

The Vindiciae contra Tyrannos in the English Civil War

Monarchomach ideas of popular sovereignty in the English Civil War

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Abstract

Denne masteroppgaven undersøker hvordan den franske Monarchomach teksten ble brukt under den engelske borgerkrigen fra starten av konflikten i 1642 til den første fulle engelske oversettelsen av *Vindiciae* i 1648. *Vindiciae* var en veldig kontroversiell og innflytelsesrik tekst som har spilt en stor rolle for utviklingen av ideer om folkesuverenitet og ble skrevet av franske Huguenotter i 1579. *Vindiciae* ble brukt både direkte og indirekte under den engelske borgerkrigen av begge sider av konflikten.

Denne oppgaven har fokusert på hvordan *Vindiciae* ble brukt i pamflett-litteraturen som ble skrevet under den engelske borgerkrigen. Disse pamflettene har blitt analysert ved bruk av Quentin Skinners kontekstuelle metode. Det første analysekapittelet har analysert hvordan *Vindiciae* ble direkte brukt av både parlamentariske og rojalistiske forfattere som direkte refererte til *Vindiciae* eller forfatteren, Junius Brutus. Det andre analysekapittelet har analysert hvordan "rex singulis major, universis minor" maximet kan fremvise indirekte innflytelse fra *Vindiciae* siden det eksemplifiserte dens ideer om folkesuverenitet.

Det var relativt få parlamentariske forfattere som direkte refererte til *Vindiciae*, men det var mange rojalistiske forfattere som assosierte sine parlamentariske fiender med *Vindiciae*. Det var hovedsakelig bare de presbyterianske forfatterne William Prynne og Samuel Rutherford som åpent assosierte seg med *Vindiciae*, sannsynligvis siden de delte religiøs tro med forfatteren av *Vindiciae*. Til tross for de få referansene til *Vindiciae* i løpet av den engelske borgerkrigen, spilte "universis minor" maximet en sentral rolle i konflikten, og det var sannsynligvis inspirert av *Vindiciae*. Maximet ble deretter en sentral del av den litterære debatten mellom parlamentariske og rojalistiske forfattere som skrev under borgerkrigen.

Til tross for den store interessen for den engelske borgerkrigen og *Vindiciae contra Tyrannos* blant historikere er det veldig lite som har blitt skrevet om hvilken rolle denne teksten spilte i den engelske borgerkrigen. Denne oppgaven bygger på tidligere forskning for å bevise den sentrale rollen *Vindiciae* spilte i denne konflikten, og hvordan dens ideer ble brukt av alle partene i konflikten.

Preface

Working on a project of this magnitude for two years has been a humbling, yet exciting experience. My interest in this topic started with my work on my BA paper, after being introduced to the Monarchomachs by my supervisor Stephan. This topic was so interesting that I returned to this topic for my MA thesis, with the same supervisor, who was happy to assist me in extending my analysis of the Monarchomachs to the English Civil War. I have always been fascinated by the history of political ideas and have been fascinated by the Monarchomachs ever since Stephan introduced them to me.

I want to thank my supervisor Stephan Sander Faes for his invaluable help with this thesis, since he has encouraged me throughout the work on this thesis. The third semester of my MA program was dedicated to an exchange to the UK which Stephan recommended me. Although this was a good experience, I was worried I would be unable to finish my thesis in time when I returned. Stephan's encouragement made me able to power through my thesis after returning, and I am eternally grateful for his help throughout this entire project. I am also grateful for my experience in England, which I wouldn't have experienced without Stephan's support.

I would also like to thank my fellow MA students at the seminar for the Early Modern Period who have provided helpful comments on the texts I presented in these seminars. Special thanks go to Rodrigo who has been a good friend throughout my period as a master student and has provided extra helpful comments and discussions of my thesis.

I also want to thank my friends and family who have remained supportive throughout my work on this thesis, especially my Dad who has read through some of my drafts and provided helpful comments. Although he may not have really understood my topic, his willingness to comment on my texts is immensely appreciated.

The last person I want to thank is myself, for my ability to work on this thesis for two years, which is an impressive achievement. Although I have enjoyed the work on this topic, it has sometimes been overwhelming keeping track of all the information. I would not have been able to finish this thesis without the support of everyone else.

Chapter 1 - Introductory Chapter

1.1 Introduction

The goal of this thesis is to elevate the importance of the *Vindiciae contra Tyrannos* and the English Civil War to the development of modern ideas of popular sovereignty. This thesis focuses on how the *Vindiciae* was used either directly or indirectly throughout the English Civil War from the start of the conflict in 1642 to the full English translation of the *Vindiciae* in 1648, which preceded the execution of the King. The *Vindiciae* was one of several influential Monarchomach treatises that were written by French Huguenots after the St. Bartholomew's Day massacre in 1572, and has been widely regarded as one of the founding documents of early modern constitutionalism.¹ The English Civil War was a series of conflicts between the King and Parliament over who held sovereignty over the kingdom.² It culminated in the execution of the King in 1649 and the establishment of a Commonwealth under Oliver Cromwell that would last until the Restoration in 1660. This was the first time a kingdom had executed their King in the name of popular sovereignty, and the ideas expressed by the *Vindiciae* played a pivotal role in justifying Parliament's resistance to the King. Many important ideas of popular sovereignty were developed during the English Civil War, and many of the important texts of the conflict built upon the ideas developed by Monarchomach texts like the *Vindiciae*.

Despite the important role of the *Vindiciae* to the English Civil War, only a few historians have analyzed the role it played in this conflict.³ The only historian who has written a monograph about the role of the *Vindiciae* in England is J.H.M. Salmon in 1959, who dedicated two chapters to the English Civil War.⁴ There have only been a few articles dedicated to the role of the *Vindiciae* in the English Civil War written by the two historians Anne McLaren and Stefania Tutino.⁵ Quentin Skinner has written extensively on both the *Vindiciae* and the English Civil War, although he has not made the connection between them explicit.⁶ Although several historians have analyzed the importance of the *Vindiciae*, only a

¹ Lee, *Popular Sovereignty*, 123; Skinner, *The Foundations*, volume 2, 335.

² Kennedy, *English Revolution 1642-1649*, 1-10.

³ Salmon, *The French Wars*, 80-121; Tutino, "Huguenots, Jesuits and Tyrants"; McLaren, "Rethinking Republicanism".

⁴ Salmon, *The French Wars*, 80-121.

⁵ McLaren, "Rethinking Republicanism"; Tutino, "Huguenots, Jesuits and Tyrants".

⁶ Skinner, *Visions of Politics*, Volume 2, 245-263, 292-297, 394-397.

few of them have analyzed the role it played in the English Civil War. The goal of this thesis has been to emphasize the important role of the *Vindiciae* in the English Civil War, since the only monograph dedicated to this topic was written by Salmon in 1959.

The English Civil War was a series of conflicts between the English Parliament and the King that lasted from 1642-1651, although it was part of several interconnected conflicts between England, Scotland and Ireland from 1638-1651.⁷ Although the English Civil War started over whether the King had had a right to tax Parliament without its consent, it led to the execution of the King in 1649 and the establishment of a Commonwealth under Cromwell.⁸ This conflict was primarily fought between the English Parliamentarians and the Royalists, although the Scottish Covenanters played a pivotal role. Writers on all sides of the conflict wrote extensively to justify their actions and attack their opponents, this literature often took the form of pamphlet writing. Although many of these writers drew upon ideas that had existed within English political thought already, ideas developed during the French Religious Wars played a pivotal role, most notably the ideas developed by the Monarchomachs and the *Vindiciae*.⁹

This thesis focuses on the period from the start of the English Civil War in 1642 to the first full English translation of the *Vindiciae* in 1648 into the vernacular. My first analysis chapter has focused on direct references to the *Vindiciae*, particularly on how Parliamentary writers used it to justify their resistance to the King, and how Royalist writers used it to discredit their opponents. My second analysis chapter has focused on the pivotal role the “*rex singulis major, universis minor*” maxim that encapsulated the *Vindiciae*'s doctrine of popular sovereignty played in the English Civil War.¹⁰ This maxim formed the basis for English theories of resistance and was extensively debated by both Parliamentary and Royalist writers. Although most of these writers did not explicitly derive it from the *Vindiciae*, its initial use by Henry Parker was likely influenced by the *Vindiciae*.

Although the importance of the *Vindiciae contra Tyrannos* and the English Civil War has been noted by several historians, relatively little attention has been dedicated to the connections between them. The best example of this is Quentin Skinner, who has devoted extensive attention to both the Monarchomachs and the English Civil War, but only briefly

⁷ Royle, *The British Civil War*, xi-xiii.

⁸ Kennedy, *English Revolution 1642-1649*, 1-10.

⁹ Salmon, *The French Wars*, 1-14.

¹⁰ Salmon, *The French Wars*, 7.

discusses the connection between them.¹¹ J.H.M. Salmon is the only historian that has dedicated a monograph to analyzing the influence of the Monarchomachs in England, although several articles have been written about this topic.¹² Anne McLaren and Stefania Tutino have written articles about the role the *Vindiciae* played in the English Civil War. Although several other historians have briefly mentioned the *Vindiciae* in relation to the English Civil War, Salmon, McLaren and Tutino are the only historians who have dedicated significant attention to analyzing the role it played in the English Civil War.

1.2 Chapter outline

The *Vindiciae contra Tyrannos* played an important role in the English Civil War, both before and after the execution of the King, although this thesis focuses on the period from the start of the conflict in 1642 to the full English translation from 1648. There were several important Parliamentary and Royalist writers who made either direct or indirect references to the ideas of the *Vindiciae* and the Monarchomachs. Most of the references to the *Vindiciae* can be found in the early years of the conflict, particularly in the period from 1642-1644. This thesis focuses on how Parliamentary and Royalist writers made direct and indirect references to the *Vindiciae*.

My first analysis chapter focuses on how Parliamentary and Royalist writers made direct references to the *Vindiciae*, through direct references to the *Vindiciae* or its author Junius Brutus. The first part of this chapter analyzes how Parliamentary writers like William Prynne used it to justify Parliament's actions, and how Samuel Rutherford used it to show that the Scottish Covenanters were justified in their anger towards the King.¹³ They were some of the few Parliamentary writers who were willing to openly associate themselves with and depend on the arguments of the *Vindiciae*. Their focus on the *Vindiciae* played a pivotal role in how it would be understood and used after the execution of the King, particularly William Prynne, who translated large parts of the third chapter of the *Vindiciae*. Several Royalist writers associated their Parliamentary opponents with Monarchomach writers like Junius Brutus and Buchanan, although this was typically done to discredit them by associating them with Jesuits and Catholicism. Due to the controversial nature of the *Vindiciae*, it seems that Prynne and Rutherford were the only Parliamentary writers who

¹¹ Skinner, *Visions of Politics, Volume 2*, 245-263, 292-297, 394-397.

¹² McLaren, "Rethinking Republicanism", Tutino, "Huguenots, Jesuits and Tyrants".

¹³ Salmon, *The French Wars*, 80-100; Coffey, *The Mind of Samuel Rutherford*; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

were willing to openly reference the *Vindiciae*. Despite this, the ideas of the *Vindiciae* would play a pivotal role, and this is the topic of my second analysis chapter.

My second analysis chapter has focused on indirect references to the *Vindiciae*, and has focused on the “rex singulis major, universis minor” maxim which Salmon argues encapsulated the *Vindiciae*’s conception of popular sovereignty.¹⁴ It argued that while the King was superior to any private individual, he was inferior to the kingdom as a whole. The research question of this chapter is: “What role did the ‘rex singulis major, universis minor’ play in the literary debates of the English Civil War, and how can it be viewed as an indirect influence from the *Vindiciae*?” This maxim played an important role in the English Civil War, particularly in the period from 1642-1644, where it was the primary focus of much of the literary debates. It was introduced into the English Civil War by Henry Parker in 1642, who was likely inspired by the *Vindiciae* or other Monarchomach texts, even if Parker never openly stated where he got it from. This maxim became the basis for English theories of resistance and was the main focus of the pamphlet debates between Parliamentarian and Royalist writers. This analysis chapter focuses on how Parliamentarian and Royalist writers used the “universis minor” maxim, and the pivotal role it played in the conflict.

1.3 Literature review

1.3.1 Literature on the English Civil War

There is a lot of excellent literature on the English Civil War, but astonishingly little of it has analyzed the role of the Monarchomachs or the *Vindiciae*. Due to extensive literature on the English Civil War, I have instead focused on the literature devoted to the role of the *Vindiciae* in the English Civil War. Surprisingly little of the literature devoted to the English Civil War has mentioned the role of the *Vindiciae*. This literature has been analyzed in the next subchapter, although there are several noteworthy pieces of literature that are worth mentioning. Trevor Royle argued in 2004 that the English Civil War needs to be interpreted as one part of The Wars of the Three Kingdoms, and that these conflicts need to be understood together.¹⁵ D.E. Kennedy’s book dedicated to the English Civil War from 1642-1649 is another noteworthy book about the to this period of English history, although it makes no references to the *Vindiciae* or resistance theory.¹⁶

¹⁴ Salmon, *The French Wars*, 7.

¹⁵ Royle, *The British Civil War*.

¹⁶ Kennedy, *English Revolution 1642-1649*.

The politics lecturer John Sanderson analyzed in 1989 the philosophical basis of the English Civil War, where he focused on how Parliamentarian and Royalist writers justified their actions.¹⁷ He sought to explain what led the Parliamentarian writers to armed resistance to the King at the beginning of the Civil War, and how Royalist writers justified the illegality of their opponents' actions. Sanderson makes a brief reference to the *Vindiciae* in the introduction, where he notes that the *Vindiciae* was reprinted during the period of the Civil War debates, and that the Parliamentarians were to some degree familiar with these ideas.¹⁸ Although Sanderson analyzes the importance of ideas of resistance, the *Vindiciae* seems to be absent from the rest of the book.

Although the English Civil War has received extensive attention by many different historians, this literature is outside the scope of this thesis. I have given a brief overview of several notable works dedicated to this topic, although the literature dedicated to the role of the *Vindiciae* in the English Civil War is of much more interest. Relatively little attention has been dedicated to this topic, which is why I have dedicated more attention to this literature instead.

1.3.2 Literature on the *Vindiciae* and its role in the English Civil War

Despite the general agreement that the *Vindiciae* was a very important treatise, there has been relatively little scholarly attention devoted to the role it played in the English Civil War. Although many different historians have written about the *Vindiciae*, only a few have analyzed the role it played in the English Civil War. Only J.H.M. Salmon, Anne McLaren and Stefano Tutino have dedicated an article or a book focusing mainly on the *Vindiciae*'s role in the English Civil War.¹⁹ While there are some historians who have devoted some attention to its role in England, this focus has often been relatively brief.

The most thorough analysis of the role the *Vindiciae contra Tyrannos* played in the English Civil War was done by J.H.M. Salmon in 1959 in his book called *The French Wars of Religion in English Political Thought*.²⁰ It is one of the few books that has explored the connection between these two conflicts, and has been referenced by several other historians writing about this topic.²¹ Salmon's book analyzed the role French ideas and precedents played in English political thought from the Elizabethan to Glorious Revolution in 1688, a

¹⁷ Sanderson, *"But the people's creatures"*.

¹⁸ Sanderson, *"But the people's creatures"*, 3.

¹⁹ Salmon, *The French Wars*; McLaren, "Rethinking Republicanism"; Tutino, "Huguenots, Jesuits and Tyrants".

²⁰ Salmon, *The French Wars*.

²¹ McLaren, "Rethinking Republicanism"; 35-42; Tutino, "Huguenots, Jesuits and Tyrants", 191-195

period spanning over 100 years. This broad chronological focus comes at the expense of detailed analysis, since he could only dedicate limited attention to each text he analysed. Salmon focused on two separate strands of French ideas developed during the French Wars. The first strand was the ideas of popular sovereignty of the Monarchomachs expressed in the *Vindiciae contra Tyrannos*, the other was Bodin's theories of sovereignty. Salmon argued that these ideas had little direct influence on English political thought until they had been put through a dialectic process by a group of continental theorists that either extended or found compromises between these ideas.²² These were Althusius, Arnisaeus, Grotius and Besold, although I have instead focused on direct references to the *Vindiciae*.

Salmon dedicated two chapters to the English Civil War, separated by the execution of the King in 1649 and the full 1648 English translation of the *Vindiciae*.²³ Salmon argued that it was not until the Civil War that Englishmen looked to the French Religious Wars to explain their own situation, and it was within this period that the *Vindiciae* played the most important role in English political thought.²⁴ Salmon argued that the *Vindiciae*'s ideas of popular sovereignty expressed by the maxim "rex singulis major, universis minor" became the basis of English theories of resistance after Henry Parker introduced it to the Civil War in 1642.²⁵

Salmon saw three main uses of the ideas of the French Religious Wars during the first phase of the Civil War.²⁶ The Erastian Parliamentarians had adopted the secular theory of the *Vindiciae*. The Presbyterians added the Huguenot justification of resistance to a ruler who had broken religious covenants with God and political covenants with the people. The last category was Royalists who reproduced the ideas of Bodin and Barclay. Salmon argues that the Independents did not owe a conscious debt to French ideas, but that their ideas were strikingly similar. The second chapter devoted to the Civil War focused on how French ideas were used to explain what had been done and saw extensive references to the *Vindiciae*. Salmon's analysis of the role French ideas played in English political thought has been pivotal to many historians writing about the *Vindiciae*'s role in England.

Quentin Skinner has written extensively on both the *Vindiciae* and the English Civil War, although he has not made the connection between them explicit. Skinner's most influential focus on the *Vindiciae* can be found in his *Foundations of Modern Political Thought, volume*

²² Salmon, *The French Wars*, 12.

²³ Salmon, *The French Wars*, 81-122.

²⁴ Salmon, *The French Wars*, 11, 79, 80-122.

²⁵ Salmon, *The French Wars*, 82-85, 135.

²⁶ Salmon, *The French Wars*, 96.

2, where he argued that the *Vindiciae* developed the first genuinely political theory of revolution.²⁷ *Foundations* played an important role in our understanding of the *Vindiciae* as an important book. Skinner has focused extensively on the *Vindiciae* since then, most notably his *Visions of Politics, volume 2: Renaissance Virtues*. In it, he dedicated a chapter to the Monarchomachs and the *Vindiciae*, while he discussed the English Civil War in some of his other chapters.²⁸ He argues that some of the ideas of the *Vindiciae* were developed around the same time in England, and how several writers sought to refute these ideas.²⁹ Skinner notes how Dudley Digges associated the Parliamentary cause with the ideas expressed by the Monarchomachs, and that Digges considered Parker their English counterpart. Skinner argues that Parker invoked the doctrine developed by the Monarchomachs and calls him a Monarchomach as well.³⁰ Despite Skinner's extensive focus on the *Vindiciae* and the Monarchomachs, he makes no mention of its use by William Prynne in the English Civil War.

George Garnett produced an English translation of the *Vindiciae* in 1994, which has been invaluable for my analysis.³¹ This translation includes many of the marginal and uncited references to Roman Law in the *Vindiciae*, as well as an extensive analysis of the *Vindiciae*. This has made Garnett's translation of the *Vindiciae* invaluable to the historiography of the *Vindiciae* since it is the most recent and accurate English translation of the *Vindiciae*. His explanation of several key terms from Roman Law has been important to understand the complexities of the *Vindiciae* and Roman Law, and have been useful in analyzing the role of these ideas in England.³² Garnett's analysis of different editions of the *Vindiciae* has been useful to analyze how the *Vindiciae* was reproduced in different contexts, particularly its English translations, which he has cataloged.³³ Although Garnett has not analyzed the role of the *Vindiciae* in England, his translation of it is still vitally important to the historiography of the *Vindiciae*.

Anne McLaren directly attacks Skinner and Garnett's interpretation of the *Vindiciae* in her article called "Rethinking Republicanism: *Vindiciae contra Tyrannos* in context", published in 2006.³⁴ Garnett responded to this article with a harsh critique of her methodology and

²⁷ Skinner, *The Foundations, volume 2*, 335.

²⁸ Skinner, *Visions of Politics, Volume 2*, 245-263.

²⁹ Skinner, *Visions of Politics, Volume 2*, 394-397.

³⁰ Skinner, *Visions of Politics, Volume 2*, 292-297; Skinner, *Liberty before Liberalism*, 21, 23, 47, 77.

³¹ Brutus, *Vindiciae contra Tyrannos*.

³² Brutus, *Vindiciae contra Tyrannos*, lxxvii-lxxxiii.

³³ Brutus, *Vindiciae contra Tyrannos*, lxxxiv-lxxxviii.

³⁴ McLaren, "Rethinking Republicanism", 23-52.

conclusions, although some of her findings are still valuable.³⁵ She disagrees with their focus on the role Roman Law played in the *Vindiciae*, and argues that Scriptural references played a much more important role than references to Roman Law. McLaren seeks to put the *Vindiciae* into context by comparing different English translations with each other to understand how its readers interpreted it, and that this is the proper context for understanding the *Vindiciae*.³⁶ She found that these translations focused much more on Scripture than Garnett's translation had done and that they prioritized Scriptural references over Roman Law references.³⁷ She argues that Skinner's and Garnett's overemphasis on Roman Law has seriously distorted their reading of the text, and spent most of the article critiquing their interpretations of it. McLaren's article has played an important role in emphasizing the importance of the religious element of the *Vindiciae* in its use in England, and it has been referenced by several other historians.

George Garnett, the English translator of the *Vindiciae*, wrote a scathing critique of McLaren's methodology in an article published in the same year.³⁸ He argues that it was absurd for McLaren to compare the English translations with each other, and argue that they differed from Garnett's translation. This was because these other translations were incorrect, because many of them were based on the earlier translations.³⁹ Garnett argues that it was absurd for McLaren to argue that the proper context of the *Vindiciae* are its English translations meant for an English audience rather than the original Latin version. He also disagrees with McLaren's assertion that the *Vindiciae* was primarily based on religion and stated that its religious and secular parts were in a state of unresolved tension with each other.⁴⁰ Although Garnett's focus in this article was to refute McLaren's methodology and arguments, he also briefly discussed the role of the *Vindiciae* in England, particularly its English translation from 1648.⁴¹

One of the earliest historians to build on McLaren's findings was Stefania Tutino in 2007, in her article called "Huguenots, Jesuits and Tyrants: notes on the *Vindiciae contra Tyrannos* in early modern England". Tutino analyzed the complicated role Catholic opposition to the

³⁵ Garnett, *Law in the Vindiciae*.

³⁶ She compared the 1588 translation of the fourth chapter, Prynne's partial translation of the third chapter in 1643, the 1648 translation of the entire treatise, the 1689 reprint of the 1648 edition, a 1923 edition by Laski, and Garnett's 1994 translation. Several of these versions were based on the 1648 edition, not the original Latin version, which is why Garnett considers McLaren's methodology absurd.

³⁷ McLaren, "Rethinking Republicanism", 35-42.

³⁸ Garnett, *Law in the Vindiciae*.

³⁹ Garnett, *Law in the Vindiciae*, 884.

⁴⁰ Garnett, *Law in the Vindiciae*, 887.

⁴¹ Garnett, *Law in the Vindiciae*, 887-891.

English monarch played in the troubled early history of the *Vindiciae* in England.⁴² This meant that these ideas were associated with Catholicism and would not play an important role in England until the English Civil War after major modifications. The focus of her article was analyzing how the interpretation of the *Vindiciae* was changed from a 'quasi-secular' to a fully secular text through its use in England. She focused on how the *Vindiciae* had been plagiarized along with Locke's *Two Treatises* in a 1690 political treatise called *Political Aphorisms*. Tutino argued that the 'quasi-secular' *Vindiciae* was secularized through its use in England, particularly by William Prynne's translation of the third chapter in 1643, which made it more secular, and less Calvinist.⁴³ Although Tutino only analyzed William Prynne and Samuel Rutherford's use of the *Vindiciae* in the English Civil, her article is one of the most thorough analyses of the use of the *Vindiciae* in England, and has been referenced by several other historians.

Kirstie McClure argues that the "Englishing" of the *Vindiciae* naturalized significant parts of its arguments into commonplaces of English polemics, making it fit within an English context.⁴⁴ She used the *Vindiciae*'s role in England as an example of how the understanding of a text could be altered by it being used in another context, and makes extensive references to Tutino. McClure does not actually analyze the role the *Vindiciae* played in the English Civil War, but her focus on the *Vindiciae* is still noteworthy. Her analysis shows that the understanding of books like the *Vindiciae* was influenced by the context it was used in.

Kevin Killeen analyzed in 2016 the role of the "Political Bible" in early modern England and has dedicated a chapter to how the Bible was used to justify regicide. In this chapter, Killeen briefly mentions how Prynne had extensive quotations from the *Vindiciae* in the appendix, although he doesn't go into any detail on Prynne's use of the *Vindiciae*.⁴⁵ Killeen builds upon McLaren's analysis to argue that the religious element of the *Vindiciae* has often been overlooked. Killeen argues that many of the people living during the English Civil War associated these ideas with Jesuitism, particularly Robert Persons who had written a text in 1595 arguing that monarchs could be elected and deposed.⁴⁶ Although Killeen only briefly mentions how Prynne used the *Vindiciae*, he correctly points out that many of the writers during the Civil War associated these ideas with Jesuitism, not the *Vindiciae*. While Killeen is

⁴² Tutino, "Huguenots, Jesuits and Tyrants".

⁴³ Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

⁴⁴ McClure, "Reflections on Political Literature", 239-243.

⁴⁵ Killeen, *The Political Bible*, 163, 174-175.

⁴⁶ Killeen, *The Political Bible*, 175.

correct that there were many who associated the ideas of the *Vindiciae* with the Jesuits, he has overlooked how several Parliamentary writers used these ideas.

Daniel Lee published a book called *Popular Sovereignty in Early Modern Constitutional Thought* in 2016.⁴⁷ In it, he analyzed the role Roman Law played in early modern theories of popular sovereignty from Roman times to Stuart England. The fourth chapter of the book is devoted to the Monarchomachs, particularly the *Vindiciae* and the *Franco-Gallia*.⁴⁸ He argued they made extensive use of Roman Private Law, particularly the use of the maxim 'rex singulis major, universis minor'. He notes how these ideas were invoked in the Netherlands and during the English Civil War.⁴⁹ He references Salmon's work on the *Vindiciae* in England and van Gelderen's work on the use of the *Vindiciae* in the Netherlands, although he doesn't go into further detail. The ninth chapter is dedicated to theories of popular sovereignty in Stuart England (1603-1714). Although he does not focus on the role of the *Vindiciae* in England, he notes that Henry Parker made no secret of his intellectual debt to the 'rex singulis major, universis minor' maxim, which Lee calls "the Monarchomach principle".⁵⁰ Other than this, Lee makes no mention of Prynne's extensive use of the *Vindiciae* or any other references to the *Vindiciae* in England.⁵¹

Surprisingly little historical scholarship has been written about the role of the *Vindiciae* in the English Civil War, the only monograph dedicated to the *Vindiciae*'s role in England was written by Salmon in 1959, over 60 years ago. Due to the length of Salmon's chronological focus, his analysis has been relatively brief in several important areas, particularly in the amount of attention he devoted to each writer he analyzed. Although Skinner has written extensively on both the *Vindiciae* and the English Civil War, he has only briefly analyzed the connection between them. Most importantly, he does not mention Prynne's translation of the *Vindiciae*'s third chapter. Garnett produced an English translation of the *Vindiciae* in 1994 and has briefly analyzed the 1648 translation of the *Vindiciae* in an article from 2006.

There seems to have been a renewed interest in the role of the *Vindiciae* in England in 2006, since several important articles were written around this time. McLaren emphasized the importance of the religious element of the *Vindiciae* and criticized Garnett and Skinner for neglecting the centrality of religion in the *Vindiciae*. This has led to a neglect of Prynne's

⁴⁷ Lee, *Popular Sovereignty*.

⁴⁸ Lee, *Popular Sovereignty*, 121-157.

⁴⁹ Lee, *Popular Sovereignty*, 124.

⁵⁰ Lee, *Popular Sovereignty*, 292-296.

⁵¹ Prynne, *The Sovereign Power*, appendix, 149-199.

translation of the third chapter of the *Vindiciae*. Tutino has built upon McLaren's to analyze how the role of Catholics influenced the role of the *Vindiciae* in England and has focused on Prynne's translation of the third chapter of the *Vindiciae*. Although Tutino has noted the importance of Prynne's translation, she has overlooked the pivotal role it played in Prynne's text. Daniel Lee wrote a book dedicated to early modern popular sovereignty in 2016 and has dedicated a chapter to the Monarchomachs and Stuart England, although he only briefly analyzed the role of the *Vindiciae* in England. He did this by focusing on how Henry Parker used these ideas, although he does not mention Prynne's translation of the *Vindiciae*.

Most of the literature dedicated to the role of the *Vindiciae* in the English Civil War has been relatively brief. The only monograph dedicated to the *Vindiciae*'s role in England was written by Salmon in 1959, who dedicated two chapters to the Civil War. The rest of the literature has been too short to dedicate a significant amount of attention to this topic. There is a gap in the literature that my thesis will seek to fill. It has analyzed how the *Vindiciae* was used by several notable writers in the English Civil War before the full translation of the *Vindiciae* in 1648.

1.4 Methodology

My methodology is based on parts from Quentin Skinner's contextual approach, as outlined in *Visions of Politics, vol 1*.⁵² I have chosen this approach, since Skinner has written extensively on the history of political thought and has focused extensively on the *Vindiciae*. This approach is well-suited for analyzing political thought by analyzing individual texts through understanding the context they were written under. While I could have combined this methodology with the methodology of other Cambridge historians, I have found Skinner's methodology sufficient due to his extensive work on the *Vindiciae* and the English Civil War. Despite this, Skinner has written very little about the role the *Vindiciae* played in the English Civil War. I have there utilized his methodology to build upon his previous work on the *Vindiciae* and the Monarchomachs, since this methodology is well suited to this topic.

1.4.1 Quentin Skinner's Contextual Approach

My methodology is based on Quentin Skinner's methodology expressed in *Meaning and understanding in the history of ideas* originally written in 1969 and republished in 2002.⁵³ Skinner is a historian focusing on the history of ideas and this methodology is well-suited for

⁵² Skinner, *Visions of Politics, Volume 1*, 57-89.

⁵³ Skinner, *Visions of Politics, Volume 1*, 57-89.

my research. Skinner considers the writing and publishing of a text as a 'speech act' that the author had intentionally done to accomplish something: "words are also deeds".⁵⁴ There are according to Skinner two conclusions that can be drawn from this argument.⁵⁵ The first is that a historian of ideas should analyze what the author of a text intended to accomplish by writing them and how they intended to be understood by its readers. The second conclusion is that there are no timeless concepts that can be found through analysis of historical texts that can answer modern questions. These texts were written to answer questions that were relevant to the author, and it is therefore vitally important to understand the intellectual context the text was written in. It has therefore been important to my analysis to establish the intellectual and political contexts surrounding the texts I've analyzed.

Skinner emphasizes the performativity of historical texts, and argues that they need to be analyzed intertextually by understanding the intellectual contexts and frameworks of discourse that the author wrote them in.⁵⁶ Skinner's aspiration is not to enter the minds of long dead thinkers; "it is simply to use the ordinary techniques of historical enquiry to grasp their concepts, to follow their distinctions, to appreciate their beliefs and, so far as possible, to see things their way."⁵⁷ I have followed this approach by respecting the writers I have analyzed as rational actors who had good reasons for thinking the way they did, even if they have views that may seem strange or illogical. Skinner has warned against categorizing authors within categories that they are supposed to have contributed to, since it could obfuscate the most characteristic elements of their thought.⁵⁸ It is for this reason that I have avoided broad generalizations about the texts I have analyzed, and instead focused on what they actually said about a topic.

