The Reluctant Regicide? Thomas Wayte and the Civil Wars in Rutland

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Abstract: This article contributes to recent historiographical debates concerning the trial and execution of Charles I by examining the experiences of one of his least known judges, Thomas Wayte, the parliamentarian governor of Rutland. It will examine his career to highlight his possible motives for signing the king's death warrant before highlighting the importance of his post-Restoration testimony for understanding the legal proceedings during the last days of Charles I.

Figure 1: Portrait, thought to be of Colonel Thomas Wayte, by kind permission of Theodora Wayte.

In view of the substantial rethinking of the king's trial and execution over the last ten years, in which the identity and concerns of the regicides have been subjected to close scrutiny, it is curious that Thomas Wayte has remained such a shadowy figure. Historians have afforded him scant attention, or, like Samuel Rawson Gardiner, appear to have left him unnoticed.[1] This may be because the role played by Wayte as parliamentarian governor of Rutland seems to have been lost on the great contemporary writers the earl of Clarendon and John Rushworth. Wayte was neglected even by his comparative neighbour, Lucy Hutchinson at Nottingham, whilst civil war historians since have afforded Rutland scant attention. This would suggest Wayte's role in the civil war was largely peripheral, and scarcely of note beyond his native county, but his presence among the king's judges in 1649 invites us to think again. After the Restoration Wayte testified that he was forced to participate in the trial and that doubt remained at the time over its outcome. At first glance this would appear to strengthen the argument – advanced by Sean Kelsey in a recent series of articles – that many of the king's judges were reluctant, uncertain and far from united, and that therefore the final verdict was far from inevitable.[2] Kelsey's thesis has proved

I am very grateful to Hilary Crowden, Sue Howlett and Richard Cust for discussion of Colonel Wayte, and for the comments raised by the Rutland Local History Society in response to a talk based on an earlier draft of this article. I would also like to thank Theodora Wayte for her kind permission to publish the photograph of the painting thought to be her ancestor, Colonel Thomas Wayte.

[1] Wayte is present only in the appendices of D. Brunton and D.H. Pennington, *Members of the Long Parliament* (London, 1954); B. Worden, *The Rump Parliament, 1648-1653* (Cambridge, 1974).

[2] S. Kelsey, 'Staging the Trial of Charles I', in J. Peacey (ed.), *The Regicides and the Execution of Charles I* (Basingstoke, 2001), 71-93; S. Kelsey, 'The Death of Charles I', *Historical Journal*, XLV (2002), 727-54; S. Kelsey, 'The Ordinance for the Trial of Charles I', *Historical Research*, LXXVI (2003), 310-31; S. Kelsey, 'The Trial of Charles I', *English Historical Review*, CXVIII (2003), 583-616; S. Kelsey, 'Politics and Procedure in the Trial of Charles I', *Law and History Review*, XXII (2004), 1-26.

influential, with Michael Braddick and Richard Cust making similar arguments since.[3] Yet more recently Kelsey's case has come under sharp criticism from Clive Holmes and Mark Kishlansky who argue that he has overblown the last-ditch attempts to negotiate with Charles I, and that his account is based on the wishful thinking of royalist newsletter writers and ill-informed journalists like Marchamont Nedham.[4]

In order to address whether Charles 'knew that he was doomed' from the outset of the trial, or whether the proceedings were rather a 'final bid for a peaceful settlement, not a prelude to king-killing', this article will take a fresh look at the motives of Thomas Wayte, one of the more obscure of the trial commissioners.[5] Contemporary royalist propaganda and Tory historiography since have depicted the regicides as religious fanatics, social subversives, hypocrites and low-born parvenus bent on overturning the natural God-given order. Yet on the other hand recent research into these men and their own testimony, admittedly in the aftermath of the Restoration, suggests very mixed motives and that some trial commissioners may well have been coerced and reluctant. This article will review Wayte's origins and civil war experiences to examine what it was that might have brought him to sign his name on the death warrant of his king.

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[3] M. Braddick, *God's Fury, England's Fire: A New History of the English Civil Wars* (London, 2008), 564; R. P. Cust, *Charles I: A Political Life* (Harlow, 2005), 459.
[4] C. Holmes, 'The Trial and Execution of Charles I', *Historical Journal*, LIII (2010), 289-316; M. Kishlansky, 'Mission Impossible: Charles I, Oliver Cromwell and the Regicide', *English Historical Review*, CXXV (2010), 844-74.
[5] Holmes, 'The Trial and Execution of Charles I', 316, Kelsey, 'The Death of Charles I', 727.

After the Restoration, in the flood of invective against the regicides, derision was heaped upon Wayte's social origins. William Winstanley's *Loyal Martyrology* decried Wayte's 'very mean beginning'.[6] A generation later, in writing to fuel the Tory Reaction after the Exclusion Crisis, William Assheton referred to 'Thomas Wait of obscure Birth', in a tract that portrayed all the regicides as low born, tradesmen, or poor knights on the make.[7] In 1798, in reaction to the French Revolution, the Reverend Mark Noble suggested that Wayte was the son of an alehouse-keeper at Market Overton and that he basely encompassed the king's death merely to protect the personal gains that he had made from the war.[8] There was a kernel of truth here as Wayte's father did own tenements in Market Overton, yet he was no tapster, but a gentry landowner from Wymondham.[9] Although the family does not appear in the 1619 heraldic visitations of Leicester or Rutland, Wayte's pre-war background indicates his gentlemanly status.[10] He was admitted to Gray's Inn on 5 March 1634 to complete his legal education.[11] By 1642 he held estates at

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[6] W. Winstanley, *The Loyall Martyrology, or, Brief Catalogues and Characters of the Most Eminent Persons who suffered for their Conscience during the late times of Rebellion either by Death, Imprisonment, Banishment, or Sequestration together with those who were slain in the Kings service: As also dregs of treachery: with the catalogue and characters of those regicides who sat as judges on our late dread soveraign of ever blessed memory* (London, 1665), 142.
[7] W. Assheton, *The Cry of Royal Innocent Blood Heard and Answered being a True and Impartial Account of Gods Extraordinary and Signal Judgments upon Regicides* (London, 1683), 116.
[8] M. Noble, *Lives of the English Regicides*, 2 vols (London, 1798), II, 310-11.
[9] A. J. Hopper, 'Waite, Thomas (fl. 1634-1668), parliamentarian army officer and regicide', *Oxford Dictionary of National Biography* (Oxford, 2004); S. E. Jones, 'Waite, Thomas (c.1616-68) of Market Overton, Rutland', HoP draft, in forthcoming S. K. Roberts (ed.), *House of Commons 1640-1660*. I am grateful to the History of Parliament for permission to cite this unpublished draft essay.
[10] J. Fetherston (ed.), *The Visitation of the County of Leicester in the Year 1619* (Publications of the Harleian Society, II, 1870); G. J. Armytage (ed.), *The Visitation of the County of Rutland in the Year 1618-19* (Publications of the Harleian Society, III, 1870).
[11] J. Foster (ed.), *The Register of Admissions to Gray's Inn, 1521-1889*, 2vols (London, 1889), I, 204.

