scotland made equal sharers with those

of England in the present Settlement of Peace, Liberty and Property, with all other Priviledges of a Free People, Doth Ordain and Declare, and be it Ordained and Declarced by his Highness the Lord Protector, with the Consent of his Council, That all persons of the Scotch Nation, of what degree or quality soever they or any of them are (except the persons hereafter in this Ordinance particularly excepted) shall be, and are hereby, and from and after the first day of May in the year, One thousand six hundred fifty four, freed, acquitted and discharged from all Forfeitures, Pains, Penalties, Mulcts, corporal or pecuniary, Restraints, Imprisonment or Imprisonments, Punishment or Punishments whatsoever (other then is hereafter in this Ordinance expressed) for any matter or thing by them or any of them, committed or done by Sea or Land, in relation to the late War, or any preceeding Wars between the two Nations; And that for the matters aforesaid, there shall be from and after the said First day of May aforesaid, no Sequestration, Confiscation, Fine, Penalty, Forfeiture or Punishment, imposed or continued upon them or any of them, (otherwise then as is hereafter in this Ordinance expressed) but the same shall be put in perpetual Oblivion.

And also that the Estates real and personal of all persons of the Scotch Nation (except as is hereafter in this Ordinance excepted and provided) shall be, and are hereby and from thenceforth freed, discharged and acquitted from all Sequestrations, Confiscations, Fines, Penalties and Forfeitures whatsoever, for any matter or thing by them or any of them committed or done, in relation to the aforesaid wars between the two Nations.

Except and always reserved out of this present Ordinance, and all benefit thereof, Henrietta Maria, the Relict and late Queen of the late king Charles deceased; Charles Stuart their eldest son, James Stuart their second son, and all the Honors, Manors, Castles, Houses, Messuages, Forests, Chases, Parks and Lands and all Tenements and Hereditaments, Royalties, Priviledges, Franchises, Immunities, Rents and Appurtenances to them, or any of them in Scotland, belonging or appertaining, or heretofore lawfully used or enjoyed by them, or any of them, as part or parcel thereof, and also all the Goods and Chattels, and all the Estates, both real and personal in Scotland, heretofore belonging to the late king Charles, deceased, either in right of the Crown of Scotland, or in any right or capacity, or unto Henrietta Maria, the Relict and late Queen of the said King, or unto Charles Stuart their eldest son, or James Stuart their second son, or unto any other the Issue or Posterity of the said late King Charles, or otherwise belonging unto them or any of them, and which were in the actual seisin or possession of them or any of them, or of their or any of their Tenants, Agents, Servants, Trustees, Officers or Ministers in their right and for their use, or in trust for them or any of them, on the Seven and twentieth day of March, in the year of our Lord One thousand six hundred twenty and five, or at any time since, or for which they or any of them, have of right been answered the Profits, or might or ought to have received the same in the year aforesaid, or at any time since, and all Reversions and Remainders of any Estate or Estates, to them or any of them belonging or appertaining, and that free from all maner of Estates, Titles, Interests, Debts, Charges and Incumbrances whatsoever, wherewith the said Lands or premises, or any of them stand or stood charged or chargeable with, or are pretended to stand charged or chargeable with, at any time since the first day of May, One thousand six hundred forty two, and not before.

And also excepted out of this present Ordinance, and all benefit thereof, James Duke of Hamilton deceased, William late Duke of Hamilton deceased, John Earl of Crawford-Lindsey, James Earl of Calender, Earl Marshal, Earl of Kelley, Earl of Lowderdail, John Earl of Lowdoun, Earl of Seaforth, Earl of Athol, Viscount Kenmure, Lord Lorn, Eldest Son of the Marquess of Arguile, Lord Machlin Eldest Son of the Earl of Lowdoun, Lord Montgornery Eldest Son of the Earl of Egglintoun, George Lord Spynie, Lord Cranston, Lord Sincler, Thomas Dalysel late Major General of the Foot in the Scotch Army, John Middleton late Lieutenant-General of the Horse in the Scotch Army, James Viscount Newburgh, Lord Bargany, Sir Thomas Thomson, James Edmeston Lord of Womat, Lord Napier, William Earl of Glencarn, and all the Honors, Manors, Castles, Houses, Messuages, Forests, Chases, Parks, and Lands, and all Tenements, and Hereditaments, Royalties, Priviledges, Franchises, Immunities, Rents and Appurtenances, to them or any of them belonging or appertaining, or on the Eighteenth day of April, in the year of our Lord One thousand six hundred forty eight, lawfully used or enjoyed with them or any of them, as part or parcel thereof, and also all the Goods and Chattels, and all the Estates both real and personal, belonging unto the said James late Duke of Hamilton, William late Duke of Hamilton, John Earl of Crawford-Lindsey, James Earl of Calender, Earl Marshal, Earl of Kelley, John Earl of Lowderdail, John Earl of

Lowdoun, Earl of Seaforth, Earl of Athol, Viscount Kenmure, Lord Lorne, Lord Machlin, Lord Montgomery, George Lord Spynie, Lord Cranston, Lord Sincleere, Thomas Dalyel, John Middleton, James Viscount Newburgh, Lord Bargany, Sir Thomas Thomson, James Edmeston, Lord Napier, William Earl of Glencarn, or any of them, and which were in the actual seisin or possession of them, or any of them, or of their or either of their Tenants, Agents, Servants, Trustees, Officers or Ministers, in their right, and for their use, or in trust for them or any of them, on the eighteenth day of April, in the year of our Lord One thousand, six hundred forty eight, or at any time since, or for which they or any of them, have of right been answered the Profits, or might or ought to have received the same at the time aforesaid, or at any time since, and all Reversions or Remainders of any Estate or Estates to them, or any of them belonging or appertaining, and that free from all and all maner of Estates, Titles, Interests, Debts, Charges and Incumbrances whatsoever, wherewith the said Lands and premises, or any of them, stand, or stood Charged or Chargeable with, or are pretended to stand charged or chargeable with by force of any Act or Acts, Deed, Grant, or other thing done by any of the persons before named, at any time since the said eighteenth day of April, One thousand six hundred forty and eight, and not before. And also excepted out of this present Ordinance, and all benefit thereof, all the Estate, Right, Interest, Claim and Demand, of James Lord Mordington, of, in, or to the Maudlain Field, Sunck, Cony-garth, Constables-Batt, Two Water-mills, and a Wind-mill lying within Barwick bounds.

And also excepted out of this present Ordinance, and all benefit thereof, all and all maner of Estates, Titles, Interests, Debts, Charges and Incumbrances whatsoever, claimed out of any the Estate or Estates of any of the persons excepted as aforesaid, or of any other person or persons as sureties for them, or any of them, by, for, or in Right, and to the use of any person or persons whatsoever, who sitting as a Member or Members of the late Parliament of Scotland, in the year One thousand six hundred forty and eight, did not protest in the great Protestation made in the said Parliament, against the proceedings of the said Parliament, by which the Army was raised under James Duke Hamilton, or that Invaded England, with the said James Duke Hamilton, in the said year, or that sate in the late Parliament, or Committee of Estates of Scotland, from and after the Coronation of Charles Stuart, in the year, One thousand six hundred fifty and one, or that since the Battle of Dunbar, on the third day of September, One thousand six hundred and fifty, served in Arms in Scotland under the said Charles Stuart, or any Commissionated by him, or his Authority, or that Invaded England with the said Charles Stuart, or any of his Forces, in the said year One thousand six hundred fifty and one, which said Estates, Titles, Interests, Debts, Charges and Incumbrances, are by Authority aforesaid, released and discharged (such onely excepted, who have deserted the said Charles Stuart, and not born Arms against the Parliament, since the said third day of September, One thousand six hundred and fifty; as also such whose merits and services to this Commonwealth have rendred them capable of being taken into a more favorable consideration by His Highness).

