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"To the Devil we Sprang and to The Devil we Shall go": Memory and History in the Narrative of British Medieval Constitutionality

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Introduction

1461 is infamous for one of the bloodiest, most horrific, and violent battles in English history. Bodies found at the battle site display the extent of the passions of the conflict; skulls were split in two and punctured multiple times, bodies show evidence of mutilation, and the sheer number of casualties points to the intensity of fighting and the importance of the cause. The author of the *Second Anonymous Continuation of Ingulph's Chronicle of the Abbey of Crowland* writes of the carnage that the "blood…of the slain, mingling with the snow…afterwards ran down in the furrows and ditches…in a most shocking manner, for a distance of two or three miles." Despite the obvious gore, the chronicle paints the battle as divine intervention, mentioning that the battle directly preceded Palm Sunday, and declared that "divine clemency" and the "favour of Heaven" claimed victory that day.[1] The Battle of Towton was part of the larger Wars of the Roses, which spanned much of the fifteenth century, and has been of great interest to historians for centuries, but it was remembered in medieval memory as a display of divine judgement, the blood spilling down the countryside as a reminder of God's authority and the importance of rule by God's chosen kings on earth. The fifteenth century's two most famous kings, Edward IV (1461-1470, 1471-1483) and Henry VII (1485-1509), have both been heralded in medieval memory (as seen in medieval histories/chronicles) as starters of new eras. They have been translated into the constitutional narrative as founders of "new monarchies" by historians since the Glorious Revolution in 1688, when

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[1] Henry T. Riley, trans., Ingulph's Chronicle of the Abbey of Croyland with the Continuations by Peter of Blois and Anonymous Writers (London: George Bell and Sons, 1908) 425.

medieval history began to captivate scholars. These "new monarchies" are seen in turn as forerunners of the modern constitutional monarchy. More specifically, historians have cited the rise in "proto-parliamentary reforms" as evidence that these periods were renowned in medieval memory for their role in the classic British narrative: a march towards the end of despotism.[2] This tradition has by politicians and historians alike been called a bond of the kingdom, the de-facto constitution itself.[3] Examining this period's political treatises, legal and royal administrative documents, personal letters, and architecture and artwork reveals the importance of memory in history as a factor both in the historical growth of constitutionality in Britain, and in the historiography of the subject. During the Wars of the Roses, the kings, nobles, political elite, and writers constructed a remembered narrative (notably the Anglo Saxon period and the years after King John's signing of the Magna Carta), in reference to the liberties against tyranny which would form the bedrock of the British constitution, with considerable revision.

Did individuals in the battle of Towton and others like it, fight with such dedication, with such butchery, for the sake of legal reform of the monarchy (constitutional reform)?[4] The standard British historical narrative parallels that of the constitution: periodic

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[2] Bryce Lyon, "Edward IV," *Journal of British Studies* 106 (1976): 180, accessed August 21, 2016, http://www.jstor.org/stable/175289.

[3] A.F Pollard, *Henry VII from Contemporary Sources* (New York: AMS Press reprinted from London: Longmans, Green, & Co. LTD 1913, 1967) XXVIII.

[4] The British constitution is a complicated conglomeration of historical precedent: a testament to the triumphs and attempts, through a thousand years of history, to limit the power of tyranny and establish the rights of the the people. The constitution is not simply an old monument to the works and wars of those long dead names in books forgotten on shelves; it is a living and changing construction of political authority, and is as relevant to current events as ever; the recent referendum in Britain has sparked what many analysts are calling one of the greatest constitutional crises of the modern period. Knowledge of the intricacies of the constitution, the precedents which form its authority, therefore, is critical in understanding how modern events can be evaluated, from a constitutional lens.

rebellions against despotic and either foreign or foreign-minded monarchs for the good of the kingdom to preserve the "ancient liberties"; history moves forward towards a constitutional monarchy. The constitutional narrative understands the continuous struggle for the good of the kingdom against so-called tyrants as one based on creating checks on monarchial power which created the first precedents for constitutional rule.[5] The histories and massive propaganda campaigns of the fifteenth century [6] all stressed the importance of an individual's dedication to or derision of these liberties as a baseline argument for the conditions of good rule,[7] and based these definitions of "ancient liberties", and the manner in which they ought to be practiced, on the distorted historical memory of the past. Case studies of Edward IV and Henry VII, the two periods mostly widely identified as the major turning points in medieval history of the British constitution, reveal evidence to suggest that there existed a mythology created around the reigns of so-called "good kings" which influenced the historical narrative of British constitutionality in memory, as well as actually impacting the course of constitutional development.

Historiography and Methodology

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[5] Robert Tombs, *The English and their History* (London: Penguin Books, 2014); Bryce Lyon, "Edward IV," *Journal of British Studies* 106 (1976):179, accessed August 21, 2016.

[6] As well as those written in subsequent years, because they were written using the earlier histories as references.

[7] The use of the term "propaganda" here is not intended to have a negative connotation. These campaigns, undertaken on the behalf and/or the order of a reigning monarch were not only cunning plans to sway the important (fighting) people towards a monarch or pretender's cause. These arguments, put forward in the form of pamphlets and chronicles contributed greatly to the growing understanding of acceptable kingship and notions of checks on the monarchy, crucial constitutional elements.