Keythorpe, Goadby and Tugby.[12] In March 1642, Wayte was High Sheriff of Rutland, hardly an appointment open to those considered non-gentry. It was in this capacity that Wayte intercepted Charles I on his journey to York, to present a county petition advising him to return to his parliament.[13]

From an early stage in the First Civil War, Wayte aligned himself with the local parliamentarian magnates: Henry Grey, earl of Stamford, and his son, Thomas Grey, Lord Grey of Groby. With Stamford absent in the west, Lord Grey was appointed commander-in-chief of the Midland Counties Association on 16 January 1643, and Wayte served as a captain in his forces.[14] By March 1643, Wayte operated from Rockingham castle, and it was rumoured he intended to install himself in Lord Campden's House.[15] Two months later, when Rockingham's garrison was finally noticed in Oxford, the royalist newsbook, *Mercurius Aulicus*, mocked it as only existing to overawe the local people and facilitate Cromwell's plundering raids across the region.[16] In September 1643 Wayte was appointed a sequestration commissioner for Rutland. His fellow sequestrators were the county committeemen Sir Edward Harrington, Evers Armyn, Christopher Browne, Robert Horsman the elder and younger, and John Osborne, with whom he was soon at odds.[17] Wayte's quarrel was likely to be linked with the infighting in neighbouring

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[12] *Rev Edmund Field MS*, Historical Manuscripts Commission, 5th Report, Part 1, Report and Appendix (London, 1876), 387.
[13] British Library (hereafter BL), Thomason, 669.f.6(1), *A Copie of the Petition presented to the Kings Majesty by the High Sheriffe accompanied with many hundreds of gentlemen and free-holders of the county of Rutland, as his Majesty passed through their county towards Yorke: to which his Majesty was pleased graciously to promise an answer* (London, 1642).
[14] E. T. Bradley, *rev*. S. Kelsey, 'Grey, Thomas, Baron Grey of Groby (1622-1657), regicide', *ODNB*.
[15] *House of Lords MS*, Historical Manuscripts Commission, 5th Report, Part 1, Report and Appendix (London, 1876), 79.
[16] BL, Thomason, E.103(10), *Mercurius Aulicus*, 19th week, 7-13 May (Oxford, 1643), 237.
[17] *A Declaration and Ordinance of the Lords and Commons assembled in Parliament, for the seizing and sequestring of the estates, both reall and personall, of certain kinds of notorious*

Leicestershire, which had emerged over relationships with Lord Grey and membership of the county committee.[18] In March 1643 Sir Edward Hartopp took umbrage against Grey, grumbling: 'perchance my Lord Grey is pleased to think I am too considerable to join with him, and rather desires creatures of his own making… I honour and respect him from my heart, but I am afraid he is transported with particular counsels, that aim at their own ends.'[19] By June 1644, Robert Horsman complained that Grey had even confined Captain Hatcher and other fellow parliamentarians to prison in Leicester.[20]

Rutland has not gone completely unnoticed in academic debate concerning the impact of the fighting. Charles Carlton observed that there were no military incidents in Rutland during the civil war, while Martyn Bennett argued that the royalists restrained themselves from plunder and widespread abuse of civilians there for strategic reasons. Simon Osborne criticized both for downplaying the activism of Belvoir's royalist garrison and its parliamentarian counterpart, that established by Thomas Wayte at Burley-on-the-Hill.[21] Wayte arrived at Burley late in 1643, first mustering a company of foot and troop of harquebusiers there on 6 December.[22] The current house at Burley was begun in the 1690s, close to the site of the previous mansion built by James

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delinquents, to the use, and for the maintaining of the army raised by the Parliament, and such other uses as shall be directed by both Houses of Parliament, for the benefit of the Common-wealth (London, 1643), 18.

[18] D. Fleming, 'Faction and Civil War in Leicestershire', *Transactions of the Leicestershire Archaeological and Historical Society*, LVII (1981), 33.

[19] *Cowper MS*, Historical Manuscripts Commission, 12th Report, Appendix, Part II (London, 1888), 331.

[20] *House of Lords MS*, Historical Manuscripts Commission, 6th Report, Part 1, Report and Appendix (London, 1877), 15.

[21] M. Bennett, 'Leicestershire's Royalist Officers and the War Effort in the County 1642-1646', *Transactions of the Leicestershire Archaeological and Historical Society*, LIX (1984-5), 47-9; C. Carlton, *Going to the Wars: The Experience of the British Civil Wars, 1638-1651* (London, 1992), 206; S. C. Osborne, 'Popular Religion, Culture and Politics in the Midlands, c.1638–1646' (University of Warwick, D.Phil. thesis, 1993), 201-3.

[22] The National Archives (hereafter TNA), SP 28/121A, fo. 373r.

I's favourite, George Villiers, duke of Buckingham. In 1654 John Evelyn believed it was 'reckoned among the noblest seats in England'. It had hosted the famous incident when the dwarf Geoffrey Hudson was presented in a pie for the entertainment of Charles I and Henrietta Maria. The house occupied a commanding position, dominating the local countryside and so it became a natural choice for Wayte's garrison.[23]

The Burley House muster rolls survive in the National Archives, along with part of Wayte's accounts.[24] They show that his forces retained a reasonable strength through the first civil war, peaking at 112 foot in November 1645 and 100 cavalry in January 1644. Wayte spent £150 on their 'entertainment' at their first muster 'in lieu of their raising and having no advance and they being then in actual service.'[25] This entailed a sizeable pay bill of over £100 per week, which sometimes grew to nearer £200.[26] From the outset the garrison included a commissary general, surgeon, farrier and saddler, as well as John Rowell, the Presbyterian-inclined rector of Little Casterton, who was recruited as chaplain. It is not known whether Rowell was Wayte's choice but his conformity to the Anglican Church in 1662 suggests that if he was, then Wayte's later reputation as a notorious Independent may have been undeserved.[27]

The garrison was very soon in arrears, for in May 1644, the Committee of Both Kingdoms wrote to the Rutland Committee, urging 'payment of some part of the arrears due to the garrison of Burley, and [to provide for] their further maintenance'.[28] Later, on 8 October 1644 the House of Commons approved a weekly assessment for the maintenance of the Rutland

[23] W. Page (ed.), *Victoria County History of Rutland*, 2 vols. (London, 1935), II, 112-3.
[24] TNA, SP 28/121A, fos. 373-87; SP 28/133, fos. 13-14.
[25] Osborne, 'Popular Religion, Culture and Politics', 264.
[26] R. Sherwood, *Civil War in the Midlands, 1642–1651* (Stroud, 1992), 83.
[27] A. Laurence, *Parliamentary Army Chaplains, 1642-1651* (Woodbridge, 1990), 169; TNA, SP 28/121A, fo. 373r.
[28] TNA, SP 21/7, fo. 67; TNA, SP 21/18, fo. 91.