The goal of this thesis has been to analyze how the ideas expressed by the *Vindiciae contra Tyrannos* were used and referenced throughout the English Civil War before 1648. Skinner gives three minimum conditions that need to be fulfilled to argue that a doctrine in a text (A) has influenced a later text (B).⁵⁹ The first is that it must be known whether the author of B is known to have studied A's works, which can be difficult since there were few writers who were willing to openly reference the *Vindiciae* due to its controversial reputation. The second point is that the author of B could not have found these doctrines in a writer other than A. This is a difficult condition to fulfill, since these ideas could be derived from texts written

⁵⁴ Gilje, *Hermeneutikk som metode*, 179; Skinner, *Visions of Politics, Volume 1*, 3.

⁵⁵ Skinner, *Visions of Politics, Volume 1*, 86.

⁵⁶ Skinner, *Visions of Politics, Volume 1*, 3.

⁵⁷ Skinner, *Visions of Politics, Volume 1*, 3.

⁵⁸ Skinner, *Visions of Politics, Volume 1*, 76.

⁵⁹ Skinner, *Visions of Politics, Volume 1*, 75.

either before or after the *Vindiciae*. The third point is that B could not have arrived at the relevant doctrines independently. This condition has been fulfilled by this thesis by focusing primarily on direct references to either the *Vindiciae* or its author. Although I view the “universis minor” maxim as an indicator of Monarchomach influence, I am cautious about arguing that the writers who used it had derived it directly from the *Vindiciae*.

1.4.2 Methodology for References to the *Vindiciae*

To find out what role the *Vindiciae* played in the English Civil War I have focused on a selection of key terms that suggest a reference to the *Vindiciae*. These terms have been selected from the literature on the *Vindiciae*, especially Salmon's work on the role of the French Wars of Religion in English political thought.⁶⁰ The primary focus has been on direct references to the *Vindiciae contra Tyrannos*, which is the clearest proof that the author knew of and referenced the *Vindiciae*. Due to the controversial nature of the *Vindiciae*, there were only a few authors that were willing to reference the *Vindiciae* directly, although there were several references to its author, Junius Brutus. William Prynne and Samuel Rutherford were some of the few writers who were willing to openly associate themselves with the ideas expressed by the *Vindiciae*.⁶¹ There were also several Royalist writers who associated the “Parliamentarian rebels” with Monarchomach writers like Junius Brutus and Buchanan, although they tended to primarily associate these ideas with Jesuits instead.⁶²

My second analysis chapter focuses on analyzing the role the “rex singulis major, universis minor” maxim played throughout the English Civil War. According to Salmon, this maxim encapsulated the theory of popular sovereignty of the *Vindiciae* and the Monarchomachs.⁶³ This maxim was introduced into the English Civil War by Henry Parker and would thereafter play a pivotal role in the early phases of the conflict.⁶⁴ Parker was likely influenced by the *Vindiciae* and other Monarchomach texts, although he does not mention any of these by name. This maxim would eventually become the basis for English theories of resistance, although there were only a few writers who associated it with the *Vindiciae*.⁶⁵ I have used this maxim to analyze how the ideas of the *Vindiciae* played an indirect role in the English Civil War.

⁶⁰ Salmon, *The French Wars*, 1-14.

⁶¹ Salmon, *The French Wars*, 83-88; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

⁶² Salmon, *The French Wars*, 88-96.

⁶³ Salmon, *The French Wars*, 7.

⁶⁴ Salmon, *The French Wars*, 82-83; Parker, *Observations*, 2, 8, 45-46.

⁶⁵ Salmon, *The French Wars*, 135; Weston, *Subjects and Sovereigns*, 62-66.

My selection of sources is primarily based on transcribed and digitized primary sources found on the digital database Early English Books Online (EEBO) by Text Creation Partnership.⁶⁶ The EEBO collection has proven invaluable to my analysis, due to its ability to form a text corpus based on several key terms and easy access to several important texts. This thesis has focused exclusively on texts available on EEBO selected through a corpus search focusing on several key terms. All of the texts mentioned by the texts in the literature review can be found on EEBO, so it is unlikely that an important text has been overlooked.

The selection of sources for this thesis focuses on a corpus search on EEBO that used several key terms. This has been combined with a close reading of earlier research on this topic, particularly Salmon's work.⁶⁷ To find direct references to the *Vindiciae* I have focused on the words "vindic*", "contra tyrannos", "Junius Brutus", "Iunius Brutus", "Brutus" and "Stephanus" since they are directly associated with the *Vindiciae*. I have thereafter done a quick word-search through each of the texts I have found to check if any of these words were used to reference the *Vindiciae*. Most of the texts that referenced "Brutus" were references to antiquity, not the *Vindiciae*. This thesis has focused on the most representative of the texts that referenced the *Vindiciae*, particularly William Prynne, Samuel Rutherford and several Royalist writers who associated the Parliamentary cause with texts like the *Vindiciae*.

The second analysis chapter focusing on the "universis minor" maxim uses a similar methodology. This approach has used a corpus search on EEBO focusing on the use of the terms "singulis major", "singulis", "universis minor*", "vniversis minor*", "*versis*". I have also looked through each of the texts in the previous corpus search for references to the "universis minor" maxim. This analysis chapter has made extensive use of earlier literature on the "universis minor" maxim, particularly Salmon's book and Michael Mendle's book on Henry Parker.⁶⁸ Of the many texts that referenced the "universis minor" maxim, I have focused on a small selection of representative texts that referenced this maxim.

⁶⁶ Text Creation Partnership, "Early English Books Online (EEBO) TCP".

⁶⁷ Salmon, *The French Wars*, 80-100.

⁶⁸ Salmon, *The French Wars*, 1-14, 81-100, 135; Mendle, *Henry Parker*, 70-136.

Chapter 2 - Context Chapter

2.1 The Monarchomachs

The Monarchomachs were a group of controversial political theorists that became infamous for their theories that justified resistance against tyrannical kings. The term was coined by the Catholic, Scottish absolutist William Barclay in his book *De Regno et Regali Potestate* (About the Powers of Authority and Royalty), published in 1600.⁶⁹ He considered their ideas dangerously seditious and heretical, and needed to be comprehensively disproved. The term “Monarchomach” is generally used to refer to the three French Huguenot writers of François Hotman, Theodore Beza and the anonymous Stephanus Junius Brutus, but also the Scottish George Buchanan. The term was also used to refer to Catholic writers like Juan de Mariana and Jean Boucher, since Barclay believed they had borrowed these ideas directly from the Protestants. Barclay argued that these ideas were equally heretical, since resisting the rule of a monarch meant resisting the will of God. There were several Royalist writers who reproduced Barclay’s critique of the Monarchomachs in their attacks on their Parliamentary opponents.⁷⁰

The Monarchomachs drew upon a common well of intellectual resources with roots in the history of French political thinking and the interplay between Roman and customary law.⁷¹ These ideas had been developed within the medieval scholastic tradition, which was foundational in Protestant resistance theory, as shown by Skinner.⁷² Some of these ideas were familiar to Catholic readers but had been developed further by Monarchomach writers. Some of the Monarchomachs’ ideas were used by Catholic Leaguers in France, who used the arguments that suited them, and used them to defend the assassination of the French King Henry III for being too tolerant to the Huguenots.⁷³ There were many Royalist writers who associated the Parliamentary cause with the Catholic Leaguers, rather than the Protestant Monarchomachs, since this would be more damaging.

While the Monarchomachs have been interpreted as king-killers, they were still attached to monarchy, even if there were strict limits on the King’s power. They argued that the people were the ultimate owners of the kingdom, and that the King held no inherent powers not

⁶⁹ Nicholls. *Political Thought*, 1-17.

⁷⁰ Williams, *Vindiciae Regum*, 39, 45, 46; Salmon, *The French Wars*, 95-96.

⁷¹ Nicholls. *Political Thought*, 4.

⁷² Skinner, *Visions of Politics*, volume 2, 245-263.

⁷³ Brutus, *Vindiciae contra Tyrannos*, liv; Nicholls, *Political Thought*, 15.

received from the people.⁷⁴ They developed important formulations of popular sovereignty and tyrannicide that played a pivotal role in the development of modern political liberties. The *Vindiciae* was the most influential of these treatises and played an influential role in the English Civil War.

2.2 The English Civil War

There were many complicated reasons for the English Civil War, although an important reason for the conflict was a growing discontent at the King's personal rule and disregard for the rights of Parliament.⁷⁵ Between 1629 and 1640 King Charles had ruled in his own person and had not called a Parliament. During this period the King had levied substantial amounts of taxation without Parliamentary consent, particularly the hated Ship Money tax which cost the kingdom nearly 200 000 pounds a year.⁷⁶ The King had tried to impose a prayer book upon the Scottish Church in 1638, which led to armed resistance by the Scots. The war against the Scots was expensive and the King needed money to finance it. Parliament was unwilling to give the King any more money before he convened another Parliament.

The Long Parliament was convened on 3 November 1640, and lasted until it was purged in 1648, just before the execution of the King.⁷⁷ This Parliament secured its position by passing an act that prevented the dissolution of this Parliament without its consent and has been known as the Long Parliament. The Long Parliament sought to dissolve many of the King's instruments of personal rule and made it virtually impossible for the King to raise taxes without its consent. An Irish rebellion broke out on 23 October 1641, which caused fears among English Protestants. Parliament was worried about raising an army in the name of the King, since they feared it would be directed against them to enforce his personal rule. It is for this reason that Parliament raised a militia without the King's consent in 1642.⁷⁸ It was in this year that the conflict between the English Parliament and King Charles began.

There were primarily two separate phases of the English Civil War, the first phase was from 1642-1646 and the second phase was from 1647-1648.⁷⁹ The first phase was fought between the English Parliament and the Scottish Covenanters on one side, against the Royalists who supported the King. This phase culminated in the King's capture in 1646,

⁷⁴ Lee, *Popular Sovereignty*, 121-158.

⁷⁵ Kennedy, *English Revolution 1642-1649*, 1-10.

⁷⁶ Kennedy, *English Revolution 1642-1649*, 2.

⁷⁷ Kennedy, *English Revolution 1642-1649*, 1-10.

⁷⁸ Kennedy, *English Revolution 1642-1649*, 4; Skinner, *Visions of Politics, Volume 2*, 325.

⁷⁹ Kennedy, *English Revolution 1642-1649*, 10-46, 90-115.

where the fate of the King was to be decided, although neither side wanted the abolition of the monarchy.⁸⁰ The second English Civil War broke out in 1647 between the New Model Army led by Oliver Cromwell, opposed by moderate Parliamentarians, moderate Royalists and the Scottish Covenanters. This conflict culminated in the purge of the Long Parliament in 1648 and the establishment of the Rump Parliament by Cromwell. This Rump Parliament had the King executed for treason. Afterwards the English monarchy was abolished, and replaced by an English Commonwealth under Cromwell that would last until the Restoration in 1660.

Although the English Civil War was a military conflict between two different factions, both sides of the Civil War wrote extensively to justify their actions. Parliamentarian writers like Henry Parker, William Prynne and Philip Hunton produced extensive justifications for the necessity of Parliament's actions. Royalist writers Dudley Digges, John Maxwell and many others defended the King's prerogatives against attacks by Parliamentarian writers and sought to prove that their opponents' actions were illegal. Although the military events of the conflict played a pivotal role, both sides of the conflict produced extensive justifications for their actions.⁸¹

2.3 The *Vindiciae contra Tyrannos*

2.3.1 Importance

The *Vindiciae contra Tyrannos* was a very important political treatise written during the French Wars of religion to justify resistance against the French king. It was one of the most infamous of the Monarchomach treatises that were published after the St. Bartholomew's Day massacre in 1572, which had been perceived as a direct attack by the king against the French Huguenots.⁸² It was likely drafted in 1574 immediately after other leading Huguenot treatises like Hotoman and Beza, and was subsequently revised and extended to take account of changing political circumstances.⁸³ It was published in Latin in 1579, and translated into French in 1581, although it was not fully translated into English before 1648, although partial translation had been made before this. The full translation of the *Vindiciae* appeared at the height of the most radical phase of the English Civil War, when the fate of

⁸⁰ Kennedy, *English Revolution 1642-1649*, 47-63.

⁸¹ Sanderson, "But, the people's creatures".

⁸² Brutus, *Vindiciae contra Tyrannos*, i; Skinner, *Visions of Politics, Volume 2*, 388; Lee, *Popular Sovereignty*, 123.

⁸³ Skinner, *Visions of Politics, Volume 2*, 388.

the English King was to be decided.⁸⁴ This translation was used to show that there were precedents for tyrannicide and was thereafter used by some of the defenders of the execution of the King to justify their actions, especially after the Huguenots in France had criticized them.⁸⁵

The *Vindiciae* was a complicated text that needs to be thoroughly analyzed to understand its use in the English Civil War. The most important elements of the *Vindiciae* will be analyzed in this chapter. The most important aspect of the *Vindiciae* is its reputation, since it explains why its use of the English Civil War is important and is necessary to understand the role it played before this. The structure of the *Vindiciae* is important to understand, since the different chapters of the *Vindiciae* discussed different topics, which meant that the importance of specific chapters of the *Vindiciae* can be properly understood. Of vital importance to my analysis is the “rex singulis major, universis minor” maxim, which encapsulated the theory of popular sovereignty of the *Vindiciae*.⁸⁶ This maxim is the focus of my second analysis chapters. Closely connected to this maxim is the *Vindiciae*’s ideas of popular sovereignty and tyrannicide, which played an important role in the English Civil War.

The *Vindiciae* was not fully translated into English until 1648, although it played an important role before this. Its ideas played an important role in pamphlets written by the defenders of Parliament like Henry Parker, William Prynne, Samuel Rutherford, and several others. They used these ideas to argue that Parliament’s resistance to the King was justified, and that there were many precedents for these actions. The *Vindiciae* was referenced by Royalist writers who sought to associate the Parliamentary cause with the controversial Monarchomach treatise, although their references to the *Vindiciae* tended to be brief. Many of these writers associated these ideas with Jesuits, stating that they were incompatible with Protestantism.

2.3.2 Authorship

The *Vindiciae* was published anonymously under the pseudonym “Stephanus Junius Brutus, the Celt” in 1579, and was likely written by either Hubert Languet, Philippe du Plessis Mornay, or a combination of them both.⁸⁷ There seems to be broad scholarly agreement that

⁸⁴ Salmon, *The French Wars*, 100.

⁸⁵ Salmon, *The French Wars*, 101-122.

⁸⁶ Salmon, *The French Wars*, 7.

⁸⁷ Salmon, *The French Wars*, 17; Skinner, *Foundations*, volume 2, 305; Brutus, *Vindiciae contra Tyrannos*, lv-lxxvi; McLaren, “Rethinking Republicanism”, 24; Tutino, “Huguenots, Jesuits and Tyrants”, 177.

the text was written by Mornay, although the author's identity is irrelevant to me. I've therefore followed Daniel Lee's lead in avoiding this debate, and have instead called the author by their pseudonym, Stephanus Junius Brutus.⁸⁸

This was a pseudonym with close connotations to tyrannicide and resistance to tyrants. Barclay connected "Stephanus" with a Greek word for crowned, which Garnett considers the most likely reason for the name, although it could also be a reference to the assassin of the Roman emperor Domitian.⁸⁹ Of much more importance is the next part of the pseudonym, "Junius Brutus", which referred to two classical figures from Roman history who had opposed tyrants. Lucius Junius Brutus had led the people of Rome against Tarquinius Superbus, the last king of Rome, and became the first consul of the Roman Republic. Marcus Junius Brutus was the most famous of the assassins of Julius Caesar, who had killed Caesar on behalf of the community. The pseudonym of the author made it abundantly clear to the reader that this was a text discussing resistance to tyranny. Most of the writers who referenced the *Vindiciae* during the English Civil War referred to its author by either "Junius Brutus", or just "Brutus", since they did not know the author's identity.

2.3.3 Reputation

The *Vindiciae contra Tyrannos* was an incredibly controversial text that was closely associated with resistance to monarchy and support of tyrannicide. It received much of its negative reputation after its refutation by William Barclay in 1600, although it had had a controversial reputation before this as well. One of the book's critics, Jean Baricave remarked that the author had "gathered and hoarded up, as if in an arsenal or magazine, everything which seditious mutineers, rebels and parricides have ever been able to dream up as a pretext to give some colouring to their execrable and diabolic schemes."⁹⁰ The *Vindiciae* was considered an anti-monarchical text that sought to dethrone and murder kings, which gave it a controversial reputation. While its reputation as an anti-monarchical text was inaccurate, the way it stripped power away from the King horrified many of its critics.

The *Vindiciae* also had a controversial reputation in England, which was made more precarious by the dangerous role of Catholics and Jesuits in England.⁹¹ Queen Elizabeth had been excommunicated by the Pope in 1570, and several Catholic political theorists used Catholic resistance theory to justify resistance to the English monarch and the restoration of

⁸⁸ Lee, *Popular Sovereignty*, 123.

⁸⁹ Brutus, *Vindiciae contra Tyrannos*, 3.

⁹⁰ Brutus, *Vindiciae contra Tyrannos*, liv.

⁹¹ Tutino, "Huguenots, Jesuits and Tyrants", 181-195.

Catholicism. The ideas of resistance and tyrannicide continued to be associated with Jesuitism until the English Civil War. Another important fact is that it was not until the English Civil War that it was deemed necessary to justify armed resistance to the King, which meant that these ideas were considered necessary. Despite this, these ideas had a controversial reputation in England for a long time, even during the English Civil War.

2.3.4 Structure of the *Vindiciae*

Understanding the structure of the *Vindiciae* is important to understand the significance of partial translations into English, particularly William Prynne's translation of the third chapter in 1643.⁹² The *Vindiciae contra Tyrannos* was structured into four separate chapters, each asking and answering fundamental questions about the relationship between God, the people and the king.⁹³ This relationship took the form of a twofold covenant, the first was between God, the people and the king, while the second was between just the people and the king. The first covenant is known as the sacred covenant and was the topic of the first two chapters of the *Vindiciae*. It made both the people and the king responsible for ensuring the proper worship of God, who could enforce it upon the other if either party broke the covenant. Neither of these chapters were translated into English until 1648, although they were still available in the non-English versions of the *Vindiciae*.

The second covenant between the people and the king set the limits for the king's power and was the topic of the third chapter of the *Vindiciae*. It has received considerable attention by several historians, who have argued that it developed a secular or "quasi-secular" justification for resistance.⁹⁴ Most of this chapter was translated into English by William Prynne in 1643 in the appendix of his *Sovereign Power of Kingdoms and Parliaments*.⁹⁵ The fourth chapter called for foreign intervention on behalf of subjects suffering for their religion, or under tyranny, and was meant to convince Queen Elizabeth to intervene in France and the Low Countries. It did not include any of the previous chapters' justifications of resistance and was only a few pages long. This might explain why it was the only chapter of the *Vindiciae* that was translated into English before the English Civil War.

⁹² Prynne, *The Sovereign Power, appendix*, 149-199; Salmon, *The French Wars*, 83-87; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

⁹³ Brutus, *Vindiciae contra Tyrannos*, xxiii.

⁹⁴ Salmon, *The French Wars*, 1-14; Skinner, *Foundations, volume 2*, 335; Tutino, "Huguenots, Jesuits and Tyrants", 175; Lee, *Popular Sovereignty*, 123-125.

⁹⁵ Prynne, *The Sovereign Power, appendix*, 149-199; Salmon, *The French Wars*, 83-87; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

The first Question of the *Vindiciae* focused on the sacred covenant between God, the king and the people. It asked and answered “Whether subjects be bound, or ought, to obey princes who command anything against the law of God.”⁹⁶ This was an important question to answer, since the Pauline doctrine of the Bible in Romans 13, 1-7 stated that the people should be loyal to secular authority since it had been constituted by God.⁹⁷ The first Question argued that obedience to God took precedence over obedience to secular authority, hence the king should be disobeyed if he turned against God. God had given the people the power to constitute kings, who had conditionally given their power to the king.⁹⁸ Afterwards, God bound both parties by a covenant to ensure the proper worship of God. The first question of the *Vindiciae* was important, since it showed that obedience to the king was not absolute since obedience to God was more important. It played an important role in laying the groundwork for the rest of the text but was also important on its own.

The second Question built on the conclusions of the first Question, explaining what ought to be done to a king who had broken the sacred covenant. It asked: “Whether it be lawful to resist a prince who is breaking the law of God and devastating God's church: by whom, how, and to what extent.”⁹⁹ It answered that the lesser magistrates had a duty as God's servants and as representatives of the people to punish the king if he broke the sacred covenant. God had made both the people and the king responsible for ensuring the proper worship of God, although it was more likely for the people to have to hold the king accountable.¹⁰⁰ The lesser magistrates as representatives of both God and the people could act as God's enforcers. Lawful resistance against a king who had broken the covenant with God was therefore not sedition towards secular authority, but instead obedience to God. The *Vindiciae* had primarily used Scriptural arguments to prove this, although Scripture was interpreted according to the categories and principles of Roman Law.¹⁰¹ The first two chapters of the *Vindiciae* were important since they proved that resistance to kings who turned against the true faith was a moral duty, although neither of them were translated into English until 1648.

The third, and longest chapter of the *Vindiciae* discussed the covenant between the king and the people. It asked: “Whether, and to what extent, it be lawful to resist a prince who is oppressing or ruining the commonwealth: also by whom, how, and by what right it may be

⁹⁶ Brutus, *Vindiciae contra Tyrannos*, 14-34.

⁹⁷ McAnnally-Linz, “Resistance and Romans 13”; Lee, *Popular Sovereignty*, 151

⁹⁸ Lee, *Popular Sovereignty*, 143.

⁹⁹ Brutus, *Vindiciae contra Tyrannos*, 35-66.

¹⁰⁰ Brutus, *Vindiciae contra Tyrannos*, xxv, 38.

¹⁰¹ Garnett, “Law in the *Vindiciae*”, 877, 882.

allowed.”¹⁰² This has been regarded by many historians as the most important chapter of the *Vindiciae* since it justified resistance for somewhat secular reasons.¹⁰³ It is also much longer than the rest of the chapters combined. Skinner considers the third chapter of the *Vindiciae* as epoch-defining since it created a genuine political theory of revolution due to the need to convince the Catholic majority in France.¹⁰⁴ Salmon argues that Prynne’s focus on the third chapter of the *Vindiciae* had a similar intent in 1643, due to the Parliamentary alliance with the Scottish Covenanters.¹⁰⁵ Prynne’s translation of the third chapter of the *Vindiciae* played an important role in how the full 1648 would be interpreted a few years later.¹⁰⁶

The third chapter of the *Vindiciae* argued that the king and the people had entered into a covenant which set the conditions for the exercise of the people's power.¹⁰⁷ It used extensive references to both Scripture and Roman Law to prove this. Although God had instituted the king, the people needed to accept this “election” through their vote.¹⁰⁸ This was to remind the king that he existed to ensure the welfare of the people. The people had never given up their power, only temporarily entrusted it to the king. It was the lesser magistrates that represented the people and could exercise their power and punish the king if necessary. The entire third chapter was devoted to explaining how the people were superior to the king, and what should be done when the king was destroying the commonwealth. The lesser magistrates had a duty as representatives of the people to hold him accountable and punish him if necessary. Representative assemblies like the Assembly of the Three Estates had the power to depose and elect the king, although tyrannicide was treated as a last resort.¹⁰⁹ This chapter of the *Vindiciae* was important since it showed that the people were superior to the King and was one of the first modern texts that legitimized popular resistance for mostly secular reasons.

The fourth chapter of the *Vindiciae* was the only part of *the Vindiciae* that was translated into English before the English Civil War. It asked whether neighboring princes had a duty to assist the subjects of another prince who were persecuted for their religion or under manifest tyranny.¹¹⁰ It argued that they had a duty to intervene in these circumstances and was meant

¹⁰² Brutus, *Vindiciae contra Tyrannos*, 5, 67-172.

¹⁰³ Salmon, *The French Wars*, 1-14; Skinner, *Foundations*, volume 2, 335; Tutino, “Huguenots, Jesuits and Tyrants”, 175; Lee, *Popular Sovereignty*, 123-125.

¹⁰⁴ Skinner, *Foundations*, volume 2, 335.

¹⁰⁵ Salmon, *The French Wars*, 83-87.

¹⁰⁶ Tutino, “Huguenots, Jesuits and Tyrants”, 191-195.

¹⁰⁷ Brutus, *Vindiciae contra Tyrannos*, xxxi-xli, 67-172.

¹⁰⁸ Brutus, *Vindiciae contra Tyrannos*, xxxii, 68-70, 71, 94-110.

¹⁰⁹ Brutus, *Vindiciae contra Tyrannos*, 76-78.

¹¹⁰ Brutus, *Vindiciae contra Tyrannos*, 173-185.

to convince Queen Elizabeth to intervene on behalf of the Protestants in France and the Netherlands. It did not include the previous chapters' justifications for popular resistance and focused instead on convincing foreign Princes to intervene on behalf of another Prince's subjects. It was translated into English in 1588; this was the only English translation of the *Vindiciae* before the English Civil War.¹¹¹ It was also translated into English by William Prynne in 1643, although this has been completely overlooked.¹¹²

2.3.5 Maxim

The *Vindiciae* built on earlier arguments that had been implicit in medieval thought and used during the Conciliar debates to argue that the entire kingdom was superior to the king.¹¹³ The *Vindiciae contra Tyrannos* built on these arguments to argue that just like the entire community of the church had been superior to the pope, the entire kingdom was superior to the King. This view of the relationship between the kingdom and the King was expressed through the Latin maxim "rex singulis major, universis minor".¹¹⁴ It argued that while the King was superior to any private individual, "singuli", he was inferior to the kingdom, "universi". This maxim was introduced into the English Civil War by Henry Parker and would thereafter form the basis of English theories of resistance.¹¹⁵ It saw extensive usage throughout the conflict and is an important indicator of knowledge and reference to the *Vindiciae*, even if there were few who openly associated it with the *Vindiciae*. It is important to properly explain the origins and importance of the maxim, to understand the central role it played in the conflict.

The *Vindiciae* viewed the people as a corporation (*universitas*), a fictitious legal person that could not will or act for itself.¹¹⁶ Individuals could not claim to represent the entire community and therefore had no right to resist on their own. This was because they had not been a party to the covenants with God, since it had been done by the people as a whole, although they were still obligated to obey the covenants. The *Vindiciae* treated 'the People' as an immortal and undividable corporative person (fictitious legal person) and could only act through the real persons that represented it, this was the lesser magistrates. When the lesser magistrates acted together in representative assemblies like the Assembly of the Three Estates in France and Parliament in England, they were superior to the King.

¹¹¹ Tutino, "Huguenots, Jesuits and Tyrants", 190.

¹¹² Prynne, *The Sovereign Power, appendix*, 208-216.

¹¹³ Salmon, *The French Wars*, 7-8; Skinner, *Visions of Politics, Volume 2*, 253-263.

¹¹⁴ Salmon, *The French Wars*, 7; Brutus, lxxvii-lxxxiii; Skinner, *Visions of Politics, Volume 2*, 394; Weston, *Subjects and Sovereigns*, 62-66; Lee, *Popular Sovereignty*, 121-157.

¹¹⁵ Salmon, *The French Wars*, 135.

¹¹⁶ Brutus, *Vindiciae contra Tyrannos*, lxxvii-lxxxiii.

The people that made up the “universitas” and the lesser magistrates were all together as a whole, “universi”, above the king.¹¹⁷ This meant that the lesser magistrates had a right and a duty as representatives of God and the people to hold him accountable if he broke either of the covenants. The king had been constituted by the community for their own benefit and could be resisted if he prioritized his own benefits over their welfare. It was through representative assemblies like the Assembly of the Three Estates in France and the English Parliament that the lesser magistrates could exercise the people's rights. The “universis minor” maxim would play a pivotal role in the English Civil War to argue that Parliament was superior to the King.

2.3.6 Popular Sovereignty and Tyrannicide

The *Vindiciae* contained extensive references to both Roman Law and Scripture, which were complementary. This was because Roman Law was the most elaborately explored system of civil law that embodied universally applicable concepts and principles.¹¹⁸ Roman Law was central to the *Vindiciae*'s ideas of popular sovereignty, particularly through the “universis minor” maxim. The *Vindiciae* was meant to be applicable to all Christian kingdoms, not just France.

The *Vindiciae* argued that the whole people, “universi” held ownership of the kingdom, but that their power had been usurped by previous kings.¹¹⁹ The king had no inherent powers of his own and was inferior to the people, since there could not be a king without the people. The people had constituted kings since it was convenient, as in the example of Saul and the people of Israel.¹²⁰ The people were superior to the King since it had created him and had set the conditions for the exercise of their power. The king's powers were conditional on him upholding the covenants he had entered.¹²¹ The people had stipulated that they would obey the king as long as he ruled justly, while the king had promised absolutely to rule justly. If the king broke his promise, the people as a whole would be absolved from all obligations to him, since they held sovereignty.¹²² The king only held temporary possession of the people's power that was ‘fiduciary’ on him ruling justly, and the people could reclaim their power

¹¹⁷ Brutus, *Vindiciae contra Tyrannos*, lxxvii-lxxxiii.

¹¹⁸ Garnett, *Law in the Vindiciae*, 82.

¹¹⁹ Lee, *Popular Sovereignty*, 139.

¹²⁰ Brutus, *Vindiciae contra Tyrannos*, 71.

¹²¹ Lee, *Popular Sovereignty*, 126, 142-143, 148.

¹²² Brutus, *Vindiciae contra Tyrannos*, 61-63, xxx, liii.

through an act of vindication, “vindicatio”.¹²³ This was likely where the *Vindiciae* got its name from, since it argued that the people were reclaiming their lawful power. Such an action could only be done as a public act by the entire people, “universi”, through well-ordered assemblies that represented the entire kingdom, and was denied to individuals. The Monarchomachs had been careful to condemn resistance by private individuals, thereby upholding Romans 13 from the Bible which had commanded obedience to secular authority.

The king played the role of tutor to the people, which was a role within Roman Law with very strict limits on the tutor, where the ownership still lay with the ward (the people).¹²⁴ It was only through the lesser magistrates that the whole people (universi) could be represented. The lesser magistrates had a duty as co-tutors to ensure both covenants were upheld, failure to do this would make them as liable as the king for breaking them.¹²⁵ They were responsible for upholding both covenants, especially the sacred covenant, although the ‘quasi-secular’ covenant was also important. The whole people were under normal circumstances represented by the lesser magistrates, although it was within representative assemblies that they could be represented extraordinarily or annually.¹²⁶

While the lesser magistrates had a duty to protect the people, it was only within representative assemblies that matters concerning the Commonwealth could be decreed.¹²⁷ This was always the case, even if such an assembly had not been called for a long time, like the Assembly of the Three Estates in France. The *Vindiciae* viewed the English and Scottish Parliaments as examples that other kingdoms should emulate, which makes its usage in England interesting. The decrees of these assemblies were considered sacrosanct and above the king, and had the power to elect monarchs, and to depose them. There were actually no hereditary kings, they had all been established through an act of popular constitution and election in the past, but the people’s power had been usurped. The king ought to be elected in these assemblies, to remind him that he ruled on behalf of the people, while God confirmed their election.¹²⁸

¹²³ Lee, *Popular Sovereignty*, page 151. A “vindicatio” was a legal act from Roman Law that could be used by the owner of something to reclaim all their legal rights from someone else when both parties claimed ownership over something.

¹²⁴ Lee, *Popular Sovereignty*, 126-127.

¹²⁵ Lee, *Popular Sovereignty*, 154.

¹²⁶ Brutus, *Vindiciae contra Tyrannos*, 76.

¹²⁷ Brutus, *Vindiciae contra Tyrannos*, 86.

¹²⁸ Brutus, *Vindiciae contra Tyrannos*, 68.

