

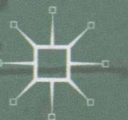
AN
AGREEMENT
OF THE
THE AGREEMENTS OF
THE PEOPLE, THE
LEVELLERS AND THE
CONSTITUTIONAL CRISIS
OF THE
ENGLISH REVOLUTION

As it was proposed by the Agents of the five
Regiments of the Army, entered to the joynt confer-
rence of all the free COMMONS of
ENGLAND.
The Names of the Regiments which have already appeared for the
Cause, of *The Cause of the Army truly stated* and for this
present Agreement, VIZ,

1. Gen. Regiment.
2. Life-Guard.
3. Lieut. Gen. Regiment.
4. Com. Gen. Regiment.
5. Col. Whalleyes Reg.
6. Col. Riches Reg.
7. Col. Fleetwood's Reg.
8. Col. Harrison's Reg.
9. Col. Twissdens Reg.

1. Gen. Regiment.
2. Col. Sir Hardresse
Waller's Reg.
3. Col. Lamberts Reg.
4. Col. Rainborough's
Reg.
5. Col. Overton's Reg.
6. Col. Backers Reg.

EDITED BY
PHILIP BAKER AND
ELLIOT VERNON



Printed Anno Dom. 1647.

The Agreements of the People, the Levellers and the Constitutional Crisis of the English Revolution

Edited by

Philip Baker

and

Elliot Vernon



palgrave
macmillan



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and Philip Baker 2012
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First published 2012 by
PALGRAVE MACMILLAN

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Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

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ISBN: 978–0–230–54270–9

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A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

10 9 8 7 6 5 4 3 2 1
21 20 19 18 17 16 15 14 13 12

Printed and bound in Great Britain by
CPI Antony Rowe, Chippenham and Eastbourne



The *Agreements of the People*, the Levellers and the
Constitutional Crisis of the English Revolution

Acknowledgements

This book has been a long time in the making, and therefore our first expression of thanks must be to our fellow contributors, both for showing faith in the project in the first place and then for their unfailing patience during the lengthy process of its completion. We would also like to thank all those, and especially Michael Mendle, who attended the symposium at the Institute of Historical Research, London, in July 2007, when early versions of a number of the chapters were first aired. Olwen Myhill, administrator of the Centre for Metropolitan History, also deserves our thanks for making sure that everything went smoothly on that day.

For permission to use the image on the book's front cover, we gratefully acknowledge the Provost and Fellows of Worcester College, Oxford. Joanna Parker and Mark Bainbridge also deserve our thanks for their help in Worcester College library.

At Palgrave Macmillan, we would like to take this opportunity to thank Michael Strang, Ruth Ireland, Jenny McCall and, especially, Clare Mence for their help in the preparation of this book.

Finally, but far from least, we would like to thank Ane and Beth, who were with us when we began this project, and Edmund and Marcus, who were not.

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Abbreviations

| | |
|---|---|
| 669 | British Library, Thomason Tracts pressmark (broadside) |
| A&O | C.H. Firth and R.S. Rait (eds.), <i>Acts and Ordinances of the Interregnum, 1642–60</i> (3 vols., 1911) |
| BL | British Library, London |
| <i>Book of Army Declarations</i> | <i>A Declaration of the Engagements, Remonstrances, Representations, Proposals, Desires and Resolutions From His Excellency Sir Tho: Fairfax, and the Generall Councel of the Army</i> (1647) |
| CJ | <i>Commons Journal</i> |
| <i>Clarke Papers</i> | C.H. Firth and Frances Henderson (eds.), <i>The Clarke Papers</i> (5 vols., Camden Society, London and Cambridge, 1891, 1894, 1899, 1901, 2005) |
| CSPD | <i>Calendar of State Papers, Domestic</i> |
| E | British Library, Thomason Tracts pressmark |
| EHR | <i>English Historical Review</i> |
| Folger | Folger Shakespeare Library, Washington, D.C. |
| Gardiner, <i>Constitutional Documents</i> | S.R. Gardiner (ed.), <i>Constitutional Documents of the Puritan Revolution</i> (1889; 3rd edn, Oxford, 1906) |
| Haller and Davies, <i>Leveller Tracts</i> | William Haller and Godfrey Davies (eds.), <i>The Leveller Tracts, 1647–53</i> (New York, 1944) |
| HJ | <i>Historical Journal</i> |
| HMC | <i>Historical Manuscript Commission</i> |
| HPT | <i>History of Political Thought</i> |
| JBS | <i>Journal of British Studies</i> |
| LJ | <i>Lords Journal</i> |
| LMA | London Metropolitan Archives |
| McMichael and Taft, <i>Writings of Walwyn</i> | Jack R. McMichael and Barbara Taft (eds.), <i>The Writings of William Walwyn</i> (Athens, GA, 1989) |
| ODNB | H.C.G. Matthew and Brian Harrison (eds.), <i>Oxford Dictionary of National Biography</i> (60 vols., Oxford, 2004) |