Provided always, and be it Ordained, That all and every person and persons whatsoever, claiming any Estate, Title, Interest, Debts, Charge or Incumbrance, out of any the Estate or Estates excepted as aforesaid, do and shall within threescore days after publick Proclamation made of this Ordinance, in the Countie where the person making such Claim doth live, enter his and their respective Claims, with John Swinton of Swinton, Esq; William Lawrence, Esq; George Smith, Esq; Sir James MacDowel of Garthland, Samuel Disbrow, John Thompson, Esquires, or any three of them, and make the truth and realitie of them sufficiently appear unto the said John Swinton, William Lawrence, George Smith, Sir James Macdowel, Samuel Disbrow and John Thompson, or any three of them, within four moneths after such entry made, and obtain from them or any three of them a Certificate of their allowance of such Claim and Claims, and that in default thereof, the said Estates, Titles, interests, Debts, Charges, and Incumbrances be, and the same are hereby Declared, as well to sureties as principals, discharged, and made null and void; Provided also, That all and every the Debts, Charges, and Incumbrances, upon all and every the Estate and Estates aforesaid, which shall be so allowed, shall be paid and satisfied by such ways, and in such maner onely, as shall be hereafter declared and appointed by His Highness the Lord Protector by and with the consent of His Council.

And it is further Ordained by the Authority aforesaid, That Lands of the clear yearly value of four hundred pounds sterling, over and above all charges, and reprizes, be settled upon the Lady Anne

Hamilton, eldest daughter of the said James Duke Hamilton, and her heirs, charged with the payment of the yearly Rent of Twentie Pounds Sterling, to His Highness the Lord Protector, and his Successors for ever. And that Lands of the yearly value of Two hundred pounds Sterling, over and above all Charges and Reprizes, be settled upon the Lady Susan Hamilton, one other of the Daughters of the said James Duke Hamilton, and her heirs, out of the Estate of the said James and William late Duke Hamilton, charged with the payment of the yearly Rent of Ten pounds Sterling to His Highness the Lord Protector and his Successors for ever. And that Lands of the yearly value of four hundred pounds sterling, over and above all Charges and Reprizes, be settled upon Elizabeth Duchess of Hamilton, widow and Relict of William late Duke Hamilton deceased, for term of her natural Life, and after her decease, to the four Daughters of the said William, by the said Duchess, to be equally divided amongst them, and to their Heirs for ever, out of the Estate of the said William or of James late Duke Hamilton, charged with the payment of the yearly Rent of twenty pounds sterling, to His Highness the Lord Protector and his Successors for ever. And that Lands of the clear yearly value of four hundred pounds sterling, over and above all charges and reprizes, be likewise settled out of the estate of the said John Earl Crawford upon Countess of Crawford his now wife for her life, and after her decease, upon the issue of her body, by the said Earl begotten, and their heirs, charged with the payment of the yearly Rent of twenty pounds sterling, to His Highness the Lord Protector and his Successors for ever. And that lands of the clear yearly value of four hundred pounds sterling, over and above all charges and reprizes, be settled upon Countess of Lowdown and her heirs for ever, out of the Estate of the said John Earl of Lowdown, charged with the payment of the yearly Rent of twenty pounds sterling, to His Highness the Lord Protector and his Successors for ever: she the said Countess of Lowdown accepting thereof, in lieu of all Joynture, Dower, or any other interest or title she hath, or may claim in possession reversion, or remainder of, in, or to the Estate of the said John Earl of Lowdown, or Lord Machlin, or of either of them, or by them, or either of them, claimed in right of the said Countess, and releasing the same by the time hereafter in this Ordinance appointed, and in such maner as is herein directed; which release shall be good and effectual in Law, to bar the said Countess of Lowdown and her heirs. And be it further Ordained, That the Countess of Calender, shall hold and enjoy all and every the Lands, Tenements, and Hereditaments, conveyed for her Joynture, from late Earl of Dunfermlin, her former husband. And that Lands of the clear yearly value of two hundred pounds sterling over and above all charges and reprizes, be settled upon Mary eldest daughter of Earl Marshal, and her heirs; And that Lands of the yearly value of one hundred and fifty pounds sterling, over and above all charges and reprizes, be settled on each of the other daughters of the said Earl Marshal, viz. Elizabeth, Isabel and Jane, and their Heirs respectively, out of the Estate of the said Earl Marshal, excepted as aforesaid, charged with the payment of the yearly Rent of thirty two pounds ten shillings sterling, unto His Highness the Lord Protector and his Successors for ever, to be apportioned in the Grants of the respective Lands rateably. And that Lands of the clear yearly value of three hundred pounds sterling, over and above all reprizes, be settled upon Countess of Lowderdaile, and the heirs of the body of John Earl of Lowderdaile, of the body of the said Countess begotten, or to be begotten, out of the Lands and Estate of the said John Earl of Lowderdaile, excepted as aforesaid, charged with the payment of the yearly Rent of fifteen pounds sterling, to his Highness the Lord Proteotor and his successors for ever. And that Lands of the clear yearly value of two hundred pounds sterling, over and above all reprizes, be settled upon the now wife of the said Lord Cranston, and the heirs of the body of the said Lord Cranston, of the body of his said wife begotten, or to be begotten, out of the Lands and Estates of the said Lord Cranston, excepted as aforesaid, charged with the payment of the yearly rent of ten pounds sterling, unto His Highness the Lord Protector and his successors for ever. And that Lands of the clear yearly value of two hundred and fifty pounds sterling, over and above all reprizes, be settled upon the now wife of Lord Bargany, and the heirs of the body of the said Lord Bargany, on the body of his said now wife begotten, or to be begotten, out of the Lands and Estate of the said Lord Bargany, excepted as aforesaid, charged with the payment of the yearly rent of twelve pounds and ten shillings sterling money, unto His Highness the Lord Protector and his Successors for ever. And that Lands of the clear yearly value of one hundred and twenty pounds sterling, over and above all reprizes, be settled upon the now wife of the said Sir Thomas Thompson, and the heirs of the said Sir Thomas Thompson, of the body of his said now wife begotten, or to be begotten, out of the Estate of the said Sir Thomas Thompson, excepted as aforesaid, charged with the yearly Rent of six pounds, to be paid unto His Highness the Lord Protector, and his Successors for ever.

Provided, That before any such settlement shall be made unto any of the persons above mentioned, out of the Lands excepted by this Ordinance, or that any of the said persons shall be permitted to enjoy any benefit by any the clauses aforesaid, all and every the said person and persons, being the now wife, childe, or children of any the persons excepted and excluded from the benefit of this Ordinance, shall before the five and twentieth day of December, which shall be in the year of our Lord, One thousand six hundred fifty four, by Deed, under her or their Hands and Seals respectively, release all her and their Claim, Title, and Demand of Dower, Joynture, and other interest in possession, reversion, or remainder, of, in, or to all and every the Lands, Tenements and Hereditaments, of the husband or father of such person releasing; And that all and every such release, being attested under the hands of two credible witnesses, and delivered unto the persons before in this Ordinance appointed to receive and determine Claims, or any three of them, shall be, and is, and are hereby declared to be valid and effectual in Law, to bar such person and persons so releasing, from claiming any right, title, interest or demand, of, in, or to all and every the Lands, Tenements and Hereditaments, of the Husband or Father of such person or persons releasing, notwithstanding the coverture, minority, infancy, or other disability of the person or persons so releasing, other than such as shall be settled upon her or them, in pursuance of the provision aforesaid: And in default of such release, to be made as aforesaid, all and every the person and persons aforesaid, so making default, shall be from thenceforth for ever debarred and excluded from any benefit or advantage by this Ordinance, or anything therein contained.

Provided also, That all and every the Lands and Estate which shall by force of this Ordinance be set out and settled as aforesaid, for the provision of the Wife or Children of any the persons excepted as aforesaid, shall nevertheless be liable unto the satisfaction of the just and proper Debts of the respective person and persons, out of whose Estate the same is so settled (in case all the rest of his or their respective Estate and Estates shall not be sufficient to satisfie the said respective Debts) so far forth and in such maner, as shall be hereafter declared and appointed by His Highness the Lord Protector, by and with the consent of His Council.