Although these assemblies had the power to depose the king, tyrannicide itself was treated very carefully in the *Vindiciae*, and was only permitted under extraordinary circumstances. It argued that “tyrants without title” (usurpers) could be killed by anyone, as long as they did not have the support of the people.¹²⁹ This was relatively uncontroversial, since these tyrants could already be killed by anyone, since they had no legal claim to the title. Of much more importance was the *Vindiciae*’s justification of resistance against legitimate monarchs. As mentioned earlier, representative assemblies had the power to depose the king, although the *Vindiciae* argued that the people could not kill him.¹³⁰ There was a dangerous exception to this, since the *Vindiciae* did not intend to limit God’s power. God would sometimes raise extraordinary “liberators” to punish the king when he had broken the first, sacred covenant.¹³¹ This concession was heavily criticized and condemned by its critics, since it could be used to legitimize individuals to take matters into their own hands and murder kings. The French King Henri III was killed by such an “extraordinary liberator”, the Catholic Jacques Clément.¹³² Although we have no evidence that Clément read the *Vindiciae*, some of his defenders certainly had read it, showing how dangerous the ideas of the *Vindiciae* could be.

Despite its reputation as an anti-monarchical text that sought to abolish the monarchy, the *Vindiciae* argued for a form of mixed monarchy where the people held power over the King.¹³³ The Monarchomachs were still attached to monarchy as a form of government, although they had stripped many of the King’s powers away from him. It should be emphasized that the Monarchomachs and the *Vindiciae* never argued for a modern interpretation of democracy, but rather a form of mixed constitution with the monarchical, aristocratic, and democratic elements in balance with each other. This power would be exercised by the lesser magistrates, who were primarily nobility, this power was denied to individuals. By separating the office of the King from the person of the King, the Monarchomachs and the *Vindiciae* made it easier for later thinkers to conceive of a country without a King. Although the Monarchomachs were unwilling to do this, several English writers used the *Vindiciae* to argue that a commonwealth didn’t need a King.¹³⁴ The republican implications of the *Vindiciae* would become intrinsic to the text after its use in the

¹²⁹ Brutus, *Vindiciae contra Tyrannos*, 150.

¹³⁰ Brutus, *Vindiciae contra Tyrannos*, 86.

¹³¹ Brutus, *Vindiciae contra Tyrannos*, 61-63, xxx, liii.

¹³² Brutus, *Vindiciae contra Tyrannos*, liv.

¹³³ Garnett, “Law in the *Vindiciae*”, 887.

¹³⁴ Salmon, *The French Wars*, 101-121.

English Civil War, although this had likely never been the intended goal for the writers who referenced the *Vindiciae* before the execution of the King.¹³⁵

2.4 The Role of the *Vindiciae* in England

2.4.1 Latin Editions of the *Vindiciae*

Several Latin editions of the *Vindiciae* appeared in England between its publication in 1579 and the full translation into English in 1648. Latin was the *Lingua Franca* of Europe for most of the fifteenth and sixteenth centuries, and most literate Europeans were to some extent bilingual.¹³⁶ This meant that the *Vindiciae* was available to a significant English audience, despite not being translated into English for a long time. McLaren notes that several octavo editions of the *Vindiciae* appeared in Latin, French and English in 1579, 1580, 1581, 1589, 1599 and 1622, which suggests its popularity.¹³⁷ Despite this there are no citations to where she found these editions or what languages each of these editions were released in. McLaren builds on Margo Todd's research to argue that from the 1610s through the 1620s, heads of Cambridge were keeping an eye on Cambridge book sellers for works on resistance theory due to its persistent popularity.¹³⁸ This included the *Vindiciae*, which shows that it was well-known, despite it not being translated into English.

The persistent popularity of the *Vindiciae* in England played a role in the universities of Oxford and Cambridge condemning it in 1622. It was the target of an 'acrimonious' debate at Oxford, which resulted in its condemnation and burning by the university authorities, with Cambridge following Oxford's lead in condemning it.¹³⁹ David Owen's *Anti-Paræus* was considered as the official view of the university authorities towards the Monarchomachs and was used to justify their condemnation. It had primarily targeted the German Calvinist Paræus, who had, according to Salmon, reproduced the arguments of the *Vindiciae*. David Owen wrote several texts condemning these Monarchomach treatises, several of which reappeared at the beginning of the English Civil War. These texts were republished in 1642-1643 to associate the Long Parliament with the Monarchomachs.¹⁴⁰ The fact that the

¹³⁵ Tutino, "Huguenots, Jesuits and Tyrants", 193.

¹³⁶ McLaren, "Rethinking Republicanism", 31.

¹³⁷ McLaren, "Rethinking Republicanism", 24.

¹³⁸ McLaren, "Rethinking Republicanism", 25; Todd, "Anti-Calvinists", 95-96.

¹³⁹ Salmon, *The French Wars*, 71-72.

¹⁴⁰ Salmon, *The French Wars*, 71-72; McLaren, "Rethinking Republicanism", 24; Owen, *A Persuasion to loyalty*, 28; Owen, *Anti-Paræus*; 53-56; Owen, *Puritano-Iesuitismus*, 44.

university authorities at Oxford and Cambridge felt it was necessary to condemn and burn the *Vindiciae*, shows that it was considered influential and dangerous before the Civil War.

The *Vindiciae* was published as *Vindiciae Religionis* in 1631, shortly before the Civil War. This was a Latin version of the *Vindiciae* which included all four of its chapters.¹⁴¹ This shows that the *Vindiciae* continued to be republished in England right up to the Civil War, several decades after it had first been published in 1579. The persistent popularity of Latin versions of the *Vindiciae* shows that it remained important in England until the Civil War, even if it had not been fully translated into English.

2.4.2 1588 Translation

The first English translation of the *Vindiciae* was a translation of the fourth chapter in 1588 under the title *A Shorte Apologie for Christian Souldiours*.¹⁴² This translation was meant to justify English intervention in the Netherlands by arguing that Queen Elizabeth had a duty to aid the Protestants in France suffering under impious rulers. This translation did not include the justification of resistance that the rest of the treatise contained, which shows how the text was carefully controlled to support English statecraft.¹⁴³

The translator was careful in maintaining that it was only Princes who had a right to aid the subjects of another Prince, and that this was denied to individuals.¹⁴⁴ Tutino has used this translation of the *Vindiciae* as an example of the dangerous nature of the *Vindiciae* lay in its religious framework and the danger of Catholic opposition to the English monarch.¹⁴⁵ She notes that this translation appeared around the same time as the Spanish Armada sailed towards England, which could create “dangerous rhetorical turns”.¹⁴⁶ The Spanish king Philip II, could also be an example of a king saving the subjects of another prince from religious tyranny. This had not been the intended purpose of the 1588 translation but shows how the religious framework of the *Vindiciae* made these ideas dangerous due to their association with Catholic opposition to the English monarch.

¹⁴¹ McLaren, “Rethinking Republicanism”, 24, Brutus, *Vindiciae contra Tyrannos*, lxxxvi.

¹⁴² Salmon, *The French Wars*, 17; Brutus, *Vindiciae contra Tyrannos*, xii, lxxxvii; Tutino, “Huguenots, Jesuits and Tyrants”, 190; McLaren, “Rethinking Republicanism”, 24, she dates this translation of the *Vindiciae* to 1589.

¹⁴³ Salmon, *The French Wars*, 17.

¹⁴⁴ Garnett, *Law in Vindiciae*, 888.

¹⁴⁵ Tutino, “Huguenots, Jesuits and Tyrants”, 195; Languet, *Vindiciæ contra tyrannos*; This is the 1648 translation of the *Vindiciae*.

¹⁴⁶ Tutino, “Huguenots, Jesuits and Tyrants”, 190.

2.4.3 1648 Translation

The *Vindiciae* was not fully translated into English until 1648, at the time the King's fate was to be decided.¹⁴⁷ Although this is outside the scope of my research, it is important to understand its importance to the conflict. There has been a lot of speculation on who produced this translation due to their anonymity. Garnett argues that it was likely the journalist Henry Walker who translated it into English.¹⁴⁸ This translation differed from earlier translations, due to the context it was produced in, and the identity of the translator. The 1648 translation appeared at the height of the English Civil War and was used to show that there were precedents for deposing kings.

Garnett argues that earlier translations of the *Vindiciae* had taken great care to maintain the original's strict limits on who could resist, while Walker was willing to take more liberties with the translation.¹⁴⁹ He argues that this was due to Walker's fast and loose approach to translating and his lack of understanding of the nuances of Roman Law. This led the author to neglect important elements of the original Latin version of the *Vindiciae*, particularly its distinctions between 'singuli' and 'universi' or its reaffirmation that individuals could no longer be sent by God to oppose tyrants. This made this translation of the *Vindiciae* into a different text than 'Stephanus Junius Brutus' had intended.

Another important way the 1648 translation altered the understanding of the *Vindiciae* was influenced by its usage before this, particularly William Prynne's translation of the third chapter of the *Vindiciae*. According to Tutino, Prynne's focus on the 'quasi-secular' covenant of the *Vindiciae* led to a secularization of the contract theory of the *Vindiciae*.¹⁵⁰ She argues that the republican implications of the second covenant of the *Vindiciae* had become intrinsic to the text, especially after the 1648 translation. Before the execution of the King, it had been used to argue for a limited monarchy, but it was now used to justify the execution of the King and the establishment of the New Commonwealth under Cromwell. Although the *Vindiciae* played a central role after 1648, it played an important role before this as well through both direct and indirect references to it.

¹⁴⁷ Salmon, *The French Wars*, 100; Brutus, *Vindiciae contra Tyrannos*, lxxxvii.

¹⁴⁸ Garnett, *Law in the Vindiciae*, 887-891.

¹⁴⁹ Garnett, *Law in the Vindiciae*, 887-891.

¹⁵⁰ Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

Chapter 3 - Direct References to the *Vindiciae*

3.1 Introduction

This analysis chapter focuses on direct references to either the *Vindiciae* or its author, Stephanus Junius Brutus from the start of the English Civil War to the publication of the full English translation in 1648. There were surprisingly few references to the *Vindiciae* in the English Civil War, particularly among Parliamentary writers. This was likely due to the *Vindiciae*'s reputation as an anti-monarchical text, which would taint the Parliamentary cause with this reputation. William Prynne and Samuel Rutherford were some of the only Parliamentary writers who were willing to openly associate themselves with the *Vindiciae*, which has been noted in the historiography.¹⁵¹ They both made extensive use of the *Vindiciae* and held its author in high regard. While there were only a few Parliamentary writers who referenced the *Vindiciae*, there were many Royalist writers who associated the Parliamentary cause with the *Vindiciae*.¹⁵² They argued that its ideas were derived from Jesuit political theory and was incompatible with Protestantism. These writers tended to only briefly mention the *Vindiciae* among several other texts, and their references to it were meant to delegitimize the Parliamentary cause by associating them with anti-monarchical texts like the *Vindiciae*. Interestingly, none of these Royalist writers seems to have directly mentioned Prynne and Rutherford's extensive references to the *Vindiciae*.

Parliamentarian writers like William Prynne and Samuel Rutherford used the *Vindiciae* to support their claims that the kingdom was superior to the King. While they expressed many of the same ideas as the *Vindiciae*, they focused on different parts of it. This chapter focuses on how these writers referenced either the *Vindiciae* or its author, Junius Brutus, to analyze what associations they had to it, and what role it played in their texts. They both agreed with virtually the entirety of the *Vindiciae*'s argument, although Prynne focused primarily on the *Vindiciae*'s "quasi-secular" argument, while Rutherford focused on its religious argument. This chapter has focused on how and why Prynne used the *Vindiciae*, focusing on what effect their use of it had to their argument.

William Prynne reproduced and translated virtually the entire third chapter of the *Vindiciae* in his appendix to his four part *Sovereign Power of Kingdomes and Parliaments*, published in

¹⁵¹ Salmon, *The French Wars*, 83-88; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

¹⁵² Salmon, *The French Wars*, 88-96.

1643.¹⁵³ Prynne used the *Vindiciae* in many interesting ways that have been overlooked in the historiography, primarily how he used excerpts from the *Vindiciae* to summarize the rest of the claims he had made in the appendix.¹⁵⁴ Prynne also used the *Vindiciae* as a Scriptural authority that had found the same precedents that he had found. The *Vindiciae* was by far the most important text Prynne cited in his appendix, except for the Bible.

The Scottish Presbyterian Samuel Rutherford publicly associated himself with both covenants of the *Vindiciae*, but particularly the religious covenant.¹⁵⁵ Rutherford referenced the *Vindiciae* and Junius Brutus several times in his *Lex, Rex* which was published in 1644 to defend the Scottish Covenanter Revolution. Rutherford's covenantal framework was based on the *Vindiciae*'s framework, although he made much fewer references to the *Vindiciae* than Prynne had.¹⁵⁶ Rutherford held the author of the *Vindiciae* in high regard and used him as an authoritative Scriptural authority that had discovered pivotal Scriptural precedents for the kingdom's power over the King. While Rutherford focused primarily on the *Vindiciae*'s religious covenant, he agreed with the entirety of the *Vindiciae*.¹⁵⁷

There were many Royalist writers who associated the Parliamentary cause with the author of the *Vindiciae*, which was likely done to discredit their opponents. Several earlier texts that had criticized the *Vindiciae* were reprinted at the start of the conflict, most notably some of David Owen's texts written around 1622.¹⁵⁸ More interestingly, there were several Royalist writers who associated their opponents with the *Vindiciae*. These writers tended to associate the *Vindiciae* with Jesuit writers, and argued these ideas were incompatible with Protestantism. They responded to what they perceived to be Parliamentary uses of these ideas, even if none of them seem to have mentioned Prynne and Rutherford's uses of these ideas. Their references to the *Vindiciae* tended to be brief to delegitimize their opponents, but their uses of the *Vindiciae* are still interesting. This chapter has focused on how these Royalist writers referenced the *Vindiciae*, and how they used it to discredit their Parliamentarian opponents.

¹⁵³ Prynne, *The Sovereign Power, appendix*, 149-199.

¹⁵⁴ Salmon, *The French Wars*, 83-87; McLaren, "Rethinking Republicanism", 35-42; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

¹⁵⁵ Salmon, *The French Wars*, 87-88.

¹⁵⁶ Richards, "The Law Written in their Hearts", 154

¹⁵⁷ Salmon, *The French Wars*, 87-88.

¹⁵⁸ Salmon, *The French Wars*, 71-72.

3.1.1 Literature

Several historians have written about the role of the *Vindiciae* in the English Civil War, although the most notable of these are J.H.M. Salmon, Anne McLaren and Stefania Tutino.¹⁵⁹ Salmon and Tutino have focused on Prynne's translation and reproduction of the third chapter of the *Vindiciae*, while McLaren has focused on how Prynne agreed with the religious arguments of the *Vindiciae*. Only Salmon and Tutino have analyzed how Rutherford used the *Vindiciae*, which is surprising since McLaren focused on the religious element of the *Vindiciae*. This could be explained by the fact that she focused on the different English translations of the *Vindiciae*. Only Salmon has analyzed how Royalist writers criticized the *Vindiciae* and how they associated it with the Parliamentary cause. There is a lot that these historians have overlooked regarding direct references to the *Vindiciae* in the English Civil War.

This chapter has focused extensively on how William Prynne and Samuel Rutherford used the *Vindiciae*, which has necessitated the use of literature devoted to these writers. William Lamont's book *Marginal Prynne* from 1963 is the most recent monograph dedicated to Prynne's writing.¹⁶⁰ In it, Lamont analyzes the literary career of William Prynne, and dedicates a chapter to Prynne's political writing in *The Sovereign Power of Kingdoms and Parliaments* from 1643.¹⁶¹ Although Lamont dedicates some attention to Prynne's attraction to resistance theory, he does not mention Prynne's extensive references to the *Vindiciae*. John Coffey has analyzed Rutherford's literary career, and dedicated one chapter to *Lex, Rex*. Coffey notes how Rutherford shared a similar view of a twofold covenant with the *Vindiciae*, although he doesn't devote much attention to the *Vindiciae*.¹⁶² Despite this, Coffey's chapter on *Lex, Rex* analyzes how Rutherford held the King responsible for his betrayal of the Reformed faith and other important aspects of *Lex, Rex*.¹⁶³ Although both of these historians have devoted extensive attention to the writings of Prynne and Rutherford, they have overlooked the pivotal role of the *Vindiciae* in their texts.

¹⁵⁹ Salmon, *The French Wars*, 80-100; Tutino, "Huguenots, Jesuits and Tyrants", 190-195; McLaren, "Rethinking Republicanism", 35-42.

¹⁶⁰ Lamont, *Marginal Prynne*.

¹⁶¹ Lamont, *Marginal Prynne*, 85-118.

¹⁶² Coffey, *The Mind of Samuel Rutherford*, 165.

¹⁶³ Coffey, *The Mind of Samuel Rutherford*, 179.

3.2 William Prynne, *The Sovereigne Power* (1643)

3.2.1 Introduction

William Prynne was an English Presbyterian lawyer who had been commissioned by Parliament to justify their actions until the time of writing (1643) and did this by publishing an enormous political treatise called *Sovereigne Power of Parliaments and Kingdomes*. It was published in four parts along with an appendix from March-August 1643, and bound together by Thomason later.¹⁶⁴ The problem with earlier defenses of Parliament was, according to Prynne, that their arguments lacked punctual precedents and authorities to back up their claims. He sought to prove the legality of their actions by precedents from any source he could find. Prynne translated and reproduced the third and fourth chapters of the *Vindiciae* in the appendix, although he primarily focused on its third chapter. Prynne's Presbyterian beliefs likely played an important role in why he viewed the author of the *Vindiciae* so highly, since they were both Calvinists. Prynne blamed the outbreak of the Civil War on a "malignant Popish faction" that was swarming around the King, while minimizing the role a constitutional opposition to the King played.¹⁶⁵ This makes his focus on the third chapter of the *Vindiciae* particularly interesting, since this chapter had justified resistance for "quasi-secular" reasons, rather than religious reasons.¹⁶⁶

William Lamont argues that Prynne's fears of Papists in the King's circle attracted him to theories of resistance, and that this led to an equivocal attitude towards sovereignty.¹⁶⁷ Lamont has criticized Prynne for failing to make sovereignty a coherent theme of his work, although it is worth asking whether a writer can be blamed for failing to do something they ought to have done, like Skinner has argued.¹⁶⁸ According to Lamont, this equivocal attitude can be explained by the incompatibility of precedents and sovereignty. It was at times a divine retribution upon the wayward king, while at other times it was a temporary expedient until confidence could be restored in the King.¹⁶⁹ Although Lamont does not mention the *Vindiciae*, Prynne seems to have used the *Vindiciae* to support his first view of sovereignty.

¹⁶⁴ Lamont, *Marginal Prynne*, 85-89.

¹⁶⁵ Lamont, *Marginal Prynne*, 107; Tutino, "Huguenots, Jesuits and Tyrants", 192; Prynne, *The Sovereigne Power, part 1*, preface; Prynne, *The Sovereigne Power, appendix*, 216-218.

¹⁶⁶ Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

¹⁶⁷ Lamont, *Marginal Prynne*, 118.

¹⁶⁸ Lamont, *Marginal Prynne*, 104, 113; Skinner, *Visions of Politics, volume 1*, 65, 78.

¹⁶⁹ Lamont, *Marginal Prynne*, 113-118.

Stefania Tutino builds upon Lamont's analysis of Prynne's equivocal attitude towards sovereignty, and explains how this attitude influenced his use of the *Vindiciae*. She argues that Prynne's equivocal attitude can be explained by his lack of sympathy for "Calvinist Independency" on the one hand, and his deep antagonism towards "Absolutism of a Popish flavour" on the other.¹⁷⁰ On the one side of this ambiguity Prynne used the *Vindiciae* to justify the rights and prerogatives of Parliament, on the other side, Prynne was not a republican. According to Tutino, Prynne never intended for the *Vindiciae* to be understood as a republican or anti-monarchical text and was instead meant to prove that Parliament was superior to the King. He opposed the execution of the King, since the Rump Parliament did not represent the entire kingdom.¹⁷¹ Tutino argues that Prynne's focus on the third chapter of the *Vindiciae* led to a secularization of its contract theory, and influenced how it was interpreted and used after the execution of the King.

Most of the historians who have analyzed the role of the *Vindiciae* in the English Civil War have focused on Prynne's translation of the third chapter of the *Vindiciae*, since it was the only English translation of the *Vindiciae* since 1588.¹⁷² Salmon's claim that Prynne ignored the first two questions of the *Vindiciae* to focus on its third chapter is incorrect, since he referenced all of its chapters. Lamont notes that Prynne was attracted to theories of resistance, although he doesn't mention Prynne's extensive references to the *Vindiciae*. McLaren considers Prynne's justification of resistance for religious reasons most important, although this neglects the pivotal role the third chapter of the *Vindiciae* played to Prynne's appendix. Tutino has focused on Prynne's translation of the third chapter of the *Vindiciae*, although she notes the importance of the religious element in Prynne's writing. Killeen briefly mentions Prynne's reproduction of the *Vindiciae* and builds upon McLaren's analysis to argue that the religious element of the *Vindiciae* has often been overlooked.¹⁷³ There are several important things that these historians have overlooked.

Prynne used the *Vindiciae* in several interesting ways that these historians have not mentioned. While Prynne's translation of the third chapter of the *Vindiciae* was certainly the most important way he used it, he cited and agreed with the entire *Vindiciae*.¹⁷⁴ He did not just agree with its secular covenant like Salmon argued but agreed with both covenants of

¹⁷⁰ Tutino, "Huguenots, Jesuits and Tyrants", 192.

¹⁷¹ Kennedy, *The English Revolution*, 119.

¹⁷² Salmon, *The French Wars*, 83-87; Lamont, *Marginal Prynne*, 113; McLaren, "Rethinking Republicanism", 37-42; Tutino, "Huguenots, Jesuits and Tyrants", 191-195; McClure, "Reflections on Political Literature", 239-243.

¹⁷³ Killeen, *The Political Bible*, 174-175.

¹⁷⁴ Prynne, *The Sovereign Power*, appendix, 79, 138, 143, 208-216.

the *Vindiciae*. Prynne also included a translation of the fourth chapter of the *Vindiciae* at the end of the appendix, which has been completely overlooked.¹⁷⁵ He used this chapter to argue that the subjects of a Prince and members of the same church had a duty to aid each other against tyrants, which completely altered the meaning it had had in the *Vindiciae*. The most significant way Prynne used the *Vindiciae* was as an authoritative source that had proven most of the claims he had made in the appendix, which is the most important citation he used in the entire appendix, except for the Bible. He could do this due to a belief that these texts were essentially proving the same eternal truths.¹⁷⁶

Almost all of Prynne's references to the *Vindiciae* can be found in the appendix, since this was where he provided examples from Antiquity, Scripture and other European kingdoms that the kingdom was superior to their King.¹⁷⁷ The only exception to this was in chapter 4, where he referenced Junius Brutus along with Grotius to prove that the kingdom held sovereignty while the King was underage, although he did not reference the *Vindiciae* itself.¹⁷⁸ The rest of Prynne's references to the *Vindiciae* can be found in the appendix, which is why I have focused exclusively on it. The appendix was at least 218 pages long and around 25000 words.¹⁷⁹ It included countless precedents that proved kingdom's superiority over the King. Most of the references to the *Vindiciae* can be found in the latter half of the appendix, where he used it to summarize the rest of the claims he had made in the appendix. The *Vindiciae* played an important role before this as well.

3.2.2 First References to the *Vindiciae*

Prynne did not reference the *Vindiciae* directly until page 79 of the appendix, after showing how the absolute monarchs of France and Spain were actually inferior to their kingdoms' Laws, Parliaments and people, which had been proven by their own historians.¹⁸⁰ To prove this, Prynne added: "this most notable custom and ceremony used at the coronation of the Kings of Aragon, recorded by Iunius Brutus, Franciscus Hotomanus, and others.". Prynne recommended the reader to read the *Vindiciae*, Hotoman's Franco-Gallia and several other Monarchomach texts if "they desired further satisfaction.". Although Tutino has noted how Prynne recommended the reader to read the *Vindiciae*, she has overlooked the fact that Prynne referenced several other texts at the same time.¹⁸¹ Despite this, the *Vindiciae* was

¹⁷⁵ Prynne, *The Sovereign Power, appendix*, 208-216.

¹⁷⁶ Prynne, *The Sovereign Power, part 4*, preamble.

¹⁷⁷ Prynne, *The Sovereign Power, appendix*, 1.

¹⁷⁸ Prynne, *The Sovereign Power, part 4*, 23; Salmon, *The French Wars*, 84.

¹⁷⁹ Killeen, *The Political Bible*, 163.

¹⁸⁰ Prynne, *The Sovereign Power, appendix*, 79

¹⁸¹ Tutino, "Huguenots, Jesuits and Tyrants", 191; Prynne, *The Sovereign Power, appendix*, 79.

the most prominent of these citations, which exemplified how he would reference the *Vindiciae* later in the text.¹⁸²

Prynne referenced the *Vindiciae* again in the next paragraph, where he showed that the kings of Hungary, Poland, Bohemia, Denmark and Sweden were elected by the people, and had sworn an oath to observe the laws.¹⁸³ The parliaments, nobles and people of these kingdoms were superior in sovereign power and jurisdiction to the kings, just like in Venice and the Low Countries. In these realms the entire kingdom could in lawful situations forcibly resist tyrannical kings and could even depose or kill them if necessary to punish them for their tyranny. According to Prynne, this had been proven by the histories of these kingdoms, but also by John Bodin, Iunius Brutus and some others. Prynne spent many of the following pages reproducing precedents from some of these kingdoms, although he did not return to the *Vindiciae* until much later in the appendix.

3.2.3 Precedents from the Kingdoms of Israel and Judah

The next time Prynne referenced the *Vindiciae* was in the section of the appendix dedicated to Scriptural precedents from the biblical kingdoms of Israel and Judah. These precedents had proved that the kingdom was superior to the King, “ratifying this truth beyond all contradiction.”¹⁸⁴ These Scriptural precedents were important, since the kingdoms of Judah and Israel had been constituted by God, which meant that they served as examples that other kingdoms should emulate.¹⁸⁵ This chapter primarily focused on examples from Scripture that had proven the kingdom’s power over the King, although he occasionally turned to contemporary Scriptural authorities like the *Vindiciae*, which had found these same precedents.

Prynne referenced the *Vindiciae* in the third part of this chapter, where he argued that the kings of Israel and Judah had received their Crowns upon Divine conditions.¹⁸⁶ He primarily focused on Deuteronomy, the fifth book of Moses, to prove this, which the *Vindiciae* had also done. When these conditions were breached, these kings were often punished by God’s command, and their Crown transferred to other families. The people of Israel had had a right to elect the king they wanted from the family of King David but were thereafter responsible for ensuring the King upheld the proper worship of God. The entire kingdom could hinder,

¹⁸² Prynne, *The Sovereign Power, appendix*, 149-199.

¹⁸³ Prynne, *The Sovereign Power, appendix*, 80.

¹⁸⁴ Prynne, *The Sovereign Power, appendix*, 121.

¹⁸⁵ Prynne, *The Sovereign Power, appendix*, 144.

¹⁸⁶ Prynne, *The Sovereign Power, appendix*, 130-138.

censure, punish, depose or even put to death kings who were openly and incorrigibly idolatrous and sinful, as long as it was done by common consent.¹⁸⁷ Although the King was also responsible for ensuring the proper worship of God, it was more likely for the people to have to hold him accountable.

Prynne turned to recent Scriptural authorities which had seen the same Scriptural precedents. He cited Zwingli, Iunius Brutus, Calvin, Bishop Bilson, and the anonymous author of the *The Right of Magistrates* (Beza) to prove that the people had the right and power to punish kings for their idolatrous actions and breach of the covenant.¹⁸⁸ These writers had shown that the power of the kings of Israel had been conditional on upholding the covenants they had sworn to uphold, and should be punished if they broke them. This was essentially the first covenant of the *Vindiciae*, although Prynne only referenced the *Vindiciae* to show that these precedents had been discovered by these writers. Although it is possible that Prynne derived some of these precedents from the *Vindiciae* or any of the other writers, it is difficult to say.

This excerpt shows that Prynne agreed with both covenants of the *Vindiciae*, not just its “secular covenant”, like Salmon argued.¹⁸⁹ McLaren has focused in this excerpt to argue that Prynne considered the sacred covenant the most important part of the *Vindiciae*, although she has overlooked Prynne’s extensive references to the “quasi-secular” covenant of the *Vindiciae* later in the appendix.¹⁹⁰ She argues that Prynne believed that any individual could resist kings who turned against God, although this is unlikely, since Prynne emphasized throughout the text that only the entire kingdom could punish the King.

Prynne referenced the *Vindiciae* again at the end of point 4, which had shown that the kings in Israel and Judah had not been absolute monarchs, but were usually overruled by their kingdoms or public assemblies in matters of public concern.¹⁹¹ He showed the *Vindiciae* had proven these claims in the 1589 Latin version of the *Vindiciae* “in answer to Machiavels Princeps (a most accursed mischievous Treatise) and justification of the Protestants defensive wars in France to preserve their Religion and Liberties.”¹⁹² The 1589 edition of the *Vindiciae* had been printed along with Machiavelli’s *The Prince*, and Beza’s *The Right of*

¹⁸⁷ Prynne, *The Sovereign Power, appendix*, 137-138; McLaren, “Rethinking Republicanism”, 35-42.

¹⁸⁸ Prynne, *The Sovereign Power, appendix*, 138.

¹⁸⁹ Salmon, *The French Wars*, 83-87.

¹⁹⁰ McLaren, “Rethinking Republicanism”, 35-42.

¹⁹¹ Prynne, *The Sovereign Power, appendix*, 143.

¹⁹² Prynne, *The Sovereign Power, appendix*, 143.

Magistrates.¹⁹³ Iunius Brutus had proven that since all the people were superior to the King, so were the officers of the State whom represented them superior to kings collectively, but were individually inferior to him. This was essentially the doctrine expressed by the “Rex singulis major, universis minor” maxim translated into English, which encapsulated the doctrine of popular sovereignty expressed by the *Vindiciae*.¹⁹⁴ Prynne became publicly associated with this maxim, although this is outside the scope of this chapter, and has been analyzed in the second analysis chapter.¹⁹⁵

According to Prynne, Iunius Brutus had proven the kingdom’s power over the King, and reproduced some of the examples the *Vindiciae* had used, focusing on how David had been proclaimed king by the Sanhedrin of Israel.¹⁹⁶ Iunius Brutus had shown that the kingdom of Israel had not been constituted by humans like Plato or Aristotle, but by God himself, who was “the Author of all order, and the chiefe institutor of all Monarchy.”. This meant that all other kingdoms strive to emulate these examples, since it had been directly constituted by God. This and much more had been proven by the author of the *Vindiciae*, who had published this treatise to all pious and faithful Princes, who had given it warm and glowing praise. This was meant to prove that good Princes had nothing to fear from these doctrines. This was a reference to the preamble of the *Vindiciae* where this had been stated.¹⁹⁷

Prynne countered some examples from Scripture that seemed to contradict the precedents he had referenced.¹⁹⁸ A particularly relevant example of this was *The Speech of Samuel to the People*, which seemed to show that the people of Israel would be ruled by absolute kings in the future who could do whatever they wanted.¹⁹⁹ Royalists like Henry Ferne and William Gryffiths had, according to Prynne, referenced this speech to argue that the people had no right to resist. Prynne countered these claims by stating that this was a direct description of a tyrant, not of a lawful King, and used several references to Scripture to do this. Of more significance, he turned to some recent Scriptural authorities that had found the same precedents, these included Calvin, Ponet, Iunius Brutus, Buchanan and several other writers. Although the *Vindiciae* was only one of the several authorities he referenced, it is worth mentioning. The *Vindiciae* would play a much more important role only a few pages later.

¹⁹³ Brutus, *Vindiciae contra Tyrannos*, lxxxiv; McLaren, “Rethinking Republicanism”, 32.

¹⁹⁴ Salmon, *The French Wars*, 7; Lee, *Popular Sovereignty*, 127-133.

¹⁹⁵ Salmon, *The French Wars*, 84; Weston, *Subjects and Sovereigns*, 78.

¹⁹⁶ Prynne, *The Sovereigne Power*, appendix, 144.

¹⁹⁷ Brutus, *Vindiciae contra Tyrannos*, 8-13.

¹⁹⁸ Prynne, *The Sovereigne Power*, appendix, 147-149.