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| <i>P&P</i> | <i>Past & Present</i> |
| Sharp, <i>English Levellers</i> | Andrew Sharp (ed.), <i>The English Levellers</i> (Cambridge, 1998) |
| TNA | The National Archives of the United Kingdom, Kew |
| Wing | Donald Wing, <i>Short-Title Catalogue of Books Printed in England, Scotland, Ireland and British America, and of English Books Printed in Other Countries, 1641–1700</i> (3 vols., 2nd revised edn, New York, 1982–94) |
| Wolfe, <i>Leveller Manifestoes</i> | Don M. Wolfe (ed.), <i>Leveller Manifestoes of the Puritan Revolution</i> (1944; reprinted 1967) |
| Woodhouse, <i>Puritanism and Liberty</i> | A.S.P. Woodhouse (ed.), <i>Puritanism and Liberty, Being the Army Debates (1647–49) from the Clarke Manuscripts with Supplementary Documents</i> (1938; 3rd edn, 1986) |
| Woolrych, <i>Soldiers and Statesmen</i> | Austin Woolrych, <i>Soldiers and Statesmen: The General Council of the Army and its Debates, 1647–48</i> (Oxford, 1987) |
| Worc. | Worcester College, Oxford |

Note: Unless stated otherwise, all places of publication are London. All dates are in old style but with the year taken to begin on 1 January.

For the sake of consistency, references to the *Agreements of the People* have been italicised throughout the volume, the distinction between the (italicised) published texts and the idea or proposal of an Agreement (without italics) being hard to sustain.

To avoid ambiguity in the use of the word ‘representative’, in this volume ‘Representative’ (uppercase) denotes the collective body, and ‘representative’ (lowercase) the individual members.

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Introduction: The History and Historiography of the *Agreements of the People*

Elliot Vernon and Philip Baker

In August 1648, William Sedgwick, a former parliamentary army chaplain and religious anti-formalist, issued a damning critique of the various factions that had emerged after parliament's victory in the first Civil War. For Sedgwick, all parties had turned away from God, and this had led England into a constitutional and religious wilderness. As a corrective, he outlined seven 'leaves of the Tree of Life' that would mark England's return from crisis: peace, constitutional settlement, the honour of the nation, the settling of religion, liberty, an Act of oblivion, and a right understanding between king and parliament.¹ Many of Sedgwick's contemporaries would have agreed that these seven issues represented the necessary elements for the settlement of war-torn England. The tragic difficulty was that each of his headings had become bitterly contested categories, seemingly incapable of resolution. The failure to resolve these factors was to define the constitutional crisis of the later 1640s and, arguably, those also of the later seventeenth century.²

Historians of political thought have long asserted the view that the first Civil War was, at least in part, the result of an impasse caused by conflicting languages of politics.³ One such language was the idea derived by lawyers influenced by the jurisprudence of Sir Edward Coke that the common law was the embodiment of reason and thus represented a body of fundamental law protecting the birthrights of the English people. In the radical expressions of this strain of thought, governors, including kings, were charged as fiduciaries or trustees for the proper administration of the common birth-right.⁴ This idea, pregnant with implication, formed a key element of the English parliamentary constitutionalist revolution of 1640–42 and the justification for the war against Charles I.⁵ By 1646, however, this concept had contributed to a constitutional crisis as the parliamentary cause fractured around the problem of settlement after victory. If this crisis was ultimately resolved by the retreat towards the restoration of monarchical

government and a rejection of the radical implications of Cokean jurisprudence, the period 1646–60 marked a moment of disjuncture in English history when alternative ideas were played out in a desperate attempt to bring peace and settlement to the nation.⁶