Provided also, and it is further Ordained, That the several persons hereafter named, do pay unto His Highness the Lord Protector his Publick Receipt, the several respective sums of money hereafter mentioned and expressed, as a Fine and Fines for and in respect of his and their Estate and Estates, to be paid in such maner, and at such times, as is hereafter in this Ordinance expressed; that is to say, David Lesley, late Lieutenant General of the Scotch Army, four thousand pounds sterling. Marquess of Douglas, one thousand pounds sterling. Lord Angus eldest son to the Marquess of Douglas, one thousand pounds sterling. Earl of Selcridge, one thousand pounds sterling. The Heirs of Francis late Earl of Bucleuch deceased, fifteen thousand pounds sterling. Earl of Galloway, four thousand pounds sterling. William Earl of Roxburgh, six thousand pounds sterling. William Lord Cockeram, five thousand pounds sterling. James Lord Forrester, two thousand five hundred pounds sterling. Philip Amstruther son of Sir Robert Amstruther one thousand marks sterling. Sir Archibald Sterling of Carden, one thousand five hundred pounds sterling. James Drumond of Mackensy, five hundred pounds sterling. Henry Mawl, son to the Earl of Panmure, two thousand five hundred pounds sterling. Sir James Levingston of Kilsith, one thousand five hundred pounds sterling. William Murrey of Polemaise, one thousand five hundred pounds sterling. Earl of Buchane, one thousand pounds sterling. Viscount Dudope, one thousand five hundred pounds sterling. Preston of Cragmiller, one thousand five hundred pounds sterling. Sir Andrew Flesher of Inner Pether, five thousand pounds sterling. Sir John Wauchab of Nethery, two thousand pounds sterling. Earl of Perth, and Lord Drumond his eldest son, five thousand pounds sterling. Earl of Winton, two thousand pounds sterling. Earl of Findlater, one thousand five hundred pounds sterling. Earl of Murray, three thousand five hundred pounds sterling. Earl of Quinsburgh, four thousand pounds sterling. Earl of Eithy six thousand pounds sterling. Lord Duffus, one thousand five hundred pounds sterling. Lord Grey, one thousand five hundred pounds sterling. Sir Henry Nisbett, one thousand pounds sterling. Earl of Panmure, ten thousand pounds sterling. Laird of Lundee, one thousand pounds sterling. Earl of Arroll, two thousand pounds sterling. Earl of Tullibardine, one thousand five hundred pounds sterling. Earl of Sowthes, three thousand pounds sterling. Earl of Dalhousie, one thousand five hundred pounds sterling. Earl of Hartfeild, two thousand pounds sterling. William Lord Rosse, three thousand pounds sterling. Lord Sample, one thousand pounds sterling. Lord Elphinston, one thousand pounds sterling. Lord Boide, one thousand five hundred pounds sterling. James Lord Cooper, three thousand pounds

sterling. Lord Balvaird, one thousand five hundred pounds sterling. Lord Rollock, one thousand pounds sterling. Earl of Kinghorne, one thousand pounds sterling. Earl of Kinkardine, one thousand pounds sterling. Lord Bamfe, one thousand pounds sterling. Master Robert Meldrum of Tillybody, one thousand pounds sterling. Sir Robert Graham of Morphie, one thousand pounds sterling. Sir William Scot of Harden, three thousand pounds sterling. Hay of Nachton, one thousand pounds sterling. Renton of Lamberton, one thousand pounds sterling. Colquhoun of Luz, two thousand pounds sterling. Hamilton of Preston, one thousand pounds sterling. Mr Francis Hay of Bowsey, two thousand pounds sterling. Arnot of Ferney, two thousand pounds sterling. Sir Robert Forquhar, one thousand pounds sterling. Sir Francis Reven, three thousand pounds sterling. Scot of Montross, three thousand pounds sterling. Laird of Rothemegordon, five hundred pounds sterling. Colerney, the younger, one thousand pounds sterling. Sir John Scot, of Scots-Torbut, one thousand five hundred pounds sterling. Laird of Gosfrid, one thousand pounds sterling. Laird of Bachilton, one thousand five hundred pounds sterling. James Mercer of Aldey, one thousand pounds sterling. Earl of Rothes, one thousand pounds sterling. Lieutenant Colonel Elliot of Stebbs, one thousand pounds sterling. Sir Lewis Steuart, Advocate, one thousand pounds sterling. Patrick Scot of Thirleston, two thousand pounds sterling. Sir James Carmighill, two thousand pounds sterling. Sir Patrick Cockborne of Clarkington, two thousand pounds sterling. Sir George Morison of Preston-Grange, two thousand pounds sterling. Murrey, Laird of Stanhop, son to Sir David Murrey deceased, two thousand pounds sterling. All and every which sum and sums of money, shall be paid unto George Bilton, Deputy Treasurer at Leith; one moyety thereof, on or by the second day of August, One thousand six hundred fifty four; and the other moyety, on or by the second day of December, then next ensuing; and in default of such payment, all and every the real and personal estate of every person and persons so making default, shall from thenceforth be absolutely confiscate; and the Commissioners for Sequestrations are hereby empowered to seize the same accordingly.

Provided always, and it is Ordained and Declared by the Authority aforesaid, That this Ordinance or anything therein contained, shall not extend, or be construed to extend, to the restoring or reviving of any Lordship, Dominion, Jurisdiction, Tenure, Superiority, or any things whatsoever, taken away and abolished by one other Ordinance, Entitled, An Ordinance for Uniting Scotland into one Commonwealth with England.

Excepted, and also reserved out of this present Ordinance, and all benefit thereof, all and every other person and persons, not herein before named or expressed, that hath or have been at any time since the first day of May, One thousand six hundred fifty and two, or now is, or are in Arms in Scotland, in opposition to this Commonwealth; Saving and reserving, to all person and persons whatsoever, excepted out of this Ordinance, all benefits and advantages of any Articles of War, to them granted by His Highness, the now Lord Protector, as General of all the Forces of this Commonwealth, or any other, by vertue of any Authority from him derived, Any thing in this Ordinance contained to the contrary thereof in any wise notwithstanding.

Provided always, and be it further Ordained, That this Ordinance, or any thing therein contained, shall not extend, nor be construed to extend, to the freeing or discharging of any Prisoner or Prisoners of War, from their respective Imprisonments; or to the Cancelling or Discharging of any Surety, Bond, Parol, or Engagement, of, or for any Prisoner of War, without the special Order of His Highness the Lord Protector, or whom he shall appoint.

Provided also, that this Ordinance, or any thing therein contained, shall not extend, nor to be construed to extend to the confirming of any Patent, Gift, or Grant made by the late King James, or the late King Charles, whereby any Rent or other Duty or Revenue belonging to the Crown of Scotland, hath contrary to the Law of Scotland been altered, changed, converted or diminished; but that all and every such Rent, Duty and Revenue shall remain, and be paid in kinde unto the Lord Protector, and His Successors in the same maner, as the same were paid before any such Patent, Gift or Grant made.

The third ordinance followed on from these provisions, and vested control over forfeited, sequestered estates in the hands of a body of named trustees. These trustees were charged and

empowered with assessing and paying any debts outstanding on the estates, thus satisfying legitimate creditors, and also with ensuring that the provisions made for wives, widows and children were put into effect. They were also required to ensure that army officers and others who had been granted land in Scotland by parliament were to have their allotments satisfied out of these forfeited estates.