¹⁹⁹ 1 Sam. 8. 11-19.

This section of Prynne's *Sovereign Power* had focused on Scriptural precedents that proved the kingdom's power over the King. Other kingdoms ought to emulate these examples, since the kingdoms of Israel and Judah had been directly constituted by God. Prynne used the *Vindiciae* and other Scriptural authorities to show that others had found these precedents already. He primarily referenced the religious covenant of the *Vindiciae*, which has for the most part been overlooked in the historiography.²⁰⁰ Although McLaren's focus on Prynne's references to the religious covenant of the *Vindiciae* is important, it is within the next section of Prynne that Prynne's most important references to the *Vindiciae* can be found.

3.2.4 Translation of the Third Chapter of the *Vindiciae*

Prynne had until this point provided countless examples from contemporary and ancient kingdoms that had proven that the entire kingdom was superior to the King. Due to the vastness of this historical proof and the little time at his disposal, Prynne stated that he turned to some recent notable authorities to ratify and prove these claims.²⁰¹ He could do this, due to a belief that all of these texts had discovered the same eternal truths.²⁰² Prynne spent the next 50 pages citing different writers that had proven the kingdom's power over the King, although he reproduced large excerpts from the third chapter of the *Vindiciae* to summarize the other authorities he cited.²⁰³ While historians like Salmon and Tutino have noted the importance of Prynne's reproduction and translation of the third chapter of the *Vindiciae*, they have overlooked the pivotal role it played in the appendix.²⁰⁴ The *Vindiciae* was the most important text Prynne cited in the entire appendix, except for the Bible, since he used it to summarize the claims he had made.

This part of the appendix was structured into nine points that these recent authorities had proven about the relationship between God, the King and the people. Throughout these nine points, Prynne expressed the same view of the kingdom's power over the King that the *Vindiciae* had expressed and reproduced large segments from its third chapter to prove this. It was so authoritative that there was essentially no need to provide any other excerpts for any of these points.

²⁰⁰ McLaren, "Rethinking Republicanism", 35-42.

²⁰¹ Prynne, *The Sovereign Power, appendix*, 149-199.

²⁰² Prynne, *The Sovereign Power, part 4*, preamble.

²⁰³ Prynne, *The Sovereign Power, appendix*, 149-199.

²⁰⁴ Salmon, *The French Wars*, 83-87; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

The first of these nine points discussed the origin of government. Prynne argued that it was undeniably evident that all kings and emperors were created and received all their authority from the people, and were their servants.²⁰⁵ To prove this, Prynne cited many authorities from antiquity and several of the Monarchomach treatises. Most importantly, he included a long excerpt from the *Vindiciae* to summarize what these writers had argued.²⁰⁶ This excerpt had argued that since the people had constituted the King, he should be resisted if he failed in his duty to either God or the people.

The second point built upon the first point to argue that since the King had been constituted by the people, they were superior to him together, just like the “rex singulis major, universis minor” maxim had argued.²⁰⁷ Prynne proved this by citing many of the authorities he cited in the previous point, and some others. He included the entire *Vindiciae* as proof, but especially page 91-110 of its third chapter (1589 edition). After calling Iunius Brutus’s writing free, acute and ingenious, Prynne reproduced a large excerpt from the *Vindiciae*’s third chapter to prove that the entire kingdom was superior to the King since it had constituted him. The excerpt showed that the people had constituted the King as minister of the commonwealth in the same way masters appointed servants, to fulfill certain duties. This meant that the King’s power was conditional on him fulfilling his duties.

The third point argued that kings and emperors had always been, and would always be, below the laws of the realm, and could not violate, break, or alter them at their pleasure.²⁰⁸ This was because kings in all kingdoms were obligated by their coronation oaths to uphold their promises. Prynne cited many different texts to prove this, including Grotius, most of the Monarchomach writers and several others. It had also been proven by several English kings, especially by King James and Charles. Among these was the *Vindiciae*, page 116-139 (1589 edition), which he called an “accurate discourse to this effect”, although he did not provide any excerpts from the *Vindiciae* or any other text. Prynne used all these citations to argue that the King was bound by his coronation oath to follow the laws of the realm, even if impious courtiers, lawyers and divines were trying to make him abandon his coronation oath. These comments were likely aimed at the people Prynne believed were trying to lead the English King into becoming a tyrant. Prynne stated that he would discuss the coronation oath in point seven and eight, where he cited the *Vindiciae* as proof.

²⁰⁵ Prynne, *The Sovereign Power*, appendix, 150.

²⁰⁶ Prynne, *The Sovereign Power*, appendix, 150-152.

²⁰⁷ Prynne, *The Sovereign Power*, appendix, 152-160.

²⁰⁸ Prynne, *The Sovereign Power*, appendix, 160-161.

The fourth point built upon the previous point to argue that the King could not change or annul the laws without the consent of their people and parliaments.²⁰⁹ This was because the King had received his sovereign authority from them, since the people were as a whole superior to the King. These claims were so self-evident that Prynne only added a passage from the *Vindiciae* to prove it, and no other citations. “This point being so clear in it self, so plentifully proved in the premises, I shall onely adde this passage out of Iunius Brutus, to ratifie it.”²¹⁰ This excerpt provided several examples from several European kingdoms that the King could only alter laws with the consent of the entire kingdom, represented in Parliament, or similar assemblies. The King's imposition of taxes and laws without Parliament's consent had been an important justification for Parliamentary resistance, particularly the hated Ship Money tax.²¹¹

The fifth point was very short, but still important. It argued that all public officers were officers of the kingdom rather than the King's officers.²¹² These officers could only be elected and removed by the kingdom, Parliament and the people. This had been proven in the *Vindiciae*, in Hotoman's *Franco-Gallia* and in Beza's *The Right of Magistrates*, even if he was unaware of Beza's authorship. It is noteworthy that Prynne focused on the three main Monarchomach texts to prove this claim, showing that he held them in high regard. This point was likely meant to protect the Parliamentarians from being removed from their position by the King, therefore arguing that their actions were legal.

The sixth point was also very short, but still important. It argued that the King did not have absolute power over the lives, liberties and estates of his subjects, and could only act against them according to the known laws and statutes of their realms.²¹³ This had proven by the Magna Carta and several other examples from English history. The *Vindiciae* and *The Right of Magistrates* had proven this undeniable truth: “where this undeniable verity is largely proved, confirmed, and by others forecited.”²¹⁴ The King's power over his subjects was limited by the power he was granted by the law, and he should be disobeyed if he ordered something outside his power.

In the seventh point, Prynne argued that kings were not the true proprietary owners and rulers of the land, but were instead the kingdom's guardians, trustees, stewards or

²⁰⁹ Prynne, *The Sovereigne Power*, appendix, 161-162.

²¹⁰ Prynne, *The Sovereigne Power*, appendix, 161.

²¹¹ Kennedy, *The English Revolution 1642-1649*, 2.

²¹² Prynne, *The Sovereigne Power*, appendix, 162.

²¹³ Prynne, *The Sovereigne Power*, appendix, 162.

²¹⁴ Prynne, *The Sovereigne Power*, appendix, 162.

supervisors.²¹⁵ The King could not alienate the kingdom from its rightful ownership or land, or dispose of it without their consent, and if he did, its owners could take it back.²¹⁶ This was very similar to what the *Vindiciae* had argued, and it is therefore no surprise that Prynne turned to the *Vindiciae* to prove this, alongside many of the same citations as earlier. Prynne stated that the *Vindiciae* had handled the question of whether the King was the owner of the kingdom, or if he was the “usufractory”, (temporary possessor) of it, and had determined that he was clearly not the owner. To prove this, he cited page 136-256 of the *Vindiciae*, and reproduced several pages from it to prove this.²¹⁷ This excerpt had proven that the office of the King was separate from the person of the King and was owned by the entire kingdom. The King merely held temporary ownership over the kingdom as its trustee and guardian, and the people could take it back if necessary.

Directly after this excerpt, Prynne complimented Iunius Brutus highly as an acute and learned lawyer who could solve one of the most serious issues of the Civil War, the unhappy controversies over the Militia:

- Thus and much more this acute learned Lawyer, to the conviction and refutation of all opposite Ignoramuses in this case of grand concernment, which will put a period to our unhappy controversies concerning the Militia, (* formerly discussed) without further debate.²¹⁸

This controversy had been over whether Parliament had had the right to raise a militia without the King’s consent, which they had done at the beginning of the Civil War.²¹⁹ This power had typically been limited to the King, which is why it was controversial. Prynne argued that Iunius Brutus was an acute and learned lawyer that could solve this controversy, showing how highly he viewed him.

The eighth point proved that the King was bound by a covenant and his coronation oath to preserve the people’s laws, liberties, lives and estates.²²⁰ If the King breached his obligations in a willful and excessive manner, he became a perjured tyrant, and the people and their magistrates were thereafter absolved of their allegiance and obedience to him. This had

²¹⁵ Prynne, *The Sovereign Power, appendix*, 162-170.

²¹⁶ The language is a bit unclear in this part of the text, as he calls the king's grants void and revocable if he gave away something he had no right to. This language could imply that the king's grant (to rule) was void and revocable, but this was likely not what Prynne intended to argue. His intended meaning was likely that what the king had given away could be taken back by its rightful owners.

²¹⁷ Prynne, *The Sovereign Power, appendix*, 164-170.

²¹⁸ Prynne, *The Sovereign Power, appendix*, 170.

²¹⁹ Skinner, *Visions of Politics, Volume 2*, 325.

²²⁰ Prynne, *The Sovereign Power, appendix*, 170.

been proven by some of the English coronation oaths and covenants Prynne had mentioned earlier, but also by many of the same authorities he had cited earlier. Yet again, Prynne chose to summarize and prove these ideas by reproducing several pages from the *Vindiciae* to “fortify and irradiate this position.”²²¹ The excerpt argued that the King had entered into a double covenant at his coronation oath, and was thereafter obligated to uphold this oath, while the people could enforce it. Although this was an excerpt from the third chapter of the *Vindiciae*, it argued that the King was obligated to uphold both covenants.

While the earlier points had discussed what made a King a tyrant, the ninth and last of these points discussed what should be done to these tyrants.²²² It was therefore likely the most important point, since it showed what needed to be done to the English King if he did not change his ways. Prynne argued that it was self-evident that Kings or Emperors who broke their oaths or covenants could be lawfully resisted by the entire kingdom, led by the lesser magistrates.²²³ The kingdom was obligated to resist a tyrant, and could depose him if he was a traitor to the kingdom. Failure to do this would be treason to their country, since no kingdom would submit themselves to a tyrant who destroyed the commonwealth. Prynne continued to prove the truths of these nine points for the next few pages and focused on the *Vindiciae* for the rest of the appendix.

3.2.5 Final References to the *Vindiciae*

Prynne cited several other authorities that had proven these claims, starting with an ancient ecclesiological historian called Sozomon, before quickly moving onto “Papist” writers who had proven this as well. He argued that the doctrine of the kingdom’s power over the King had first been developed by the Papists and referenced several Catholic authorities that had proven these ideas, particularly Thomas Aquinas.²²⁴ The problem with many of the recent Catholic authorities was that they had exceeded the limits set by Aquinas by giving too much power to the Pope. They had given the Pope sole power over the King’s deposition, adjudication and ascension, without needing the people’s or the kingdom’s consent. These writers were also willing to entertain the idea of deposing the King through assassination, “which all Protestants unanimously disclaim.”²²⁵ Prynne stated that there was no need to depend on these Popish champions, and that he had only named them to show that they

²²¹ Prynne, *The Sovereign Power, appendix*, 171-185.

²²² Prynne, *The Sovereign Power, appendix*, 186-199.

²²³ Prynne, *The Sovereign Power, appendix*, 186-199.

²²⁴ Prynne, *The Sovereign Power, part 1*, 5; Prynne, *The Sovereign Power, appendix*, 187; Salmon, *The French Wars*, 84.

²²⁵ Prynne, *The Sovereign Power, appendix*, 187.

had developed these ideas first, and therefore had no reason to criticize Parliament for acting in self-defense.²²⁶ Afterwards, he proceeded to Protestant lawyers and divines, who had proven these ideas even better. The *Vindiciae* was the foremost of these Protestant authorities.

Prynne referenced several different Protestant writers who had proven these claims better than the Papist writers, although the *Vindiciae* was still the most important of these texts he cited.²²⁷ The first of these Protestant authorities that Prynne cited was a professor of law from Strasbourd who had, according to Prynne, reproduced large chunks of the *Vindiciae* almost verbatim to prove that the community was above the King. Prynne stated that he could have referenced several other authorities, but he focused on the *Vindiciae*, since it “comprised the quintessence of all the rest.”²²⁸ Prynne skipped over the *Vindiciae*’s handling of tyrants without title (usurpers), who everyone could resist, to focus on tyrants with a lawful title. He reproduced an excerpt from the *Vindiciae* that proved that a Prince who willfully disregarded the laws of the kingdom became a tyrant and traitor.²²⁹ It argued that tyranny was the most horrendous of crimes, which meant that it was not seditious for the people to raise an army in self-defense to resist and punish a King who had become a tyrant. Afterwards he referenced several other precedents for several pages, before turning to the *Vindiciae* again.

Near the end of the appendix, Prynne explicitly referenced the other chapters of the *Vindiciae*, which shows that he agreed with both of its covenants.²³⁰ This has not received the attention it deserves in the historiography, since it has mostly focused on Prynne’s reproduction of the third chapter of the *Vindiciae*.²³¹ The rest of the *Vindiciae* had, according to Prynne, shown that representatives of the kingdom could take up defensive arms against a Prince who had turned against God and the established lawful religion of the realm. This had been the focus of the first two chapters of the *Vindiciae*. In cases like this neighboring Princes and States could, and should, aid the subjects of other Princes who were afflicted for professing the true religion, or oppressed by open tyranny; this was almost verbatim the title of the *Vindiciae*’s fourth question.²³² According to Prynne; “These propositions are largely

²²⁶ Salmon, *The French Wars*, 84; Prynne, *The Sovereign Power*, appendix, 187.

²²⁷ Prynne, *The Sovereign Power*, appendix, 187-199.

²²⁸ Prynne, *The Sovereign Power*, appendix, 190-199.

²²⁹ Prynne, *The Sovereign Power*, appendix, 190-199; Tutino, “Huguenots, Jesuits and Tyrants”, 191-192.

²³⁰ Prynne, *The Sovereign Power*, appendix, 208-216.

²³¹ Salmon, *The French Wars*, 83-87; Tutino, “Huguenots, Jesuits and Tyrants”, 191-195; McLaren, “Rethinking Republicanism”, 37-42.

²³² Brutus, *Vindiciae contra Tyrannos*, 173.

and professedly debated by Iunius Brutus in his *Vindiciae contra Tyrannos*: quaest. 1. 2. & 4. throughout,".²³³ This shows that Prynne agreed with virtually the entire *Vindiciae*, which has been overlooked in the historiography.

Prynne translated the entire fourth chapter of the *Vindiciae* at the end of the appendix, which has been completely overlooked in the historiography.²³⁴ This chapter had originally argued that Princes had an obligation to assist the subjects of another Prince who were suffering under tyranny. Prynne argued that since it was undeniable that foreign Princes had a duty to aid the subjects of another Prince, these subjects had an even stronger duty to aid each other.²³⁵ This was because there was an even stronger bond between fellow subjects, and between members of the same church, than there was between Princes. These subjects had a duty to defend themselves against a tyrant who attacked their religion, liberty or laws. This was true whether it was done by the King himself, or by the malignant Popish faction Prynne believed had taken control of King Charles.²³⁶ This completely turned around the indented meaning of the fourth chapter of the *Vindiciae*, which makes his use of it very interesting. It is significant that he concluded the appendix with an excerpt from the *Vindiciae*.

The text concludes with Prynne portraying the Civil War as a defensive war by the Protestants against this Papist faction, and argued that anyone that had sided with the Papists were traitors to both their religion and country.²³⁷ According to Lamont, Prynne considered the King's betrayal of the Protestant faith his biggest crime, and was for this reason a tyrant.²³⁸ Tutino agrees with Lamont that religion was vitally important to Prynne's treatise, and argues that this makes Prynne's focus on the third chapter extremely interesting.²³⁹

3.2.6 Conclusion of Prynne's Use of the *Vindiciae*

Prynne spent most of the appendix showing countless examples of the kingdom's power over the King in Antiquity, Scripture and in other European kingdoms and empires, and turned to the *Vindiciae* to summarize these precedents.²⁴⁰ While several historians have

²³³ Prynne, *The Sovereign Power, appendix*, 208.

²³⁴ Salmon, *The French Wars*, 83-87; Tutino, "Huguenots, Jesuits and Tyrants", 191-195; McLaren, "Rethinking Republicanism", 37-42.

²³⁵ Prynne, *The Sovereign Power, appendix*, 208-218.

²³⁶ Prynne, *The Sovereign Power, appendix*, 216-218.

²³⁷ Prynne, *The Sovereign Power, appendix*, 216-218.

²³⁸ Lamont, *Marginal Prynne*, 113-118.

²³⁹ Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

²⁴⁰ Prynne, *The Sovereign Power, appendix*, 1, 149-199.

referenced Prynne's translation of the third chapter of the *Vindiciae* in the appendix, none of them have noted the pivotal role it played in the appendix. Prynne referenced the *Vindiciae* along with several other writers, but he considered it so authoritative that he almost exclusively used excerpts from it to summarize their arguments. This makes the *Vindiciae* the most important text in the entirety of Prynne's appendix, except for the Bible, of course. Prynne clearly held the *Vindiciae* and its author Junius Brutus in high regard.

There are several interesting things to note about Prynne's use of the *Vindiciae* that other historians have not mentioned. Salmon argued that Prynne ignored the first two chapters of the *Vindiciae* to focus on its third chapter, to give a secular justification of resistance.²⁴¹ This is wrong since Prynne agreed with the entirety of the *Vindiciae*. McLaren has emphasized the importance of the religious element in Prynne's writing, although this has led to an overemphasis on this aspect of Prynne's use of the *Vindiciae*.²⁴² Tutino built on both of their work to argue that while the religious element in Prynne's writing was important, this makes Prynne's focus on the third chapter of the *Vindiciae* very interesting.²⁴³ Neither if these historians have noted Prynne's use of the *Vindiciae* to summarize the other texts he referenced, or Prynne's translation of the fourth chapter of the *Vindiciae*. My analysis has shown that Prynne agreed with both covenants of the *Vindiciae* and referenced all the chapters of the *Vindiciae*, even though the third chapter played the most important role.

From all of Prynne's references to the *Vindiciae* it becomes clear that he agreed with many of the ideas of the *Vindiciae*, at least at the time of writing. He agreed with it that a King who turned against the true faith or misused their powers became a tyrant, and had to be resisted, punished or even deposed if necessary. Although Prynne blamed the Civil War on the Popish faction surrounding the King, he also put some of the blame on the King. Even though Prynne reproduced large excerpts of the *Vindiciae* that justified resistance to, or even deposition of a tyrant, he never explicitly called for King Charles to be deposed. He referenced the *Vindiciae* to show that there were precedents for the kingdom's power over the King.

Prynne opposed the execution of the King and the establishment of the Commonwealth in 1649, although this was consistent with his earlier writings. Although Presbyterians like Prynne were at the time of the execution committed by the Solemn League and Covenant to protect "the King's majesty, person and authority", he could have been willing to consider the

²⁴¹ Salmon, *The French Wars*, 83-87.

²⁴² McLaren, "Rethinking Republicanism", 35-42.

²⁴³ Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

deposition of the King by a properly constituted Parliament.²⁴⁴ The Independents had seized control of Parliament in December 1648 to try the King for high treason, although Prynne did not consider this Rump Parliament representative of the entire kingdom. Only the entire kingdom, represented by a properly constituted Parliament, had the power to depose the King. Prynne was also attached to the idea of monarchy and opposed killing the King.

George Gillespie noted Prynne's use of the *Vindiciae* in his *Aarons rod blossoming*, published in 1646.²⁴⁵ This is the only reference to Prynne's use of the *Vindiciae* I have found before 1648. Gillespie was a Scottish Presbyterian who felt compelled by the Erastianism of Prynne's fourth part of his *Sovereigne Power* to produce an answer to it, and had focused on theological concerns rather than on the right to resist.²⁴⁶ Gillespie referenced page 143 of Prynne's appendix, where Prynne had used Junius Brutus's interpretation of Jer. 26 from Scripture, which he had used to argue that the Church had an independent power jurisdiction compared to Princes.²⁴⁷ This is the only reference to Prynne's use of the *Vindiciae* before the execution of the King I have found, although this does not mean that Prynne's uses of the *Vindiciae* were not important. Many other writers were likely aware of how Prynne had used these ideas without explicitly stating it. Peter Heylin stated in 1644 that Prynne was reproducing the ideas of Calvin, although he does not mention how Prynne used the *Vindiciae*.²⁴⁸

Despite his wishes, Prynne's translation of the third chapter of the *Vindiciae* had secularized the contract theory of the *Vindiciae* and made it less Calvinist, which influenced its usage after the execution.²⁴⁹ Prynne had never intended for the *Vindiciae* to be interpreted as a republican text arguing for the abolition of monarchy, but that in the contract between the King and the people, the latter held sovereignty. After Prynne had introduced the *Vindiciae* into the Civil War in 1643, how others used it to justify the execution of the King was out of his control. Prynne's use of the *Vindiciae* was referenced in 1649 by John Goodwin to justify the execution of the King by showing how Prynne had "borrowed Junius Brutus his pen".²⁵⁰ How the *Vindiciae* was used after this period is outside the scope of my analysis, although this has been analyzed by Salmon and Tutino.²⁵¹

²⁴⁴ Kennedy, *English Revolution 1642-1649*, 119.

²⁴⁵ Gillespie, *Aarons rod*.

²⁴⁶ Gillespie, *Aarons rod*, preamble.

²⁴⁷ Gillespie, *Aarons rod*, 20; Prynne, *The Sovereigne Power*, appendix, 143-144; Jer. 26.

²⁴⁸ Heylin, *stumbling-block of disobedience*, 234, 254, 259, 261.

²⁴⁹ Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

²⁵⁰ Goodwin, *Hybristodikai*, 46.

²⁵¹ Salmon, *The French Wars*, 101-121; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

3.3 Samuel Rutherford, *Lex Rex* (1644)

3.3.1 Introduction

Another important writer who publicly agreed with the *Vindiciae* was the Scottish Presbyterian Samuel Rutherford, in his *Lex Rex, Or The Law and the Prince*. It was published “by authority” in 1644, in response to John Maxwell’s *Sacro-Sancta Regum Majestas*, which was a Royalist treatise that had made a theological case for absolutism.²⁵² Rutherford considered Maxwell’s ideas un-Protestant, and spent most of his *Lex, Rex* refuting Maxwell’s claims. The *Lex, Rex* was released in the middle of negotiations between the King, Parliament and the Scottish Covenanters. It was meant to show how furious the Scots were at the King’s betrayal of the Reformed religion, and likely played a role in the failure of these negotiations.²⁵³ Rutherford held the King directly responsible for his betrayal, and openly entertained the idea of tyrannicide, even if he opposed the execution of the King.²⁵⁴ The *Lex, Rex* was considered extremely dangerous by the Restoration government, It was publicly burned at Edinburgh and St. Andrews, where he had taught. Rutherford was also ordered to appear before Parliament on charges of treason, although he died before he could appear before Parliament.²⁵⁵ He used the *Vindiciae* and its author Junius Brutus as an authoritative Scriptural authority that he cited to show that others had found the same Scriptural precedents that he had found.

Rutherford held the King directly responsible for his betrayal of the Scottish religion, and asserted that the will of the people was against the King himself.²⁵⁶ He argued that the magistrates of a covenanted nation like Scotland could not allow the slightest deviation from the true religion, which had been restored in Scotland after the Scottish Reformation under George Buchanan.²⁵⁷ The King had failed in upholding the true religion, and the kingdom was therefore obligated to punish him and restore the covenant with God. Rutherford followed the same covenantal framework laid out in the *Vindiciae* with its focus on two covenants and the King’s conditional power based on the fulfillment of these covenants.²⁵⁸ Although he expressed many of the same ideas that the *Vindiciae* had done, he only referenced it a few times in *Lex, Rex*.

²⁵² Coffey, *The Mind of Samuel Rutherford*, 146-152.

²⁵³ Coffey, *The Mind of Samuel Rutherford*, 146-152.

²⁵⁴ Coffey, *The Mind of Samuel Rutherford*, 179.

²⁵⁵ Coffey, *The Mind of Samuel Rutherford*, 151; Adams, “In Search of the Scottish Republic”, 111.

²⁵⁶ Coffey, *The Mind of Samuel Rutherford*, 146-152.

²⁵⁷ Coffey, *The Mind of Samuel Rutherford*, 157.

²⁵⁸ Richards, “The Law Written in their Hearts”, 154.

Rutherford used many of the same justifications for resistance that earlier Parliamentary writers like Parker, Goodwin, Prynne and Hunton had used, but his writings contained many references to Scottish resistance and was based on explicitly theological arguments.²⁵⁹ Although Prynne had analyzed Scriptural arguments to some extent, he had mainly focused on legal and historical precedents. Coffey argues that Rutherford may have felt that the theological case needed more focus, which is why he focused almost exclusively on Scripture.

Both Salmon and Tutino have argued that Rutherford considered himself the champion of both covenants of the *Vindiciae*, although Tutino emphasizes that Rutherford considered the religious covenant most important.²⁶⁰ McLaren has surprisingly not mentioned Rutherford at all, which is surprising since she argued that the religious covenant was the most important way Englishmen used the *Vindiciae*, although this can be explained by the fact that she focused on English translations of the *Vindiciae*.²⁶¹ Rutherford used the *Vindiciae* in similar ways to how Prynne had used it, as an authoritative writer that had found the same precedents that he had found. Despite this, he made much fewer references to the *Vindiciae* than Prynne had, he only mentioned “Junius Brutus” six times, and only directly referenced the *Vindiciae* directly once. He used Junius Brutus as an authoritative writer who had found the same Scriptural precedents that Rutherford had found, although Buchanan played a more important role, due to his importance to the Scottish Reformation. Rutherford focused almost exclusively on the religious parts of the *Vindiciae*, which makes it misleading to argue that he identified himself with virtually all the principles of the *Vindiciae*.²⁶²

Coffey describes Rutherford’s *Lex, Rex* as intellectually demanding and convoluted in its arrangement, partly due to its scholastic approach.²⁶³ It was structured into 44 questions, each asking and answering a specific question in scholastic fashion, the *Vindiciae* had followed the same approach. The structure of *Lex, Rex* was largely dictated by the arguments of the many opponents Rutherford was responding to, particularly John Maxwell.²⁶⁴ Each chapter started with the question he wanted to answer, then he presented some of the assertions he meant to prove, and answered these assertions through

²⁵⁹ Coffey, *The Mind of Samuel Rutherford*, 148.

²⁶⁰ Salmon, *The French Wars*, 87-88; Tutino, “Huguenots, Jesuits and Tyrants”, 194.

²⁶¹ McLaren, “Rethinking Republicanism”.

²⁶² Salmon, *The French Wars*, 87-88.

²⁶³ Coffey, *The Mind of Samuel Rutherford*, 152.

²⁶⁴ Coffey, *The Mind of Samuel Rutherford*, 152; Richards, “The Law Written in their Hearts”, 154; McAnnally-Linz, “Resistance and Romans 13”, 143.

referencing Scripture. Coffey has roughly subdivided the book into five separate sections, although this is unimportant to my analysis.²⁶⁵ It will suffice to remember that Rutherford's covenantal framework was based on the *Vindiciae*'s, and that he primarily focused on Scriptural precedents. Despite sharing many of his ideas with the *Vindiciae*, he would only occasionally reference it to show that other writers had found the same precedents.

3.3.2 References to Junius Brutus and the *Vindiciae*

The first time Rutherford cited the *Vindiciae* was in chapter 14 of *Lex, Rex*, which had proven that the people had constituted the King with limited power, and were both bound by a covenant with God.²⁶⁶ According to Rutherford, Junius Brutus had “proveth well and strongly,” that both the King and the people were mutually responsible for maintaining the true religion.²⁶⁷ Junius Brutus had shown that the estates had never given the King the power to force a false religion upon his kingdom, which he was currently doing.²⁶⁸ If the King did this, the estates were presumed to have no King, since it was normal to remove diseased body parts to prevent the disease from spreading. God and the people had constituted the King to ensure the proper worship of God and were obligated by the law of nature to protect their own souls. Rutherford was furious at the King's betrayal of the Reformed religion, and the kingdom was therefore justified in resisting him.²⁶⁹

Rutherford's first reference to Junius Brutus was the most significant, since it most clearly expressed the ideas of the *Vindiciae*, and showed how these ideas could be used to justify tyrannicide. Rutherford's example of a kingdom removing diseased body parts implies that he was willing to entertain the idea of removing the King, even if Coffey argues that Rutherford was inconsistent about whether he supported king-killing.²⁷⁰ Although Rutherford opposed regicide, he continued to uphold tyrannicide, which was notable since his argument hinged on calling the King a tyrant. Rutherford's reference to Junius Brutus in this paragraph was especially significant, since this was the only time, he did not cite any other authorities at the same time.

²⁶⁵ Coffey, *The Mind of Samuel Rutherford*, 152.

²⁶⁶ Rutherford, *Lex, Rex*, 99; Salmon, *The French Wars*, 87-88; McAnnally-Linz, “Resistance and Romans 13”, 146.

²⁶⁷ Rutherford, *Lex, Rex*, 99-100.

²⁶⁸ Rutherford, *Lex, Rex*, 99-100.

²⁶⁹ Coffey, *The Mind of Samuel Rutherford*, 149.

²⁷⁰ Coffey, *The Mind of Samuel Rutherford*, 178.

The next time Rutherford cited the *Vindiciae* was almost 50 pages later, in chapter 19, which had asked whether the King was above the people in dignity and power.²⁷¹ The chapter starts by stating that the people were superior to the King, and then provided several examples from Scripture that had proven this. In the tenth example, Rutherford proved that the people were superior to the King since it had constituted him, and referenced Junius Brutus and several other Scriptural authorities to prove this.²⁷² They had shown how Isaiah 3:7 had proved that God had given this power to the people so they could protect themselves from mutual violence, although they could never give away their power since it had been given to them by God.²⁷³ If the King failed to uphold the duties of his office, God took away his power, and he became a tyrant. Rutherford cited Junius Brutus as an important Scriptural authority that had discovered the same precedents as he had, although he primarily focused on Scriptural proof.

The third time Rutherford referenced Junius Brutus was at the end of chapter 21, which had asked what power the people and Parliament had over the King, and what power it had in the state.²⁷⁴ Rutherford argued that the King's power was fiduciary and conditional, and derived from the parliaments who had not lost any of their power. The King only had the right to convene parliaments and execute laws on their behalf, while only they had the power to make laws. This had been the case in the kingdom of Israel, where the Kings had been bound by the law, and not driven by spontaneous and arbitrary grace.²⁷⁵ Scripture had proven that the monarchy in the kingdom of Israel had been tempered by aristocracy, and even democracy through the elders and rulers in every city. Rutherford appealed to "jurists, and to approved authors."²⁷⁶ These included many Calvinist authorities like Calvin, Buchanan, Hotoman, Junius Brutus's second chapter of the *Vindiciae*, and several others. This was the only time Rutherford mentioned the *Vindiciae* by name, referring to it as "*Vindic. contra Tyran. sect. 2*". Rutherford turned to these recent authorities that had proven the power of the estates over the King, since they had found several precedents from Scripture.

The fourth time Rutherford cited Junius Brutus was in chapter 41, which had asked whether the Popish Prelate (John Maxwell) was justified in ascribing the doctrine of the Jesuits to the

²⁷¹ Rutherford, *Lex, Rex*, 139.

²⁷² Rutherford, *Lex, Rex*, 144.

²⁷³ Isa. 3:7.

²⁷⁴ Rutherford, *Lex, Rex*, 178.

²⁷⁵ Rutherford referenced the Biblical kings of David, Solomon, Hezekiah, Jehoshaphat, Ahaz as examples of such Kings.