forces.[29] Wayte's successful recruitment suggests some local popular support, while the garrison's consistent musters thereafter suggest that pay was at least semi-regular in keeping these numbers together. This may have been owing to the local nature of the service expected of Burley's garrison, as it contrasts starkly with the failures experienced by the earl of Manchester's Eastern Association Army when it tried to recruit in Rutland in April and October 1644.[30]

The Rutland Committee remained across the Northamptonshire border at Rockingham Castle and was soon perceived by Wayte as a hindrance to his operational independence. He complained to Lord Grey about its commander, Captain Robert Horsman of Stretton. Wayte's complaint appears to have been counter-productive as his letter was read in the House of Commons on 23 December 1643, and Horsman was endorsed as governor, while Grey was warned not to withdraw supply from the castle.[31] Around Christmas 1643 Wayte enhanced his political position by a minor local victory over the royalists based at Belvoir Castle. On 25 December Lord Grey wrote to Speaker Lenthall that Wayte had raided royalist quarters at Waltham-on-the-Wolds, and won a cavalry engagement on Sproxton Heath, despite being badly outnumbered. Forty-six prisoners were taken, who all claimed to be common soldiers, although Lord Grey suspected otherwise.[32] In the process, it was claimed Wayte's men killed Major Plunket and wounded Sir Gervase Lucas, much to the celebration of the Godly polemicist John Vicars, who crowed that Plunket was 'a notorious *Irish Rebell*' and 'the vilest villain among all the *Cormorants* of *Bever*'.[33] The victory raised Wayte's profile when letters from Grey and

[29] *Commons' Journals*, III, 655.
[30] Osborne, 'Popular Religion, Culture and Politics', 231, 250-1.
[31] *Commons' Journals*, III, 351.
[32] *Portland MS*, Historical Manuscripts Commission, 29, 13th Report, Appendix, Part 1 (London, 1891), I, 165.
[33] BL, Thomason, E.312(3), J. Vicars, *Gods Arke Overtopping the Worlds Waves, or The Third Part of the Parliamentary Chronicle* (London, 1645), 110-11.

Wayte were read in the Commons on 30 December, and Wayte was soon reappointed as High Sheriff of Rutland.[34] Although a reverse followed when Wayte's troopers were among the parliamentarians vanquished by Prince Rupert before Newark in March 1644, John Vicars continued to celebrate the deeds of the Burley garrison in raiding Belvoir's outlying quarters and carrying off livestock.[35]

In March 1644 Thomas Wayte renewed his complaint against Rockingham's governor, Robert Horsman, accusing him of financial corruption and impeding Wayte from fulfilling Grey's orders.[36] On 7 March 1644, a warrant was issued for Horsman's arrest by Lord Grey's marshal.[37] Horsman faced a court martial at St Albans but rallied his defence, declaring his innocence to Sir Gilbert Pickering, MP for Northamptonshire. On 16 March the House of Commons ordered the court martial suspended until the Committee for Leicestershire examined the whole affair.[38] Soon after, Horsman retaliated by complaining about the state of Burley on 6 June, claiming that there were 'not ten men left to maintain that garrison'. He warned that if the Rutland committee were not reinforced in strength, they ought to be discharged of their duty, for they would surely be 'constrained to leave the county to the insolencies of open enemies and false friends'.[39] His fellow committee man, Evers Armyn visited Burley, and alleging it nearly empty, initiated the raising of three troops of horse under Major Layfield, Captain Clarke and

[34] *Commons' Journals*, III, 353.
[35] In April 1644, Sir Richard Byron informed Leicester's parliamentarians that he held two of Wayte's men prisoner: F. Bickley (ed.), *Report on the Manuscripts of the Late Reginald Rawdon Hastings*, Historical Manuscripts Commission, 78, 4 vols. (London, 1928–47), II, 125; BL, Thomason, E.312(3), Vicars, *Gods Arke*, 171.
[36] Bodleian Library, MS Tanner 62, fos. 635-6.
[37] *Ibid*., fo. 603.
[38] *Commons' Journals*, III, 429.
[39] *House of Lords MS*, Historical Manuscripts Commission, 6th Report, Part 1, Report and Appendix (London, 1877), 15.

Captain Collins. The fortifications were enhanced, although in November the Committee of Both Kingdoms warned not to pull down more houses or spoil Burley more than necessary.[40]

On 1 July 1644 the Rutland county committee presented their articles against Wayte in the House of Commons, which were referred to a committee for Leicestershire business chaired by Richard Knightley, MP for Northampton. On 24 July this committee was enlarged to include members from the committee for regulating Lord General Essex's army.[41] Wayte was suspended from command, and against Lord Grey's wishes, on 19 July, the Committee of Both Kingdoms entrusted the garrison to one Major Layfield. This appears to have provoked serious divisions, with orders being interpreted in one way by Lord Grey, and in another by Major Layfield and the Rutland committee.[42] Evers Armyne, a newly arrived county commissioner in Rutland, later reflected that divisions at this time between Wayte and the subcommittee of accounts on one side, and some of the county committee on the other were so great that he could accomplish nothing.[43] Wayte was not without his local supporters, for on 18 October 1644 a petition of Rutland freeholders urged the House of Lords to procure his reinstatement.[44] It was also proposed to enlarge the county committee to include Wayte, Abel Barker and James Harrington, although this took until June 1645 to accomplish because of the increased infighting among Rutland's parliamentarians.[45]

How these local divisions mapped onto the national situation remains unclear, but it appears Wayte followed his patron, Lord Grey, into friendship with the parliamentarian faction

[40] Page (ed.), *VCH Rutland*, I, 192.
[41] *Commons' Journals*, III, 548, 569.
[42] Page (ed.), *VCH Rutland*, I, 192; TNA, SP 21/18, fo. 227; TNA, SP 21/7, fo. 129.
[43] M.A.E. Green (ed.), *Calendar of the Committee for Compounding (Domestic) 1643-1660*, 5 vols (London, 1889), I, 193.
[44] *Lords' Journals*, VII, 27.
[45] Page (ed.), *VCH Rutland*, I, 193.

that favoured the New Model Army. After the victories at Naseby and Langport, by 16 August Wayte was exonerated and permitted to return to Burley. Captain Hatcher, Wayte's replacement, was warned to expect him.[46] Wayte may have arrived prior to the deliberate firing of Burley in response to the king's return to the locality at the head of 2500 men, staying at Belvoir and Stamford on 22 and 23 August respectively.[47] Wayte's garrison remained on the ruined site, with his subcommittee of accounts meeting ion stables.[48] In October, with the king at Newark, the Committee of Both Kingdoms warned Wayte against further infighting: 'wishing that there be no differences now that the king is so near.' Yet this Committee soon ordered Wayte's return to Westminster for a second time on 3 December 1645, granting Burley garrison to Captain Davies in his absence.[49] On 5 June 1646 the Committee of Both Kingdoms revived the case, inviting the Rutland committee to provide evidences of Wayte's alleged miscarriages.[50] In the meantime, with the royalist stronghold of Newark finally reduced, in May 1646 the Committee of Both Kingdoms ordered the fortifications at Burley to be slighted without making further damage to the house or stables.[51]