**An Ordinance for settling the Estates of several excepted Persons in Scotland,
in Trustees, to the uses herein expressed.
[12 April 1654]**

Whereas by an Ordinance, Entitled, An Ordinance of Pardon and Grace to the People of Scotland, divers persons, and their Estates are excepted and reserved out of the said Ordinance, and all benefit thereof, and yet nevertheless the Estates of the said several persons are hereby left subject to divers debts, charges and incumbrances, and likewise several proportions of Land, Tenements and Hereditaments are by the said Ordinance appointed to be settled, for a Provision of the Wives and Children of divers of the said persons in such sort and under such Limitations, Proviso's and Conditions as are expressed and contained in the said Ordinance. And whereas also the Parliament hath by several Votes and Orders given unto several persons, for services done to this Commonwealth, divers Lands, Tenements and Hereditaments out of the said Confiscated Lands in Scotland; For the more due and speedy payment and satisfaction of the said Debts, Charges and Incumbrances, and settling the premises so appointed by the said Ordinance, for the provision of the said Wives and Children; And for the better confirmation and assurance of the premises so given by the Parliament unto the said respective persons, Be it Ordained by His Highness the Lord Protector, by and with the advice and consent of His Council, and it is Ordained by the Authority aforesaid, That all and every the Honors, Manors, Castles, Houses, Messuages, Forests, Chases, Parks, Lands, Tenements and Hereditaments in Scotland, which upon the eighteenth of April, one thousand six hundred forty and eight, or at any time since, did belong unto James late Duke of Hamilton, William late Duke of Hamilton, John Earl of Crawford-Lindsey, James Earl of Calender, Earl Marshall, Earl of Kelley, John Earl of Lowderdail, John Earl of Lowdoun, Earl of Seaforth, Earl of Athol, Viscount Kenmure, Lord Lorn, Eldest Son of the Marquess of Arguile, Lord Machlin eldest Son of the Earl of Lowdoun, Lord Montgomery eldest son of the Earl of Egglintoun, George Lord Spynie, Lord Cranston, Lord Sincleer, Thomas Dallyel late Major General of the Foot in the Scottish Army, John Middleton, late Lieutenant-General of the Horse in the Scottish Army, James Viscount Newburgh, Lord Bargany, Sir Thomas Thomson, James Edmeston Lord of Womat, Lord Napier, and William Earl of Glancarn, and all Royalties, Priviledges, Franchises, Immunities, Rents and Appurtenances, to the said Honors, Manors, Castles, Houses, Messuages, Forests, Chases, Parks and Lands or any of them in Scotland belonging or appertaining, or which on the said eighteenth day of April, one thousand six hundred forty and eight, or at any time since were lawfully used or enjoyed with them, or any of them, as part or parcel thereof, be, and are hereby vested and settled, and adjudged and deemed to be, and are hereby in the real and actual possession and seizin of Sir John Hope of Craighall, William Lockard the younger, Esq, Richard Saltonstal, and Edward Siler Commissioners at Leith, Lieutenant-Colonel Wilks, Deputy Governor of Leith, David Barkley, Esq, John Harper Advocate, and the Survivors and Survivor of them, their Heirs and Assigns, for the uses and purposes, hereafter in and by this Ordinance expressed, until the sale, disposition and conveyance thereof, or of such part thereof as shall be requisite for the purposes aforesaid, shall be made in such maner, as is herein directed, and the remainder to the use of His Highness the Lord Protector and his Successors, for the benefit of the Commonwealth.

And be it further ordained by the authority aforesaid, That the said Sir John Hope and the rest of the Trustees before named, the survivors and survivor of them, shall cause a due and exact survey to be taken and returned unto them, of all and every estates of the persons aforesaid, at the time aforesaid, and of the yearly value thereof respectively, as they were worth to be let in the year one thousand six hundred forty and nine, and also return to be made unto them of all and every the Claims of any Estate, Right, Title or Interest of any other person or persons in or to any the premises, and of all Debts, Charges and Incumbrances, charged or chargeable upon the same, or any part thereof respectively, and which shall be allowed by the Commissioners named in the said Ordinance of Pardon and Grace to the People of Scotland, for determining Claims, according to

the Qualifications and Provisions contained in the said Ordinance; and thereupon in the first place, in case the respective Lands of such person excepted, be sufficient to satisfy all the Debts, Charges and Incumbrances so allowed as aforesaid, and also the provision made by the said Ordinance for the Wife, Childe or Children of such persons, that then the said Sir John Hope, and the rest of the Trustees before-named or any four of them, shall allot and let out unto every of the Creditors of such person so much of the said Lands, belonging unto such excepted person, at the rate of twenty years purchase at the least, as shall be sufficient to satisfy such Debt, Charge and Incumbrance, and to convey the Inheritance of the said Land so set out unto such Creditor and Creditors, and his, her and their heirs respectively, in satisfaction of the said Debt, Charge or Incumbrance, and thereupon to take up the security, and that such Creditor and Creditors, his and their Heirs and Assigns, shall from thenceforth have, hold and enjoy all and every the Lands and premises so set out and conveyed, according to such conveyance freed and discharged, in maner as is herein provided, of and from all and all maner of Bargains, Sales, Gifts, Grants, Mortgages, Judgements, Decrees, Jointures, Dowers, or other Incumbrances had, made, committed, or done by such person so excepted respectively, or any claiming under him, since the eighteenth day of April, One thousand six hundred and forty eight. And that the said Trustees shall convey and assure unto the Wife, Childe or Children of such excepted person respectively, Lands, Tenements or Hereditaments of the clear yearly value appointed unto such Wife, Childe or Children by the said Ordinance respectively, under such yearly Rent and Rents, and in such maner, as is in and by the said Ordinance limited and appointed.

And it is further Ordained, That the said Trustees herein named, or any four of them, shall convey and assure unto the respective persons to whom the late Parliament hath by Vote or Order of Parliament given any Lands in Scotland, and to their Heirs and Assigns the Lands, Tenements and Hereditaments, which have been already allotted and set out unto them upon Survey by the Commissioners for Sequestrations in Scotland, out of the Estates of any the persons so excepted as aforesaid in pursuance of such Vote or Order, and which have been by them or their Tenants or Assigns possessed and enjoyed, according to such survey and allotment, in performance of the said respective Votes and Orders under the Rents, Conditions and Limitations in such Vote or Order expressed (if any be) to be by them enjoyed accordingly.

Provided always, That in case the Lands, Tenements and Hereditaments of such excepted person be not sufficient to satisfy the respective Debts, Charges and Incumbrances of such respective person, and also to make up the full provision aforesaid, for his Wife, Childe or Children, that then the said Trustees, or any four of them, be impowered and authorized, and are hereby impowered and authorized to distribute all and every the Lands, Tenements and Hereditaments of every such excepted person amongst the said Creditors; and the Wife, Childe or Children of such person, so far as the same shall extend proportionably, every of them bearing a proportionable abatement of what the premises shall fall short to satisfy, and to convey and assure the same so proportioned accordingly.

Provided also, That in case any of the said persons unto whom the Parliament hath given Lands in Scotland, be already settled by the said Commissioners in any of the Lands or Estate of such excepted person, whose Lands shall not be sufficient to satisfy his Debts, and make provision for his Wife and Children as aforesaid, that yet nevertheless the said Commissioners shall convey and assure unto such person and persons, and his and their Heirs, the Lands so allotted and set out unto him as aforesaid, and in lieu thereof, shall allot and set forth Lands of the same value, or to such value as the Lands of such excepted person shall fall short as aforesaid, so as the same exceed not the full value of the premises so allotted and set out by the said Commissioners for Sequestrations unto such person, out of the Lands and Estate of some other of the persons excepted in the said Ordinance, of whose estate there shall be a remainder after the Debts, Charges and Incumbrances satisfied, and provision made for his Wife and Children as aforesaid, and shall convey the same unto the Creditors in such sort as is before directed and ordained.