British constitutional history became a well recognized field of study in the wake of the Glorious Revolution in 1688. The 'Whig historians" who popularized the field are called thus because the analyses they produced gave rise to narrative histories which celebrated the final triumph of the Glorious Revolution as the grand conclusion to a British tradition of legal protection over tyranny.[8] This narrative history reinforced the legitimacy of William III and Mary's reign over the deposed Stuart monarchs and the claims of the Jacobites and Tory supporters in the early eighteenth century and into the Victorian period.[9] The best known of these Whig historians are Edmund Burke, J.R. Green and William Stubbs, all of whom were politically motivated in their analyses of medieval constitutional history. The focus of these constitutional studies was the fifteenth century, which was identified as a period of concentrated constitutional growth. Constitutional growth became a marker of good kingship, which drew parallels between the historical paradigms of great historical action and the contemporary rule of William III and Mary, later Anne, and the Hanoverian monarchs. S.B. Chrimes, William Huse Dunham, and Charles T. Wood have argued that Edward IV's government exemplified the growth of proto-parliamentary structures and protections, while J.R Green, A.F Pollard, and William Stubbs have argued that these same qualifications were, in fact, much more developed and central in Henry VII's government. In the last thirty to forty years, a few scholars such as J.W. McKenna have questioned the modern application of the definition of "constitutional" to the fifteenth century. McKenna claims the term "proto-par-

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[8] Christine Carpenter, *The Wars of the Roses: Politics and the constitution in England, c. 1437-1509* (Cambridge: Cambridge University Press, 1997) 7-8.

[9] Ibid.

liamentary mechanism" is a complete anachronism in the context of late medieval government; in his view, scholars who point to the development of these mechanisms are allowing their interests in maintaining the narrative of a steady revolution towards full, legal protection of individual rights through more than a thousand years to cloud their analysis of government administration.[10] John A.F. Thomson, writing in 1983, more bluntly wrote that historians who claim constitutionality existed during this period are and were deluded.[11] Some historians have perhaps taken fifteenth century sources too literally, or have analyzed their contents too uncritically. The historians and authors of the fifteenth century were equally intrigued by royal protections of ill-defined "ancient rights"; their works influenced, and perhaps created the traditional Victorian narrative regarding the development of legal checks on monarchial rule. Recently, scholarly discussion has focused on the development of this narrative. Historians Robert Tombs and R.H. Britnell and A.J. Pollard theorize about the origins of this narrative, and argue that this narrative may not represent the historical reality.[12] This paper will explore how memory of the past has influenced the constitutional narrative by analyzing the way in which late medieval memory impacted the historical narrative surrounding constitutionality, and even the constitution's course of development.

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[10] J.W. McKenna, "The Myth of Parliamentary Sovereignty in Late-Medieval England," *The English Historical Review* 94 (1979): 482, accessed August 21, 2016, http://www.jstor.org/stable/566522.

[11] John A. F. Thomson, *The Transformation of Medieval England: 1370-1529* (Essex: Longman Group Limited, 1983), 220.

[12] Robert Tombs, *The English and their History* (London: Penguin Books, 2014), 58; R.H. Britnell and A.J. Pollard, Introduction to *The McFarlane Legacy: Studies in Late Medieval Politics and Society* (New York: St. Martin's Press, 1995) xvii.

Studying the history of constitutionality through the lens of memory is a relatively new methodology, but provides a new vantage point to study, from which new conclusions may be drawn. The use of memory as a historical lens has recently become a popular methodology in analysis, especially in diplomatic history. The formation of a national historical memory, as exists in British constitutional development, begs to be unpacked, yet the subject is relatively untouched. Thus, this paper will borrow the techniques which have been so useful in reaching nuanced conclusions on the nature of history from other scholars who have successfully analyzed their chosen topics through the lens of memory. The editors of the 2002 anthology *Medieval Concepts of the Past*, Gerd Althoff, Johannes Fried and Patrick J. Geary, explore the evolution of historical methodology in the past few centuries; they cite Stephan Wienfurter, John W. Bernhardt, Bernd Schneidmüller, and Carole Levin's work as examples of the new methodology. Both focus their research on Henry II (not the English king, but the late tenth/early eleventh century Holy Roman Emperor) and the relationship between Henry II's own image cultivation and Henry's image in historical memory. These authors seek to understand the complexities of medieval royal authority through this approach.[13] Bernhard's analysis focuses on the intersection of royal propaganda and historical memory; he demonstrates the extent to which historical memory of individuals and concepts (in this case, royal authority and duty towards the Church) can be impacted by royal actions, and royally sponsored and biased chronicles, as well as by histories written based on these

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[13] Gerd Altoff, Johannas Fried, and Patrick J. Geary, introduction to *Medieval Concepts of the Past: Ritual, Memory, Historiography* (Cambridge: The Press Syndicate of the University of Cambridge with the German Historical Institute, 2002), 10.

sources.[14] Carole Levin's contribution "Propaganda in the English Reformation: Heroic

and Villainous images of King John," explores the impact of early medieval chronicles

in Henry VIII's justifications to split from Rome and create the Church of England. Levin

demonstrates that these chronicles were used as precedential evidence that the papacy

had consistently meddled and negatively impacted English sovereignty, justice, and

prosperity; the chronicle material was taken as certain fact, and treated as legal evi-

dence, the memory of past directly influenced the legal methodology and political institu-

tions of sixteenth century England.[15] This paper adopts Bernhard, Levin, and Schneid-

müller's process of framing an in-depth analysis of the relationships between contempo-

rary events, histories, and propaganda machines in terms of the creation of historical