Wayte's contest with members of the Rutland county committee became entwined with the local politics of who would replace Rutland's two disabled royalist MPs, Sir Guy Palmes and Baptist Noel. After much wrangling, Wayte was eventually elected 'recruiter' MP for Rutland

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[46] B. Whitelocke, *Memorials of the English Affairs, or, An Historical Account of what passed from the Beginning of the Reign of King Charles the First, to King Charles the Second his Happy Restauration* (London, 1682), 160; TNA, SP 21/21, fo. 135.
[47] H. G. Tibbut (ed.), *The Letter Books of Sir Samuel Luke, 1644-1645* (Publications of the Bedfordshire Historical Records Society, XLII, 1963), 298; C. E. Long and I. Roy (eds), *Richard Symonds's Diary of the Marches of the Royal Army* (Cambridge, 1997), 183, 223-30; Page (ed.), *VCH Rutland*, I, 194.
[48] Green (ed.), *Calendar of the Committee for Compounding*, I, 193.
[49] TNA, SP 21/5, fo. 35; SP 21/22, fos. 15-16; TNA, SP 21/22, fo. 99.
[50] TNA, SP 21/23, fo. 91.
[51] TNA, SP 21/23, fo. 83.

alongside James Harrington at Oakham Castle on 2 July 1646, thus defeating his old enemies on the county committee Evers Armyn, Christopher Browne and Richard Halford, who had also stood for election, suggesting that Wayte enjoyed substantial local backing as well as the possible patronage of Lord Grey.[52] Wayte was quickly granted leave from the House in August 1646. He took the Solemn League and Covenant on 9 December, and was soon awarded over £2,000 out of sequestered royalist estates, including those he nominated from the Palmes family.[53] Also in 1646 Wayte was named among the 'Great Champions of England' on a propaganda broadsheet, suggesting that he was at last recognized as a considerable parliamentarian activist.[54]

Wayte probably owed his success to the influence of the Greys and the New Model Army, because the Presbyterians at Westminster who were in favour of immediately disbanding the New Model and renewing negotiations with the king appeared to consider him an enemy. By April 1648 Clement Walker's *History of Independency*, characterised Wayte as a dangerous upstart in the Army's pocket. He jibed '*Thomas Wait*, Governor of *Burley*; and has thriven so well by it, as from Nothing, to be able to purchase 500 *l. per annum*.'[55] Walker depicted county committeemen like Wayte as corrupted embezzlers, outsiders who sought to lord it over the established gentry, the 'Zanyes and Jack-puddings' of the Army Grandees who had 'cantonized

[52] Harrington polled 241 and Wayte came in second with 174. I owe this reference to Sue Howlett: Leicester, Leicestershire and Rutland Record Office, DE730/3 Barker MS.
[53] Jones, 'Waite, Thomas (c.1616-68) of Market Overton, Rutland'.
[54] BL, Thomason, 669, f. 10(69), J. Ricraft, *The Great Champions of England* (London, 1646).
[55] *A More Exact and Necessary Catalogu[e] of Pensioners in the Long Parliament, than is yet extant together with their several gratuities, rewards and salaries, bestowed upon themsel[ves] out of the ruines of k[ing and] kingdom, (not for secret but) for publick service, (if you will believe them), as Mr. William [Pri]nn, (a member in the same Parliament and a restless stickler in all those revolutions) and the history of independency* (1648).

the Kingdom'.[56] This charge was repeated in other anti-Army polemic to depict Wayte as an MP illegally elected by Army influence and in breach of the Self-Denying Ordinance.[57]

Divisions within the parliamentarian cause were polarized further by the fracturing of their coalition during the Second Civil War. With the aid of a Scots invasion led by the duke of Hamilton, the king was able to renew civil war in England during the summer of 1648. Many parliamentarians changed sides and joined the insurgents, leaving their former comrades, embittered, hardened and radicalized by the experience of renewed fighting.[58] By early June 1648, when royalist insurgents from Lincolnshire, Northamptonshire and Rutland gathered at Stamford fair under Dr Michael Hudson, Thomas Wayte had already acted to secure the magazine at Burley, despite lacking formal authority to do so. After conferring with Lord Grey at Leicester, Wayte rode overnight to Burley where he rendezvoused with other local forces before marching on Stamford.[59] Finding Stamford empty, but reinforced by Northampton troopers under Major Boteler,[60] Wayte pursued the insurgents to Woodcroft House, in the parish of Helpston, near Peterborough, which he stormed on 6 June.

Wayte had been urged to severity by Lord Grey and Leicester's county committee who had counseled him: 'we are of Opinion, that this Enemy deserves no other Conditions than to submit to the Parliament's Mercy, and do desire that you will not parley with them upon any

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[56] C. Holmes 'Centre and locality in civil-war England', in J. Adamson (ed.), *The English Civil War: Conflict and Contexts, 1640-49* (Basingstoke, 2009), 156, 161, 285n.
[57] BL, Thomason, 669 f.12[103], *A List of the Names of the Members of the House of Commons observing which are Officers of the Army, contrary to the Selfe-Denying Ordinance: together with such summes of money, offices and lands, as they have given to themselves, for service done, and to bee done, aginst [sic] the King and kingdome* (London, 1648).
[58] A. Hopper, '*Turncoats and Renegadoes': Changing Sides in the English Civil Wars* (Oxford, 2012), chapter 9.
[59] R. Ashton, *Counter Revolution: The Second Civil War and Its Origins* (New Haven 1994), 436, 455; *Lords' Journals*, X, 313-4.
[60] TNA, SP 16/516, fo. 88.

other Terms'.[61] Hudson was driven onto the roof and over the edge, his hands hacked off at the wrist as he clung on. Falling into the moat, he struggled to the bank, where according to the Restoration antiquary, Anthony a Wood, Hudson was clubbed to death by one Egborough, a servant to an 'intruded' puritan minister. Wood enhanced this martyrology further by recounting how one Walker, a grocer from Stamford bragged that he had cut out Hudson's tongue as a trophy and carried it around the county. Of course Egborough and Walker got their just deserts: Egborough was 'not long after torn in pieces' when his own gun exploded under his arm, while Walker lost his trade and was struck with poverty, ending as 'a scorn and by-word to the boys when he passed through the streets of Stamford.' Wood explained that Wayte had promised the defenders quarter, but reneged when one of his kinsmen was shot by Woodcroft's defenders when demanding their surrender.[62] The whole story neatly recounts the royalist memory of the civil wars: learned gentlemen being cozened by devious rebel commanders, clubbed to death by rude servants and dismembered by tradesmen jealous of their social superiority. Wayte's report of the action, read in the House of Lords on 8 June, was far more business-like: 'our Men gave no Quarter to the better Sort. Hudson was killed amongst the rest; and all my Prisoners I have sent to Northampton, but Two, which was of our Party lately, and now taken in this Fight against us; they were condemned in the Field, by a Council of War: I have suspended the Execution of them, until I know your Pleasure'.[63] The House of Commons thanked Wayte and requested that General Fairfax issue him with a commission to try the side-changers by martial law.[64] Grey also