Provided also, That if the said Commissioners for Sequestrations have allotted and set out unto any of the said persons to whom the Parliament gave Lands as aforesaid, any Lands, Tenements or Hereditaments of any person or persons not excepted by the said Ordinance from Pardon, that then the said Trustees or any four of them, be impowered and authorized to set out, convey and

assure unto such person and persons, and his and their Heirs, out of the estate and estates of one or more of the said excepted persons, which shall remain after the Debts, Charges and Incumbrances charged or chargeable upon such Estate, and such provision for the Wife, Childe, or Children of such excepted person so satisfied and made as aforesaid, in lieu of the Lands so set out and allotted by the said Commissioners for Sequestrations unto such person and persons as aforesaid. And for the defraying of the incident charges in and about settling the premises, Be it ordained by the Authority aforesaid, That all and every person and persons who shall bring unto the Commissioners herein named, any Claim of any Estate, Title, Interest, Debt, Charge, or Incumbrance to, out of, or upon any of the premises hereby vested in the said Commissioners, and a Certificate of the allowance thereof, under the hands of the Commissioners for allowing Claims, shall before any allotment or conveyance shall be made unto him, her or them, by force of this Ordinance, pay in ready money unto such person or persons as the Commissioners herein named shall appoint for that purpose, three pence in the pound sterling, according to the value of such Estate, Title, Interest, Debt, Charge, or Incumbrance, so claimed and allowed. And in case the Sum so paid in at the rate aforesaid, shall not be sufficient to defray the whole charge which shall arise by the surveying, allotting, and settling of the Estate of such excepted person in maner as aforesaid, that then it shall be lawful to and for the said Commissioners herein named, or any four of them, to demand and receive of each of the said persons so claiming, such further Sum and Sums of money, as his proportionable part of the said Charge shall amount unto, which the said respective Claimers are hereby required to pay unto such person and persons so appointed by the Commissioners aforesaid. All and every which Sum and Sums of money so paid in, shall be issued and paid out by warrant of the said Commissioners or any four of them, for satisfying and defraying the said Charges as they shall think fit. And the said Commissioners herein named, are hereby authorized and empowered to appoint Surveyors, if they shall finde it necessary, and also clerks and other necessary Officers for this Service, and to administer an Oath unto such Surveyors as they finde necessary to imploy, for the faithful discharge of their duty herein, and also to allow such fitting Salaries as they shall think fit.

Provided, That this shall not extend to charge any Wife, Childe or Children of the said excepted persons, nor any person to whom any Lands have been given by the Parliament, with the payment of any Sum or Sums of money towards the said Charge.

The fourth and final ordinance of 12 April, the briefest of the four, focused on a more specialised area, though again it sprang from the provisions made in one of the broader ordinances. The ordinance uniting Scotland with England had effectively abolished the judicial powers, jurisdiction and ‘private’ courts of Scottish landowners. In part in a move to replace them, Protector and Council extended to Scotland courts baron, small, local, manorial courts which dealt with minor issues such as debt, trespass, contractual wrangles and so on. The courts, which were to meet regularly, had power only to determine by jury small issues, of limited financial value and where the ownership of the property was not in doubt or question.

An Ordinance for Erecting Courts Baron in Scotland.
[12 April 1654]

Be it Declared, Established and Ordained by His Highness the Lord Protector, by and with the advice and consent of his Council, That in every place or circuit of Land which really is or hath commonly been called, known or reputed to be a Manor within the Nation of Scotland, there shall be one Court, which shall be in the nature of a Court Baron, or Court of a Manor here in England, to be holden every three weeks; which Court shall have power, order and jurisdiction of all contracts, debts, promises and trespasses whatsoever, arising within the said Manor or precincts thereof; Provided that the matter in demand exceed not, the value of forty shillings sterling, and that in any such action of trespass, the Freehold or Title of the Land be not drawn into question; And it is further Declared and Ordained, That every the said Court Baron shall be held in maner following, That is to say, the style of the Court shall be, The Court of A. B. held the _____ day of

one thousand six hundred _____ by K. D. C. Sutors of the said Court and the Homage or Sutors to be named in the Entry, then after three O yes made, the Sutors, or their Clerk or Steward shall say, If any will be Assaigned, or enter any Plaint, let them come in, and they shall be heard; then the Jury are to be impannelled and sworn, and then a short charge is to be given concerning the several matters and things to be done there, and after presentment and enquiry made, the Sutors shall proceed in the several matters presented, and give order and relief as the Case shall require, and make Execution by Attachment upon the goods of the party within that Manor.

And it is hereby further Declared and Ordained, That the Sutors in every the said Court Baron may from time to time, as there shall be occasion, make By-laws for the publique Weal, Rule and Government of the persons within such Manor, and all and every such By-law shall be binding to every party within the Manor; And the said Sutors shall have power and authority to amerce such persons as infringe any of the said By-laws, and may give warrant to the Bayliff of the Manor to distrain for such amercement by attachment upon the goods of the party offending. Provided that such By-laws be not extended to binde the Inheritance of any person who is not party to the same, and agrees not thereunto.

These four ordinances were quickly printed and copies were sent north for proclamation in Scotland. The ordinance uniting Scotland with England was proclaimed by Monck on 4 May, as part of a series of grand ceremonies marking his entry into Edinburgh. At the same time, the Protectorate itself, now nearly five months old, was formally proclaimed. The remaining three ordinances were proclaimed and officially issued in Scotland on the following day, 5 May. They were quickly published in many of the larger Scottish towns and their terms, positive and negative, benevolent and punitive, were soon widely known in Scotland.

The Later Ordinances of 1654

The four ordinances of 12 April were by no means the only conciliar ordinances of Protector and Council which related specifically to Scotland. For example, ordinances were issued on 16 May 'for the adjudication of several ships of the enemy seized in or brought into Scotland', on 23 June to set out the regular assessments to be collected in Scotland and on 27 June to name the county and borough constituencies which were to return the 30 Scottish MPs to the looming Protectorate parliament. On 4 August two Scottish-related ordinances were passed, to set up lectures in Scotland and to regularise the revenues and debts of Glasgow University. However, the most important Scottish ordinances passed after 12 April concerned two particular interest groups, the landed elite and the church. Both power groups had been largely and deliberately ignored by the initial English attempts to settle Scotland during the early 1650s, in the hope that the general population might be weaned away from them and won over to the new English regime through promises of a broad pardon, freedom from feudal service and other obligations tied to holding land, a new, English-run system of justice and religious liberty. Thus initially the English largely sidelined the established Scottish social and religious elites and sought to reduce their power and influence over the Scottish people. But by 1653-54 Lilburne and Monck after him had come to appreciate the dangers inherent in forcing one or both groups into a corner and to see real advantages in taking a more moderate approach and seeking to win over at least the more malleable elements within both elites.

Glencairn's Rising brought home to the English military leaders on the ground and, through them, to the English regime in London, that a policy of simply oppressing, undermining and excluding the Scottish landed elite would alienate them, give them no reason to remain loyal to the English occupiers and instead drive them into the arms of any movement – Scottish, royalist or whatever – which might offer a more palatable alternative. Thus as Glencairn's

Rising gathered strength, in part on the back of an unbending English line, Lilburne increasingly adopted more subtle policies to try to wean some activists from rebellion and to keep waverers loyal and at peace. A number of carrots were dangled in front of selected Scottish landowners. Those who swore loyalty to the English regime might be allowed to arm themselves and their immediate households and so protect their estates. The main tax, the regular assessments, were reviewed in an attempt to allocate them more equitably and to reduce the overall burden on the Scots; more particularly, Lilburne also offered a temporary reduction in the assessments levied on those landowners who were flirting with rebellion but who returned to full loyalty. Above all, Lilburne urged the English regime not only to grant a very broad and generous pardon to the Scots but also to put in place measures to alleviate the very heavy debts into which many of the Scottish social elite had fallen. In the wake of years of disorder, internal wars and wars against neighbouring states, many Scottish landowners had fallen heavily into debt by the early 1650s and many landed estates were threatened by assorted creditors. Lilburne and, from spring 1654, Monck after him both realised that while debt and the fear of its consequences might drive men into rebellion, if conversely the English regime could offer some help in alleviating elite debt and in preventing great estates from falling prey to creditors and their agents, then the Scottish landed elite might be won over and see real benefits from English rule.