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[14] John W. Bernhard, "King Henry II of Germany: Royal Self-Representation and Historical Memory" in *Medieval Concepts of the Past: Ritual, Memory, Historiography,* edited by Gerd Altoff, Johannas Fried, and Patrick J. Geary (Cambridge: The Press Syndicate of the University of Cambridge with the German Historical Institute, 2002), 57. Bernhard's hypothesis is perhaps better explained through an example in a different work: Bernd Schneidmüller looks at the historical memory of the relationship between the Carolingian Kings and the Capetian kings (monarchial dynasties of Medieval France). Schneidmüller examines a perceived shift in historical memory: in the ninth/tenth centuries the Capetian/Carolingian rivalry was well documented and spotted with violence, competition and sabotage as both houses sought control of the crown (eventually, the House of Capet succeeded the Carolingian line), but Schneidmüller notes, after three centuries, histories reflect a different story—one of a seamless transition which preserved the tradition and lineage of Charlemagne (a Carolingian ruler). Schneidmüller attributes this shift in memory to actions of historians and monarchs starting in the eleventh century, in an attempt to legitimize current rule by promoting a story of seamless transition of power through time, preserving the divine sanction of rule from Charlemagne to the present. Other than historical records no longer making note of the previously recorded rivalries, monarchs actively created memorials to honor this historical fiction. Louis IX ordered king's burials at St. Denis, and placed the tombs of the Merovingians (the dynasty begun with Clovis I's rule of the Franks), Carolingians, and Capetians together in a line, which promoted a sign of unity and "return of the governance of the Franks to the line of Charlemagne." Thus, centuries on, a historical memory of unity, and tradition based biologically and spiritually in Charlemagne sat on the reputation of French kings.

Bernd Schneidmüller, "Constructing the Past by Means of the Present" in *Medieval Concepts of the Past: Ritual, Memory, and Historiography,* edited by Gerd Altoff, Johannas Fried, and Patrick J. Geary (Cambridge: The Press Syndicate of the University of Cambridge with the German Historical Institute, 2002), 170-171.

[15] F.J. Levy, Review of *Propaganda in the English Reformation: Heroic and Villainous Images of King John* by Carole Levin, *Albion: A Quarterly Journal Concerned with British Studies* 22 (1990): 304, accessed August 21, 2016, http://www.jstor.org/stable/4049611.

memory in order to again a deeper understanding of how political institutions of the me-
dieval world were developing in fifteenth century England. It is important; however, to
begin the analysis of the impact of medieval memory on the modern narrative and de-
velopment of British constitutionality with a discussion of the medieval mythology of
kings as this mythology forms the burden of proof of the traditional constitutional narra-
tive.

The Medieval Mythology of Kings and Wars of the Roses Background

Since the Anglo-Saxon period, British authors have constructed ideas of royal
rule, passing judgement on the laws, kings, and councils of the past and their present,
using a measuring stick of past precedent (which may or may not be remembered or
catalogued with complete accuracy)**.** In the twelfth century, the historian Geoffrey of
Monmouth painted a vision of great kingship through stories of the Saxons and of King
Arthur's Camelot in his fantastical work, *History of the Kings of Britain*, which he dedi-
cated to king Henry II, the first Plantagenet king (the acknowledgment states that the
History is dedicated to "Henry the glorious King of England"). The story he lays out ex-
ists to demonstrate the greatness of Britain through its great Kings, "accomplished
philosopher[s] as well as brave soldier[s] and expert commander[s]."[16] This is Mon-
mouth's definition of a great king, and certainly his descriptions of the Saxons, especial-
ly Arthur, fall into these categories. Monmouth's qualifications for a good ruler are
important in this analysis of medieval memory on the development of British con-
stitutionality**,** because these qualifications provide a baseline of earlier medieval

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[16] Geoffrey of Monmouth, *History of the Kings of Britain,* translated by Aaron Thompson and re-
vised by J.A Giles (Cambridge, Ontario: Medieval Latin Series, 1999), 2.

judgment on good government which influenced the mythology of kings. There are no mentions of limits on the king's power in favor of their people. His King Henry is Henry II, a paradigmatic scholarly and brilliant military leader. Geoffrey of Monmouth died in 1155, only twenty years before King John capitulated and signed the Magna Carta.[17] Henry, the hero who ended the Usurper King Stephen's (foreign) line, fits very well into the "Norman Yoke" narrative Robert Tombs pens. Tombs claims that the understanding that the Conquest in 1066, beginning "a long term subjugation making England an oppressed colony," where the noble institutions of the Anglo-Saxons were replaced with an entitled, foreign and tyrannical king imbued the Anglo-Saxon past with many positive aspects, including its protection of free-born rights against royal administration, and that the sporadic attempts to revolt amongst the nobility and gentry became immortalized in a great struggle to curb the despotisms of the monarchy and restore the political greatness of the past.[18] It is possible Henry II's memory is the first to establish this narrative; Geoffrey's praise combined with his impressive legal administration created a historical memory of Henry that became a lens through which to judge and praise future rulers. During the Wars of the Roses period, histories did not focus on these categories of kingly success; instead they wove their heroes and villains into a narrative similar to

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[17] Henry II instituted many brilliant reforms in law, and has often being cited as the father of English common law, but he did not create a system of liberties or rights for the ruling class. Henry II gained his kingdom through invasion, against Stephen of Blois, infamous for his inability to maintain legal order during his reign. Henry's successful invasion and quick reinstatement of the rule of law to England generated much adoration for the young king. Whatever his later failings (Thomas Becket), Henry II, in constitutional histories, his often cited as a catalyst for the progression of the constitutional evolution. J.W. McKenna, "The Myth of Parliamentary Sovereignty in Late-Medieval England," *The English Historical Review* 94 (1979): 497, accessed August 21, 2016, http://www.jstor.org/stable/566522. and Bryce Lyon, "Edward IV," *Journal of British Studies* 106 (1976): 1179-180, accessed August 21, 2016, http://www.jstor.org/stable/175289.