²⁷⁶ Rutherford, *Lex, Rex*, 178.

Covenanters' lawful defensive war. Maxwell had argued that the Puritans had drawn upon the Jesuits' "polluted cisterns" to make the King derivative of the people, because these ideas had been developed by Catholics.²⁷⁷ Rutherford sought to counter the claim that these ideas were Jesuitical in origin, by arguing that they could be found in Scripture long before a Jesuit ever walked the earth. He showed how Buchanan, Junius Brutus, Luther, Calvin and several other Protestant authors had shown two examples of resistance from Scripture.²⁷⁸ These were: "the people resisted Saul, when he was willing to kill Jonathan his son, and Ahikam and other princes rescued Jeremiah out of the hands of the king of Judah;". These Protestant authorities had shown that these ideas could not be Jesuit in origin, since they had been proven in the Bible long. Rutherford added that it was ridiculous for Maxwell to condemn the Protestants in France as rebels and Jesuits, since the Jesuits had sought their death and ruin. This meant that the ideas of Junius Brutus and the other Monarchomachs were not Jesuit in origin.

Rutherford referenced the *Vindiciae* again in the next paragraph to counter Maxwell's claim that the Pope's deposition of Childerick III in 751 proved that this was a Jesuit doctrine.²⁷⁹ Rutherford stated that he considered the Pope an un-Christian usurper, and that Childerick should never have had the crown, but he considered the citations Maxwell had used much more important. He accused Maxwell of citing several "mute authors" of no consequence to make his claims seem more authoritative. Maxwell had tried to use these inconsequential authors to "teach all the new statistes, the Gamaliels, Buchanan, Junius Brutus, and a world who were all sleeping, while this Lucifer, the son of the night, did appear, this new way of laws, divinity and casuists' theology."²⁸⁰ These authors were much more authoritative than the authors Maxwell had cited, and this shows that Rutherford held Junius Brutus and the *Vindiciae* in high regard, even if this was only a minor reference.

The last time Rutherford cited Junius Brutus was in chapter 43, which had countered Royalist claims that the King of Scotland had absolute power.²⁸¹ The Royalists were unwilling to accept the fact that the people's and the lesser magistrates' loyalty was foremost to God, not the King, and had an obligation to ensure the maintenance of the true religion. This had, according to Rutherford, been proven by the Confession of Scotland, which formed the basis of Scotland's relationship with God.²⁸² Rutherford showed that this confession had

²⁷⁷ Coffey, *The Mind of Samuel Rutherford*, 158; Maxwell, *Sacro-sancta regum majestas*, 24-25.

²⁷⁸ Rutherford, *Lex, Rex*, 418.

²⁷⁹ Rutherford, *Lex, Rex*, 419; Maxwell, *Sacro-sancta regum majestas*, 23-24.

²⁸⁰ Rutherford, *Lex, Rex*, 419.

²⁸¹ Rutherford, *Lex, Rex*, 444.

²⁸² Rom. 13:7, 1 Pet. 2:17; Psal. 82:1.

cited the same parts of Scripture that Junius Brutus had used: "Ezek. 22:1–7; Jer. 22:3, where we are no less than the Jews, commanded to "execute judgment and righteousness, and deliver the spoiled out of the hands of the oppressor;".²⁸³ This meant that the people of Scotland, particularly the lesser magistrates, had a duty to maintain the covenant with God.

It is a bit unclear whether Rutherford argued that the entire confession of Scotland had used the same parts of Scripture as Junius Brutus, or just this passage. This seems to support Richard's claim that Rutherford's covenantal framework had followed the *Vindiciae's*, since Rutherford argued that the Confession of Scotland was based on some of the same parts of Scripture. Rutherford's last citation of Junius Brutus perfectly summarizes how he used the *Vindiciae* and several other texts, as an authority that had found the same precedents in Scripture that he had found. Although Scripture was the most important, authorities like Junius Brutus played an important role.

3.3.3 Conclusion of Rutherford's Use of the *Vindiciae*

Samuel Rutherford used the *Vindiciae* in many of the same ways that William Prynne had used it, although there are noteworthy differences. Just like Prynne, Rutherford used Junius Brutus as an authoritative writer that had found the same precedents that he had found, although he referenced Junius Brutus significantly fewer times than Prynne had done. Rutherford only directly referenced the *Vindiciae* once, and its author six times.²⁸⁴ This is surprising, since Rutherford's covenantal framework was based on the *Vindiciae*.²⁸⁵ Throughout all of Rutherford's references to Junius Brutus and the *Vindiciae* he focused on Junius Brutus as an authoritative writer that had proven precedents from Scripture, rather than on the *Vindiciae* as an authoritative text. This does not mean that the *Vindiciae* was not important since Rutherford interpreted Scripture in many of the same ways as the *Vindiciae* had done.

Salmon and Tutino have argued that Rutherford agreed with virtually the entirety of the *Vindiciae*, although Tutino emphasizes that Rutherford considered the religious covenant most important.²⁸⁶ This is misleading since Rutherford focused almost exclusively on the religious covenant of the *Vindiciae*. Rutherford considered King Charles a tyrant because he had betrayed the Scottish Reformation, which is likely why he focused on the religious

²⁸³ Rutherford, *Lex, Rex*, 444; Ezek. 22:1-7; Jer. 22:3.

²⁸⁴ Rutherford, *Lex, Rex*, 99, 144, 178, 418, 419, 444.

²⁸⁵ Richards, "The Law Written in their Hearts", 154.

²⁸⁶ Salmon, *The French Wars*, 87-88; Tutino, "Huguenots, Jesuits and Tyrants", 194.

covenant of the *Vindiciae* rather than on its more secular covenant.²⁸⁷ In all of Rutherford's references to the *Vindiciae* he used it to argue that the kingdom had a right and a duty to hold a King who failed to uphold the true faith accountable. The King was not a tyrant because he had broken any constitutional laws, but he was instead a tyrant because he had turned away from God. This is almost certainly why he focused on the religious part of the *Vindiciae*.

Rutherford came very close to justifying king-killing in *Lex, Rex*, as can be seen from his first reference to Junius Brutus.²⁸⁸ In this reference, he had argued that it was natural for the body to remove diseased body parts to prevent the death of the whole body, with clear implications for what could be done to the King. Despite this, Rutherford opposed the execution of the King in 1649, and may have preferred the deposition of the King instead.²⁸⁹ Coffey argues that Rutherford was inconsistent about denying king-killing, since he continued to support tyrannicide, while his argument was based on the idea that Charles was a tyrant. Rutherford argued that Charles had been a legitimate King acting tyrannically, not a tyrant without title, which was an important difference. Despite Rutherford's claims that he opposed the execution of the King, he had come very close to justifying king-killing.

It was not without good reason that Rutherford was targeted after the Restoration, due to the damage the *Lex, Rex* had done at the negotiations in 1644 and the dangerousness of its ideas.²⁹⁰ The Restoration government condemned Rutherford's *Lex, Rex* as "seditious and treasonable", and ordered it to be burnt at the public hangman at St. Andrews and Edinburgh in October 1661.²⁹¹ Rutherford had taught at St. Andrews, so this was a clear statement that the university distanced itself from him. Rutherford's early death in March 1661 likely saved him from execution, since he had been ordered to appear before Parliament on charges of treason. Although the *Lex, Rex* was likely not the only reason for these charges, they show how dangerous and treasonous this text was considered. An important reason for the perceived danger of its text was likely its association with the ideas of the *Vindiciae* and other similar texts.

²⁸⁷ Coffey, *The Mind of Samuel Rutherford*, 146-152.

²⁸⁸ Rutherford, *Lex, Rex*, 99; Coffey, *The Mind of Samuel Rutherford*, 178.

²⁸⁹ Coffey, *The Mind of Samuel Rutherford*, 178.

²⁹⁰ Coffey, *The Mind of Samuel Rutherford*, 146-152.

²⁹¹ Coffey, *The Mind of Samuel Rutherford*, 151; Adams, "In Search of the Scottish Republic", 111.

3.4 Royalist References to the *Vindiciae*

Most Parliamentarian writers were cautious about associating the Parliamentary cause with the ideas expressed by the *Vindiciae* and the Monarchomachs, although their Royalist opponents were much more willing to associate the Parliamentary cause with these ideas. Several of David Owen's texts which had been written discredit Monarchomach ideas were republished at the beginning of the English Civil War to argue that the Long Parliament had inherited the ideas of the Monarchomachs.²⁹² Of more interest are the many Royalist writers who associated their Parliamentary opponents with the ideas expressed by the *Vindiciae*. Most of these writers argued that their opponents had derived their ideas from the Jesuits, and that these ideas were incompatible with Protestantism. Many of these writers also argued that writers like Junius Brutus and George Buchanan had derived their ideas from the Jesuits and were therefore not true Protestants. Neither of these Royalist writers dedicated much space to the *Vindiciae*, and primarily referenced it to discredit their opponents. These writers also focused on different aspects of the *Vindiciae* and disagreed with it in different ways.

3.4.1 Republication of Texts by David Owen

Several texts by David Owen reappeared at the beginning of the Civil War, several decades after they had been written. Owen had written several texts that condemned the ideas expressed by the *Vindiciae* and similar texts. His *Anti-Paraeus* had been used to support the University of Oxford's decision to burn texts like the *Vindiciae*.²⁹³ Owen's texts had originally been written to discredit the Monarchomachs, but were re-published at the beginning of the English Civil War to argue that the Long Parliament had inherited the views of the Monarchomachs.²⁹⁴ These texts were not written during the conflict, hence I have only dedicated some attention to them. It is also worth keeping in mind that the *Vindiciae* was only one of several texts that Owen had attacked.

Several of David Owen's texts that had criticised the *Vindiciae* were published early in the conflict. Owen's *Herod and Pilate reconciled* (1610) was republished as *A persuasion to Loyalty* in 1642.²⁹⁵ It referenced the *Vindiciae* once, to show how it had appeared in 1577 to argue that the people had created the king and were superior to him. Owen had argued that this was incorrect and went against Scripture. Owen's *Puritano-Iesuitismus* was republished

²⁹² Salmon, *The French Wars*, 71-72.

²⁹³ Salmon, *The French Wars*, 71-72; Owen, *Anti-Paraeus*, 53-56.

²⁹⁴ Salmon, *The French Wars*, 71-72.

²⁹⁵ Salmon, *The French Wars*, 71-72; Owen, *A Persuasion to loyalty*, 28.

again in 1643, it had also associated the *Vindiciae* with Jesuit ideas.²⁹⁶ In it, he condemned the *Vindiciae*'s argument that the King was chosen by God but established by the people. I have been unable to find out when this text was originally published, but since Owen died in 1623, it was clearly written many years before the English Civil War.

Of more interest is Owen's *Anti-Paraeus*, since it had been used to support the University of Oxford's condemnation and burning of the *Vindiciae* in 1622.²⁹⁷ Paraeus was a German Calvinist who had reproduced the ideas of the *Vindiciae*. In the *Anti-Paraeus*, Owen had argued that both the *Vindiciae* and Paraeus had misinterpreted Scripture when they had argued that the people had power over King David.²⁹⁸ This proved that subjects had no power to punish the King. Owen noted how the *Vindiciae* had followed Beza's misinterpretation of Paul's *Romans 13* by arguing that it did not apply to magistrates. This was wrong, since it applied to all Christians according to Owen. He also showed how these ideas had been repeated by later writers, like Althusius and Paraeus. While the republication of Owen's *Anti-Paraeus* and his other texts is interesting, neither of these texts were originally written during the English Civil War. Despite this, there are many parallels to many of the Royalist texts that were written during the conflict.

3.4.2 Royalists Associating Parliament with the *Vindiciae*

There were many Royalist writers who associated the Parliamentary cause with the ideas expressed by the *Vindiciae* throughout the entire Civil War. Most of these writers argued that its ideas had been derived from the Jesuits, and were therefore incompatible with Protestantism. These writers almost certainly intended to tarnish the reputation of their Parliamentary opponents by associating them with these "Jesuit" ideas and with the controversial reputation of the *Vindiciae*. Many of them likely associated these ideas with the Jesuit Robert Persons who had argued that Scripture provided ample proof for the election and deposition of monarchs.²⁹⁹ Only a few of these Royalist writers referenced the *Vindiciae* by name, and most of them focused on its author instead. Due to the many different writers who criticized the *Vindiciae* or its author, I have focused on a relatively small selection of the most important writers who criticized it.

²⁹⁶ Owen, *Puritano-Iesuitismus*, 44.

²⁹⁷ Salmon, *The French Wars*, 71-72; McLaren, "Rethinking Republicanism", 25; Todd, "Anti-Calvinists", 95-96.

²⁹⁸ Owen, *Anti-Paraeus*, 53-56.

²⁹⁹ Killeen, *The Political Bible*, 175.

Dudley Digges was one of the most prominent writers to attack Henry Parker's *Observations*, and his *Unlawfulness of Subjects taking up Armes against their Sovereigne* (1643) was one of the best-known Royalist texts throughout the conflict.³⁰⁰ He attacked some of the main arguments that Parker had used to argue that Parliament was superior to the King. Digges associated the "*quicquid efficit tale, est magis tale*" and the "universis minor" maxim with "Roman and Reformed Jesuits".³⁰¹ These ideas were Jesuit in origin, and all good Protestants were obligated to condemn them. Digges argued that scholars like Buchanan, Hotoman, Brutus, and several other Monarchomach writers ought to have been able to disprove these claims, and that their failure to do this could only be explained by malice. It is worth remembering that the *Vindiciae* was only one of several Protestant writers that Digges criticized for espousing Jesuit ideas, although it is still noteworthy that he associated the ideas of the *Vindiciae* with the ideas expressed by the *Vindiciae*.

Another Royalist writer who associated the Parliamentary cause with the *Vindiciae* was Henry Hammond, the King's chaplain.³⁰² He published *The Scriptures plea for magistrates* in 1643 and an extended version of this text called *Of resisting the lawful Magistrate* in 1644.³⁰³ Both of these texts were mostly the same, at least regarding the references to Junius Brutus. The second text included one more reference to Junius Brutus, which is why I have focused on this text. Just like Digges and several other Royalist writers, Hammond argued that Protestantism had no room for a doctrine that was subversive to monarchy. Even though Junius Brutus and Buchanan had called themselves Protestants, Hammond stated that they were "perfect Jesuits" in their principles.³⁰⁴ The main difference between the Protestants and the worst of Papists was the doctrine of obedience to God. Hammond countered Junius Brutus and Buchanan's argument that the lesser magistrates had a duty to enforce the true religion.³⁰⁵ It was ridiculous for these writers to argue that the "Anti-Christ" had hidden the doctrine of liberty that had permitted subjects to resist their superiors from the world.³⁰⁶ It was more likely for this doctrine to be the doctrine of the "Anti-Christ" instead. The doctrine expressed by Buchanan and Junius Brutus was, according to Hammond, incompatible with Protestantism, and its use by the Parliamentarians should be condemned.

³⁰⁰ Lee, *Popular Sovereignty*, 294-296, Salmon, *The French Wars*, 89-91.

³⁰¹ Skinner, *Visions of Politics*, volume 2, 397; Digges, *The Unlawfulness of Subjects*, 58.

³⁰² Salmon, *The French Wars*, 92-93.

³⁰³ Hammond, *The Scriptures plea*; Hammond, *Of resisting the lawful magistrate*.

³⁰⁴ Hammond, *Of resisting the lawful magistrate*; 25-26; Salmon, *The French Wars*, 92-93.

³⁰⁵ Hammond, *Of resisting the lawful magistrate*, 13.

³⁰⁶ Hammond, *Of resisting the lawful magistrate*, 19-20.

John Bramhall was a firm opponent of the theory of Parliamentary or popular sovereignty in his *Serpent Salve*, published in 1643 in response to Parker's *Observations*.³⁰⁷ He referenced "Stephanus Iunius" in the introduction to the pamphlet, where he noted that Parliamentary writers like Henry Parker had used the ideas developed by Roman and Reformed Jesuits.³⁰⁸ He argued that writers like Bellarmine, Mariana, Beza, Buchanan and Brutus were from two branches of the same family, since these ideas had both appeared in 1536. Even though one party supported the Pope, while the other party hated him, both parties would have opposed the Parliamentary cause. Bramhall argued that they would never have broached these tenets to the world if they had had such a good king as King Charles. By this, Bramhall meant that King Charles was a good King, and that there was no reason for anyone to oppose him. The implication was that the Parliamentarian rebels were somehow worse than these writers.

The next few pages were spent explaining why these writers were wrong. He did this by proving that their claims went against Scripture and their hypocrisy. Bramhall disagreed with their arguments that the King was inferior to the people as a "corpus mysticum", a mystical body.³⁰⁹ I have interpreted this as a reference to the "universis minor" maxim. According to Salmon, Bramhall may have agreed with the "universis minor" maxim if it had included the King, although this was not how the Parliamentarians had used it. Otherwise, the whole people was merely a majority, and could not claim to represent the entire kingdom. It is worth noting that Bramhall only referenced "Stephanus Iunius" once in the entire text, and only in the introduction to the text along with several other writers. Despite this, it is clear that he associated the ideas expressed by Parliamentarians like Henry Parker with the ideas developed by Monarchomach writers like Junius Brutus.

John Maxwell was another Royalist writer who associated Parliamentary writers like Henry Parker with the ideas expressed by the Monarchomachs and the *Vindiciae* in his *Sacro-Sancta Regum Majestas*, published anonymously in 1644. He associated one of Parker's maxims, "quicquid efficit tale, est magis tale" with "Brutus" and "Rossaeus" and argued Parker had derived it from them.³¹⁰ They, along with Parker, had abused this maxim to place the subject over the King since they had created him. According to Maxwell, this was incorrect since the King had been appointed by God, not by the people or anyone else. Parker had used this maxim alongside the 'rex singulis major, universis minor' maxim, which

³⁰⁷ Salmon, *The French Wars*, 93; Bramhall, *The serpent salve*.

³⁰⁸ Bramhall, *The serpent salve*, preamble.

³⁰⁹ Salmon, *The French Wars*, 93; *Serpent Salve*, preamble.

³¹⁰ Maxwell, *Sacro-sancta regum majestas*, 201-210; Parker, *Observations*, 2, 8.

meant that he may have associated it with the *Vindiciae* as well. This makes Maxwell one of the few writers who directly associated the *Vindiciae* with the maxims Parker had used, had rapidly become the basis for English theories of resistance.³¹¹ Maxwell argued that Parliament needed to distance themselves from the maxims Parker had used, since they would inevitably lead to the weakening of their power, because it would make the “counties and corporations of England” superior to them.³¹² Maxwell’s critique of Parker’s maxims has been analyzed in more detail in the next chapter, hence I have only given a brief overview here.

Gryffith Williams went further than many of his fellow Royalist writers in his *Vindiciae Regum* (1643), where he argued that the King of England was an absolute monarch, and remarked that Bodin had denied the right of resistance against an absolute king.³¹³ English rebels were, according to Williams, employing the ideas of writers like Calvin, Beza, Junius Brutus and Buchanan to justify their rebellion, and dedicated a chapter to countering their ideas.³¹⁴ These writers had yielded that private individuals had no right to resist, which was no wonder, since Scripture had flatly forbidden it. Despite this, they had argued that the lesser magistrates could lead resistance, since they were not private individuals. Williams remarked that Bodin had proved that all lesser magistrates had been empowered by the King, which meant that they were private individuals and could not resist him.³¹⁵ Under no circumstances could the people resist the King, which meant that England was an absolute monarchy. Williams referenced some of Barclay’s criticism of the Monarchomachs and associated the Parliamentary rebels with the ideas expressed by the Monarchomachs. He made many of the same arguments in his *Jura Majestatis* from 1644, where he criticized Junius Brutus, Althusius and other writers for arguing that the lesser magistrates had a right to depose the King.³¹⁶

Peter Heylin shared Williams’s belief that England was an absolute monarchy, and also showed how this had been proved by Bodin. He associated the doctrine of resistance by the lesser magistrates with Calvin, in his *Stumbling Block of Disobedience and Rebellion* written in 1644.³¹⁷ Heylin blamed Calvin for cunningly creating his doctrine of resistance by lesser magistrates as a stumbling-block preventing subjects from being loyal to the King, and the

³¹¹ Salmon, *The French Wars*, 82-83, 91-92, 135, Mendle, *Henry Parker*, 124.

³¹² Maxwell, *Sacro-sancta regum majestas*, 203.

³¹³ Salmon, *The French Wars*, 95-96; Williams, *Vindiciae Regum*, 37.

³¹⁴ Williams, *Vindiciae Regum*, 39-50.

³¹⁵ Williams, *Vindiciae Regum*, 39, 45, 46; Salmon, *The French Wars*, 95-96.

³¹⁶ Williams, *Jura Majestatis*, 130.

³¹⁷ Heylin, *The stumbling-block of disobedience*; Salmon, *The French Wars*, 94.

entire text is dedicated to refuting Calvin's claims. He remarked that writers like Prynne were currently reproducing these ideas, although he does not mention Prynne's extensive use of the *Vindiciae*.³¹⁸ Despite Salmon's claims, Heylin makes no explicit references to the *Vindiciae* in this text, although Heylin notes how Calvin's ideas had been used by the Huguenots in France, in Scotland, in the Low Countries and currently in England.³¹⁹

Of more interest is Heylin's *Aerius Redivivus*, published in 1647, where he traced the history of Calvinist rebellion from Calvin's *Institutions* in 1536 to his current day, 1647, where it was currently professed by the Presbyterians.³²⁰ Heylin argued that Calvin's dangerous doctrine had been professed and practiced by his followers, especially by his successor, Theodore Beza. Heylin speculated that Beza might have been the author of the *Vindiciae*, even if this was incorrect. According to Heylin, this meant that: "there hath been no Rebellion raised since that Book was written, or likely to be raised in the times ensuing, which may not honestly be charged upon his account."³²¹ Within it, "Beza" had "prostituted" the dignity of the "Supreme Magistrate" to the "lusts of the people", bringing them under the command of the same popular magistrates that Calvin had done. Beza's *The Right of Magistrates* had had the same intent, and both Papists and Presbyterians at the time had been unwilling to "own" it. Although Heylin only referenced the *Vindiciae* twice in *Aerius Redivivus*, it is clear that he considered it very influential, since he blamed every subsequent rebellion after its publication, on Beza and the *Vindiciae*.

There were many different Royalist writers who associated the Parliamentary cause with the *Vindiciae* or Junius Brutus, and this is only a small selection of the most influential Royalist writers who did this. These writers tended to briefly mention the *Vindiciae* to discredit their Parliamentary opponents, without devoting too much attention to it. Although many of these writers criticized the *Vindiciae* for many different reasons, they tended to focus on the *Vindiciae* as an anti-monarchical text. They likely did this to discredit their Parliamentary opponents by insinuating that they intended to depose or murder the King and establish a monarchy. None of these writers seem to have referenced Prynne or Rutherford's uses of the *Vindiciae*, although they still argued that their Parliamentarian opponents were reproducing its ideas.

³¹⁸ Heylin, *stumbling-block of disobedience*, 234, 254, 259, 261.

³¹⁹ Heylin, *stumbling-block of disobedience*, 24, 26, 140; Salmon, *The French Wars*, 94.

³²⁰ Salmon, *The French Wars*, 94-95.

³²¹ Heylin, *Aerius redivivus*, 23-24.

3.5 Chapter Conclusion

This analysis chapter has focused on direct references to either the *Vindiciae* or its author, Stephanus Junius Brutus by Parliamentary and Royalist writers from the start of the English Civil War to the full English translation of the *Vindiciae* in 1648. There were surprisingly few direct references to the *Vindiciae* among Parliamentary writers, which is why I have focused extensively on Prynne and Rutherford. The controversial reputation of the *Vindiciae* is a likely explanation for why other Parliamentary writers were unwilling to reference the *Vindiciae*. Both Prynne and Rutherford used the *Vindiciae* in many of the same ways and held its author in high regard. While there were few Parliamentary writers who were willing to directly reference the *Vindiciae*, there were many Royalist writers who were willing to associate their Parliamentary opponents with the ideas expressed by the *Vindiciae*. Many of these writers argued that these ideas were derived from the Jesuits and were therefore incompatible with Protestantism. Their primary focus was on delegitimizing their opponents, which is why they tended to only briefly focus on the *Vindiciae*. Interestingly, neither of these writers seem to have mentioned Prynne and Rutherford's extensive references to the *Vindiciae*.

Almost all of the literature on the role of the *Vindiciae* in the English Civil War has focused on William Prynne's translation and reproduction of the third chapter of the *Vindiciae* in 1643.³²² Prynne reproduced large excerpts of the *Vindiciae* in the appendix of his four part treatise called *Sovereign Power of Kingdoms and Parliaments*, which he used to show that there were precedents for the kingdom's power over the King. While their focus on Prynne's reproduction of the third chapter of the *Vindiciae* is warranted, there is a lot these historians have overlooked. Most significantly, they have overlooked the pivotal role the *Vindiciae* played in Prynne's appendix, since he used it as an authoritative source that had proven and summarized many of the precedents of the kingdom's power over the King which he had referenced earlier in the appendix. Prynne used these excerpts to summarize the claims made by many of the other writers he referenced and used them to prove that the kingdom was superior to the King.

Another aspect that has been somewhat overlooked in the historiography is Prynne's use of the religious arguments of the *Vindiciae*, which shows that he agreed with virtually the entirety of the *Vindiciae*. Salmon argued that Prynne ignored the first two chapters of the *Vindiciae* due to the Parliamentary alliance with the Scottish Covenanters, although this is

³²² Salmon, *The French Wars*, 83-87; Tutino, "Huguenots, Jesuits and Tyrants", 191-195; McLaren, "Rethinking Republicanism", 35-42; McClure, "Reflections on Political Literature", 239-243.

wrong since he referenced them several times.³²³ McLaren has focused too much on the religious element of Prynne's use of the *Vindiciae*, while overlooking the pivotal role of the more secular covenant of the *Vindiciae*.³²⁴ Although Tutino notes the importance of the religious element in Prynne's writing, she has focused on Prynne's translation of the "quasi-secular" covenant of the *Vindiciae*.³²⁵ Prynne's translation and reproduction of the fourth chapter of the *Vindiciae* has been completely overlooked in the historiography, which he used in many interesting ways. This chapter had originally argued that foreign Princes had a duty to aid the subjects of another Prince suffering under tyranny but was used by Prynne to argue that the subjects of a Prince had an even stronger duty to aid each other against a tyrant.³²⁶ This was how Prynne concluded the appendix, showing how highly he valued the *Vindiciae*.

Prynne's use of the *Vindiciae* was noted by several other writers, both before and after the execution of the King. George Gillespie noted in 1646 how Prynne had used Junius Brutus's interpretation of Jer. 26, which he had used to argue that the Church had an independent power jurisdiction compared to Princes.³²⁷ This is the only direct reference to Prynne's use of the *Vindiciae* I have found, although Prynne's use of the *Vindiciae* was surely noted by some of his contemporaries. Peter Heylin stated in 1644 that Prynne was reproducing the ideas of Calvin, although he doesn't mention Prynne's extensive references to the *Vindiciae*.³²⁸ Prynne's use of the *Vindiciae* was referenced in 1649 by John Goodwin to justify the execution of the King by showing how Prynne had "borrowed Junius Brutus his pen".³²⁹ Prynne had never intended for the *Vindiciae* to be interpreted as an anti-monarchical or republican text, although this was how it would be used after the execution of the King.³³⁰ Although the *Vindiciae* played an important role after this period, this is outside the scope of this thesis.

Samuel Rutherford used the *Vindiciae* in many of the same ways that William Prynne had used it, he used its author Junius Brutus as an authoritative writer that had found the same Scriptural precedents that he had found. Rutherford made much fewer references to the *Vindiciae* than Prynne had done, but he clearly held its author in very high regard.

³²³ Salmon, *The French Wars*, 83-87; Prynne, *The Sovereign Power*, appendix, 138, 143, 208.

³²⁴ McLaren, "Rethinking Republicanism", 35-42.

³²⁵ Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

³²⁶ Prynne, *The Sovereign Power*, appendix, 208-218.

³²⁷ Gillespie, *Aarons rod*, 20; Prynne, *The Sovereign Power*, appendix, 143-144; Jer. 26.

³²⁸ Heylin, *stumbling-block of disobedience*, 234, 254, 259, 261.

³²⁹ Goodwin, *Hybristodikai*, 46.

³³⁰ Tutino, "Huguenots, Jesuits and Tyrants", 192.

Rutherford's covenantal framework was based on the *Vindiciae*, which explains why he interpreted Scripture in many of the same ways that the *Vindiciae* had done.³³¹ Rutherford argued that the King had betrayed the Scottish Reformation and was therefore a tyrant. This meant that the people of Scotland had a duty to punish the King for failing to uphold the covenant with God. The King was not a tyrant because he had broken any constitutional laws, but because he had turned away from God. Although historians like Salmon and Tutino have argued that Rutherford agreed with virtually the entirety of the *Vindiciae*, Rutherford focused almost exclusively on the religious parts of the *Vindiciae*.³³² He referenced Junius Brutus several times to show that there were precedents from Scripture of a kingdom resisting a King who had turned against God.

It was likely not a coincidence that it was Presbyterians like Prynne and Rutherford that focused on the *Vindiciae*, since they shared many religious beliefs with its author, Junius Brutus. Salmon notes that the reasons for English dependence on French precedents were primarily religious.³³³ They both considered Junius Brutus as an important Scriptural authority whose interpretation of Scripture they held in high regard.³³⁴ This was especially the case for Rutherford, since his covenantal framework was based on the *Vindiciae*.³³⁵ They both used the *Vindiciae* to show that in the kingdom of Israel and Judah, the kingdom was superior to the King, and had a responsibility to uphold the proper worship of God. While they both agreed with the religious covenant of the *Vindiciae*, only Prynne referenced the quasi-secular parts of the *Vindiciae*. Prynne likely focused primarily on the quasi-secular parts of the *Vindiciae* since his goal had been to show that there were precedents for the kingdom's power over the King, and its third chapter had been its largest part.

There were many different Royalist writers who associated the Parliamentary "rebels" with Monarchomach writers like Junius Brutus, Buchanan and others, although they did this in several different ways. Some of these writers reprinted some of David Owen's anti-Monarchomach texts at the start of the Civil War to associate the Parliamentary cause with these ideas, although these texts only briefly mentioned the *Vindiciae*.³³⁶ Of more interest is the many different Royalist texts that were written during the Civil War, since they directly associated their opponents with the *Vindiciae*. All their references to the *Vindiciae* are

³³¹ Richards, "The Law Written in their Hearts", 154.

³³² Salmon, *The French Wars*, 87-88; Tutino, "Huguenots, Jesuits and Tyrants", 194.

³³³ Salmon, *The French Wars*, 4.

³³⁴ Prynne, *The Sovereign Power*, 143, 170; Rutherford, *Rutherford, Lex, Rex*, 99-100.

³³⁵ Richards, "The Law Written in their Hearts", 154.

³³⁶ Salmon, *The French Wars*, 71-72; Owen, *A Persuasion to loyalty*, 28; Owen, *Anti-Paraeus*, 53-56; Owen, *Anti-Paraeus*; Owen, *Puritano-lesuitismus*, 44.

relatively brief, since their main goal had been to delegitimize their Parliamentary opponents by associating them with anti-monarchical texts like the *Vindiciae*. Writers like Dudley Digges, Henry Hammond and John Bramhall argued that the *Vindiciae* had derived its ideas from the Jesuits, which made them incompatible with Protestantism. Dudley Digges and John Maxwell associated the “rex singulis major, universis minor” maxim with Junius Brutus, although this has been analyzed in the next chapter.