Such a policy was attempted in 1654-55, in part through ordinances and other orders of the Council of State in London, in part through the actions and initiatives of the English regime on the ground in Scotland. Several measures were put in place to alleviate the overall burden and impact of debt on Scottish landed estates. For example, in the wake of strong lobbying by Lilburne and Monck, in April 1654 the Protectoral Council directed judges in Scotland to moderate judicial proceedings against debtors not only by giving them more time to pay but also by insisting that creditors accept land in lieu of cash in cases of hardship. A formal ordinance to that effect was considered and debated in Council during April and early May and was finally completed and issued on 16 May.

**An Ordinance for Relief of Debtors in Scotland in some cases of Extremity.
[16 May 1654]**

For the better moderating the severitie of the proceedings which by the Laws of Scotland are had by Creditors against their Debtors, in several cases of great Extremitie, and to the end such Creditors may have satisfaction of what is or shall bee due unto them: Bee it Ordained, and it is hereby Ordained, by His Highness the Lord Protector, by and with the consent of his Council, That the Commissioners for Administration of Justice in Scotland for the time being, bee Authorized and impowered to moderate Decrees to be by them given out against such Debtors as shall manifestly appear to them not to bee able to procure money for paying such Debt, by allowing som fit and convenient time or dayes for payment of the said Debt, with Interest for the same, until such time or dayes of payment, and at the expiration of such time appointed, in case the said Debts bee not satisfied, to appoint and set out Lands of such Debtors, for satisfaction of the Debt, at such values as the same were worth in the year One thousand six hundred forty eight; and to decree the same to bee enjoyed by such Creditors, and their heirs, or otherwise according to such Decree, in satisfaction and discharge of such Debt, and all further proceedings against such Debtor, or his estate for the same. This Ordinance to continue in force until the twelfth day of May, One thousand six hundred fiftie five.

This ordinance was to remain in force for one year and technically expired on 12 May 1655. However, during spring and summer 1655 Monck – fearful that a resumption of harsh proceedings against debtors might encourage indebted landowners to take up arms – requested that the judges in Scotland still adhere to the now lapsed ordinance; with the

approval and support of the Protectoral Council, the letter or spirit of the ordinance continued generally to be applied. Although the power of the Protectoral Council to make laws and ordinances had ended by this time and indeed after September 1654 the Council never again explicitly claimed such power or issued documents entitled ordinances, in practice some of the later Council orders were very wide and sweeping and came close to legislation. One such was a Council order of April 1656, approved by the Protector in May and duly publicised and proclaimed in Scotland, which effectively strengthened the informal arrangements of the previous year and made formal provision for debts to continue to be settled in land rather than cash.

Over and above the problem of the widespread indebtedness of elite estates, the English also had to deal with those who were to be punished for past actions and who had therefore been excluded from the general pardon of April 1654. Around two dozen members of the elite had been completely excluded and were to lose their entire estates. However, at least 8 of these individuals largely escaped such sequestration, for they were guaranteed much milder treatment in the articles of war or capitulation granted to them by Lilburne on Monck on their surrender and submission to the English – the ordinance explicitly stated that such articles were to be observed and honoured, even where they ran counter to punishments listed elsewhere in the ordinance – and the sequestration orders on a handful of other estates were revoked in 1655-56. The broad pardon of April 1654 also excluded active participants in Glencairn's Rising, but in practice Monck offered and concluded generous terms with most rebellious members of the Scottish elite as they made their peace in 1654-55. Under the terms of the ordinance of April 1654 another 70 or more Scottish landowners were conditionally pardoned and could keep and enjoy their estates upon prompt payment of often very heavy fines. It is not clear whether Protector and Council ever seriously expected these fines to be paid in full and in practice they were not. Those named in the ordinance soon began petitioning and lobbying, individually and as a group, for a reduction in their fines, arguing that they simply did not have the money and that they were already in debt. Consistent with his view that harassing indebted Scottish landowners would be counter-productive and only encourage rebellion, Monck generally supported such claims and also urged moderation upon the Protectoral government. In response, in early July the Council declared that if one third of the fines were paid, a newly-established committee, comprising judges and sequestration commissioners, would review the balance. A formal ordinance to this effect was drafted and debated during July and August, was approved by the Lord Protector on 19 August and was formally passed and issued two days later. The ordinance conceded that the initial fines had been set at unrealistic levels and implicitly accepted that significant reductions were warranted. The new committee, which was to act speedily, could receive appeals based upon a range of factors, including the petitioner's level of participation in the wars of 1648-51 and the value of his estate. The committee worked through the individual cases during the winter and reported back to the Council of State in March 1655. A series of Council orders of 6 April largely confirmed the moderate and conciliatory proposals received from the committee – 10 of those originally fined had their fines revoked, while 15 had their fines reduced to less than a third of the original figure, 40 to exactly one third and the remaining 8 to a little over a third but less than half the original sum. These greatly reduced fines were to be paid by the end of September 1655.

In practice, the indebtedness of many elite estates and, more particularly, various complexities springing from the fines and forfeitures set out in the April 1654 ordinance continued to tax both the English government in London and the devolved conciliar administration established in Scotland from autumn 1655. Creditors complained that they were being treated unfairly and unreasonably and that the English regime had gone too far in allowing Scottish landowners to elude their creditors and escape perfectly legal and binding debts. Many of

those fined in April 1654 continued to complain about their material circumstances and repeatedly delayed paying even the greatly reduced fines imposed in April 1655. By 1655-56 the sequestration orders had been lifted from nearly half the estates declared forfeit in the April 1654 ordinance and many of the other landowners in that category were complaining that, as they had made their peace with the English regime and demonstrated their loyalty, it was unreasonable that they should lose their land. But this in turn created difficulties, for successive English regimes had promised land and property in Scotland to a variety of creditors of the state – to merchants and manufacturers who had provided goods and services, to financiers who had lent money to the regimes, to various army officers and civilian officials in lieu of arrears of pay and so forth – and were relying upon the forfeited estates to supply such property. The revocation of many original sequestration orders was already creating a short-fall in Scottish land available to be allocated or ‘donated’ to these state creditors, and any move to moderate or reverse the remaining forfeitures would exacerbate this problem. In autumn 1656 the Council of State sought a solution, proposing a huge fine of £40,000 in total, to be collected from those landowners still lying under threat or active proceedings of sequestration – around a dozen of them by this stage. The money would be used to buy off the state creditors – the ‘donatives’ – and to reward them in cash rather than Scottish land, while in return the estates and their owners would no longer be under threat of forfeiture. Again, practice lagged well behind theory, and as the Protectorate ended the £40,000 was still being collected and assorted donatives and other creditors were still being paid off.

The other important elite group to be affected by a later ordinance was the Scottish church. In the early 1650s, as control of Scotland had passed to an English occupying force, the power and monopoly position of the Presbyterian Scottish church had effectively been undermined. The Presbyterians retained little real coercive power, physical control had passed to the English military and English troops and regiments had brought to Scotland a variety of new Protestant faiths – Baptism, Independency and so forth. However, the Scottish people seem to have remained overwhelmingly loyal to their established faith, Presbyterian leaders retained considerable authority and influence over congregations and wider communities and no clear new religious settlement had been achieved. The incoming Protectoral regime probably wanted to extend to Scotland the type of religious settlement which had been worked out in England and Wales in the early 1650s and which was being put onto a more formal, organised basis there during 1654 via a clutch of conciliar ordinances – continuing a state church of sorts, with the state playing a strong role in overseeing the quality of incumbents and in regulating appointment to vacant parishes and livings, but with no obligation for anyone to belong to that church or worship under those incumbents, and instead guaranteeing liberty of conscience to other Protestant faiths, groups, congregations and ministers. But while the Rump’s Declaration of autumn 1651 had indicated an intention to extend to Scotland an English-style system based upon promotion of preaching and the gospel and upon liberty of conscience for Protestants, the four ordinances of 12 April 1654 had done nothing to bring this to fruition and, indeed, had said little or nothing about religion. Instead, discussions continued during the spring and summer, for by 1654 the English regime in Scotland had come to appreciate that the established Scottish church would not simply wither away on being starved of state support and that a durable religious settlement which might command broad support in Scotland would only result from negotiations and a degree of compromise with at least some elements of the established Presbyterian elite.