[18] Robert Tombs, *The English and their History* (London: Penguin Books, 2014), 56-57.

Tombs's "Norman Yoke," whereby the heroes triumphed against foreign and despotic rule and championed the "ancient liberties" of the Anglo Saxon past, the heroes deeds mirroring those of Arthur. The medieval mythology surrounding the Anglo-Saxons and certain good kings, such as Henry II, as heroes in an almost fantastical, and sometimes divine conflict, desperate to restore the glamour of the past, is especially marked in the contemporary literature surrounding Edward IV and Henry VII. Indeed the evidence suggests that modern historians conflated this mythology with a classically liberal historical outlook that society was a constant progression forward and a desire to justify the Glorious Revolution to create the traditional narrative of constitutional development. Additionally, this mythology created a historical memory of precedents rooted in a long-suffering revolution to restore the "ancient liberties" of the Anglo Saxons, which created modern constitutional precedent.[19]

The Wars of the Roses began with Henry IV's deposition of Richard II in 1399, and the contemporary catalogued histories of this event demonstrate very plainly this British tradition of historical narration and the role of historical memory in creating a widespread national historical understanding of the past. Henry Bolingbroke, previously Earl of Derby and Duke of Lancaster, ostensibly deposed Richard II because Richard II was not exemplifying the behavior of a good king: the parliamentary records from that

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[19] It is important to note that "constitutional" and "popular" in this context are not related to populist politics. They refer only to the check on monarchial power by elite institutions run by elite individuals. I.M.W. Harvey in "Was there Popular Politics in Fifteenth Century England?" is very clear that the elite of fifteenth-century England numbered only around 2% of the approximately two million people in the population. This estimate included the "51 lay peers, 183 greater knights, 750 lesser knights, 1,200 esquires, 1,600 men with incomes of £10 to £19…and 3,400 with incomes between £5 and £9."

L.M.W Harvey, "Was There Popular Politics in Fifteenth Century England?" in *The McFarlane Legacy: Studies in Medieval Politics and Society*, edited by R.H. Britnell and A.J. Pollard (New York: 1995, St. Martin's Press), 154.

year make it clear that Richard was failing to protect the "common weal," and was

found, after his deposition, to be guilty of acting as though "'he alone could alter and

and create laws of his realm.'"[20] Whatever the underlying motivations of Henry of Lan-

caster and his supporters (both in and out of Parliament), a precedent was set for pre-

tenders to the throne to act against their sovereigns in the name of bad kingship. The

specific terms vary from author to author (failure to support the "common weal," violation

of "ancient rights," unwillingness to share authority with ministers, Privy Council, or par-

liament are variously cited) but all these definitions of bad kingship have their roots in a

much earlier conflicts, and are defined in the Magna Carta, signed by King John in

1215.[21] Richard II was not the first monarch to be thus condemned, but his deposition

led to a period of instability in which the ruling monarch was constantly attacked for an

inability to protect the "ancient rights" of free born Britons, a much more protracted and

volatile crisis than that which preceded the Magna Carta.

The Wars of the Roses created a storm of propaganda, chronicled histories and

legends. Henry IV, the former Duke of Lancaster, became the first Lancastrian king. His

son, Henry V, maintained the Lancastrian dynasty and gained great fame for his suc-

cessful military pursuits in France during the Hundred Years War.[22] After Henry V's

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[20] Parliamentary Records in *The English and Their History* by Robert Tombs (London: Penguin Books Ltd., 2014),135.

[21] King John of England, *The Magna Carta* on The Avalon Project (New Haven: Yale Law School Lillian Goldman Law Library, 2008), accessed August 21, 2016, http://avalon.law.yale.edu/medieval/magframe.asp.

[22] Henry V was responsible for the victory at the Battle of Agincourt, and the subsequent English control of Paris. Henry V was named King of France, as well as of England and Lord of Ireland before his death in 1422.

death, the relative peace (in England) of his reign became increasingly fragile. Henry VI, who became king in his infancy after his father Henry V's death from dysentery, was considered a saint by many of his followers, and incompetent and insane by his critics. His sanity came and went over the years, while his wife Margaret of Anjou and their son Prince Edward of Wales gained infamy for their penchant for extreme violence. The king's cousin, Richard Duke of York, with Richard Earl of Warwick's support and leadership, revolted against Henry VI and Margaret of Anjou. The Duke of York and his son Edmund were killed, and the Duke's son Edward, then Earl of March, inherited his father's claim to the throne and continued his campaign against the Lancastrian forces. Edward defeated the Lancastrian forces at the Battle of Towton and assumed the throne in 1461. The early part of his reign was marked by the insurrection of the Earl of Warwick, Edward's former mentor and relative. Warwick was killed at the Battle of Tewkesbury (1471), and afterwards at the Battle of Barnet, Margaret of Anjou was finally captured, and her son was killed. Edward ruled in peace until he died naturally, and his death stirred conflict once again. Richard, Duke of Gloucester and later Richard III, successfully carried out a coup against his nephews Edward V and Richard Duke of York, taking the throne for himself. In 1485, Henry VII invaded from France and took the crown from the Battle of Bosworth where Richard III was killed. Henry VII's victory is widely understood as the end to the Wars of the Roses, although dynastic conflict did not end with his coronation, and by the end of Henry VIII's rule, nearly every individual with Plantagenet blood was dead.