The *Agreement of the People*, first presented in the name of a group of cavalry troopers, styling themselves ‘Agents for Five Regiments of Horse’, to a meeting of the general council of the New Model Army at Putney in October 1647, was the template for a series of documents that proposed one method of solving this constitutional crisis. At the root of all versions of the *Agreement* was the device of a written agreement between the people and their representatives settling immutable fundamentals of governance, or ‘foundations of freedom’. Between 1647 and 1649, a number of editions and variations of this document were proposed and published, and elements of the *Agreements* influenced the protectorate constitutions of the mid-1650s, were suggested as a panacea to solve the political malaise of 1659 and fleetingly resurfaced during the Glorious Revolution.

One of the difficulties faced when studying the *Agreements* is that their resonance with the tenets of modern constitutional liberalism often acts as a filter, impairing the understanding of them as documents of their own time. The essays in this book, the first devoted to the *Agreements of the People* in their own right, seek to recover the meaning of the *Agreements* in their historical context rather than their relationship to modern constitutional debate.⁷ It is hoped that the following essays, which are introduced throughout this initial chapter, will further our understanding of the *Agreements* as responses to the constitutional crisis of the English Revolution and thereby reinvigorate scholarly debate in this area. As a first step in that direction, this introduction begins by exploring the various versions of the *Agreement of the People* in their historical context before turning to the several ways in which historians have interpreted the documents and the group with which they are most closely associated, the Levellers.

I

Following the scholarly rediscovery of the Levellers in the early twentieth century,⁸ it became customary for historians to think of the *Agreements of the People* primarily as Leveller documents and to focus their attention on the editions published in November 1647, December 1648 and May 1649. There is, indeed, a long-established practice of numbering these documents as the first, second and third *Agreements*.⁹ However, J.W. Gough suggested as early as 1931 that this categorisation creates an undue simplification,¹⁰ and, with this point in mind, this section of the introduction provides an overview of the various editions and incarnations of the document.¹¹

The First Agreement of the People

The original *Agreement of the People* was first read, perhaps in draft form only, on 28 October 1647 before the general council of the army at Putney. Unlike later versions, which were the work of named individuals or known collectives of people, the authorship of the first *Agreement* remains uncertain. Writing in the late nineteenth century, S.R. Gardiner accepted that the document had been drafted by the army agents in whose name it was presented but, by 1916, T.C. Pease thought they had been 'acting under Leveller tutelage and following out the Leveller programme'.¹² Pease saw William Walwyn as the guiding hand behind the document, an assertion that was impressionistic at best, based, as it was, on Walwyn's concern for religious toleration and brotherly love, and the (unsatisfying) argument that 'the obscurity of [the first *Agreement's*] origin is what one would expect in something begun by Walwyn'.¹³ Later historians, most notably Barbara Taft, have claimed that Walwyn was the actual author of the document, drawing attention to his early argument for the limitation of parliamentary power in his 1645 tract *Englands Lamentable Slaverie*.¹⁴ Meanwhile, scholars such as Maurice Ashley and Don Wolfe have identified the *Agreement* as the work of John Wildman, based on his leading role during the Putney debates.¹⁵ Most recently, the present authors have argued that Wildman's account of a meeting of soldiers and civilians on 27 October does indeed suggest that, in consultation with the agents and other soldiers, he drafted, or at least collated, the paper.¹⁶

The first *Agreement* strikes many modern historians as little more than a sketch: for Austin Woolrych, for example, it was 'an inspired improvisation, designed specifically to exploit the opportunity offered by a hearing before the General Council of the Army'.¹⁷ Its minimal clauses dealt with the dissolution of the Long Parliament and the structure of governance of the biennial Representatives that would replace that parliament. The document's clauses are cloaked (perhaps deliberately) with imprecision and ambiguity, as in its call for a redistribution of parliamentary seats 'according to the number of the Inhabitants', which could (as Commissary-General Henry Ireton saw it) imply democracy, and the implication of a unicameral republic, which was suggested by the document affording the elected Representative, and no other, the common marks of sovereignty.¹⁸ The first *Agreement's* grant of sovereignty was, however, limited by the innovative device of a list of powers reserved by the people from future Representatives: freedom of conscience in matters of religion; freedom from conscription; equality before the law; and indemnity for anything said or done during the Civil War.¹⁹