In the early 1650s the Scottish Presbyterian church had become divided into two main groups, the minority Protesters, led by figures such as Patrick Gillespie, James Guthrie and Archibald Johnston, who were wary of tying themselves too closely to the royalist cause and supporting the Stuarts and were more inclined to reach a settlement with the English republic, and the

majority Resolutioners, who took a stronger royalist line and retained a greater loyalty to the Stuart cause. Plausibly enough, Lilburne and, after him, Monck saw the Protesters as the more promising group, with whom some sort of a deal might be made, and once English policy had shifted from ignoring to negotiating with the Presbyterian elite it was to the Protesters that the English leaders principally turned. Those Protester leaders who seemed most inclined towards the proposed English settlement were courted, especially a clique led by Gillespie, who spent several weeks in London during spring and summer 1654. When, following further negotiations and debate in Council, Protector and Council issued in early August an ordinance relating to the settlement of the Scottish church, the measure was soon nicknamed ‘Gillespie’s Charter’.

The ordinance of 8 August covered two distinct areas. The first half or more of the text attempted to boost the financial position of the universities Glasgow and Aberdeen by granting to them lands and incomes formerly vested in certain, now defunct bishoprics and religious houses in Scotland. The money was to be used to support the universities in general, some senior academics and administrators and students studying particular subjects. But the second half of the ordinance related to the religious settlement of Scotland, for it effectively extended to Scotland a modified version of the system of ‘triers’ which had been established in England and Wales by an ordinance of the previous March. Thus several bodies of commissioners were set up for various Scottish regions with power to examine the qualifications of candidates to vacant livings; only those judged and certified by them to be ‘of a holy and unblameable conversation, disposed to live peaceably under the present government, and who for the Grace of God in him, and for his knowledge and utterance is able and fit to preach the Gospel’, were to be appointed and granted stipends. The ordinance also made provision for funding other ‘godly’ ministers working in Scotland. Although the full processes of the English ‘ejectors’ – who had a range of powers to investigate the suitability of incumbent ministers and schoolmasters and to expel those judged unfit – were not extended to Scotland, the ordinance did rather vaguely and sweepingly call for the suppression of ‘all ungodlinesse, and scandalous practices, whether in the ministry or the people’.

**An Ordinance for the better support of the Universities in Scotland,
and encouragement of Publik Preachers there.
[8 August 1654]**

His Highness the Lord Protector taking into consideration the great advantage which may redound to the people of this Commonwealth inhabiting Scotland, that the Universities there should receive both countenance and encouragement, and be provided for with competent maintenance for the members of the said Universities, for the better training up of youth in piety and good literature; doth ordain, and be it ordained by his Highness, by and with the consent of his Council, that the superiorities of all and singular the lands belonging to the late Bishoprick of Galloway, Abbacy of Tunland, Priory of Whithorn, and Abbacy of Glenluce, and all other lands annexed and appertaining to the said Bishoprick, together with all few-farmes, few-duties, kains, customs, and casualties thereunto belonging, accrewing, or which shall accrew; as also, the superiorities of the whole teinds, parsonage, and vicarage, teind-duties, and all other duties of all and sundry the churches and parishes of and belonging to the said late Bishoprick, Abbacy or Priory, where ever the same lye, and by whatsoever name or designation the same be known, (excepting the superiority of the Deanery of the Chaplin of Striveling), be, and are hereby, and shall from henceforth be adjudged, deemed, and taken to be given, granted, doted, mortified and disposed to the University of Glasgow, and the Principal, Professors, and Regents thereof, and their successors for ever, with power to the Principal, Professors, and Regents of the said University, present and in time to come, and their successors, to receive resignations, enter the few-holders, tenants, and all other formerly called vassals of the said late Bishoprick, Abbacies and Priory, to their respective lands, by charters of resignation, confirmation, or otherwise, to compound, transact, and receive fines and

compositions for the same, and to do all and every other act and thing touching the same, as any superior or over-lord in Scotland may do to their tenants and few-holders, or others, commonly called vassals, according to law.

And be it further ordained by the authority aforesaid, that, for the better encouragement of students in the said University, the sum of two hundred marks sterling, yearly, shall be paid out of the first and readiest of the customs of Glasgow, to the Principal, Professors, and Regents of the said University of Glasgow, and their successors for ever, or such person or persons as they shall from time to time appoint to receive the same, to be employed by them and their order, for the education of pious and hopeful young men and students of theology and phylosophy in the said University; and that the collectors and receivers of the said customs for the time being, shall pay the said yearly sum of two hundred marks sterling, by quarterly payments, accordingly, and shall be allowed the same upon their accompts, the first payment to be made at or upon the first day of December next.

And be it further ordained by the authority aforesaid, that the superiorities of the lands belonging to the late Bishoprick of Aberdeen, that is to say, the superiorities of the lands of Aberdeen, formerly called the Barony of Aberdeen, of the lands of Murthill, Fetterner, Clett, Tallienessell, Daviot, Reine, and Beirse, all lying within the sheriffdome of Aberdeen; as also the lands of Fordice and Murtlawh, lying within the sheriffdome of Bamff, together with the superiority of the acres of Old Aberdeen, and of all other lands, tenements, houses, with appurtenances, formerly belonging to the said late Bishoprick of Aberdeen, the few-farmes, few-duties, kains, customs, casualties, teins, parsonage, and vicarage, tend-duties, and all other duties of the lands, churches, and parishes aforesaid, together with other duties of the church of Maucher and Nicholas, and of all other kirks and parishes which formerly belonged to the said Bishoprick, together with the tenths of the salmon fishing, and other fishings upon the waters of the Dee and Done, or on the sea, or any other places formerly belonging to the said Bishoprick, together with the whole fruits, teinds, church-rents, and other duties any way belonging to the temporality or spirituality of the said Bishoprick, be given, granted, doted and mortified to the said University of Aberdeen, the Principals, Professors, Regents, and remanant members thereof, and their successors for ever, in manner following, (that is to say), to the Colledge of Old Aberdeen, two parts in three to be divided, and to the Colledge of New Aberdeen, one third part in three to be divided, with power to the Principals, Professors, Regents, and remanant Members of the said University, according to their proportion and division aforesaid, present and to come, and to their successors for ever, to receive resignations, enter the few-holders, tenants, and all others, formerly called vassals, of the said Bishoprick lands, and other the premises, by charters of resignation, confirmation, or otherwise, to compound, transact, and agree about the fines and compositions due for the same, and to receive and take up the same; and to do all and every other act and thing therein, that any superior or over-lord in Scotland may do their few-holders, tenants, and all others commonly called vassals, according to the law in such cases; and in respect of the incompetency of the maintenance of the masters, professors, and other the members of the said University, and especially of the said Colledge of New Aberdeen, be it ordained by the authority aforesaid, that the sum of two hundred marks sterling by the year, out of the first and readiest of the customes of Aberdeen, shall be from henceforth paid unto the Principals, Professors, and other the Members of the said University, and their successors for ever, or to such person and persons as they shall from time to time appoint, to be paid quarterly, by even and equall proportions, to be employed for the augmentation of the provisions and maintenance of the Principals, Professors, Regents, and remanent Members of the said University of Aberdeen, in manner following, (that is to say), two parts thereof to the said Colledge of New Aberdeen, and the other third part to the Colledge of Old Aberdeen; and that the collectors and receivers of the said customs, for the time being, shall pay the same accordingly: Provided always, That the Principals of either of the said Colledges, shall have twice as much added to their provisions out of the said augmentation or yearly sum, as is added to the provision of other Professors and Members of the respective Colledges, the first payment to be made at or on the first day of December next, and so from thenceforth quarterly.