Chronicles, political treatises, pamphlets, and parliamentary records from this period provide great insight into the ways in which British history has been told, remem-

bered, and utilized in modern politics. Many chronicles of the fifteenth century, and many which started centuries earlier and continued during the time, represent how historians understood the events and the conflicts surrounding this period in the context of British history as a whole, and further suggest how these interpretations have influenced modern historical understandings of the constitution, as well as the actual growth of the constitution itself. Chronicles were prominent catalogues of history through the medieval period, and were used to compile later histories of the events. Though many authors wrote anonymously and often change through a chronicle's narrative, the chronicles provide information which often cannot be found elsewhere, as well as a look into the ways in which propaganda and large events affected the mindset of the educated people (who included both urban elites, and landed aristocracy). Pamphlets played an important role during the Wars; various camps distributed pamphlets among small landowners, knights, and others at the lower tier of the aristocracy (those who could be convinced to fight and bring their tenants to fight), extolling or condemning the current king. Pamphlets, along with visual culture and sponsored literary contributions formed an important part of royal or pretender propaganda. Parliamentary records can provide a good understanding of the actual work done during a king's reign, the problems which faced the Crown, and how justice was dispensed. These records give insight into the character and desires of a ruler. This paper brings together examples from all these sources, focusing on those sources which relate to the reigns of King Edward IV and Henry VII, the two kings who are the most famous, during this period, for their contributions to a "new monarchy." In order to understand how fifteenth century events and narratives affected the constitutional narrative and development in centuries to come, it is

critical to look back at the two monarchs often credited with inspiring constitutional growth.

Case Study on Edward IV

Edward IV has been praised, ridiculed, derided, and exalted over the centuries, coming to be recognized, within the last seventy years, as a possible kick-starter for constitutional development. J.R. Green contends that Edward IV was the absolute "founder of the new Monarchy," [23] signaling that the longstanding view of Henry VII as the turning point in medieval constitutionalism began to fall out of favor once the fifteenth century chronicles were revisited by historians in the mid-twentieth century. Edward IV's importance was duly fit into this traditional historical understanding by J.R Green, Winston Churchill, J.R Lander, and S.B Chrimes, to name a few.[24] Looking at these same chronicles, it becomes clear how these historians based their claims in putting Edward IV into this narrative. The historical sources commemorating Edward IV paint a picture of the King as an individual fighting against despotism and foreign power plays, depicting him as very much a hero in the traditional narrative of British history, which became synonymous with a concerted play towards constitutionality. One of the major chronicles of the period, *Historie of the Arrivall of Edward IV. In England and the Finall Recouverye of his Kingdomes from Henry VI. AD. M.CCCC.LXXI.* provides insight into how their events were understood by historians at the time. This is one of the most important chronicles written about Edward IV; it has been used as a basis for the other

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[23] Bryce Lyon, "Edward IV," *Journal of British Studies* 106 (1976): 180, accessed August 21, 2016, http://www.jstor.org/stable/175289.179.

[24] Ibid., 180.

contemporary chronicles including Polydore Vergil's *Aglica Historia and Fabyan's*

Chronicle. Historie of the Arrivall, scholars have determined, is contemporary to the

events it narrates and was subsequently praised by Edward IV for its veracity; indeed, it

was probably written for the King.[25] Thus, this chronicle is perhaps the most important to

study in order to gauge in manner in which Edward IV sought to immortalize himself,

and how his contemporary historians situated him within the larger scheme of history.

The author (unknown) describes Margaret of Anjou as "the Usurper,"[26] and writes of

Edward IV's legacy in glowing terms. His father, the author writes, "bisydes that he was

rightfully Duke of Yorke, he was also verrey trew and rightwise enheritoure to the roylme

and corone of England &c. and so he was declared by [the] astates of the land, at a par-

liament holden at Westmynster, unto this day never repelled, ne revoked."[27] The author

is very clear that the established political protocol (what Chrimes, Dunham, and Wood

have all defined as "proto- parliamentary structures) gave legitimacy to Richard, Duke of

York's claim (and thus his son's), making their wars against the Lancastrian forces a just

war against a usurping, foreign allegiant (as the author describes Henry VI and his

wife).[28] Edward IV is painted as a triumphant savior of the realm against the invasive

monarchs who ruled with ill regard to the "common weal" and the "ancient rights" of the

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[25] John Bruce, Introduction to *Historie of the arrival of Edward IV. In England. And the finall re-couerye of his kingdomes from Henry VI. A.D. M.CCCC.LXXI,* ed., John Bruce (London: Camden Society, 1838), v.