[61] *Lords' Journals*, X, 314.
[62] P. R. Newman, *Royalist Officers in England and Wales: A Biographical Dictionary 1642-1660* (New York, 1981), 203; A. Kingston, *East Anglia and the Great Civil War* (London, 1902), 264; A. a Wood, *Athenae Oxonienses*, ed. P. Bliss, 4 vols. (1813-1820), cols. 233-6.
[63] *Lords' Journals*, X, 313-4.
[64] *Commons' Journals*, V, 589; Whitelocke, *Memorials of the English Affairs*, 307.

reported Wayte's success to Speaker Lenthall on 7 June, claiming the credit for having sent Wayte and for raising the well affected of Leicestershire in arms.[65]

Thereafter Wayte's troopers guarded the southward approaches to Rutland from feared infiltration by royalist insurgents thought to be fleeing northward from Essex.[66] Then Wayte participated in the pursuit of those royalists defeated by Cromwell at Preston, accepting the surrender of the duke of Hamilton himself at Uttoxeter on 22 August 1648. Edmund Ludlow recalled that Hamilton delivered to Wayte 'his scarf, his George, and his sword', before being carried prisoner to Windsor Castle.[67] Wayte's forces were thereafter sent to assist in the siege of Pontefract, while Wayte travelled to London to relate Hamilton's capture to the House of Commons on 28 August 1648, reminding them of his services and securing an order for the outstanding £2,010 due to him.[68] His attendance in the House thereafter remains unclear. Lord Grey held a day of thanksgiving in Leicester on 14 September with sermons and feasting supposedly attended by 150 of his officers, at which Wayte may well have been present.[69] Wayte was excused from the House on 26 September, but may have witnessed the presentation of the petition of the committee, gentry, ministry and inhabitants of Leicestershire on 2 October. The petition expressed anxieties about the Newport peace negotiations, reminding the House of the Vote of No Further Addresses, and calling for 'impartial and personal justice' to be 'speedily

[65] *Portland MS*, Historical Manuscripts Commission, 29, 13th Report, Appendix, Part 1, I, 455-6.
[66] TNA, SP 21/24, fo. 127.
[67] C. H. Firth (ed.), *The Memoirs of Edmund Ludlow, Lieutenant-General of the Horse in the Army of the Commonwealth of England, 1625-1672*, 2 vols. (Oxford, 1894), I, 202, 221.
[68] J. Richards, *Aristocrat and Regicide: The Life and Times of Thomas, Lord Grey of Groby, The Ermine Unicorn* (London, 2000), 274; Whitelocke, *Memorials of the English Affairs*, 328.
[69] J. Rushworth, *Historical Collections of Private Passages of State*, 8 vols (London, 1721), VII, 1248-80.

administered' against the 'principal enemies' now in Parliament's custody.[70] The following month, on 25 November Wayte was appointed to a committee to consider which garrisons should be maintained and which slighted. He was also ordered to write to Rutland and to 'take care for bringing in the Assessments for the Army in that County'.[71]

II

Wayte's role in the Second Civil War had been more prominent than in the First. Having quelled a local insurrection with some severity and participated in the capture of the Scots' commander-in-chief, he was well placed to take a leading role in the revolution that followed. His patron, Lord Grey notoriously assisted Colonel Pride's soldiers in excluding those MPs from Westminster who wished to continue negotiating with the king, winning derision as the 'grinning dwarf' for having done so.[72] Wayte himself was not excluded, indicating the Army Grandees, perhaps prompted by Lord Grey, thought him conformable to their plans. The MPs that remained were derided as 'Pride's juncto', the mere pawns of the army.[73] Yet Wayte left for Leicestershire a fortnight afterwards and only returned to London on 26 January to play an eleventh-hour role in the final sitting of the king's trial, having missed the sessions on 20, 22 and 23 January. Entering the court for the first time on 27 January, Wayte later claimed to have supported John

[70] *CJ*, VI, 41, *Portland MS*, Historical Manuscripts Commission, 29, 13th Report, Appendix, Part 1, I, 497.
[71] *CJ*, VI, 34, 87.
[72] D. Underdown, *Pride's Purge: Politics in the Puritan Revolution* (Oxford, 1971), 143-4; C. V. Wedgwood, *The Trial of Charles I* (London, 1964), 42.
[73] Worden, *The Rump Parliament*, 78.

Downes who moved the court to adjourn, so that the king might be heard before the Lords and Commons in the Painted Chamber.[74]

There has been much recent controversy among historians over who was driving the king's prosecution and when exactly they resolved upon his death. Sean Kelsey and John Adamson have argued that five weeks of indecision followed Pride's Purge as the Army leaders were reluctant to try the king and for much of December sought alternatives. Once the trial began, they maintain that execution was still not inevitable, and Kelsey argues that the charge was deliberately weak, that many commissioners sought an alternative sentence, and that the court repeatedly tried to accommodate the king. Astoundingly, it offered him between nine and twelve opportunities to plead. Even on 27 January a large minority of the king's judges sought to comply with his request to address parliament. Wayte may well have been among them, and the position of his signature at fifty-sixth among the fifty-nine on the death warrant, suggests he was late in committing his approval.[75]

We gain a further clue as to Wayte's political motivations after the king's execution through his role in the duke of Hamilton's trial in February 1649. There was much confusion over the legal status of Hamilton's surrender. Wayte deposed that Hamilton surrendered himself to be Lord Grey's prisoner when taken at Uttoxeter, 'and desired Wayte to protect him from the multitude'. Hamilton claimed to have surrendered on conditions, but Wayte disputed this. Wayte's report to Parliament on 28 August 1648 had maintained that Hamilton surrendered to mercy 'but had gallant quarter given them by the Lord Grey'. He later claimed any promise that

[74] Underdown, *Pride's Purge*, 185.
[75] J. Adamson, 'The Frighted Junto: Perceptions of Ireland, and the Last Attempts at Settlement with Charles I', in Peacey (ed.), *The Regicides and the Execution of Charles I*, 36-70; Kelsey, 'The Trial of Charles I', 585, 592, 611, 615; Kelsey, 'The Death of Charles I', 745–8; R. Cust, *Charles I: A Political Life* (Harlow, 2005), 457.

had been made extended only to mercy 'from the military, not the civil sword.'[76] Hugh Peter interrupted Wayte's deposition saying 'He lyes, he lyes'. Peter and other officers at Uttoxeter, challenged Wayte's deposition, while the duke himself discredited Wayte's testimony.[77] Peter had already so exaggerated his own role in the duke's capture that in New England soon after it was conceived he had accomplished it single-handed.[78] However, the Restoration historian James Heath maintained that the reason for Peter's interjection was that Hamilton had surrendered on terms to General Lambert. This strengthened the duke's legal position in the hope that he would implicate in his conspiracy the Army's political enemies at Westminster. This may have instilled in Hamilton some hope that his life would be spared. Yet when it became plain that he would not act as required, the duke was abandoned to his death.[79] Wayte's involvement in the case was likely rooted in Lord Grey's hopes to enhance his own standing in autumn 1648 by insisting that the duke had surrendered to him. Yet Grey made no attempt to save him during his trial, because by then Grey had endorsed the regicide and was being lauded by City radicals as a possible successor to Fairfax.[80] If Wayte had been prepared to act the part of Grey's loyal supporter in February 1649 during Hamilton's trial, then maybe supporting his patron had been a motive in the king's trial only a month earlier.