There were several Royalist writers who argued that the ideas of the *Vindiciae* were derived from the Jesuits or had the same origin. Dudley Digges associated Parker’s ‘rex singulis minor, universis minor’ maxim with “Roman and Reformed Jesuits” like Junius Brutus.³³⁷ Henry Hammond argued that even though Junius Brutus and Buchanan called themselves Protestants, they were “perfect Jesuits” in principle, because the primary difference between Protestants and Catholics was obedience to the King.³³⁸ John Bramhall argued that writers like Junius Brutus were from a branch in the same family as Jesuit writers, and criticised Parliamentary writers like Parker for using these ideas.³³⁹ John Maxwell associated Parker’s ‘quicquid efficit tale, est magis tale’ maxim with Rossaeus and Junius Brutus, and argued Parker had derived it from them, and possibly both maxims.³⁴⁰

Absolute monarchists like Gryffith Williams and Peter Heylin reproduced French absolutist theory as their own to argue that England was an absolute monarchy.³⁴¹ Gryffith Williams argued that the Parliamentary rebels were employing the ideas of writers like Junius Brutus and Buchanan to argue that lesser magistrates had a right to resist.³⁴² He countered these claims by proving that the lesser magistrates had been empowered by the King, and were therefore obligated to obey him. Peter Heylin blamed Calvin and his followers for leading loyal subjects into disobedience and rebellion. Unlike most other Royalist writers, Heylin focused on Presbyterians, while other Royalists had associated these ideas with the Jesuits. Heylin held Beza and the *Vindiciae* responsible for every rebellion that had happened after this book was written, which shows that Heylin blamed the *Vindiciae* for the current Civil War.³⁴³ The Presbyterians were, according to Heylin, reproducing Calvin’s dangerous ideas, and were therefore responsible for the current conflict. Although Heylin

³³⁷ Skinner, *Visions of Politics, Volume 2*; Digges, *The Unlawfulness of Subjects*, 58.

³³⁸ Hammond, *Of resisting the lawful magistrate*, 25-26; Salmon, *The French Wars*, 92-93.

³³⁹ Bramhall, *The serpent salve*, preamble.

³⁴⁰ Maxwell, *Sacro-sancta regum majestas*, 201-210; Parker, *Observations*, 2, 8.

³⁴¹ Salmon, *The French Wars*, 93-96.

³⁴² Williams, *Vindiciae Regum*, 39-50.

³⁴³ Heylin, *Aerius redivivus*, 23-24.

argued that Prynne was reproducing Calvin's ideas, he does not explicitly reference Prynne's extensive references to the *Vindiciae*.³⁴⁴

Although there were many direct references to the *Vindiciae* in the English Civil War, only a few Parliamentary writers were willing to directly associate themselves with the *Vindiciae*. William Prynne and Samuel Rutherford were some of the only Parliamentary writers who were willing to use the *Vindiciae* to justify their opposition to the King. This was likely due to the controversial reputation of the *Vindiciae*. Their Presbyterian faith likely influenced their use of the *Vindiciae*. There were many different Royalist writers who utilized the controversial reputation of the *Vindiciae* to discredit their Parliamentary opponents, but none of them seem to have referenced either Prynne or Rutherford's references to it. Despite the many different direct references to the *Vindiciae* throughout the Civil War, it seems to have played a relatively minor role in the Parliamentary justification for resistance. The ideas expressed by the *Vindiciae* would still play a pivotal role through the "rex singulis major, universis minor maxim" that encapsulated the *Vindiciae*'s doctrine of popular sovereignty and formed the basis for English theories of resistance.³⁴⁵ This is the focus of the next analysis chapter.

³⁴⁴ Heylin, *stumbling-block of disobedience*, 234, 254, 259, 261.

³⁴⁵ Salmon, *The French Wars*, 7, 81-100, 135.

Chapter 4 - “Rex singulis major, universis minor”

4.1 Introduction

This analysis chapter focuses on the “rex singulis major, universis minor” maxim which has been viewed as indirect reference to the *Vindiciae* since it encapsulated the *Vindiciae*’s doctrine of popular sovereignty.³⁴⁶ This maxim argued that while the King was superior to any private individual, he was inferior to the kingdom as a whole. Due to the controversial reputation of the *Vindiciae*, there were few writers who were willing to openly associate themselves with the *Vindiciae*, although there were several writers who indirectly used its ideas. This chapter asks: “What role did the “rex singulis major, universis minor” play in the literary debates of the English Civil War, and how can it be viewed as an indirect influence from the *Vindiciae*?”. It was in the period from 1642-1644 that the “universis minor” maxim saw the most frequent use by Parliamentarian and Royalist writers, although it played an important role throughout the entire conflict.³⁴⁷ It was introduced into the Civil War by Henry Parker in 1642, and it would be extensively debated after this. Although Parker never explicitly stated that he had derived this maxim from the *Vindiciae*, he was likely influenced by it due to how he introduced it to the conflict. I have therefore viewed the “universis minor” maxim as an indicator of indirect influence by the *Vindiciae*, even if only a few writers directly associated it with the *Vindiciae*.

The “rex singulis major, universis minor” maxim played a pivotal role in the English Civil War and was used to argue that the kingdom was superior to the King. This maxim had, according to Salmon, epitomized the theory of popular sovereignty of the *Vindiciae* and Beza’s writing after the St. Bartholomew’s Day massacre in France.³⁴⁸ It argued that while the King was superior to any private individual, he was inferior to the kingdom as a whole. It is the “universis minor” part of the maxim that is important, since this was the part of the maxim that argued that the kingdom was superior to the King. The “singulis minor” part argued that the King was superior to any private individual, which all but the most ardent anti-monarchists accepted. There were many Royalist writers who responded to the use of this maxim by stating that the King was both “singulis major” and “universis major”, which meant that the King was superior to both private individuals and the entire kingdom. This shows the pivotal role it played throughout the conflict.

³⁴⁶ Salmon, *The French Wars*, 4.

³⁴⁷ Salmon, *The French Wars*, 81-100; Parker, *Observations*, 2, 8.

³⁴⁸ Salmon, *The French Wars*, 7.

The maxim was introduced into the English Civil War in 1642 by Henry Parker in his *Observations*, although Parker never explicitly explained where he got this maxim from.³⁴⁹ He introduced it right after an example of how the French King had abused the peasants of France, implying that he associated it with France, and indirectly with the Monarchomachs. Daniel Lee argues that Parker made no secret of his intellectual debt to continental jurists, particularly the Monarchomach principle expressed by the “universis minor” maxim.³⁵⁰ This suggests that Parker associated this maxim with the *Vindiciae*, although it is worth remembering that Parker never explicitly stated where he got it from.

Parker’s *Observations* was one of the most influential and notorious pamphlets published in the early phases of the Civil War, since it shaped the discourse for a long time.³⁵¹ Many of the texts that were written after the *Observations* were written in response to it and had explicitly focused on the maxims that Parker had used. The maxim was defended by some of Parker’s fellow Parliamentarian writers, like Charles Herle and William Prynne, although it was attacked by the Parliamentarian Philip Hunton for being incompatible with monarchy. According to Michael Mendle, Royalist writers “queued” to refute Parker’s *Observations* well into 1643 since it was considered so dangerous and incompatible with monarchy.³⁵² I would argue that the *Observations* and the “universis minor” maxim remained the primary focus until at least 1644. Most of these Royalist writers focused on the main assertions and maxims that Parker had used in the *Observations*, particularly the “universis minor” maxim since it went against Scripture and was incompatible with monarchy. Some of the most notable Royalist critics were Dudley Digges, Henry Ferne, and John Maxwell, although there were many others.³⁵³ Of all of these writers it seems that it was only Digges, Maxwell and Prynne that associated this doctrine with the *Vindiciae*, although they primarily associated it with the Jesuits and the Puritans.³⁵⁴

4.1.1 Literature

This chapter’s analysis of the “universis minor” maxim is indebted to George Garnett and Daniel Lee’s explanation of the “universis minor” maxim which they have explained in their

³⁴⁹ Parker, *Observations*, 2; Salmon, *The French Wars*, 82-83; Weston, *Subjects and Sovereigns*, 62-66, 291.

³⁵⁰ Parker, *Observations*, 2.

³⁵¹ Mendle, *Henry Parker*, 90-93.

³⁵² Mendle, *Henry Parker*, 90.

³⁵³ Mendle, *Henry Parker*, 90-136.

³⁵⁴ Prynne, *The Sovereigne Power*, appendix, 143, Maxwell, *Sacro-sancta regum majestas*, 201-210.

analysis of the *Vindiciae*. Garnett has provided an excellent glossary of several important terms from Roman Law, which included the “universis minor” maxim.³⁵⁵ Daniel Lee dedicated an entire chapter to the Monarchomachs’ ideas of popular sovereignty, and made the “universis minor” maxim a core part of this chapter.³⁵⁶ He argued that this maxim was pivotal to the *Vindiciae*’s argument of popular sovereignty, since it made the people as a whole the owner of the kingdom, while denying resistance to private individuals. Garnett’s and Lee’s analysis and explanation of the “universis minor” has been pivotal to my understanding of the maxim and shows the central importance of the maxim to the *Vindiciae*.

The role of the “rex singulis major, universis minor” in the English Civil War has been analyzed by several historians. The most important of these historians is J.H.M. Salmon, who argued that the maxim exemplified the theory of popular sovereignty in the *Vindiciae*.³⁵⁷ He used it to show texts that were influenced by the *Vindiciae* and argued that it became the basis for English theories of resistance after Henry Parker introduced it into the conflict. He has analyzed how several Parliamentary writers used the maxim to argue that the kingdom was superior to the King. Salmon has analyzed how there were several Royalist writers who considered this maxim incompatible with monarchy. Salmon’s work on the role of the *Vindiciae* and the “universis minor” maxim in the English Civil War is the primary work on their role in the conflict.

Another vitally important historian is Michael Mendle, who has written a monograph about Henry Parker’s writing during the Civil War.³⁵⁸ His work has been invaluable, since he analyzed all of Parker’s writing and analyzed how other writers reacted to him. Mendle has analyzed Parker’s use of the ‘rex singulis major, universis minor’ maxim in *Observations*. He argued that it was a commonplace of late medieval and early modern political thought, implying that it was not derived from the *Vindiciae*.³⁵⁹ While it is correct that it was used during the Conciliar Controversy, it was the *Vindiciae* and the Monarchomachs who first used it to argue that the kingdom was superior to the king. Mendle has dedicated an entire chapter to analyzing how other writers reacted to Parker’s *Observations*, including their reactions to the maxims Parker had used.³⁶⁰ This has been invaluable in my analysis, due to the extensive work Mendle has already done on this topic.

³⁵⁵ Brutus, *Vindiciae contra Tyrannos*, lxxvii-lxxxiii.

³⁵⁶ Lee, *Popular Sovereignty*, 127-131

³⁵⁷ Salmon, *The French Wars*, 7, 81-100, 135.

³⁵⁸ Mendle, *Henry Parker*.

³⁵⁹ Mendle, *Henry Parker*, 86.

³⁶⁰ Mendle, *Henry Parker*, 90-110.

4.2 Henry Parker

Henry Parker was an immensely influential Parliamentary writer during the early phases of the English Civil War, despite his anonymity. His writing set the tone for much of the debates of the conflict, and influenced which topics became the primary focus. Almost all of Parker's writings were reactive and controversial, stating his views by "observing" others, and he was often referred to as the "Observer" in the texts responding to him.³⁶¹ He wrote several influential texts, although his most influential text was *Observations some of His Majesties Late Answers and Expresses* published on 2 July 1642.³⁶² It played a pivotal role in making the "rex singulis major, universis minor" maxim central to Parliamentary justifications of resistance, and heavily influenced the Civil War discourse for the early phases of the conflict.³⁶³ Although this maxim may have been a commonplace of late medieval and early modern political thought like Mendle argued, it was the *Vindiciae* that had extended this doctrine to justify resistance against a legitimate King. Parker likely derived the maxim from the *Vindiciae*, since he introduced it after using the kingdom of France as an example.³⁶⁴ Skinner notes in *Liberty before Liberalism* that Parker was a Monarchomach, showing the similarity between these ideas.³⁶⁵

Parker's *Observations* was published in response to *Answer to the XIX Propositions*, a Royalist treatise that had defended the King's negative veto against Parliament's *XIX Propositions* which had attacked the King's negative veto by arguing that England was a mixed monarchy.³⁶⁶ The *Answer* had reverted to an older interpretation of a mixed monarchy balanced between the King, House of Lords and House of Commons, which Pocock and Schochet have called a "fatal move" in the Royalist defense of the King's absolute sovereignty.³⁶⁷ Rather than using monarchical theory to argue that the King held sovereignty as a monarch, the *Answer* argued that the King was one of the three estates who together held sovereignty. This was a "fatal" move since it did not clearly answer who the lawmaking sovereign was in the state since it indicated several inconsistent possibilities. This move was regretted for a long time by the Royalists, although Parliamentary writers like Henry Parker were quick to capitalize on the King's "fatal move".

³⁶¹ Mendle, *Henry Parker*, xii, 1, 70-110.

³⁶² Mendle, *Henry Parker*, 1, 70-110.

³⁶³ Salmon, *The French Wars*, 82-83, 135; Weston, *Subjects and Sovereigns*, 62-66, 291.

³⁶⁴ Mendle, *Henry Parker*, 86.

³⁶⁵ Skinner, *Liberty before Liberalism*, 21, 23, 47, 77.

³⁶⁶ Skinner, *Visions of Politics, Volume 2*, 332-334.

³⁶⁷ Lee, *Popular Sovereignty*, 392; Pocock, "Interregnum and Restoration", 149-150.

Parker capitalized on these inconsistencies in his *Observations* to argue that Parliament was the only sovereign power in the State, and lent his full support to the radical interpretation of the mixed constitution already put forward by Parliament.³⁶⁸ This interpretation had argued that England was a mixed monarchy in which the highest legislative authority lay with the King in Parliament, but that in extraordinary circumstances Parliament could do what it deemed necessary to ensure the welfare of the people.³⁶⁹ It is within this context that Parker wrote the *Observations*, and he used the “universis minor” maxim to argue that Parliament was superior to the King.

Parker made extensive use of this maxim alongside another maxim, “quicquid efficit tale, est magis tale” to argue that the “people” was superior to the King since it had created him.³⁷⁰ Parker used the “universis minor” maxim to argue that while the King was superior to any private individual, “singulis major”, he was inferior to the people as a whole, “universis minor”, represented by Parliament. This maxim became the basis for English theories of resistance, particularly in the first years of the conflict.³⁷¹

Parker never stated where he got his two maxims from, which elicited much speculation among his contemporaries.³⁷² Mendle argues that the “universis minor” maxim was a commonplace of late medieval and early modern political thought, although it was the Monarchomachs who had extended this Conciliar doctrine to legitimize resistance to legitimate monarchs who had become tyrants.³⁷³ The context within which Parker introduced the maxim insinuates that he associated the maxim with France, and was therefore likely derived from the *Vindiciae*.³⁷⁴ Although the maxim may have been derived from the *Vindiciae*, its use after Parker was primarily derived from Parker’s use of it. It can therefore no longer be used to prove influence from the *Vindiciae*, although there were several writers who associated Parker’s maxims with the *Vindiciae*.

³⁶⁸ Skinner, *Visions of Politics, Volume 2*, 329-335.

³⁶⁹ “King in Parliament” meant that the King had legislative power when he convened Parliaments, but could not act on his own without Parliament.

³⁷⁰ Mendle, *Henry Parker*, 85-88.

³⁷¹ Salmon, *The French Wars*, 82-83, Weston, *Subjects and Sovereigns*, 62-66, 291.

³⁷² Mendle, *Henry Parker*, 85-88.

³⁷³ Mendle, *Henry Parker*, 85-88.

³⁷⁴ Parker, *Observations*, 2.

4.2.1 Parker, *Observations* (1642)

The text begins by stating that the people were superior to Kings, since it was the “efficient cause” of political authority.³⁷⁵ Political power was inherent in the people, and they had constituted Kings through a contract and had set the conditions for the exercise of their power. Among Christians, political authority was nothing more than the agreements made between “politique corporations”. The people had derived their inherent power to “such and such hands”, while God had confirmed their choice. This explanation of the origin of political power was very similar to the one expressed by the *Vindiciae* since both had made this argument. Parker made no reference to the *Vindiciae* or any other text to prove this, which means that he could have gotten these ideas from anywhere, although the examples he used are very interesting.

Parker argued that good kings had strong subjects and did not trample upon their rights, while bad Kings had weak subjects.³⁷⁶ The English King should strive to have strong subjects since it would make him stronger, while the French King’s power had been weakened by seeking an adulterate power over his subjects. Directly after using the kingdom of France as an example, he used the “universis minor” maxim alongside another maxim to argue that the people were superior to the King since it had constituted him. Although Parker does not say where he got this maxim from, it is significant that he introduced it in the same sentence that he used the King of France as an example. Mendle considers the “universis minor” maxim a commonplace of late medieval and early modern political thought.³⁷⁷ Lee argues that Parker made no secret of his intellectual debt to the Continental theorists, and especially the Monarchomach principle expressed by the “universis minor” maxim.³⁷⁸ I have therefore interpreted Parker’s use of the maxim as an indicator of an indirect reference to the *Vindiciae*, even if he never explicitly stated where he got it from.

Parker introduced the maxim on page 2 of the *Observations*, directly after using the kingdom of France as an example:

- ... but thus we see that power is but secondary and derivative in Princes, the fountaine and efficient cause is the people, and from hence the inference is just, the King, though he be *singulis Major*, yet he is *universis minor*, for if the people be the true efficient cause of power, it is a rule in nature *quicquid efficit tale, est magis tale*.

³⁷⁵ Parker, *Observations*, 1.

³⁷⁶ Parker, *Observations*, 2.

³⁷⁷ Mendle, *Henry Parker*, 86.

³⁷⁸ Lee, *Popular Sovereignty*, 292.

And hence it appeares that at the founding of authorities, when the consent of societies conveys rule into such and such hands, it may ordaine what conditions, and prefix what bounds it pleases that no dissolution ought to be thereof, but by the same power by which it had its constitution.³⁷⁹

Parker used the “universis minor” maxim alongside a lesser-known maxim to argue that the people were superior to the King since they had constituted him.³⁸⁰ This lesser known maxim was “quicquid efficit tale, est magis tale”, which means “the cause of something is the greater thing”. He combined these two maxims to argue that the people were as private individuals, “singuli”, below the King, but were as a whole, “universis”, superior to the King, since it had constituted him. The people as a whole were represented by Parliament, which meant that Parliament was superior to the King.

This was essentially the same way the *Vindiciae* had used the maxim, by arguing that the people were superior to the King since it had constituted him. Parker used this maxim in a somewhat different way than the Monarchomachs had done. While the Monarchomachs had treated the people as passive political actors, to Parker, the people were at all times politically active within Parliament, who could exercise their power on their behalf.³⁸¹ Parliament was the people as a whole, which meant that when Parker spoke of popular sovereignty, he meant Parliamentary sovereignty, since they were the same thing. Since the people, represented by Parliament, had constituted the government, the government could only be altered if both the King and the people consented as long as this consent had not been obtained through deceit.³⁸²

The King’s power was conditional and fiduciary on his ability to ensure the welfare of the people, “salus populi”, and was neither absolute nor a donation by the people.³⁸³ This phrase was likely derived from Cicero’s *De Legibus* according to Skinner, although the Monarchomachs had also argued that the King’s power was conditional on ensuring the people’s welfare.³⁸⁴ Despite this, the *Vindiciae* did not use the phrase “salus populi” according to Garnett’s translation of the *Vindiciae*.³⁸⁵ The welfare of the people, “salus populi” was, according to Parker, the basis for all human laws and the purpose of all human

³⁷⁹ Parker, *Observations*, 2; Mendle, *Henry Parker*, 86.

³⁸⁰ Parker, *Observations*, 2; Mendle, *Henry Parker*, 86.

³⁸¹ Sabbadini, “Popular Sovereignty and Representation”, 169.

³⁸² Parker, *Observations*, 24.

³⁸³ Parker, *Observations*, 3.

³⁸⁴ Skinner, *Visions of Politics, Volume 2*, 292-297, 335.

³⁸⁵ Brutus, *Vindiciae contra Tyrannos*.

governments.³⁸⁶ This principle went above all other laws, and if the King threatened the people's welfare, Parliament had the power to do what was necessary to ensure the people's welfare, since this was why the people had constituted the government. Parliament could temporarily withhold their power from the King if he failed in his duties, although Parker argued that Parliament would never depose or hurt him.³⁸⁷ Although Parker did not make the connection between the "universis minor" maxim and "salus populi" explicit in the *Observations*, he made it explicit in a later treatise from 1644, *Jus Populi*.³⁸⁸

Parker referenced the maxim again a few pages later after proving that the people should be consulted in matters that affected them.³⁸⁹ While the people had irrevocably given some of their power to the King, it had given more power to Parliament. The King had, according to Parker, argued that while the people had a right to give counsel, it did not have the right to command him. The King had reasoned that it was impossible for the people to have irrevocably given their power to both the King and Parliament. It was in response to this that Parker used the "universis minor" maxim to argue that it was universally attested that the entire kingdom was superior to the King.

- It is true, two supreames cannot bee in the same sence and respect, but nothing is more knowne or assented to then this, that the King is singulis major, and yet universis minor, this wee see in all conditionall Princes, such as the Prince of Orange, &c.³⁹⁰

Directly afterwards Parker showed that even in the most absolute monarchies the safety of the people should be valued above any of the King's rights.³⁹¹ This was because it went against natural law for any nation to enslave and resign its own interests to the will of one lord without the ability to preserve itself. Although the people had irrevocably entrusted their protection to the King, they had reserved some power to themselves in Parliament. Parker argued that this was not incompatible with the King's power, since it would strengthen his ability to ensure the people's welfare, "salus populi". Parker had used the "universis minor" maxim to prove that the kingdom had more power than the King, and that Parliament could use this power in extraordinary circumstances to ensure the welfare of the people.

³⁸⁶ Parker, *Observations*, 3.

³⁸⁷ Parker, *Observations*, 16, 33.

³⁸⁸ Parker, *Jus Populi*, 2.

³⁸⁹ Parker, *Observations*, 8.

³⁹⁰ Parker, *Observations*, 8.

³⁹¹ Parker, *Observations*, 8; The "ends" that the King had been constituted to accomplish was the people's welfare and happiness (*salus populi*), which meant that it should be prioritized over the King's rights.

Although the ideas expressed by the “universis minor” maxim were important throughout the text, he only referenced it one more time at the end of the text, where he summarized some of the positions expressed by the King’s papers.³⁹² In point 2, Parker stated that these papers had argued that the King was both “singulis major” and “universis major”, which meant that he was superior to any individual and the entire kingdom. I consider it unlikely that many of these Royalist writers would have used these terms to describe the King’s powers due to its association with the original “universis minor” maxim. All the references to the maxim I have found were written after Parker’s *Observations*, so I think Parker may have lied. Despite this, this was how many Royalist writers attacked Parker’s maxim, by stating that the King was both “singulis major” and “universis major”.

Although Parker’s use of the “universis minor” maxim was likely derived from the Monarchomachs and the *Vindiciae*, he distanced himself from their resistance theories.³⁹³ Instead, he used the “universis minor” and “quicquid efficit tale” maxims to show that Parliament had an independent claim to power, since it had been constituted by the people. Parker strongly denied that a free Parliament had ever deposed a King of England, and that when this had been done in the past, it had been forced upon them.³⁹⁴

Parker used the maxim to separate the “person” of the King from the “office” of the King, which allowed Parker to limit the King’s power to certain duties and functions.³⁹⁵ The law only had a directive, but not a coercive force upon the “person” of the King, which meant that he could not be forced to do something.³⁹⁶ This was not the case for the “office” of the King, since Parliament could refuse to follow unjust commands. Parker’s use of the “universis minor” maxim stood in stark contrast to the *Vindiciae*’s use of the maxim since it had justified the deposition or even the killing of the King if necessary. This shows that even though Parker made much use of the “universis minor” maxim, it does not mean that he agreed with all its arguments.

³⁹² Parker, *Observations*, 46.

³⁹³ Mendle, *Henry Parker*, 101.

³⁹⁴ Mendle, *Henry Parker*, 101.

³⁹⁵ Lee, *Popular Sovereignty*, 292.

³⁹⁶ Parker, *Observations*, 45.

4.3 First responses to *Observations*

The first response to Parker's *Observations* appeared on or before 9 July 1642, at most seven days after the *Observations*.³⁹⁷ It primarily attacked Parker's argument that Parliament was unbound by statutes and precedents. The author argued that it was absurd for Parker to ascribe more power to the 'Universality' over the King, while at the same time arguing that the King had 'Supremacy of Power and Honour'.³⁹⁸ How could the King's power be supreme, while being given little power over the members of Parliament or whomever else they excluded? The author pointed out that making Parliament unbound by statutes and precedents gave it a trust indistinguishable from that which Catholics had used during Conciliarism.³⁹⁹ He associated both maxims with Catholic theorists, and suggested Parker had derived the second maxim from "Suarez, the Iesuite". The *Animadversions* sought to delegitimize Parker's use of these maxims by associating them with earlier Catholic theories. There is no mention of the *Vindiciae* in relation to the "universis minor" maxim, likely because associating these ideas with Catholics was more damaging. The *Animadversions* was likely attacked in the House of Commons on 22 July 1642, it was also attacked by another treatise that defended the 'Observer's' claims released around the same time.⁴⁰⁰

The impact of the *Observations* can be seen by how the Parliamentary camp reacted to it.⁴⁰¹ Its arguments were quickly picked up and defended by other Parliamentary writers, particularly Charles Herle and William Prynne. There were several examples of Parliamentary texts that directly plagiarized the *Observations*. The most significant of these was *An Appeale to the World in These Times of Extreame Danger* that began with nearly verbatim excerpts from the *Observations*, including Parker's use of the "universis minor" maxim on page 2 in the *Observations*.⁴⁰² These examples show how quickly the arguments of the *Observations* were taken up by other Parliamentary supporters, particularly Charles Herle and William Prynne.⁴⁰³

The most notable reaction to the *Observations* were written by its Royalist critics, who continued to attack it for a long time. They devoted particular attention Parker's two maxims

³⁹⁷ Mendle, *Henry Parker*, 91; Skinner, *Visions of Politics, Volume 2*, 335.

³⁹⁸ Text Creation Partnership, *Animadversions upon those notes*, 3.

³⁹⁹ Text Creation Partnership, *Animadversions upon those notes*, 3-4; Mendle, *Henry Parker*, 91.

⁴⁰⁰ Mendle, *Henry Parker*, 91.

⁴⁰¹ Mendle, *Henry Parker*, 91.

⁴⁰² Mendle, *Henry Parker*, 92; Text Creation Partnership, *An Appeale to the World* 1, 2.

⁴⁰³ Herle, *An Answer to mis-led Doctor Fearne*, 15-16; Prynne, *The Sovereigne Power, part 1*, 5; Prynne, *The Sovereigne Power, appendix*, 143.

and centered the debate around them.⁴⁰⁴ The most notable examples of this is by Dudley Digges, Henry Ferne, John Maxwell and many others.⁴⁰⁵ Digges and Ferne were some of the first prominent writers to attack Parker's *Observations*, shortly after it was published. Ferne only made one reference to the maxim, hence I have focused on Digges, since he exemplified how many other Royalists reacted to the maxim.⁴⁰⁶

4.4 Dudley Digges

One of the first prominent writers to attack Henry Parker's theory of Parliamentary sovereignty was the Royalist writer Dudley Digges, the younger (1613-1643).⁴⁰⁷ He wrote a direct response to Parker's *Observations* in *An Answer to a Printed Book* (1642) and went through the *Observations* line by line.⁴⁰⁸ Digges published another text in 1643 called *The Unlawfulness of Subjects taking up Armes against the Sovereigne*, which became the most well-known Royalist text throughout the Civil War.⁴⁰⁹ Both of these texts spent considerable attention refuting the maxims and arguments that Parker had used, and they both played a pivotal role in the conflict. Digges was one of the few Royalist writers who associated the "universis minor" maxim with the *Vindiciae*, which has been noted by Skinner.⁴¹⁰ Digges's writings against Parker exemplified many of the key points of the arguments that would become commonplace in Royalist writings later in the period.⁴¹¹ Although Digges died in 1643, his writings played a pivotal role in how other Royalist writers reacted to Parker's use of the "universis minor" maxim.

Digges's *Answer to a Printed Book* was one of the first serious attacks on Parker's use of the maxim and was published a few months after the *Observations*.⁴¹² Digges went through the *Observations* line by line countering Parker's claims. This meant that he countered both of Parker's uses of the "universis minor" maxim alongside his other arguments. The *Answer to a Printed Book* was one of the most important responses to the *Observations* and would influence much of the later Royalist critique of the maxim.⁴¹³ Although Digges would repeat

⁴⁰⁴ Salmon, *The French Wars*, 88-96; Mendle, *Henry Parker*, 90.

⁴⁰⁵ Digges, *An answer*; Digges, *The Unlawfulness of Subjects*; Ferne, *Resolving of conscience*.

⁴⁰⁶ Ferne, *Resolving of conscience*, 34.

⁴⁰⁷ Salmon, *The French Wars*, 89-91; Mendle, *Henry Parker*, 101-109; Lee, *Popular Sovereignty*, 294-296.

⁴⁰⁸ Lee, *Popular Sovereignty*, page 294-296; Mendle, *Henry Parker*, 104.

⁴⁰⁹ Salmon, *The French Wars*, 89-91.

⁴¹⁰ Skinner, *Visions of Politics, Volume 2*, 397; Digges, *The Unlawfulness of Subjects*, 58.

⁴¹¹ Lee, *Popular Sovereignty*, page 294.

⁴¹² Mendle, *Henry Parker*, 101.

⁴¹³ Mendle, *Henry Parker*, 101-104; Lee, *Popular Sovereignty*, page 294-296.

many of his arguments in his *Unlawfulness of Subjects* (1643), Digges's *Answer to a Printed Book* influenced many later texts.

4.4.1 Digges, *Answer to a Printed Book* (1642)

Digges attacked Parker's first use of the maxim in *Answer to a Printed Book* from 1642 where he went through Parker's *Observations* line by line. He argued that Parker's use of the "universis minor" maxim was wrong since the people's divided power had been united in the King, and that this transferral was irrevocable.⁴¹⁴ This meant that the people could never take this power back from the King, hence resistance was forbidden. Digges argued later in the text that this maxim would subject Parliament to the people just like they had done to the King, which would make Parliament "universis minus" and "singulis majus".⁴¹⁵ The implication was that this would turn Parliament into a democracy or anarchy, which was undesirable.

Digges also countered Parker's second use of the maxim, where he had claimed that there was nothing more known or attested to that "the King is singulis major" and yet "universis minor".⁴¹⁶ By "universis" Parker must have meant that the "representative all" was above the King. This was ridiculous since it implied that the King had taken the Oath of Allegiance and was the people's fellow subject. At the same time, Parker had argued that the Oath of Supremacy was not damaged, and that the King's power had been strengthened. By stating that the King was "singulis major" Parker had insinuated that the King was inferior to two people, which meant that he had no more power than before he was a King.⁴¹⁷ He asked the "Observer" why he had not therefore called England an Aristocracy, implying that Parker was seeking to overthrow the King.

Digges's *Answer to a Printed Book* was important since it was one of the first serious responses to Parker's *Observations* and his use of the maxims. It influenced several other Royalist texts, and his critique was referenced by some of his fellow Royalist writers.⁴¹⁸ Despite the importance of Digges's *Answer to a Printed Book*, it is within his *Unlawfulness of Subjects taking up Armes* (1643) that we can see his most extensive responses to the maxim. It is within this text that Digges directly associated Parker's maxims with the *Vindiciae*.

⁴¹⁴ Digges, *An Answer*, 10; Parker, *Observations*, 2.

⁴¹⁵ Digges, *An Answer*, 27.

⁴¹⁶ Digges, *An Answer*, 38-39; Parker, *Observations*, 8.

⁴¹⁷ Digges, *An Answer*, 38-39; Mendle, *Henry Parker*, 103.

⁴¹⁸ Williams, *Vindiciae Regum*, 64.