[26] *Historie of the arrival of Edward IV. In England. And the finall recouerye of his kingdomes from Henry VI. A.D. M.CCCC.LXXI,* ed., John Bruce (London: Camden Society, 1838),10.

[27] Ibid., 4.

[28] Ibid., 10.

nobles and established political protocol; in short, the narrative of these events has

been preserved in history as part of the traditional understanding of British heroes fight-

ing against the foreign tyranny of a king uninterested in working for the advancement of

the realm. However, the author neglected to praise the importance of parliamentary pro-

tocol in the face of royal despotism when decrying the "usurpation" of Richard II's throne

by Henry IV; denying Henry IV's legitimacy gives further evidence against Henry VI's

reign and line. Nor does the author defend the Earl of Warwick for his multiple attempt-

ed coups, which some scholars, including Michael Hicks, argue were based in maintain-

ing the authority and autonomy of parliament and the political process.[29] The supremacy

of parliamentary protocol and so called "good rule" is unimportant unless a greater

rhetorical goal is at stake.

The *Second Continuation of the Croyland Chronicle* describes Edward's victory

in similar terms. The anonymous author writes:

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[29] Michael Hicks, *Warwick the Kingmaker,* (Oxford: Blackwell Publishers Ltd, 1998). 160-163; 311-313.
Certainly, Warwick was a master of propaganda, having successfully backed Richard Duke of York, and later Edward IV's claim to the throne. His work on pamphlet distribution to the gentry landowners leading up to and directly after the Battle of Towton in 1461, where Edward's army successfully routed the Lancastrian forces, was extremely successful. During his attempted overthrows, he again utilized effective propaganda, warning the governing elite against the spreading usurpation of traditional power avenues by the unchecked Wydvilles (Edward IV's queen Elizabeth's family). At least a few of his contemporaries certainly seemed to believe in his crusade; Sir John Fortescue, a legal and political theorist, in his treatise *On the Laws and Governance of England,* detailed a blueprint for good royal government and ended with a personal letter to Warwick himself (while the Earl was in exile in France, treating with the similarly exiled Margaret of Anjou) in which he writes that he pins his hopes for England on Warwick. Based on this letter, it appears apparent that Fortescue really believed Warwick had at heart the best interests of the management of the crown for the betterment of the realm. Whether Warwick really did seek to reform the monarchy is anyone's guess; his final grasp of power did not last, and he was killed by Edward IV's returning army at the Battle of Barnet in 1471. Warwick is not forgotten by history, but he has largely occupied the place of a villain in the chronicled histories of the time, and since. Only recently have historians like Michael Hicks argued in his defense as a possible true ally in the war for constitutionality.
Sir John Fortescue and Shelly Lockwood. *On the Laws and Governance of England: Cambridge Texts in the History of Political Thought* (Cambridge ; New York: Cambridge University Press, 1997). 139-143.

> The nobles of the realm, and all the people who inhabited the midland counties of England, as well as those who were situate in the eastern and western parts thereof…seeing that they were despised and abandoned by king Henry…at the instigation of the queen…sent special messengers…to the before named earl of March, in whom they could place entire confidence, to disclose to him the wishes of the people…however, he would not at present allow himself to be crowned, but…like unto Gideon or another of the judges, acting faithfully in the Lord, girded himself with the sword…to avenge the…realm.[30]

The popular and divine elements are played up in both chronicles's descriptions; in both passages, Edward IV is shown as a people's champion and as a representative from God to deliver the people from the wickedness of Henry VI. These careful emphases draw a parallel between Edward IV and his rebellious forces to the Baron's revolt against the "bad King John," Edward II, and King Stephen. This parallel is strengthened by the specific language and imagery used in the descriptions of Edward IV and his victory. Descriptions of King Stephen and King John are filled with the language of sin; they are damned for ill-using England, and always referred to as an "usurper." Descriptions of sin, discussion of damnation, and divine favor highlight chronicle passages dedicated to King Stephen in the most well-regarded narration of his period, Henry of Huntington's Chronicle. Henry of Huntington uses the power of nature to demonstrate God's agency in ordaining Henry II as the true king, while he blasts Stephen for bringing ruin upon England as punishment for his sins (usurping the crown).[31] King John was similar-

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[30] Henry T. Riley, trans., Ingulph's Chronicle of the Abbey of Croyland with the Continuations by Peter of Blois and Anonymous Writers (London: George Bell and Sons, 1908), 424.

[31] Henry of Huntington, *The Chronicle of Henry of Huntington comprising the History of England, from the Invasion of Julius Caesar to the Accession of Henry II, also the Acts of Stephen, King of England and Duke of Normandy,* translated and edited by Thomas Forester (London: Henry G. Bohn, 1853) 365, 292. Henry of Huntington chronicles the conflict between King Stephen and Henry II writing, "learning and wisdom, and prudence and counsel, are nothing against the Lord; and human cunning cannot escape what has been ordained by Providence. We know that subjects are scourged…sometimes for their rulers' transgressions." During Henry II's fateful last confrontation of Stephen, Henry of Huntington also describes a tempest which gathered power from the Divine as a mark of support from God for Henry II.