The London bookseller, George Thomason, acquired his printed copy of *An Agreement of the People* on 3 November 1647, the probable date of publication. This edition consisted of the *Agreement* itself, followed by a letter to 'the Free-born People of England', a letter to 'the Officers and Souldiers' of the army, and a postscript from the agents addressed to the soldiery. As we

have argued elsewhere, the typeface used in this edition indicates that it originated from a printing press sold on 30 August 1647 to the army by the London printer Jane Coe. The same printing press, which would be used in 1648 by John Clowes – a partner of various printers and publishers connected with the army, including Coe and Robert Ibbitson – had been used to print most of the army agent pamphlets in late October and November 1647.²⁰ Two variant editions of the *Agreement* followed, on 4 and 5 November, each using different titles and frontispiece layouts and different combinations of the constituent elements of the first edition. These later editions suggest that the agents were deliberately varying the format polemically to present the *Agreement* as both an official army document and an appeal from the soldiery to the people.²¹

The publication dates of 3 to 5 November 1647 are significant because a committee of officers and soldiers, which also included the civilian John Wildman, had agreed a series of settlement terms on 2 November that represented a compromise between the *Agreement* and the army's scheme for settlement, *The Heads of the Proposals*. This committee's propositions, which are often passed over in accounts of the history of the *Agreement of the People*, are striking because of their adoption of key elements of the *Agreement*.²² Nevertheless, they still differed in significant ways by explicitly retaining the king and through entrusting the Long Parliament to bring the *Agreement* into existence by legislation.²³ The retention of the king was seemingly a step too far for the agents. Their petition of 9 November 1647 – which was presented to the House of Commons by Lord Grey of Groby, an ally of the republican parliament-man Henry Marten – branded the king as the nation's 'Capitall enemy' and declared that the rights contained in the *Agreement* 'are our own, both by birth and purchase'.²⁴ The insurrectionary tone of this petition was clear to the Commons, which on the same day declared the *Agreement* 'destructive to the Being of Parliaments, and to the fundamental Government of the Kingdom' and sought an investigation from Lord General Thomas Fairfax into the organisation behind it.²⁵ The attempt by that organisation to mobilise the New Model behind the *Agreement* was crushed, however, by the army grandees at Corkbush Field near Ware on 15 November 1647. And, as Elliot Vernon's contribution to this volume argues, the obvious success of the polemical response to the first *Agreement* and its promoters – who soon found themselves vilified in the press as 'Levellers' – largely shaped contemporary responses to the later versions of the document, with opponents choosing to attack and denounce the *Agreements*'s authors, rather than engaging them in debate.

The New Engagements

Although the *Agreement* is thought to have disappeared from view soon after the events at Ware, it is apparent that it continued to undergo development throughout 1648. For example, the early editions of the short-lived

periodical, *Westminster Proiects*, which was published between 23 March and 23 June 1648, promoted the *Agreement's* principles as a means of settling the nation against the demands of the king and the parliamentary grandees located at Derby House.²⁶ As the first edition stated, 'what can be more just or acceptable to all men, then to set a period to this Parliament; to provide for the calling and dissolving of further Parliaments at certain periods of time, to reduce the representative to a nearer equality, to take away the negative voice of King and Lords.'²⁷

In addition to the arguments of *Westminster Proiects*, civilian and army supporters of the *Agreement* continued to debate and refine its content. On 24 April 1648, a group of army agitators gathered at St Albans and drafted a petition for the New Model to adopt a variant of the *Agreement*.²⁸ This variant was published, without any printer or publisher information, around 3 May 1648 as *The Armies Petition: Or a New Engagement*. It is probable that the agitators were acting in concert with civilians, as a related broadside, *A New Engagement, or, Manifesto*, was also published, claiming it was the 'sence and Resolution of many thousands' of people in London and its surrounding counties.²⁹ H.N. Brailsford considered that the *New Engagement, or, Manifesto* was published before *The Armies Petition*, of which the latter was an abbreviated version.³⁰ Although this conjecture is possible if the *New Engagement, or, Manifesto* existed in manuscript form in April, George Thomason collected his printed copy of the tract on 3 August 1648, and this date can be partially confirmed as the time of publication by the tract's location between works published between August and October 1648 in William Clarke's pamphlet collection at Worcester College, Oxford.³¹