4.4.2 Digges, *Unlawfulness of Subjects taking up Armes* (1643)

Dudley Digges's *Unlawfulness of Subjects taking up Armes* remained throughout the Civil War the most well-known Royalist text, and many later Royalist texts modeled their strategies on this text.⁴¹⁹ One of the most important elements of this text was his attacks on the "universis minor" maxim. It had become important for Royalists like Digges to refute this maxim, since it had become intrinsic to the Parliamentary justification for resistance.⁴²⁰ Although Digges agreed that the King was "singulis major", he argued that the King was "universis major" as well, since all the individuals of the kingdom had united their power in the King.⁴²¹ Digges primarily associated the doctrine expressed by the "universis minor" maxim with the Jesuits and Puritans, although he criticized Junius Brutus and Buchanan for failing to condemn it.⁴²² This makes Digges one of the few writers who associated the "universis minor" maxim with the *Vindiciae*, even if it was not the primary focus.

It had been important for Digges to counter the Parliamentary claim that the King was "universis minor", because it was incompatible with monarchy. Digges accused the Parliamentarians of misinterpreting the statement that the King was the minister of God, to instead mean that he was the people's servant since they had created him.⁴²³ He did not deny that the people had had a hand in creating the King, but that this power had been made greater through "divine workmanship". This had been proven by 1 Pet 2 13 since it commanded obedience to secular authority.⁴²⁴ According to Digges, the people's power had been taken out of their hands when they had united their power in the King, since it had been made greater by God. All power flowed from the King since he held supreme power. It was therefore wrong for the Houses of Parliament to argue that the King was "universis minor", since the one who held supreme power was the "representative all" and was therefore legally the entire people.⁴²⁵

⁴¹⁹ Salmon, *The French Wars*, 89-91; Mendle, *Henry Parker*, 101-105; Lee, *Popular Sovereignty*, 294-296.

⁴²⁰ Subjects and sovereigns, page 62-66; Salmon, *The French Wars*, page 135.

⁴²¹ Digges, *The Unlawfulness of Subjects*, 33-34, 61-63, 146-151.

⁴²² Digges, *The Unlawfulness of Subjects*, 58; Skinner, *Visions of Politics, Volume 2*, 397; Salmon, *French Wars*, 89-91.

⁴²³ Digges, *The Unlawfulness of Subjects*, 33-34.

⁴²⁴ 1 Pet. 2, 13; This passage was very similar to the Romans 13 passage that argued that obedience to secular authority equaled obedience to God, although these passages were not the same.

⁴²⁵ This meant that it was wrong for the King to be 'universis minor' (inferior to the entire people), since he was 'universis', the entire people. This is a very interesting use of the maxim. While Parker had argued that Parliament represented the entire people (universi), Digges used the maxim to argue that the King "was" the entire people.

According to Digges, the King did not just represent the entire people, but he also represented God, which meant that the obligation to not resist him was even weightier.⁴²⁶ God had given the King a part of his dominion over the life of man, which meant that the people could not take it away from the King since it had not given it to him. It was impossible for any man to give away a power over their own life that they did not have, which meant that the King had received the power to take their lives (*jus gladii*) directly from God. It was for this reason that the second maxim that Parker had used, “*quicquid efficit tale, est magis tale*”, was sophistry, since it rested upon the false supposal that the people had created the King. It is clear from this that the King was both “*singulis major*” and “*universis major*” since the people had irrevocably given all their power to him, and some of his power came directly from God. It was only through uniting the people’s power in the King that their power could be efficiently exercised as a single legal person.⁴²⁷

Digges primarily associated the “*universis minor*” doctrine with Jesuits and Papists, but he criticized Protestant writers like Junius Brutus, Hotoman and Buchanan for failing to condemn it.⁴²⁸ Skinner argues that Digges primarily associated this maxim with the Monarchomach writers, although this is misleading.⁴²⁹ Digges argued that these writers ought to have been able to easily disprove this doctrine, and their failure to do this must have been malicious. According to Digges, some of the writers the Royalists had to deal with (Parliamentarian writers) had unknowingly drawn upon the seditious writings of the “Roman and Reformed Jesuits” and were not as responsible as these Protestant scholars. It is noteworthy that Digges associated this doctrine with writers like Junius Brutus, even if he argued that they had not created it. This makes Digges one of the few writers who associated the “*universis minor*” maxim with the *Vindiciae*.

Digges referenced the maxim again a few pages later to prove that the people should be obedient to the King since he held paternal power over them.⁴³⁰ According to Digges, murdering one’s father (parricide) was a great sin, but spilling the blood of the sovereign was an even greater crime. This was because the King was “*Pater Patria*” and had the same power over his subjects that fathers had over their children. The people had united all their paternal power in the King, which meant that obedience to the King was even stronger than obedience to one’s father. Fathers did not just have power over only one of his children but

⁴²⁶ Digges, *The Unlawfulness of Subjects*, 33-34.

⁴²⁷ Skinner, *Visions of Politics, Volume 2*, 400.

⁴²⁸ Digges, *The Unlawfulness of Subjects*, 58; Salmon, *The French Wars*, 89-91.

⁴²⁹ Skinner, *Visions of Politics, Volume 2*, 400.

⁴³⁰ Digges, *The Unlawfulness of Subjects*, 61-63.

had power over his entire family. Digges showed how ridiculous the “universis minor” maxim was by rephrasing it within the context of a family: “*major singulis natis*”, yet “*totâ prole minor*”.⁴³¹ This was a rephrasing of the “universis minor” maxim that meant that the King was as a father “greater to each one born, yet smaller to all offspring”. Just like a father could not be inferior to his family, the King could not be “universis minor” to his kingdom, since it was essential for monarchies to place paternal power in the King. Digges showed how he had proven this earlier in *Answer to a Printed Book*, although he did not mention the *Observations* by name.⁴³²

Digges condemned the “universis minor” maxim as “lamentable sophistry” that he needed to disprove.⁴³³ This was because his Parliamentarian opponents depended on the “syllogisme” that Parliament was greater than the King, which was built upon the false assumption that the two Houses of Parliament “was” the Parliament. Digges argued that Parliament included the King and the Two Houses, which meant that the King had more power in Parliament than outside it. He condemned the “universis minor” part of the maxim as absolutely false, since the King was “caput Parliamenti”, head of Parliament. Since Parliament was the head and body of the realm, there could not be a kingdom without the King. In the same way that the King was above one individual, “singulis major”, he was above the entire kingdom as well, “universis major”. Digges’s critique of the maxim here exemplified the main way Royalists critiqued it throughout the Civil War.

Fittingly, the last time Digges referenced the maxim, was to summarize why the King was not “universis minor” in six points.⁴³⁴ The first point was that it was false that the Houses of Parliament were superior to the King, since he could convene and dissolve Parliament whenever he wanted. The King had not breached their rights by raising taxes without their consent, since the kingdom had suffered under burdensome debt. Secondly, all the King’s subjects were individually obligated to obey the King, which meant that it was a “strange phansie” to abstract these individuals into a “body politique” that could resist the King. How could these individuals act together against the King if they were all individually bound by divine law and their own oaths of obedience to obey the King? Digges explained how he had discussed this in *An Answer to a Printed Book*, page 17-18.

⁴³¹ Digges, *The Unlawfulness of Subjects*, 62.

⁴³² Digges, *The Unlawfulness of Subjects*, 62-63; Digges, *An answer*, 10; Mendle, *Henry Parker*, page 104.

⁴³³ Digges, *The Unlawfulness of Subjects*, 146-148.

⁴³⁴ Digges, *The Unlawfulness of Subjects*, 149-151.

The third point was that the King's subjects had acknowledged themselves as his subjects in Parliament and could therefore not choose to disregard their previous oaths after benefitting from the King's rule.⁴³⁵ Fourthly, the laws of the land had entrusted the King to protect "us", not the Houses of Parliament, which meant that the law was on the King's side. Fifthly, the Two Houses only represented subjects opposed to the King, while the King was the people's superior as their natural King and God's representative. They were bound by both "humane" and divine law to obey their King. Sixthly, even if the King was inferior to the whole people, (which he was not), this did not mean that the Houses of Parliament were superior to him. They "were" the people only for purposes nominated by the law, i.e. consenting to laws or taxes upon the subject. This was the last time Digges referenced the "universis minor" maxim, and exemplified and summarized many of the reasons that Royalists opposed the usage of it.

Digges provided many different reasons for why the "universis minor" maxim was incorrect. He argued that the Houses of Parliament had misused this maxim to argue that they were superior to the King, which was false since Parliament included the King.⁴³⁶ Although Digges primarily associated this doctrine with Jesuit and Puritan writers, he condemned Protestant writers like Junius Brutus for failing to condemn it.⁴³⁷ Likewise, he condemned Parliamentary writers like Henry Parker for reproducing these ideas. Digges firmly stated that the King was both "singulis major" and "universis major", since all the King's subjects were individually and collectively obligated to obey him, in the same way a child owed obedience to their father.⁴³⁸

Dudley Digges died on 1 October 1643 of Camp Fever, although his *Unlawfulness* remained the most well-known Royalist text throughout the entire period.⁴³⁹ His critique of Parker's maxims exemplified how many other Royalist writers reacted to Parliament's usage of them. Their opposition to these maxims, especially the "universis minor" maxim shows how intrinsic they had become to the Parliamentary justifications of resistance to the King, although not all Parliamentarian writers agreed with this maxim. I have treated Digges's critique of Parker's maxims as representative of the Royalist critique of these maxims.

⁴³⁵ Digges, *The Unlawfulness of Subjects*, 149-151.

⁴³⁶ Digges, *The Unlawfulness of Subjects*, 146-148.

⁴³⁷ Digges, *The Unlawfulness of Subjects*, 58; Salmon, *The French Wars*, 89; Skinner, *Visions of Politics, Volume 2*.

⁴³⁸ Digges, *The Unlawfulness of Subjects*, 61-63, 149-151.

⁴³⁹ Salmon, *The French Wars*, 89.

4.5 Philip Hunton, *A Treatise of monarchie* (1643)

It was not just Royalists that opposed Parliament's dependence on the "universis minor" maxim, Philip Hunton argued that it was incompatible with monarchy. Hunton took on an anti-Parkerian stance in his *A Treatise of monarchie*, published in May 1643, where he repudiated several of Parker's key arguments.⁴⁴⁰ Despite being a Parliamentarian, he sought to take a moderate approach between Royalist absolutism and Parker's Parliamentary sovereignty. He argued that England was a limited and a mixed monarchy, where the King cooperated with the two other estates, and neither held sovereignty without the other.⁴⁴¹

Just like Parker, Hunton based his arguments on the *Answer to the XIX Propositions*, although he argued that while it had given grounds to Parliament, it had also given grounds to the King.⁴⁴² Hunton distanced himself from Parker's arguments, particularly his dependence on the "universis minor" and "quicquid efficit tale" maxims, since they stripped all power away from the King. The "universis minor" maxim had recently been defended by another Parliamentarian writer, Charles Herle, against the Royalist writer Henry Ferne.⁴⁴³ Hunton criticized Herle for defending the "universis minor" maxim since it would strip all power away from the King and turn England into a democracy. This was undesirable since England was a mixed monarchy. Even though Hunton supported the Parliamentary cause, he opposed the usage of the "universis minor" maxim since it went too far, which shows that not all Parliamentarians supported it.

Hunton's *A Treatise of Monarchie* was split into two parts, the first discussed monarchies in general while the second discussed the English monarchy. It is within the third chapter of the second part of the treatise that Hunton criticized the maxim.⁴⁴⁴ This chapter had argued that England was a mixed monarchy, although he disagreed with Parker's interpretation of this mixed monarchy. A key question that needed to be answered was whether the authority of the two Houses were subordinate to the King and was derived from. Hunton argued that there were weighty arguments on both sides and provided several examples from both sides. It is in response to these arguments that Hunton criticized the "universis minor" maxim.

⁴⁴⁰ Salmon, *The French Wars*, 98-99; Mendle, *Henry Parker*, 98-99.

⁴⁴¹ Mendle, *Henry Parker*, 98-99.

⁴⁴² Mendle, *Henry Parker*, 98-99; Hunton, *A treatise of monarchie*, 37-40.

⁴⁴³ Ferne, *The Resolving of Conscience*, 34; Herle, *An Answer to mis-led Doctor Fearne*, 15-16.

⁴⁴⁴ Hunton, *A treatise of monarchie*, 39-46, particularly page 42-43.

There were three strong reasons for answering the question affirmatively.⁴⁴⁵ The first was that it was acknowledged that it was the King's Parliament, and it was therefore derived from him. Secondly, because the King had the power to call and dissolve Parliament. Thirdly, because he was acknowledged in the Oaths of Allegiance and Supremacy to be the head and supreme authority of the kingdom. These were, according to Hunton, some of the strongest arguments that proved this claim. He criticized "some" of his fellow Parliamentarians for how they had used the "universis minor" maxim to counter these reasons.

Hunton criticized Charles Herle for answering that the King was "singulis major", yet "Universis minor", and wondered whether this proposition of the "Observer" (Parker) should "be so much exploded".⁴⁴⁶ According to the "Observer", the two Houses of Parliament were "co-ordinate" to the King, which meant that he was their equal. Hunton argued that this was a "very overthrow of all Monarchy, and to reduce all Government to Democracy;". The kingdom was all the individual parts of the kingdom knitted together into one "body politick", which was united in the King. This meant that the King must be "universis major" too since the kingdom could not exist without him. According to Hunton, the way Parker and Herle had used the "universis minor" maxim was scandalous and incompatible with monarchy. This was the only time Hunton directly referenced the "universis minor" maxim, although he made his disdain for the maxim apparent.

These were the arguments that some misled writers had used to counter the claim that the Houses of Parliament were subordinate to, and derived from, the King.⁴⁴⁷ Hunton provided some argument that he argued could more convincingly counter this claim. Firstly, the authority of the Houses was legislative and could not be derived. The three estates could together create one supreme act and could therefore not be inferior to any individual part of the three estates. These were: the King, the House of Lords, and the House of Commons. Secondly, the goal of the two Houses had been to limit and prevent the excesses of the King, therefore their power could not be entirely derived from the King. Thirdly, England was a mixed monarchy, which meant that the two Houses could not be derived from the King and had reserved enough power for themselves to maintain their liberty.⁴⁴⁸ These were the arguments that Hunton found most convincing, while he criticized the "universis minor" maxim for being incompatible with monarchy.

⁴⁴⁵ Hunton, *A treatise of monarchy*, 42-43.

⁴⁴⁶ Hunton, *A treatise of monarchy*, 42-43.

⁴⁴⁷ Hunton, *A treatise of monarchy*, 42-43.

⁴⁴⁸ Hunton, *A treatise of monarchy*, 43-46; Salmon, *The French Wars*, 98-99.

Although Hunton only referenced the “universis minor” maxim once in *A treatise of Monarchie*, he clearly stated why he considered it dangerous, and why the other Parliamentarians should not use it. Hunton’s goal in *A treatise of Monarchie* had been to reconcile monarchical and Parliamentary views of sovereignty, and the dominant role of the “universis minor” maxim was damaging this cause.⁴⁴⁹ He believed that the ideas expressed by the maxim would lead to the overthrow of all monarchies, and turn them into democracies.⁴⁵⁰ Hunton considered a mixed monarchy the most desirable form of government, while democracy was associated with chaos. His criticism of the “universis minor” maxim shows that not all Parliamentarians agreed with the dominant role of the maxim, and the implications it could have for the Parliamentary opposition to the King.

4.6 William Prynne, *The Sovereigne Power* (1643)

William Prynne was a lawyer who had been commissioned by Parliament to justify their actions and was a staunch defender of the “universis minor” maxim. He published several voluminous texts to justify Parliament’s actions, several of which defended the maxim. His most notable text was the *Sovereigne Power of Kingdomes and Parliaments* published in four parts along with an appendix from March-August 1643.⁴⁵¹ It was written as a lawyer’s brief intended to provide punctual precedents and authorities to back up Parliament’s claims, since earlier defenses of Parliament had lacked this. Prynne was a Presbyterian and blamed the Civil War on a malignant “Popish” faction that was seeking to restore Catholicism.⁴⁵² He defended Parliament’s use of the “universis minor” maxim by arguing that the “Papists” had used this doctrine first, which meant that they had no reason to criticize Parliament for expressing a more moderate version of this doctrine.⁴⁵³

Prynne became publicly associated with the “universis minor” maxim and made frequent references to it throughout the Civil War.⁴⁵⁴ The first time he referenced it was in his *Aphorisms of the Kingdom*, published in 1642, shortly after Parker’s *Observations*.⁴⁵⁵ In it, he defended Parker’s use of the “universis minor” maxim and argued that the kingdom was superior to the King. Prynne’s most interesting uses of the “universis minor” maxim can be

⁴⁴⁹ Salmon, *The French Wars*, 98-99.

⁴⁵⁰ Hunton, *A treatise of monarchie*, 42-43; Mendle, *Henry Parker*, 98-99.

⁴⁵¹ Mendle, *Henry Parker*, 94-95.

⁴⁵² Prynne, *The Sovereigne Power, part 1*, preface; Prynne, *The Sovereigne Power, appendix*, 216-218; Lamont, *Marginal Prynne*, 1, 107; Tutino, “Huguenots, Jesuits and Tyrants”, 192.

⁴⁵³ Prynne, *The Sovereigne Power, part 1*, 5-7.

⁴⁵⁴ Salmon, *The French Wars*, 84; Weston, *Subjects and Sovereigns*, 78.

⁴⁵⁵ Prynne, *The Aphorismes*, 8.

seen in the *Sovereign Power of Kingdoms and Parliaments*, published in 1643. This was the largest and most important of Prynne's texts and contained extensive references to the *Vindiciae* in the appendix as well a translation of its third chapter. Although Prynne did not explicitly associate the "universis minor" maxim with the *Vindiciae*, he produced an English version of this maxim that he derived from the *Vindiciae*.⁴⁵⁶ Prynne was one of the few writers who openly associated this maxim with the *Vindiciae*, which is not surprising, since he was one of the few Parliamentary writers who were willing to openly agree with the *Vindiciae*.⁴⁵⁷

Prynne defended the usage of the "universis minor" maxim by Parliament and its early in his *Sovereign Power* against what he saw as "Papist" opposition by Royalist writers.⁴⁵⁸ He had been influenced by the usage of this maxim in a Parliamentary declaration from 2 November 1642, where the two Houses of Parliament had used it to attack the King's veto by characterizing themselves as two estates who together constituted the entire kingdom.⁴⁵⁹ Prynne used the "universis minor" maxim to argue that Parliament, and the kingdom which it represented, was the highest sovereign power in the kingdom and was above the King.

The "Papists" had objected to how Parliament and some of its advocates had used the "universis minor" maxim to argue that Parliament was "in some way superior to the King".⁴⁶⁰ These "Papists" had argued that the "universis minor" maxim went against the Oath of Supremacy, since it had argued that any person taking political office had sworn an oath to consider the King the head of the Church. Prynne answered that if the doctrine expressed by the maxim was traitorous or heretical, it had first been broached by the Papists long ago, most notably by the Conciliarists.⁴⁶¹ The Parliamentarians were using a more moderate version of this doctrine, therefore the "Papists" were unjustified in criticizing Parliament for using it.

The Conciliarists had used the doctrine expressed by the "universis minor" maxim to argue that the whole body of the Church was superior to the Pope.⁴⁶² Prynne argued that the

⁴⁵⁶ Prynne, *The Sovereign Power*, appendix, 143.

⁴⁵⁷ Salmon, *The French Wars*, 83-87; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

⁴⁵⁸ Weston, *Subjects and Sovereigns*, 62-64; Prynne, *The Sovereign Power*, part 1, 5; Prynne noted the usage of the "universis minor" maxim in: Parker's *Observations*, Charles Herle's *A fuller answer to Dr Ferne*, "others", and its use in a declaration by the Two Houses of Parliament on 2 November 1642.

⁴⁵⁹ Weston, *Subjects and Sovereigns*, 62-64; Salmon, *The French Wars*, 84.

⁴⁶⁰ Prynne, *The Sovereign Power*, part 1, 5.

⁴⁶¹ Prynne, *The Sovereign Power*, part 1, 5-7; Salmon, *The French Wars*, 83-87.

⁴⁶² Prynne, *The Sovereign Power*, part 1, 5-7; Salmon, *The French Wars*, 83-87.

Pope's role in the Church was analogous to the King's role in the kingdom, and that it was ridiculous for either of them to have more power than their kingdom or their church. The "Papists" had given five reasons for why the kingdom assembled in Parliament was superior to the King, just like the General Council of the Church was superior to the Pope. Firstly, kings were constituted by the kingdom and the people. Secondly, kings had been ordained for the people's and kingdom's welfare, not for the kings' welfare. Thirdly, since the kingdom and people had created kings, the kings were bound by the laws they had set. Fourthly, kings were bound by an oath to rule according to the laws. Fifthly, they had the power to depose kings if he condemned the laws and robbed his subjects. This was how the "universis minor" maxim had been used by the "Papists" which meant that they had the least reason of any to condemn Parliament for arguing for a more moderate claim than the "Papists" had done.

This was the only time Prynne explicitly referenced the maxim in the *Sovereigne Power of Kingdomes and Parliaments*, although he made much use of it throughout the text, especially in the appendix. Salmon has focused on a specific part of Prynne's appendix, which he associates with Prynne's uses of the maxim early in the first part of Prynne's text.⁴⁶³ According to Salmon, Prynne had argued that a similar doctrine had been developed by Catholic writers. Prynne stated that he preferred citing Protestant writers since they had expressed a more moderate version of this doctrine. Salmon's focus on this passage of the appendix is misleading, since Prynne did not actually cite the maxim in this part of the text, and it was several hundred pages after his first reference to the maxim.

Although Prynne does not make the connection between the "universis minor" maxim and the *Vindiciae* explicit in the part Salmon referenced, he clearly saw a similar doctrine in the *Vindiciae*. This can be seen from a passage on page 143 of the appendix, where he paraphrased an English translation of the "universis minor" maxim. "That as all the people are Superiour to the King, so are those Officers of State and Parliaments, who represent them, Superiour to Kings collectively considered, though every of them apart be inferiour to them."⁴⁶⁴ This was essentially the "universis minor" maxim directly translated into English, which shows that Prynne associated this maxim with the *Vindiciae*. Prynne was likely the only Parliamentarian writer who openly associated this maxim with the *Vindiciae*, although many other writers were likely aware of its connections to the *Vindiciae*.

⁴⁶³ Salmon, *The French Wars*, 84; Prynne, *The Sovereigne Power*, appendix, 187.

⁴⁶⁴ Prynne, *The Sovereigne Power*, appendix, 143.

4.7 John Maxwell, *Sacro-Sancta* (1644)

Another important Royalist writer who criticized Parker's use of the "universis minor" maxim was the Scottish Bishop John Maxwell who published his *Sacro-Sancta Regum Majestas* anonymously in 1644.⁴⁶⁵ Maxwell was one of the first Royalists to unequivocally argue that monarchy was the only divinely sanctioned form of government, and used patriarchal theory to do this.⁴⁶⁶ Although *Sacro-Sancta* was not explicitly an answer to Parker's *Observations*, Maxwell used it as a prime example of the views of the "new Statists", whose politics had created many errors.⁴⁶⁷ These "Statists" were the Parliamentary writers who had made the King derived from the multitude, while disregarding the fact that the King was exclusively constituted by God. The doctrine expressed by the "universis minor" maxim had been misused by both Jesuits and Puritans and was now being misused by the Parliamentarians.

One of the main ways Maxwell criticized Parker was by attacking the arguments he had used, especially the two maxims he had used and his use of "salus populi".⁴⁶⁸ Maxwell made extensive references to both of Parker's maxims and argued that they went against Scripture. Scripture had proven that the King was in no way derived from the people, "universis minor", but was exclusively derived from God.⁴⁶⁹ He argued that Parker had derived his "quicquid efficit tale, est magis tale" maxim from Rossaeus and Brutus.⁴⁷⁰ This meant that Maxwell associated at least one of Parker's maxims with the *Vindiciae*, and possibly both since Parker had used them together.

Maxwell criticized the "universis minor" maxim near the end of the first chapter, where he associated it with both Catholics and Puritans, who had hidden their treason under the cloak of religion and righteousness.⁴⁷¹ According to Maxwell, some recent writers had argued that all sovereign power was primarily in the multitude, "universitate civium", who had given it to the King, and only indirectly came from God.⁴⁷² Maxwell countered these ideas by stating that all Royal power came from God, and was in no way derived from the people. This meant

⁴⁶⁵ Salmon, *The French Wars*, 91-92; Mendle, *Henry Parker*, 123-130; Lee, *Popular Sovereignty*, 296-299.

⁴⁶⁶ Salmon, *The French Wars*, 91-92; Somerville, *Royalists and Patriots*, 29-37; Maxwell, *Sacro-sancta regum majestas*, 133.

⁴⁶⁷ Mendle, *Henry Parker*, 123-126.

⁴⁶⁸ Mendle, *Henry Parker*, 123-126.

⁴⁶⁹ Maxwell, *Sacro-sancta regum majestas*, 38.

⁴⁷⁰ Maxwell, *Sacro-sancta regum majestas*, 201-210; Mendle, *Henry Parker*, 124.

⁴⁷¹ Maxwell, *Sacro-sancta regum majestas*, 27-30.

⁴⁷² "universitate civium" has been interpreted as the "universis minor" maxim, since the surrounding context shows that Maxwell was criticizing it.

that opposing the King was the same as opposing God. All of this had been proven by Scripture, which Maxwell explained in the next chapter.

He provided several examples from Scripture that proved that the “universis minor” maxim was false. The first example of this was from Deut. 17, 14, 15, where the people of Israel had been commanded to “Set over *thee*” a King.⁴⁷³ Maxwell argued that this “thee” included everyone, which meant that the “universis minor” maxim was false, since they were all inferior to the King. The same Scriptural passage had shown that the people had irrevocably transferred the power to appoint the King, to God, which meant that he was divinely constituted and could not be resisted. Maxwell argued that Jesuit and Puritan writers had misread this passage to distort its meaning away from obedience to the King.

Maxwell argued that it was the language of “Canaan” or “Ashdod” to argue that the King was “minor universis, singulis major”.⁴⁷⁴ Scripture had proven the opposite through the example of Primogeniture, where the first-born was superior to his brothers and had power over them.⁴⁷⁵ It was not the people of Israel that had constituted King David, but God himself, which had been proven by 1 Sam. 16. 4.; Psal. 89. 19.⁴⁷⁶ God’s appointment of the King had done three things; it proved that power flowed from God to the King, that God’s influence made the “person” of the King sacred, and that the King’s power and authority was also made sacred. The “universis minor” maxim was wrong since it went against Scripture.

Although Maxwell did not explicitly associate the “universis minor” maxim with the *Vindiciae*, he argued that Parker had derived his second maxim, “quicquid efficit tale” from “Brutus” and “Rossaeus” who had abused it to place the subject over the King.⁴⁷⁷ Parker had used this maxim alongside the “universis minor” maxim, which suggests that Maxwell might have associated both maxims with the *Vindiciae*, although Maxwell does not state this.⁴⁷⁸ Maxwell spent the next 10 pages countering the “quicquid efficit tale” maxim by arguing that the King had been appointed by God, not the people. He argued that Parliament needed to distance themselves from Parker’s maxims, since they would inevitably weaken its power because the counties and corporations of England would claim to be superior to Parliament, which meant they could disregard its ordinances. Although Maxwell does not explicitly associate the “universis minor” maxim with the *Vindiciae*, Parker had used the “quicquid efficit tale”

⁴⁷³ Maxwell, *Sacro-sancta regum majestas*, 38-40; Deut. 17. 14-15.

⁴⁷⁴ Maxwell, *Sacro-sancta regum majestas*, 67.

⁴⁷⁵ Gen. 4. 7.

⁴⁷⁶ Maxwell, *Sacro-sancta regum majestas*, 68, 1 Sam. 16. 4.; Psal. 89. 19.

⁴⁷⁷ Maxwell, *Sacro-sancta regum majestas*, 201-210, Mendle, *Henry Parker*, 124.

⁴⁷⁸ Maxwell, *Sacro-sancta regum majestas*, 201-210, Parker, *Observations*, page 2, 8.

maxim alongside it, which implies that Maxwell might have associated both maxims with the *Vindiciae* even if he did not make this explicit.

The last time Maxwell referenced the “universis minor” maxim was in the last chapter, which was dedicated to countering many of the recent anti-monarchical arguments that the opponents of the King had used.⁴⁷⁹ These arguments were: that a mixed constitution was the best form of government, that “rex est singulis major, universis minor”, that the King existed for the sake of the people and many more. Maxwell would examine all these points in the “subsequent questions” with God’s help, although this was the last time he referenced the “universis minor” maxim. Although the “universis minor” maxim was only one of the arguments he sought to refute, it had been important for Maxwell to counter it.

It had been important for Maxwell to counter almost all of Parker’s arguments, since they went against Scripture and were very dangerous.⁴⁸⁰ Mendle argues that Maxwell considered the “universis minor” maxim merely a rephrasing of even more fundamental assumptions to Parker’s new “statism” that could be seen in the opening remarks of the *Observations*.⁴⁸¹ Maxwell countered these arguments by pointing to Scriptural proof that all power came from God, who had given it to the King. The King was in no way inferior to the people and was therefore both “singulis major” and “universis minor”. Maxwell’s critique of Parker’s arguments in his *Sacro-Sancta* influenced several notable responses to it, most notably Parker’s *Jus Populi* and Samuel Rutherford’s *Lex, Rex*.⁴⁸² Rutherford only made one brief reference to the “universis minor” maxim, and I have therefore focused on how Parker defended the maxim in *Jus Populi*.⁴⁸³

4.8 Henry Parker, *Jus Populi* (1644)

Parker was prompted by the many attacks on the *Observations* by many different Royalist writers to defend his main assertions. He published his *Jus Populi* anonymously around 9 October 1644, which was a more theoretical approach to politics than his earlier writing had been.⁴⁸⁴ He was influenced by Maxwell’s attacks on his arguments in Maxwell’s *Sacro-Sancta* and was prompted to reformulate his notion of popular sovereignty. Parker defended the “universis minor” maxim in mostly the same way that he had done in *Observations*,

⁴⁷⁹ Maxwell, *Sacro-sancta regum majestas*, 283.

⁴⁸⁰ Mendle, *Henry Parker*, 123-126; Lee, 294-296.

⁴⁸¹ Mendle, *Henry Parker*, 125.

⁴⁸² Parker, *Jus Populi*; Rutherford, *Lex, Rex*.

⁴⁸³ Rutherford, *Lex, Rex*, 21.

⁴⁸⁴ Salmon, *The French Wars*, 82-83; Mendle, *Henry Parker*, 126-136.

although his arguments were now based on the criticism it had received by its critics. Parker considered all of the assertions he had made in the *Observations* pivotal to his theory of Parliamentary sovereignty, but especially the “universis minor” maxim since it legitimized the Parliamentary resistance to the King. I have analyzed Parker’s uses of the “universis minor” maxim twice since it was so pivotal to the maxim’s role in the English Civil War.

Parker begins his *Jus Populi* by defending the three main assertions of the “Observer” which had recently been attacked by Royalist writers.⁴⁸⁵ These assertions were: that Princes derived their power from the people, that this power should be used for the people’s benefit, and that well-ordered states prioritized liberty over prerogative. The “universis minor” maxim naturally followed these assertions, and after this had been proven, it was undeniable that “salus populi” (happiness of the people) was the highest law, and so was “bonum publicum” (public good).

Parker turned to the origin of government to prove the validity of these assertions against Royalist critique by stating that they had misread Scripture. Royalists had, according to Parker, taken a great deal of superfluous effort and quoted many Scriptural texts to prove that all power came from God, that God appointed Kings, and that these Kings should therefore be obeyed as God’s “viceregents”.⁴⁸⁶ Although Parker agreed that power came from God, it was also dependent on “humane consent”. Neither did the King’s anointment make his power boundless or made his subjects powerless in all cases. Parker also did not dispute the claim that monarchs were God’s deputies but argued that limited monarchs and other mixed governments could challenge this privilege. It was for these reasons that the “universis minor” maxim was correct. Parker spent several of the next pages reassessing some of the Scriptural references that these Royalists had used.