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[76] Rushworth, *Historical Collections*, VII, 1212-48; Firth (ed.), *The Memoirs of Edmund Ludlow*, I, 202, 221.
[77] *A Complete Collection of State-Trials and Proceedings Upon High Treason, and Other Crimes and Misdemeanours from the Reign of King Richard II to the end of the Reign of King George I*, 8 vols. (London, 1730), II, 3; G. Burnet, *The Memoires of the Lives and Actions of James and William, Dukes of Hamilton and Castleherald* (1677), 387-9.
[78] C. G. Pestana, 'Peter [Peters], Hugh (*bap*. 1598, *d*. 1660), Independent minister', *ODNB*.
[79] Winstanley, *The Loyall Martyrology*, 23; J. Heath, *A Chronicle of the Late Intestine War in the Three Kingdoms of England, Scotland and Ireland* (London, 1676), 178, 228; W. Dugdale, *A Short View of the Late Troubles in England* (London, 1681), 388-9.
[80] Bradley, *rev*. Kelsey, 'Grey, Thomas, Baron Grey of Groby'; B. Worden, *The Rump Parliament, 1648-1653* (Cambridge, 1974), 28, 187.

In the aftermath of the king's execution, and in order to retain his seat, on 1 February 1649 Thomas Wayte registered his dissent from the vote of 5 December 1648 that had authorized further negotiations with Charles I, alongside the likes of fellow regicides Miles Corbet, William Say and Thomas Chaloner. Although he retained local and national office, Wayte was far from an active member of the Rump.[81] On 5 March 1650, he was appointed commander-in-chief of the Rutland militia's cavalry and only attended Westminster sporadically until Cromwell dissolved the Rump in 1653.[82] Grey joined the Fifth Monarchists during the Protectorate and was arrested on suspicion of conspiracy in 1655, which may also have distanced Wayte from the Protectorate regime.[83] When Grey died in 1657, Wayte was overseer of his will and guardian of his children.[84] In the meantime, Wayte sought to make good his losses in parliament's service. He acquired royalist estates from Lord Beaumont and John Pate in Leicestershire, as well as from the duke of Buckingham, Sir Thomas Mackworth, Wingfield Bodenham and six others in Rutland.[85] Similarly to several military entrepreneurs who took parliament's side and grew rapacious once they acquired former royalist lands, Wayte endeavoured to recoup his wartime investments by rack renting his new tenants. In 1650 Wayte bought the manor of Hambleton from the county commissioners for the Sale of Delinquents Lands. By 1653 his tenants complained to the Council of State that Wayte had forced them to enclose pastures, closed springs, imposed levies on reaping of corn, refused to renew their leases until the rents had been doubled, and threatened to pull down houses upon the death of tenants in order to depopulate the

[81] A.W. McIntosh, ''The Number of the English Regicides', *History*, LXVII (1982), 200; Worden, *The Rump Parliament*, 24, 391.
[82] Hopper, 'Waite, Thomas', *ODNB*.
[83] Bradley, *rev*. Kelsey, 'Grey, Thomas, Baron Grey of Groby (1622-1657), regicide', *ODNB*.
[84] Jones, 'Waite, Thomas (c.1616-68) of Market Overton, Rutland'.
[85] Green (ed.), *Calendar of the Committee for Compounding*, I, 57, 163, 496, 801, III, 2033, 2187.

place. In July 1653 they petitioned the judges of the circuit to settle the quarrel, but were forced to the expense of waiting upon the Barebones Parliament in September to petition their case.[86] A short-lived settlement was reached by which Wayte promised to enclose no more and allow the tenants to re-enter their lands. Yet the tenants were again forced to petition, this time the Lord Protector and his Council, on 13 March 1654, complaining that Wayte had broken the agreement after the dissolution of Barebones Parliament. Wayte was required to answer before the Council on 28 March, and on 4 April 1654 Sir Thomas Hartopp and Major Edward Horsman were chosen to arbitrate the case.[87] The episode suggests that Wayte, like many of his contemporaries, sought recompense for his service from whatever quarter possible. The following year, Eleanor, the widow of his fellow officer and colleague, Captain John Hatcher, charged Wayte in Chancery with having purloined much of her late husband's personal estate, after having slyly 'out of a seeming kindness and regard' undertaken letters of administration to sell off Hatcher's goods to settle the deceased officer's debts.[88] In another case, even Wayte's friend and tenant, Abel Barker, implored the colonel to 'abate something of the too high sum he asks for his Rutland estate.'[89]

In May 1659, Wayte returned to national politics as MP for Rutland in the restored Rump Parliament. As chief officer of Saulcey Forest, he was quickly required to preserve from spoil the deer there belonging to the state. By August he was granted Henry Cromwell's former lodgings

[86] M.A.E. Green (ed.), *Calendar of State Papers Domestic, 1653–4* (London, 1879), 28, 159, 330.
[87] M.A.E. Green (ed.), *Calendar of State Papers Domestic, 1654* (London, 1880), 27, 83.
[88] TNA, C 6/131/82.
[89] *Rev Edmund Field MS*, Historical Manuscripts Commission, 5th Report, Part 1, Report and Appendix (London, 1876), 395.

in St James's Park.[90] He was displaced again by the Army's second expulsion of the Rump in October, but wrote to Speaker Lenthall on 2 January 1660, expressing his joy at the second restoration of the Rump.[91] Yet with the return of the members secluded in 1648, and the attendant possibility of a royal restoration, Wayte absented himself soon afterwards. Such rapid political change obliged many English gentlemen to refashion their civil war pasts, but none did so more dramatically than several regicides, including Wayte, when on trial for their lives.