Both the *New Engagement, or, Manifesto* and *The Armies Petition* – hereafter referred to collectively as the *New Engagements* – repeated the terms of the first *Agreement* as the basis for a settlement of the constitution between the people and the Representative. They demanded that the principles of the *Agreement* be put in the form of 'a contract [to] be drawn and sealed between the People and their severall Deputies respectively upon the day of their election wherein the bounds, limits and extent of their trust shall be clearly expressed'.³² The implication is that the *Agreement of the People* would be remade at each successive election in the form of a contract between the electors and their Representative.

The *New Engagements* are also significant in that they added a substantial number of additional terms that would be associated with later versions of the *Agreements*, many of which had featured previously in the individual writings of John Lilburne, Richard Overton and Walwyn. As such, they show the evolution of the ideas in the first *Agreement* in the light of the emerging Leveller organisation.³³ For example, the issue of the abolition of tithes, a topic shunned by Lilburne and Wildman in January 1648 as too divisive, was included in the *New Engagements*.³⁴ In comparison to the first *Agreement's* skeletal proposals for 'equal' and 'good' laws, the *New Engagements*

introduced substantial proposals for law reform. These included: the codification of the law into English; the reduction of the length of trials; reform of debt and bankruptcy law; the abolition of prerogative courts; trial by jury; and the attenuation of the use of capital punishment.³⁵ Economic reforms, such as the abolition of customs duties and the excise and the provision of poor relief, were also added.³⁶ Finally, the *New Engagements* included, albeit with slightly different wording, calls for the reform of land ownership through the abolition of base tenures.³⁷

It is often argued that after December 1647, the Levellers abandoned the idea of an *Agreement of the People* in favour of a return to petitioning.³⁸ If in part true, the *New Engagements* demonstrate that this view needs to be modified, as they clearly marked an important development in the genesis of subsequent versions of the *Agreement*. Their additional clauses represent an early statement of the proposals Lilburne would add as a postscript to *Foundations of Freedom; Or An Agreement of the People* in December 1648 and the content of the Levellers' *Agreement of the Free People of England* of May 1649. The *New Engagements'* fusion of the terms of the first *Agreement* with provisions for legal and social reform therefore suggests that the army and civilian radicals behind these documents did not abandon the concept of an *Agreement of the People* as a vehicle for constitutional settlement. On the contrary, those men sought to use the idea of an *Agreement* to develop their demands for a society based on 'the foundations of freedom'.

The *Agreement of John Jubbess*

A further manifestation of the continuing interest in the notion of an *Agreement of the People* as a mechanism for settlement can be found in the activities of Lieutenant-Colonel John Jubbess. Jubbess was present at the Putney debates during the discussions over the first *Agreement* but resigned his commission in the New Model in April 1648. Thereafter, he turned his attention to devising a scheme to bring peace to the nation and adopted the idea of an *Agreement of the People*. He presented his proposals in the summer of 1648 to a group of leading army officers at Colchester, including Colonel Thomas Rainborough, who expressed their approval, as too, at a later date, did Fairfax and Colonel Thomas Harrison. Ireton, however, was seemingly far less supportive and sat on Jubbess's proposed constitution until the army entered London in December, by when he deemed it too late to be acted upon.³⁹ Undeterred, Jubbess published his scheme anonymously on 22 December as *Several Proposals for Peace and Freedom, By An Agreement of the People* and again, under his name and with modifications to take into account the execution of Charles I, on 4 May 1649.⁴⁰

Jubbess's *Agreement* is often viewed as a more conservative version of the succession of Leveller/army documents.⁴¹ Nevertheless, and as Jürgen Diethe has shown, it was the only version of the *Agreement of the People* that was supported by *The Moderate*, a newspaper once thought to be the organ of the