Parker defended the maxim against what he considered his adversaries’ main arguments.⁴⁸⁷ He argued that there had been a moral degradation in the politics of “we Christians”, since they had let loose the reigns of sovereignty and given too much power to the King. Even Romans like Seneca and Emperor Maximus had argued that the Prince was inferior to the people. Parker noted that it was now considered treason and blasphemy to argue that the King was “universis minor”, or that his power could be restrained in any way. So far had the “Christians” degenerated in their politics that this undeniable truth had been understood in non-Christian Rome and denied in contemporary Christian England. Parker noted two main

⁴⁸⁵ Parker, *Jus Populi*, 1-2; Mendle, *Henry Parker*, 126-127.

⁴⁸⁶ Parker, *Jus Populi*, 2-3; Mendle, *Henry Parker*, 126-127.

⁴⁸⁷ Parker, *Jus Populi*, 24-29.

objections to this undeniable truth that had recently been put forward by “our adversaries” and sought to defend the “universis minor” maxim by refuting these objections.

The first objection was that these adversaries had denied that the “end” was more valuable than the “means”.⁴⁸⁸ These writers had used the example of Jesus to argue that Jesus (the mean) was superior to the “ends” (humanity) he had saved. Parker argued that Jesus could not have been a “mean” since he had voluntarily saved humanity, while the King was obligated to ensure the people’s happiness. The next example these writers had used was the example of the angels, although Parker argued that this was not applicable either, since they were acting on behalf of God, not humanity. The last example these writers had used was that this doctrine would make the lawyer and the physician superior to their clients. Parker argued that their skill was dedicated to the ones served by their skill, and that this was the case for the King as well, whose power should be exercised for the people’s benefit. The people’s happiness should be prioritised over the King’s prerogatives, which is why the criticism of the “universis minor” maxim was wrong.

The second objection was that it was impossible for the King to be both a lord and a servant in a State.⁴⁸⁹ Parker responded to this objection by stating the “universis minor” maxim; that while the King was superior to all individual subjects, “singulis major”, he was inferior to the whole state, “universis minor”. Although the Royalists disliked this doctrine, they could not disprove it, since there were more mixed or limited governments than there were absolute ones. These governments were, according to Parker, inevitably more civil, religious, and happy than absolute monarchies. Parker countered the claim that had recently put forwards by Royalists like Digges and Maxwell, that the King’s subjects were obligated to obey him in the same way a child was obligated to obey their father.⁴⁹⁰ He did this by arguing that Princes could only be considered the father of his subjects individually, “divisim”, not as a whole, “collectim”. The “universis major” maxim was not incompatible with the King’s power, since it would strengthen his ability to ensure the happiness of the people, since this was why the people had constituted him.

It had been important for Parker to defend the three main assertions he had made in the *Observations* after they had been relentlessly attacked by his Royalist opponents. Parker did

⁴⁸⁸ Parker, *Jus Populi*, 25-26; “Mean” in the sense that the ends justify the means, where the “ends” is the people’s happiness, while the King was considered the “means” to achieve this.

⁴⁸⁹ Parker, *Jus Populi*, 26-29.

⁴⁹⁰ Parker, *Jus Populi*, 28; Digges, *The Unlawfulness of Subjects*, 61-63; Maxwell, *Sacro-sancta regum majestas*, 133; Salmon, *The French Wars*, 89-96.

not just restate his earlier arguments but reformulated his notion of popular sovereignty in response to these attacks, particularly Maxwell's attacks in *Sacro-Sancta*.⁴⁹¹ Parker defended the "universis minor" maxim in many of the same ways that he had defended it in the *Observations*, although his arguments were influenced by the many attacks on it by its opponents. This maxim was pivotal to Parker's notion of popular sovereignty since it legitimized Parliament's resistance to the King. Despite the important role of Parker's *Jus Populi*, I have found no references to this text that have referenced his defense of the maxim.

4.9 The Role of the Maxim After 1644

Although the "universis minor" maxim played a pivotal role in the English Civil War, it was at its most influential from 1642 to 1644. This period was characterized by a focus on Parker's *Observations* and the arguments and maxims it had used. These ideas were discussed significantly less after 1644, possibly due to the rapidly changing Civil War context. As mentioned earlier, I have found no texts that referenced Parker's defense of the "universis minor" maxim in *Jus Populi*. There were very few references to the "universis minor" maxim from 1644 to 1648, and most of these are from either 1647 and 1648, during the renewed conflict between the King and Parliament.

There could be several possible explanations for the lack of references to the "universis minor" maxim in this period. A plausible explanation is that several relevant texts I have missed have not been digitized, since this would limit my ability to do a corpus search on EEBO. As mentioned in the introduction, EEBO is an abbreviation for the Early English Books Online, a digital database of transcribed primary sources. Although it is possible that I have missed an important text from this period, this is unlikely, since Salmon, Mendle and Lee have focused exclusively on the use of the "universis minor" maxim from 1642-1644.⁴⁹² Salmon analyzed the use of the maxim after the execution of the King, although this is outside the scope of this thesis. I can therefore state with some confidence that I have analyzed the most important texts that used the "universis minor" maxim throughout the English Civil War. There are several other notable uses of the "universis minor" maxim throughout the conflict after 1644 which are worth mentioning.

⁴⁹¹ Mendle, *Henry Parker*, 126.

⁴⁹² Salmon, *The French Wars*, 80-100; Mendle, *Henry Parker*, 70-136; Lee, *Popular Sovereignty*, page 292-299.

There were very few references to the “universis minor” maxim from 1645-1646, I have only found two brief references to it in this period. The first of these references was a Parliamentary text called *The Peoples plea* published in 1646 by John Robinson, which repeated many of Parker’s arguments.⁴⁹³ The second of these references is more interesting, since the second text that used the “universis minor” maxim seems to have been non-political. This text was called *Characters and elegies* and was published by Francis Wortley in 1646. He argued that a noble general should be “singulis major” to individual soldiers, but “universis minor” to the entire army.⁴⁹⁴ These are the only two references to the maxim I have found from the period from 1645-1646. The first phase of the English Civil War ended in 1646, which can explain why relatively few texts were written in this period.

It was not until 1647 that interest in the “universis minor” maxim was renewed due to renewed conflicts between the King and Parliament, led by the Cromwellian Independents. I have found four Royalist texts that opposed the use of the “universis minor” maxim and only one text that defended it. The most interesting of the texts that attacked it was *Children of Belial*, published in 1647 by Thomas Scott, who dedicated a third of this text to refuting this maxim that had been used by the “children of Delial.” (Parliament).⁴⁹⁵ He did this by showing how the “universis minor” maxim was sophistry and went against “Scripture, Fathers, Reason and the Law of England.”⁴⁹⁶

The only text that I have found that defended the “universis minor” maxim in 1647 was *Redintegratio Amoris*, written by John Cook, who would later become the leading prosecutor against the King.⁴⁹⁷ Cook noted that the “universis minor” maxim had been used by other writers to argue that the kingdom was superior to the King. He argued that this was the “voice of right reason”, since it was ridiculous to argue that the kingdom could do nothing if the kingdom was in danger. Although Cook only briefly mentioned the “universis minor” maxim, it is notable that the leading prosecutor of the King agreed with it.

Weston argues that the “universis minor” maxim likely saw broad acceptance within Parliamentary ranks late in the Civil War and notes its usage in the trial of the King by John Bradshaw, the judge.⁴⁹⁸ Although the “universis minor” maxim was only mentioned once in the trial documents, it was used to show that the trial of the King was legitimate since

⁴⁹³ Robinson, *The peoples plea*, 5.

⁴⁹⁴ Wortley, *Characters and elegies*, 10.

⁴⁹⁵ Scott, *Children of Belial*, 10-16.

⁴⁹⁶ Scott, *Children of Belial*, 10.

⁴⁹⁷ Kennedy, *English Revolution 1642-1649*, 133.

⁴⁹⁸ Weston, *Subjects and Sovereigns*, 78-79; Muddiman, *Trial of King Charles*, 115.

Parliament was superior to the King. Its use in this trial seems to have vindicated Hunton's fears that the "universis minor" maxim was incompatible with monarchy.⁴⁹⁹ Despite this, the defenders of the maxim had likely never intended for it to be used to justify the execution of the King and the abolishment of the monarchy. This shows how important these ideas had become to the English Civil War.

4.10 Conclusion

This chapter has analyzed the role the "rex singulis major, universis minor" maxim played in the English Civil War from 1642-1648, focusing on how Parliamentary and Royalist writers used it. This maxim played a pivotal role in the English Civil War in the period from 1642-1644. It was within this period that it saw its most active use by Parliamentary and Royalist writers, although it remained important throughout the entire conflict. It had encapsulated the doctrine of popular sovereignty of the *Vindiciae* and the Monarchomachs.⁵⁰⁰ It was introduced into the English Civil War by Henry Parker in 1642 in his *Observations upon some of His Majesties late answers and expresses*. Parker was likely influenced by its usage by the *Vindiciae* and the Monarchomachs, even if never openly stated it. The "universis minor" maxim quickly formed the basis for English theories of resistance but was at its most important from 1642-1644.⁵⁰¹ It was primarily during this period that the "universis minor" maxim played a pivotal role in the English Civil War.

The "universis minor" maxim was introduced into the English Civil War by Henry Parker in 1642 in his *Observations*, who had used it to argue that Parliament's actions were legal since it represented the entire kingdom.⁵⁰² Parker had used this maxim alongside the "quicquid efficit tale, est magis tale" maxim to argue that the people, represented by Parliament, was superior to the King since it had created him. He argued that this did not go against the King's prerogatives and powers. This was because the King was still superior to any private individual, "singulis major", but was inferior to the kingdom as a whole, "universis minor", thus not usurping the King's rights. Although Parker never openly stated where he got these maxims from, he was likely influenced by the *Vindiciae*, since he introduced the maxim in the same sentence that he used the kingdom of France as an example to avoid.

⁴⁹⁹ Hunton, *A treatise of monarchie*, 42-43.

⁵⁰⁰ Salmon, *The French Wars*, 7.

⁵⁰¹ Salmon, *The French Wars*, 135, 82-83; Weston, *Subjects and Sovereigns*, 61-65.

⁵⁰² Parker, *Observations*, 2, 8.

Mendle notes that Royalist writers “queued” to refute Parker’s *Observations* well into 1643, since it was considered so dangerous.⁵⁰³ Most of these writers focused on Parker’s main arguments, particularly the “universis minor” maxim. Some of the most notable Royalist writers who attacked Parker’s *Observations* were Dudley Digges and John Maxwell, since they were some of the only writers who associated Parker’s arguments with the *Vindiciae*. They both agreed that it was absurd for the King to be “universis minor” since it went against Scripture and was incompatible with monarchy. They primarily associated this doctrine with the Jesuits, although they noted its usage by the *Vindiciae*, which had derived it from them. Although Digges and Maxwell both disagreed with the “universis minor” maxim, they refuted it in different ways.

Dudley Digges argued that the King’s power had been usurped by the two Houses of Parliament, and that Parliament was powerless without the King. Although the people had played a hand in creating the King, this power had been made greater by God, and been irrevocably transferred to the King.⁵⁰⁴ The people had united all their paternal power in the King, which meant that obedience to the King was even stronger than obedience to one’s father, since it was essential for monarchies to place paternal power in the King.⁵⁰⁵ Digges argued that there could not be a kingdom without a King, which meant that the King was both “singulis major” and “universis major”.⁵⁰⁶ Despite Skinner’s claim that Digges associated this doctrine with Monarchomach writers like Junius Brutus and Buchanan, Digges primarily associated it with “Roman and Reformed Jesuits”.⁵⁰⁷ Rather than associating this doctrine with Monarchomach writers, he criticized them for failing to disprove this doctrine. This makes Digges one of the few writers who associated this doctrine with the *Vindiciae*, even if he argued that it had derived it from the Jesuits.

The Scottish Bishop John Maxwell was another Royalist writer who opposed the “universis minor” maxim since it went against Scripture.⁵⁰⁸ While Digges had argued that the people had irrevocably transferred their power to the King, Maxwell argued that the King had received this power exclusively from God, not from the people.⁵⁰⁹ This meant that the “universis minor” maxim was false, since the people had never created the King. Maxwell

⁵⁰³ Mendle, *Henry Parker*, 90.

⁵⁰⁴ Digges, *The Unlawfulness of Subjects*, 33-34.

⁵⁰⁵ Digges, *The Unlawfulness of Subjects*, 61-63.

⁵⁰⁶ Digges, *The Unlawfulness of Subjects*, 146-148.

⁵⁰⁷ Skinner, *Visions of Politics, Volume 2*, 397; Digges, *The Unlawfulness of Subjects*, 58; Salmon, *The French Wars*, 89-91.

⁵⁰⁸ Maxwell, *Sacro-sancta regum majestas*, 38-40, 67; Mendle, *Henry Parker*, 123-126.

⁵⁰⁹ Maxwell, *Sacro-sancta regum majestas*, 27-30.

argued that monarchy was the only divinely sanctioned form of government, because the King held paternal power over his subjects.⁵¹⁰ Maxwell associated Parker's "quicquid efficit tale, est magis tale" maxim with "Brutus" and "Rossaeus" and argued Parker had derived it from them.⁵¹¹ Since Parker had used this maxim alongside the "universis minor" maxim, Maxwell likely associated them both with the *Vindiciae*. Maxwell was one of the few Royalist writers who associated Parker's maxims with the *Vindiciae*, even if he had focused on Parker's second maxim.

Although Philip Hunton was a Parliamentarian, he considered the "universis minor" maxim incompatible with monarchy. He criticized Charles Herle for defending the "universis minor" maxim, and wondered whether this proposition of the "Observer" (Parker) should "be so much exploded".⁵¹² Even though Hunton supported the Parliamentary cause, he argued that England was a mixed monarchy. This meant that the doctrine expressed by the "universis minor" maxim was incompatible with monarchy, since it stripped all power away from the King. Even though Hunton only referenced the "universis minor" maxim once, he made his disdain for it abundantly clear. This shows that it was not just Royalist writers who opposed the maxim.

William Prynne was one of the only Parliamentarian writers who were willing to openly reference the *Vindiciae* and was likely the only Parliamentarian who openly associated the "universis minor" maxim with the *Vindiciae*. He defended Parliament's use of the "universis minor" maxim by pointing out that it had first been developed by the "Papists".⁵¹³ This meant that they were unjustified in criticizing Parliament for expressing a more moderate version of this doctrine. Prynne seems to be the only Parliamentarian writer who openly associated the "universis minor" maxim with the *Vindiciae*, which is understandable, since he produced the only English translation of the *Vindiciae* since 1588.⁵¹⁴

Henry Parker was prompted by the many attacks on the *Observations* to defend his main assertions, and published *Jus Populi* in 1644 to do it.⁵¹⁵ In it he defended the main assertions he had made in *Observations*, particularly the "universis minor" maxim. He did this by responding to some of the main criticisms of the "universis minor" maxim and proving

⁵¹⁰ Salmon, *The French Wars*, 91-92.

⁵¹¹ Maxwell, *Sacro-sancta regum majestas*, 201-210; Mendle, *Henry Parker*, 124.

⁵¹² Hunton, *A treatise of monarchy*, 42-43.

⁵¹³ Prynne, *The Sovereign Power*, part 1, 5.

⁵¹⁴ Prynne, *The Sovereign Power*, appendix, 143; Salmon, *The French Wars*, 83-87; Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

⁵¹⁵ Mendle, *Henry Parker*, 126-136; Salmon, *The French Wars*, 82-83.

that the kingdom was superior to the King. Parker considered the “universis minor” maxim pivotal to the Parliamentary cause, which is why he defended it against his Royalist opponents. Although Parker never explained where he got the “universis minor” maxim from, his use of it throughout the English Civil War played a pivotal role in making it the basis for English theories of resistance.⁵¹⁶

Although most of the references to the “universis minor” maxim can be found in the period from 1642-1648, it played a pivotal role throughout the entire conflict. The “rex singulis major, universis minor” maxim had encapsulated the doctrine of popular sovereignty of the *Vindiciae* and the Monarchomachs.⁵¹⁷ Parliamentarian writers like Henry Parker and William Prynne used it to argue that Parliament was superior to the King, although Philip Hunton considered it incompatible with monarchy. Royalist writers like Dudley Digges and John Maxwell criticised the “universis minor” maxim for stripping all power away from the King and considered it extremely dangerous. Only a few of these writers associated the “universis minor” maxim with the *Vindiciae*, although the ideas expressed by the *Vindiciae* played a pivotal role in the English Civil War. It was used during the trial of the King to argue that Parliament was superior to the King.⁵¹⁸ These ideas would play an important role after this period as well, although this is outside the scope of this thesis.

⁵¹⁶ Salmon, *The French Wars*, 135.

⁵¹⁷ Salmon, *The French Wars*, 4.

⁵¹⁸ Weston, *Subjects and Sovereigns*, 78-79; Muddiman, *Trial Of King Charles*, 115.

Chapter 5 - Conclusion

The *Vindiciae* played a pivotal role in the English Civil War since its ideas were used to justify the Parliamentary resistance to the King. The most obvious influence of the *Vindiciae* can be seen from how Parliamentarian writers like William Prynne and Samuel Rutherford openly cited the *Vindiciae* before 1648. They used the *Vindiciae* to argue that the King was superior to the people and should be resisted if and when he failed to uphold his obligation to them. Prynne's translation of the third chapter played an important role in how the full 1648 translation would be understood, but it had little immediate influence in the conflict itself.⁵¹⁹ The ideas of the *Vindiciae* played a much more important role, particularly the "rex singulis major, universis minor" maxim, which became the focus for much of the early literary debates of the Civil War. This maxim had been introduced into the English Civil War by Henry Parker, likely inspired by the *Vindiciae*, and would eventually form the basis for English theories of resistance during the Civil War.⁵²⁰ These ideas continued to exert an important influence long after the Civil War as well, although it was within the English Civil War that it played its most important role.

It was likely not a coincidence that it was Presbyterians like William Prynne and Samuel Rutherford who openly associated themselves with the *Vindiciae* since they held many of the same Calvinist views that the author of the *Vindiciae* had held. They both considered the author of the *Vindiciae* an authoritative Scriptural authority whose interpretation of Scripture they held in high regard.⁵²¹ Rutherford's covenantal framework was based on the *Vindiciae*, which shows how highly he regarded it.⁵²² Both Prynne and Rutherford used many of the examples that the *Vindiciae* had used, since it had discovered these eternal truths. Prynne showed how the *Vindiciae* had proven that the kingdom of Israel had not been an absolute monarchy, and that the people of Israel had had the power to punish the King for his idolatrous actions or breach of the covenant.⁵²³ Rutherford followed a similar approach, and referred to Junius Brutus as an authoritative Scriptural authority that had proven that both the people and the King were responsible for maintaining the covenant with God.⁵²⁴ While they both agreed with the religious part of the *Vindiciae*, only Prynne referenced the "quasi-secular" part of the *Vindiciae*.

⁵¹⁹ Prynne, *The Sovereign Power, appendix*, 149-199; Gillespie, *Aarons rod*, 20; Tutino, "Huguenots, Jesuits and Tyrants", 191-195; McLaren, "Rethinking Republicanism", 35-42.

⁵²⁰ Salmon, *The French Wars*, 7, 82-83, 135; Parker, *Observations*, 2, 8.

⁵²¹ Prynne, *The Sovereign Power, appendix*, 143, 170; Rutherford, *Lex, Rex*, 99-100.

⁵²² Richards, "The Law Written in their Hearts", 154.

⁵²³ Prynne, *The Sovereign Power, appendix*, 137-138, 143.

⁵²⁴ Rutherford, *Lex, Rex*, 99-100.

Prynne's translation and reproduction of the third chapter of the *Vindiciae* has received extensive focus in the literature on the *Vindiciae* in the English Civil War, although there is much that has been overlooked.⁵²⁵ Most significantly, Prynne used the *Vindiciae* as an authoritative text that had proven and summarized many of the precedents of the kingdom's power over the King he had referenced earlier in the appendix. Prynne referenced many recent authors that had proven the kingdom's power over the King, and consistently used excerpts from the *Vindiciae* to summarize all of their arguments.⁵²⁶ Prynne's translation of the fourth chapter of the *Vindiciae* has been completely overlooked in the literature, which he turned on its head to argue that the subjects of a Prince had a duty to aid each other in resistance to a tyrant. Prynne held the author of the *Vindiciae* in very high regard and referenced and agreed with virtually all of the arguments of the *Vindiciae*. If you exclude the Bible, the *Vindiciae* was Prynne's most important authority in the entire appendix.

There were many different Royalist writers who argued that their Parliamentary opponents were reproducing the ideas of earlier Jesuit and Puritan writers. Dudley Digges criticized writers like Junius Brutus and Buchanan for failing to disprove the ideas expressed by the Jesuits, since all Protestants were obligated to condemn them.⁵²⁷ Henry Hammond, the King's chaplain, argued that writers like Junius Brutus were "perfect Jesuits" in their principles, and condemned these ideas as non-Protestant.⁵²⁸ John Bramhall noted that Parliamentary writers like Henry Parker had used the ideas developed by Roman and Reformed Jesuits, which included writers like Junius Brutus.⁵²⁹ These are some of the most notable Royalist writers who argued that the ideas expressed by the *Vindiciae* were derived from the Jesuits. They likely did this to tarnish their opponents' reputation by associating them with Catholicism.

There were several Royalist writers who criticised their Parliamentarian opponents for reproducing the ideas expressed by the *Vindiciae*, without directly associating these ideas with the Jesuits. The Scottish bishop John Maxwell argued that Henry Parker had derived one of his maxims from Junius Brutus and Rossaeus to place the subject over the King.⁵³⁰ The next two Royalist writers argued that England was an absolute monarchy and that the

⁵²⁵ Salmon, *The French Wars*, 83-87; McLaren, "Rethinking Republicanism", 35-42; Tutino, "Huguenots, Jesuits and Tyrants", 191-195; McClure, "Reflections on Political Literature", 239-243.

⁵²⁶ Prynne, *The Sovereign Power*, appendix, 149-199.

⁵²⁷ Skinner, *Visions of Politics*, Volume 2, 397; Digges, *The Unlawfulness of Subjects*, 58.

⁵²⁸ Hammond, *Of resisting the lawful*, 25-26; Salmon, *The French Wars*, 92-93.

⁵²⁹ Bramhall, *Serpent Salve*, preamble.

⁵³⁰ Maxwell, *Sacro-sancta regum majestas*, 201-210; Parker, *Observations*, 2, 8.

Parliamentarians were reproducing the ideas of Puritan, Calvinist writers like Calvin, Buchanan and Junius Brutus. Gryffith Williams argued that English rebels were currently employing the ideas of these Calvinist writers to justify their rebellion.⁵³¹ Peter Heylin held Calvin responsible for the current conflict between Parliament and the King, and that writers like Prynne were reproducing his ideas, although he does not mention Prynne's extensive use of the *Vindiciae*.⁵³² Heylin believed that Beza had written the *Vindiciae*, and held him responsible for all rebellions that had happened since the *Vindiciae* had been written.⁵³³ It is clear that there were many different writers who associated their Parliamentary opponents with writers like Junius Brutus, although none of them seem to have mentioned how Prynne and Rutherford used the *Vindiciae*.

The 'rex singulis major, universis minor' had encapsulated the *Vindiciae*'s theory of popular sovereignty and would play a pivotal role in the English Civil War. It was introduced into the English Civil War by Henry Parker in his *Observations* (1642) alongside the 'quicquid efficit tale, est magis tale maxim'.⁵³⁴ Parker had used them to argue that the People, represented by Parliament, was superior to the King since it had created him. This meant that Parliament was justified in disobeying the King, since it held sovereignty. The "universis minor" maxim was defended by several other Parliamentary writers, like William Prynne, Charles Herle and Samuel Rutherford.⁵³⁵ These writers used the maxim to argue that Parliament's actions were justified since the kingdom was collectively superior to the King. Only Prynne seems to have openly associated this maxim with the *Vindiciae*, which is understandable since he was one of the few writers who were willing to openly associate themselves with it.⁵³⁶ Not all Parliamentary writers agreed with the maxim, since Philip Hunton considered it incompatible with monarchy and argued it went too far.⁵³⁷

There were many Royalist writers who "queued" to respond to Parker's *Observations* well into 1643, since they considered it so dangerous.⁵³⁸ They considered the 'rex singulis major, universis minor' maxim absurd because the King was superior to his subjects both individually and collectively. The most notable of these Royalist critics were Dudley Digges and John Maxwell, since they were both influential Royalist writers, but were also some of

⁵³¹ Williams, *Vindiciae Regum*, 39-50.

⁵³² Heylin, *The Stumbling-block of disobedience*, 234, 254, 259, 261.

⁵³³ Heylin, *Aerius redivivus*, 23-24.

⁵³⁴ Salmon, *The French Wars*, 7, 82-83, 135; Parker, *Observations*, 2, 8.

⁵³⁵ Prynne, *The Sovereign Power*, part 1, 5; Prynne, *The Sovereign Power*, appendix, 143-144.

⁵³⁶ Prynne, *The Sovereign Power*, appendix, 143.

⁵³⁷ Hunton, *A treatise of monarchie*, 42-43.

⁵³⁸ Mendle, *Henry Parker*, 90.

the few writers who associated Parker's maxims with the *Vindiciae*. They both considered the maxim absurd since the King was both 'singulis major' and 'universis major' because the King's subjects were individually bound to obey the King. Digges associated this doctrine with "Roman and Reformed Jesuits", but criticized scholars like Buchanan and Junius Brutus for failing to condemn it, which could only be explained by malice.⁵³⁹ Maxwell dedicated a chapter of his pamphlet to countering Parker's 'quicquid efficit tale, est magis tale' maxim, which Maxwell argued Parker had derived from either the *Vindiciae* or from Rossaeus.⁵⁴⁰ Since Parker had used these maxims together, Maxwell likely associated them both with the *Vindiciae*, even if he did not make it explicit. While there were many other Royalist writers who criticized the 'universis minor' maxim, Digges and Maxwell were the only ones who directly associated it with the *Vindiciae*.

The *Vindiciae contra Tyrannos* played a pivotal role in the English Civil War in the period from 1642-1648, both directly through direct references to the *Vindiciae* or its author Junius Brutus, or indirectly through the use of the "rex singulis major, universis minor" maxim. Parliamentarian writers like Prynne and Rutherford used it to argue that the kingdom was superior to the King, while Royalist writers sought to discredit their Parliamentary opponents by associating them with texts like the *Vindiciae*. The "universis minor" maxim would become the basis of English theories of resistance and would become the focus of the literary debate in the early years of the conflict, although it would remain important throughout the entire Civil War.

Although this thesis has focused on the period from 1642-1648, the ideas expressed by the *Vindiciae* would play an important role in the period after this as well. A full English translation of the *Vindiciae* appeared in 1648, likely by Henry Walker.⁵⁴¹ Before this, the *Vindiciae* had only been available in Latin, it was now available in the vernacular. The full 1648 translation of the *Vindiciae* was altered by its usage before this, especially Prynne's translation of the third chapter in 1643. Prynne's focus on the "quasi-secular" part of the *Vindiciae* led to a secularization of the *Vindiciae*'s argument, which made the republican implications of this chapter intrinsic to the understanding of the entire text.⁵⁴² The *Vindiciae* would play an important role in defending and justifying the execution of the King, contrary to Prynne's intentions. It is worth remembering that Prynne might have been willing to accept

⁵³⁹ Digges, *The Unlawfulness of Subjects*, 58; Salmon, *The French Wars*, 89-91; Skinner, *Visions of Politics, Volume 2*, 397.

⁵⁴⁰ Maxwell, *Sacro-sancta regum majestas*, 201-210, Mendle, *Henry Parker*, 124.

⁵⁴¹ Garnett, *Law in the Vindiciae*, 887-891.

⁵⁴² Tutino, "Huguenots, Jesuits and Tyrants", 191-195.

the deposition of the King by a properly constituted Parliament, although he was unwilling to accept the Rump Parliament's decision to depose the King.⁵⁴³ He also strongly opposed the abolition of the monarchy. Although Prynne had never intended for the *Vindiciae* to be used in this way, it was outside his control after he had introduced it into the conflict.

The ideas of popular sovereignty of the *Vindiciae* have played a pivotal role to the development of modern ideas of popular sovereignty and liberty, although its ideas weren't particularly democratic. Despite the importance of the *Vindiciae* to the development of modern ideas of popular sovereignty, the *Vindiciae*'s conception of popular sovereignty wasn't very democratic. It would be anachronistic to condemn it for not expressing "democratic" ideas, and it is worth remembering that these ideas were radical for its time. The *Vindiciae* argued that the "people" only existed as a fictitious legal person that could only act through the people that represented it, the lesser magistrates, who were primarily the nobility. This was a conception of popular sovereignty that emphasized the role of the aristocracy as the enforcers of the people's power, who could utilize it on their behalf. The *Vindiciae* argued for a form of mixed constitution with a balance between the monarchical, aristocratic and democratic elements of the government. It was this view of popular sovereignty that was the primary focus of the Parliamentarians during the English Civil War, at least until the execution of the King in 1649. Despite this, the ideas of the *Vindiciae* had exerted an important influence that impacted the course of the conflict and the justifications for resistance to the King.

The *Vindiciae* continued to play an important role after the English Civil War and influenced several important writers. It would be used in the period after the Restoration, and the period after this.⁵⁴⁴ The *Vindiciae* was on John Locke's reading list around the time he was writing his *Second Treatise*, although he did not reference it directly.⁵⁴⁵ The University of Oxford burned several texts that were deemed hostile to the King in 1683, these texts included: the *Vindiciae*, Rutherford's *Lex, Rex*, Buchanan's *de Juri Regni apud Scotos*, Hobbes's *Leviathan* and several other texts.⁵⁴⁶ A text called *Political Aphorisms* appeared in 1690 that plagiarized both the *Vindiciae* and both of Locke's two treatises, and combined their ideas.⁵⁴⁷ John Adams, one of the American founding fathers, stated that the *Vindiciae* was one of the important texts that "came upon the stage" during the English Civil War, alongside

⁵⁴³ Kennedy, *English Revolution 1642-1649*, 119.

⁵⁴⁴ Salmon, *The French Wars*, 123-162.

⁵⁴⁵ Salmon, *The French Wars*, 136-137.

⁵⁴⁶ Killeen, *The Political Bible*, 174; Gillett, *Burned Books*, 517; McLaren, "Rethinking Republicanism", 25.

⁵⁴⁷ Tutino, "Huguenots, Jesuits and Tyrants", 176.

Harrington, Milton and others.⁵⁴⁸ Although Adams only briefly referenced the *Vindiciae*, it is interesting that he would associate it with the English Civil War rather than its original version in 1579.

The *Vindiciae contra Tyrannos* developed played a pivotal role in the English Civil War through either direct references to it or its author Junius Brutus, or indirectly through references to the “universis minor” maxim. The ideas of the *Vindiciae* remained important long after it had been written in 1579 in response to the St. Bartholomew’s Day Massacre in 1572, and for many years after the English Civil War. The *Vindiciae* was considered an extremely dangerous text by the reigning monarchs of Europe since it stripped most of the King’s power away from them. It had separated the “office” of the King from the “person” of the King, which meant that he was responsible for fulfilling the purposes he had been constituted for. This meant that it was conceivable for later thinkers to conceive of a government without all power concentrated in the King. The ideas developed by the Monarchomachs, exemplified by the *Vindiciae*, have played a pivotal role in the development of modern ideas of popular sovereignty. Many of the important texts that were written during the English Civil War were deeply influenced by the ideas of the *Vindiciae*, whether directly or indirectly. These ideas would play an important role for many years after this conflict, in England, America and elsewhere, although it was during the English Civil War that these ideas played its most important role.

⁵⁴⁸ Adams, *The Works of John Adams*, vol. 6, 6; MacArthur, “The *Vindiciae Contra Tyrannos*”, 286.

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