ly maligned by his contemporary biographers.[32] The fifteenth-century histories on Edward IV follow in this literary tradition. The references to divine judgement and support for specific "chosen" individuals fit to lead against "sinful," usurping kings act as allusions to earlier judgment on the reigns of old kings. This literary device places the legacy of greatness surrounding past kings at the feet of Edward IV, distinguishing him as the next link forward in the line of God's own chosen representatives on earth. Edward IV's literary connection to rebels against bad kings is echoed further in medieval political discourse. Sir John Fortescue, having been reconciled to Edward's court after the battles of Tewkesbury and Barnet, wrote in favor of Edward's legitimacy as king, and championed the Yorkist King as an example of his "dominium politicium et regale" theory of English government.[33] As a person recruited to the opposite camp after Warwick's

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[32] C. Warren Hollister, "King John and the Historians," *Journal of British Studies* 1 (1961); 2, accessed August 21, 2016, http://www.jstor.org/stable/175095. Matthew Paris, a monk at St. Albans and a prolific chronicler remarked on king John, "Foul as it is, hell itself is defiled by the fouler presence of John." The works by Huntington and Paris are by no means singular in these descriptions, and furthermore it is reasonable to expect that most individuals of education in the fifteenth century would have been familiar with these texts.

[33] Paul E. Gill, "Politics and Propaganda in Fifteenth-Century England: The Polemical Writings of Sir John Fortescue," *Speculum* 46 (1971): 333, 343. This theory claims that the English government in the fifteenth century was arguably "constitutional" in a modern definition. This analysis is widely accepted in the medievalist community. Fortescue's theorizing demonstrates the extent to which medieval history in the fifteenth century was already organized by the traditional narrative responsible for growing and delineating the growth of constitutionality in Britain. Historians, lawyers, and students in the fifteenth century saw English history as a grand struggle between the tyrannical and the good English people who fought against despotism, creating a balance in governance where the King was checked by England as a political entity, using the examples of the Barons revolts against King John forcing the signing of the Magna Carta and against Edward II. Additionally, the unwritten principle of precedent as law is championed in Fortescue's earlier works, legitimizing the Lancastrian line. This acceptance and praise of historical precedent precedent stems from Fortescue's argument that the York claim was invalid because it was derived from the female line, and English history, where there is no immediate male heir but a woman, has demonstrated, that "election" is the proper channel for succession. Therefore, the sovereignty of the realm, based on the precedential evidence, is based, not so much on hereditary claim, but on virtue having been recognized. Thus, England operated a government beholding to no despot, but was ruled by the consent of the realm, because the people have the right (and have in the past exercise that right) to remove from office the unworthy kings (technically).

final stand, Fortescue's work *Declaracion* (written post-1471) provides vast information on the effects of propaganda in fifteenth century narration, and on Edward IV's part in creating his own legacy.[34] Despite his obvious vices,[35] Edward IV became cemented in the historical narrative as a good king; a hero in the narrative of constitutional development. This mythology gave rise to the understanding that there are certain levels of competency and certain qualities of an individual which should prevent him or her from administering kingship over the British people (an idea which comes into play with Henry VII's reign, as well as with the reigns of the Stuart kings).

The surviving documentation of Edward IV's rule and that of his predecessor, Henry VI, suggests that Edward IV's historiographical reputation (influenced greatly by the medieval chronicled histories) is due, not to a determined push to reform the institution of monarch or the office of Parliament in order to create institutional reform, but to a medieval conflation of good rule with the "Norman Yoke" theory of historical progress. Edward IV's competent administrative management and military success, in a stark con-

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[34] Ibid., 346. It is difficult to argue that Fortescue genuinely changed his loyalty after 1471, and that his later works reflect a true change of heart. Fortescue had much to lose after Barnet, including his life, if he did not refute his earlier claims in favor of Lancastrian legitimacy. Additionally his refutations appear somewhat lackluster. He fails to address certain counterarguments, a flaw his earlier works never betray. His claims to have found new chronicles and to have been newly enlightened on the qualities of natural law ring rather hollow. Thus, it must be inferred that Edward, who personally restored Fortescue to favor, upon completion of his refutation, had a hand in shaping his image. Paul E. Gill is careful to mention several times in his article that Fortescue's works were mainly created for the "people" of England. Much of his work was written in english, not latin, and directed at a population, which he repeatedly credits with holding the sovereignty of the realm. Thus, Edward, who must have been aware of Fortescue's audience, aimed his propaganda at the main fighting base of the realm. He actively encouraged the connection between himself and a rebel knight fighting against despotism, and actively participated in the creation of of legacy in medieval memory. This medieval memory, chronicled and orated through centuries formed the bedrock of source material for modern historians, and modern concepts of British history and constitutionality, though modern historians clearly had their own motivations in reviewing medieval history to begin with.

[35] Edward was infamous for constant womanizing, his imprudent marriage to Elizabeth Wydville, and giving her family unprecedented prestige and authority.

trast to the devastation of previous years, created a mythology surrounding Edward as a

savior, a shining example of British leaders propelling the nation forward away from the

tyrannical rule of Bad Kings and forward into the modern history of constitutionalism.[36]

Although the administrative sources for Edward IV's rule are scarce and mostly mun-

dane, they nonetheless provide clear glimpses into Edward's aims as king, his methods

of dispensing justice, and his administrative strategies, which were different that those

of Henry VI. The *Proceedings and Ordinances* collection of conciliar activity ends during

Henry VI's reign; there is nothing comparable for Edward IV's rule, and thus it is difficult

to compare the two rules.[37] Nevertheless, it does not appear that the institution of royal

management changed much from the reign of Henry VI to that of Edward IV, other than

that the King was actually present and able to fight [38] (very well, to judge from sheer

number of his victories- he was a brilliant soldier in his youth), and voice an opinion. The

Calendars of the Patent Rolls and *Warrants for Issues and Chancery Proceedings* cer-

tainly do not provide the well-rounded picture of rule that the *Proceedings and Ordi-*

nances do; however, close examination of these collections does offer some insight into

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[36] The reader will note that the standard British historical narrative (good British leaders bringing fighting against tyranny and foreign abuses of power towards constitutionalism), as discussed earlier, is a standard interpretation of British history.