And for the better propagation of the Gospel, and advancement of Godliness in Scotland, be it ordained by the authority aforesaid, that the Commissioners for visiting the Universities, Colledges, and Schools of learning in Scotland, do take especiall care that none but godly and able men be authorized by them to enjoy the livings appointed for the Ministry in Scotland; and to that end, that

respect be had to the choice of the more sober and godly part of the people, although the same should not prove to be the greater part; and that no person shall be by them authorized, or admitted into any such living or benefice, but such as shall be first certified by the persons hereafter named, for the respective provinces hereafter mentioned, or any four or more of them, whereof two to be ministers, to be a person of a holy and unblameable conversation, disposed to live peaceably under the present government, and who for the Grace of God in him, and for his knowledge and utterance is able and fit to preach the Gospel. Within the provinces of Louthian, Mers and Teviotdale, Master Robert Traile, Master Alexander Levingstone, Master Gilbert Hall, Master John Scott, Master Edward Jamesone, Master John Sinclare, Master John Levingstone, Sir Archibald Johnstone, Sir Andrew Ker, Colonel Gilbert Ker, George Dundas of Duddinstone. Within the provinces of Dumfrieze and Galloway, Master Hugh Henderson, Master Samuel Austine, Master Alexander Trumbel, Master Andrew Lawder, Master Samuel Rowe, Master William Ferguson of Kaitlocke, Earl of Cassils, Alexander Gordon of Knockgray. Within the province of Glasgow and Aire, Master John Carstayres, Master Alexander Dunlap, Master John Nevay, Master William Guthery, Master William Adayre, Master Thomas Willye, Master Patrick Colvile, Master Francis Ayrd, Master William Somervill, Master Patrick Gillespie, Sir George Maxwell, William Muyre of Glandeastone, Master John Graham, Master John Spreule, George Porterfield. Within the provinces of Perth, Fife and Angus, Master James Guthery, Master Robert Blaire, Master Samuel Rutherford, Master Alexander Moncreiffe, Master James Simson, Master William Oliphant, Master John Murray, Master William Rait, Sir William Bruce, David Weemes of Fingask, Viscount of Arburthnet. Within the provinces of be-north Angus, Master Robert Keith, Master Duncan Forbes, Master John Rowe, Master Nathaniel Martin, Master Joseph Brody, Master John Menzies, the Lord Brody, the Laird of Eight, Earl of Southerland, Alexander Jeffrey, Master William More, Master Andrew Cant.

And be it further ordained by the authority aforesaid, that the said Commissioners do allow and provide out of the treasury of vacant stipends, or otherwise, as they shall think fit, a competent maintenance, for such ministers who have gathered congregations in Scotland; and to take care that the stipends of the parochial churches there be employed to the use of such godly ministers as are free to labour amongst them, in the way of the Churches of Scotland.

And be it further ordained by the authority aforesaid, that the said Commissioners do take care that such of the ministers of that nation as they shall finde to promote godlinesse, and to endeavour the suppressing of all ungodlinesse, and scandalous practices, whether in the ministry or the people, do receive all due encouragement and assistance; and that they do oppose all such as discountenance the power of godlinesse, and are indulgent to such as are scandalous or prophane.

Most of the commissioners chosen by Protector and Council and named in this ordinance were drawn from the group which had displayed most willingness to work with the English regime – the minority Protester party, especially Gillespie’s wing. They were leavened by a few Independents. The stricter but much larger Resolutioner party had been largely excluded. As such, the measure was widely hated, opposed and condemned by most of the Scottish Presbyterians, not just the Resolutioners but also many Protesters, including Guthry and Johnston, who distrusted Gillespie or felt that he and his cronies had gone too far in doing a deal with the English and had thereby betrayed Scottish Presbyterianism. In the face of such opposition, the ordinance was effectively unenforceable, and despite attempts by Monck to bolster the standing of Gillespie’s wing of the Protester party during 1654-55, little further progress was made at this time. In autumn 1655 the Protector and his Council of State appointed a new Scottish Council, designed to bring an element of reinvigorated and devolved government to Scotland, and amongst its instructions was a directive to revive and implement the ordinance. However, this was modified by additional instructions a few weeks later which, perhaps recognising the narrow base upon which that ordinance rested and the difficulties there would be in implementing it, called upon the Scottish Council to hold new discussions with all wings of the Presbyterian church and also empowered the existing, English-appointed commission of university visitors to appoint to vacant livings in their own right, rather than

making those appointments dependent upon certificates of approval received from the commissioners named in the ordinance of August 1654.

During 1655-56 the new Scottish Council and its president, Lord Broghill, sought to find a way forward which would command wider support within Scotland. But despite strenuous efforts by Broghill and his colleagues, involving discussions with all parties, assorted conferences and government proposals to name a small number of new or additional 'triers', no new solution proved acceptable to most or all Scottish Presbyterians. In summer 1656 the Protectoral Council of State in London decided to ditch a large part of the ordinance by doing away with the provincial commissioners charged with certifying the fitness of appointees. Instead by a Council order of 31 July the Scottish Council was given authority to admit to livings and stipends any minister or preacher whom the Scottish Councillors themselves felt met the standards and qualifications set out in the ordinance. Broghill and the Scottish Council, in turn, called upon individual presbyteries to certify the fitness of candidates. As Protester congregations would naturally support Protester appointees and Resolutioner congregations would support Resolutioner appointees, this would effectively mean a continuation of the existing balance of power in Scotland, with Protesters in the minority and Resolutioners in the majority. This amounted to a victory for the Resolutioners, with whom Broghill had established a good working relationship, and a defeat for the Protesters as their opportunity to expand their power-base and gain control over the Scottish church via the provisions and provincial commissions of the ordinance of August 1654 had now evaporated. Although squabbles continued and both sides, but particularly the disillusioned Protesters, complained long and loud to the Scottish Council and to the Protectoral Council in London, the modified system established under the Council order of 31 July 1656 remained in place for the remainder of the Protectorate.

Thus the English regime eventually reached rather messy but workable compromises with both the landed and religious elites in Scotland, based in part on conciliar ordinances of 1654 but involving considerable flexibility and subsequent modifications. Although it had been stripped of most of its feudal rights and powers, the Scottish landed elite largely survived, pardoned by the Protectoral regime and with its somewhat precarious material position and landed status actually protected and in some ways underpinned by the English regime. Equally, in the end the Scottish Presbyterian church also endured and although it had been required of necessity to recognise and to reach a compromise with the secular power of the English regime, that regime in turn had largely accepted and compromised with the established religious position of the Presbyterian church. Although in principle religious liberty operated in Scotland, in practice only a small number of non-Presbyterian, Independent groups and congregations developed and flourished outside the English regiments and garrisons in Scotland.

Much the same might be said of the Anglo-Scottish union established in 1654 and the whole Scottish Protectoral system which it spawned. For a time, it worked well enough and the years following 1654 cannot plausibly be portrayed as a period of conspicuous instability, oppression or suffering. Despite the continuing military presence, the Protectorate established or re-established elements of more traditional, civilian government and administration in Scotland, which performed at least adequately and which provided a level of stability, security and peace at least comparable with the monarchical regimes of the seventeenth century. A few Scots actively supported the Protectoral regime; the vast majority acquiesced with it and lived peacefully under it, making the most of any advantages which the new order might bring while also retaining what they could of their old ways or seeking to modify the new regime to bring it closer to the Scottish way of doing things. Compromises were made on both sides and to some extent the Protectoral regime achieved a fair degree of peace and

stability in Scotland only because it backed away from radical reforms of the sort which were attempted in England and Wales. Although it followed on from a rigorous military conquest and was only possible because of a continuing military occupation, the Protectorate's handling of Scotland and treatment of the Scots was marked by conciliation and moderation, and once Glencairn's Rising had been broken, the velvet glove was far more apparent than the iron fist. But neither the Protectorate nor the union put down deep and strong roots in Scotland during the 1650s and in 1659-60 both were quickly swept away. The Anglo-Scottish union of 1654 had proved a false dawn – or an all-too-real nightmare – and was swiftly rendered null and void by the returning Stuart regime. For two generations more, until a very different form of partnership was peacefully crafted in the very different circumstances of 1707, England and Scotland would continue to enjoy or endure a regal union but nothing more.