III

On 9 June 1660 Wayte was exempted from the Act of General Pardon and Oblivion, and four days later he obeyed a proclamation for the regicides to surrender themselves.[92] Wayte remained in custody until 8 October when he was among the twenty-four regicides and five others brought from Newgate before a Commission of Oyer and Terminer at the bar of the Sessions House of the Old Bailey.[93] At first Wayte refused to answer his indictment, pleading instead for a special hearing, which provoked the judge into admonishing him: 'Pray who are you that you should take this upon you more than all the rest? You must go the ordinary way, guilty or not guilty.'[94] Thus pushed, Wayte pleaded not guilty. He admitted that he sat in the court on the day the king was sentenced, and that the incriminating signature on the king's death warrant looked like his

[90] M.A.E. Green (ed.), *Calendar of State Papers Domestic, 1658-9* (London, 1885), 361; M.A.E. Green (ed.), *Calendar of State Papers Domestic, 1659-60* (London, 1885), 160.
[91] *Portland MS*, Historical Manuscripts Commission, 29, 13th Report, Appendix, Part 1, I, 692.
[92] *CJ*, VIII, 61, 63.
[93] BL, Thomason, 669 f.26(31), *A True and Perfect Relation of the Grand Traytors Execution, as at severall times they were drawn, hang'd, and quartered at Charing-crosse, and at Tiburne. Together with their severall speeches and confessions which every one of them made at the time of their execution* (London, 1660); McIntosh, 'The Numbers of the English Regicides', 209.
[94] Noble, *Lives of the English Regicides*, II, 313.

hand. Wayte protested that he had opposed the act to set up the High Court of Justice, and had visited the purged members in prison, before departing for Leicestershire. He claimed that he then quashed a petition for justice against the king in Rutland. Summoned back to London upon pain of sequestration, he received a note in Lord Grey's name:

> I went to him, and I said, my Lord, what would you do with me? saith he, I did not send for you. Thereupon *Cromwel* and *Ireton* laid hold on me, said they, We sent for you, you are one of the High Court. No, said I, not I, my Judgement is against it: they carried me to the Court. When the King desired to speak with his Parliament, I rising up, one told me I must not be heard, for the President was to give Judgement, and said there was an order that none should speak in Court. Mr. *Downes* did move, and they did adjourn the Court, and I was glad I got out, *Cromwell* laughed, and smiled, and jeared in the Court of Wards.[95]

His testimony further implied that as late as 28 January Lord Grey had told him the king would not die: 'I hope he will not, said I.' The idea that such a prominent regicide as Grey, the second man to sign the death warrant owing to his noble status, could still be uncertain at this stage whether the sentence would be carried out appears to lend weight to Kelsey's case, unless Wayte was lying to save his life or Grey's purpose had been to deceive his protégé. Wayte testified that he returned to the House of Commons on 29 January, where 'they were labouring to get hands for his Execution at the Door. I refused, and went into the House; saith Cromwell, *those* that are

[95] *An Exact and Most Impartial Accompt of the Indictment, Arraignment, Trial, and Judgment (according to law) of twenty nine regicides, the murtherers of His Late Sacred Majesty of most glorious memory begun at Hicks-Hall on Tuesday, the 9th of October, 1660, and continued (at the Sessions-House in the Old-Bayley) until Friday, the nineteenth of the same moneth : together with a summary of the dark and horrid decrees of the caballists, preperatory to that hellish fact exposed to view for the reader's satisfaction, and information of posterity* (London, 1679), 310-312, 316.

gone in shall set their hands, I will have their hands now.' His testimony supports Kelsey's contention that many did not sign the death warrant until the day before the execution, with Cromwell pursuing those who had failed to sign into the House of Commons. Only now, according to Wayte did their uncertainty about the king's fate evaporate: 'That night I went to the Lord *Grays*, and he said, I am afraid they will put him to death. I said so also.'[96]

Despite these efforts, on 16 October 1660 Wayte was among eighteen regicides found guilty and sentenced to be hanged, drawn and quartered. The terror of the sentence was enhanced by the dispatching of the regicide John Carew in this manner only the day before.[97] Yet as Wayte had surrendered voluntarily, his execution could not take place without an Act of Parliament.[98] Wayte remained in this horrific limbo until 28 January 1662 when he was again named among thirteen regicides, legally attainted of high treason, whose executions were suspended until approved by Parliament.[99] Wayte was summoned to the bar of the House of Lords on 7 February to plead for his life.[100] This gave him one more chance to spin afresh his involvement in the king's trial, in which he petitioned that he had returned home to Leicestershire immediately after Pride's Purge on 6 December.[101] This is not true, as he sat on 12 and 13 December, a full week afterwards, and may only have absented himself after 20 December.[102] His petition's claim to have been 'by ye devices of Cromwell & Ireton trepaned out of the House' is equally dubious, although he was on firmer ground in maintaining that he was appointed commissioner unknowingly, in his absence, and that he had no hand in establishing the court. Like several

[96] *Ibid*., 312; Kelsey, 'The Death of Charles I', 750-1.
[97] McIntosh, 'The Numbers of the English Regicides', 214.
[98] BL, Thomason, 669 f.26(31), *A True and Perfect Relation of the Grand Traytors Execution.*
[99] *House of Lords MS*, Historical Manuscripts Commission, 7th Report, 155.
[100] *Lords' Journals*, XI, 380.
[101] *House of Lords MS*, Historical Manuscripts Commission, 7th Report, 156.
[102] Underdown, *Pride's Purge*, 166n, 178.

others, he claimed to have opposed provincial petitions calling on the Army to impose justice on the king, in his case maintaining he had suppressed these in Leicestershire and Rutland in early January 1649.[103] He also recast himself as the protector of his royalist neighbours, for which he had been ejected from his local offices. He employed a standard contemporary defense that in 1649 he was 'but a young man and ignorant of the Lawes'. In addition he procured several witnesses to support his testimony that he had made a disturbance supporting John Downes's proposal that the king be heard before the Lords and Commons in the Painted Chamber, that he had only attended under threat of sequestration, and that he had remained in the Court of Wards, refusing to return with the other judges when final sentence was passed, where he had been 'not a little menaced by Cromwell'. Finally, his claim to have signed nothing until days after the king was dead must be discounted as the warrant was signed and sealed on 29 January. Likewise Wayte's claim that he was 'forced by Cromwell to signe a writing not knowing what was conteyned therein' remains highly unlikely, rather like Richard Ingoldsby's spurious allegation that Cromwell had held his hand and guided his pen as he wrote his signature.[104] Despite having enriched himself from royalist lands, Wayte maintained that when he had wielded power in 1659 he protected royalists from imprisonment and their houses from searches, even claiming that he had rejoiced at the Restoration the following year.[105]

Four witnesses gave evidence in Wayte's defense in December 1661 which agreed that he only returned to London on 26 January 1649. A possible relative, Nicholas Wayte, a grocer of St Dunstan's in the West testified that Thomas Wayte stabled his horses that day at the Swan, by

[103] *Ibid*., 178. Yet a Leicestershire petition in support of the Army Remonstrance and calling for justice against 'grand delinquents' had come to the notice of the Shropshire parliamentarian Colonel Mackworth by 26 December 1648: Rushworth, *Historical Collections*, VII, 1349-78.
[104] McIntosh, 'The Numbers of the English Regicides', 197; Underdown, *Pride's Purge*, 185.
[105] *House of Lords MS*, Historical Manuscripts Commission, 7th Report, 156-7.

Somerset House in the Strand. Another deponent, William Wetton of Middlesex, esq., testified that Wayte had told him soon afterwards that he had stood up with John Downes and moved that the king might be heard, for which Cromwell blasted them thereafter in the Court of Wards: 'shall ye whole Court's proceedings be obstructed by two or three peevish men?' Another defense witness, John Bowden of St Dunstan's in the West supported Wayte's claim to have been in Leicestershire, having received a letter from him there. Bowden added that he had heard Wayte say that he had to attend the court on 27 January or he would be sequestered. John Sharpe of St Bride's, Fleet Street, obligingly recalled Wayte's melancholy mood on 26 January, testifying that Wayte had said that he 'was afraid they would take away the King's life.'[106]

Wayte's case was much discussed but eventually dropped. His defense that he was compelled to sit on 27 January 1649 by a blend of trickery and force, coupled with his penitence (feigned or otherwise), ultimately spared him the penalty of a horrific execution. Surviving comments from contemporaries are unflattering; Lucy Hutchinson suggested that he and others had lied about their role in the trial.[107] His fellow regicide, Henry Smith, the recruiter MP for Leicestershire was also spared execution after maintaining a similar but even more flimsy defense: that he had acted in ignorance and under duress.[108] Admittedly, Wayte would have employed selective memory to refashion his position in the most favourable light, but in order to do so in a credible way he needed foundations of truth upon which to build. Given his absence during the establishment of the court and then during most of the trial, there are some grounds that he entertained misgivings. Yet his position as the fifty-sixth signatory is not evidence of reluctance in itself as the signatures of the more unquestionably committed Thomas Scot, John

[106] *House of Lords MS*, Historical Manuscripts Commission, 7th Report, 157.
[107] Wedgwood, *The Trial of Charles I*, 101.
[108] K. R. Gardiner and D. L. Gardiner, 'Smith [Smyth], Henry (*b.* 1619/20, *d.* in or after 1668), politician and regicide', *ODNB*.

Carew and Miles Corbet followed that of Wayte as the final ones on the warrant. Loyalty to Lord Grey and hopes for future advancement may have trumped these doubts, instead of the coercion and blandishment he later maintained. Although it served Wayte's later purpose for his position during the trial to appear isolated and powerless, his testimony and that of his witnesses supports Clive Holmes's scepticism about the existence of an organized faction among those of the king's judges who opposed a capital sentence.[109]

Wayte's experience is often compared to that of his fellow trial commissioner, John Downes, committed to the Tower on the same day as Waite on 25 August 1660.[110] When on trial for his life that October a defense of Downes was published that maintained that he knew nothing of and was surprised by the erecting of the High Court to try the king. He claimed he was forced to attend as a commissioner despite his refusal, and that in the High Court on 27 January Cromwell sat next to verbally abused him. Downes maintained that he rose and objected to the sentence, causing the commissioners to be adjourned into the Court of Wards. There, Cromwell, adopting the role of the dominant force among the commissioners called the king 'the hardest hearted man upon the earth' and whispered in Downes's ear that 'I am aimed at nothing but making a mutiny in the Army, and cutting of throats.' Downes also alleged that Cromwell had called him 'peevish', an adjective also used by Wayte's witness, William Wetton, perhaps in an attempt to link Wayte to Downes as a co-recipient of Cromwell's scorn, suggesting that Wayte and his witnesses had read Downes's published defense before they gave evidence. Downes admitted that he knew that Wayte and others shared his misgivings over the sentence,

[109] Holmes, 'The Trial and Execution of Charles I', 304.
[110] B. A. Harrison, *The Tower of London Prisoner Book: A Complete Chronology of the Persons Known to Have Been Detained at Their Majesties' Pleasure, 1100-1941* (Leeds, 2004), 352.

'yet durst not speak', maintaining that 'not one soul would second me or speak one word', rebutting Wayte's defense that he had made a 'disturbance' in support of Downes.[111]

All of the trial commissioners had stood on 27 January to indicate their endorsement of the sentence, undermining the later arguments of those such as Downes, Wayte and lastly Edmund Harvey who produced a witness claiming that he had tried to hinder it. A.W. McIntosh saw Wayte's defense as 'full of inconsistencies, internal contradictions, and conflicts with other evidence', considering it the product of a troubled mind subjected to 'mental torture' by his prolonged imprisonment under sentence of death.[112] However, David Underdown found Wayte's evidence carried more conviction than that of Downes, arguing that Wayte's absence from the Commons' Journal after 13 December 'gives his story some credibility'.[113] Nevertheless, in his famous table, David Underdown still classified Wayte as an 'active' and 'openly committed' 'revolutionary' rather than a 'conformist' who had merely accepted the execution as a fait accompli after the event.[114] Ultimately, it was Wayte's contrition, rather than the strength of his defense that was probably the reason for the limited mercy extended to him as it was extended to several others who expressed penitence also. Wayte was transferred from the Tower to Jersey in April 1664, and spent the rest of his life incarcerated on the island.[115] In 1665, Wayte's wife, Jane, petitioned the Privy Council for his release, being no longer able to support his five children. This was denied and he was committed to the old castle on 13 February 1668 alongside

[111] J. Downes, *A True and Humble Representation of Iohn Downes Esq* (London, 1660).
[112] McIntosh, 'The Numbers of the English Regicides', 197, 212-3.
[113] Underdown, *Pride's Purge*, 185.
[114] Underdown, *Pride's Purge*, 210, 389.
[115] Harrison, *The Tower of London Prisoner Book*, 352. I owe this reference to Hilary Crowden.

fellow regicides Henry Smith and James Temple. He died later that year, and his wife died soon after. Both were buried in the parish church of St Saviour on Jersey.[116]

IV

Leaving aside the problematic nature of the newsletters and newsbooks of December – January 1649, much of the debate around the nature of the king's trial does hinge on how much weight can be placed on the post-Restoration evidence from the trials of the regicides. It must be remembered that a good number of those on trial in and after 1660 were scared men, desperate to refashion their pasts to save themselves from a horrific death. Perhaps aided by his legal training, and through building upon elements of truth, Wayte constructed a more believable narrative than his fellows Downes, Smith, Harvey and Ingoldsby. Born into a gentle family, Wayte was not the low born social subversive stereotyped by royalist propaganda. He blended the roles of local governor and minor military entrepreneur with some success, and parliament owed much to men like him for the ultimate triumph of their war effort. His career is comparable with other rough and ready garrison commanders that fell foul of their county committees and had to conduct repeated legal defenses of their actions at Westminster.[117] Similar to his patron, Lord Grey, he was young, ambitious, and ultimately thrived because of the revolutionary environment of the 1640s. He might have withdrawn himself from the trial and refused to endorse the king's

[116] M.A.E. Green (ed.), *Calendar of State Papers Domestic, 1667-8* (London, 1893), 229; Jones, 'Waite, Thomas (c.1616-68) of Market Overton, Rutland'.
[117] A. Hopper, 'Tinker Fox and the Politics of Garrison Warfare in the West Midlands, 1643-1650', *Midland History*, XXIV (1999), 109-10.

execution like his fellow MP for Rutland, James Harrington, but he did not.[118] Thrown into the maelstrom of the king's trial at its very climax, and perhaps unexpectedly, he no doubt judged that compliance with Grey, Cromwell and the rest was his safest choice as well as a necessitous course of action to prevent uproar among the Army.

9529 words

[118] S. Kelsey, 'Harrington, James [*formerly* Sir James Harrington, third baronet] (*bap.* 1607, *d.* 1680), politician', *ODNB*.