[37] J.R. Lander, "Yorkist Council and Administration, 1461-1485," *The English Historical Review* 73 (1958): 28-29, accessed August 21, 2016, http://www.jstor.org/stable/558968. From the *Proceedings and Ordinances* texts, it is clear that Henry VI was inactive in the management of his country, and while historians in the early 20th century have used this fact as evidence that the Lancastrian government was really a more representative and checked system, taking into account Henry VI's well documented mental incapacities, it is more likely that his condition simply allowed certain councillors to exert their own authority within the power void Henry's incapabilities created. Pamphlets distributed in the years before the Battle of Towton roughly give a similar impression, as do chronicles (*The History of the Arivall, The Brut or Chronicles of England, Hardygs Chronicle, Ingulph's Chronicle of the Abbey of Croyland)* written during this period. Taking into consideration the obvious bias present, that there is such widespread agreement on the issue amongst different sources, perhaps a level of truth exists in their claims.

[38] Ibid., 29.

Edward's administration. In one respect, Edward did break with typical royal administration: he took as his councilors, not simply the lay Lords, but lawyers and governors of colleges, including Sir John Fortescue.[39] He was clearly interested in receiving the guidance of the educated and of those less likely to renew dynastic struggles through domestic policy.[40] There have been found two warrants pertaining to a specific event in 1466: the upcoming jousting tournament between the Bastard of Burgundy and Lord Scales.[41] The first warrant provides instructions that the Bastard of Burgundy was to be given safe passage through the country, as was his retinue. A second warrant (clearly issued after the first) shows remarkable signs of revision and discussion amongst the King and his council. The second warrant makes clear that the retinue was not to exceed 1,000 men, nor should it include any English men abroad in exile for treasonous activity. Objections to the first warrant—by either the king or the council—led to revisions; these two warrants expose aspects of the ruling process. The king was not simply ruling into a void; there was a process for creating policy, which was, at least on some level, collaborative. As was traditional, Parlimanet was called—based on the council's advice, a comparable number of times to his predecessors and successors, but by no means did the meetings become more frequent or more important to the busi-

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[39] Ibid., 30.

[40] Ibid., 30-31. Context is important; the council was not simply an archaic version of the modern British Parliament. It existed to advise and warn the King, although as J.R. Lander reminds, a monarch's executive orders required cooperation from the chancery, signet office or privy seal office. Thus, the king could, in theory, be prevented from exacting measures which his advisors thought unwise.

[41] Ibid., 38. Lord Scales was Elizabeth Wydville's (Edward IV's queen) brother. He had a reputation as a brilliant jouster, poet, and humanist scholar.

ness of rule.[42] Edward IV, based on his accomplishments in government administration

and war, fits very well into Geoffrey of Monmouth's definition of great kingship. Arguably,

he had a mind for philosophical rule because he was clearly more intent upon ruling

with discretion and with regard for the betterment of the office of kinship after Henry

VII's disastrous turn (listening to the scholars, and collaborating well with his ministers).

He was an accomplished warrior (protected his realm from the reinstatement of the mad

King Henry VI, and managed to make France sue for peace in 1475, allowing the influx

of great wealth into England). Simply because Edward IV acted as a clear-headed, able

bodied king, does that entitle him to such praise as he has received in historical memo-

ry? Perhaps the peace which he was able to bring to his land for several years after

1471 contributed greatly; in addition, his youthful bravery and reputation in battle, and in

looks earned him respect. Edward's accomplishments were put into the context of con-

stitutional development despite the lack of real evidence that shows any substantial

change in the importance of parliamentary check on his authority, because eighteenth

century historians—in an attempt to justify the Glorious Revolution, the Whig party and

their contemporary Parliamentary system—conflated the medieval historian's attempt to

place so-defined "good kings" in a specific narrative of history with a modern under-

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[42] Ibid., 41. The reader will note that a failure to summon Parliament and to intrust with it matters of state was a turning point in the civil war against the Stuart Monarch Charles I, and in the decision to to depose Charles II. Thus in all historical analyses from the Glorious Revolution on, putting monarch's adherence in summoning Parliament displays the virtue of a good king, whereas a trend of failing to summon Parliament at regular intervals contributed to a demonizing view of a monarch, whatever their other failings were (Edward II). While kings like Edward II may have been despised during their time, the historical narrative focuses on their inability to reason with Parliament as a core of their failure (when the truth may be closer to military weakness, a characteristic Geoffrey of Monmouth provides explicitly as a marker of a poor king).

standing of conditionality.[43] Edward IV was a prime example of a good king, but his reputation in historical memory is perhaps far grander than he deserves. Was his reign really an important turning point in the development of constitutionality or was his memory compressed into an anachronistic narrative because he was a sane, able-bodied, and competent monarch? The latter seems likely, considering that actual administrative policy did not change in any fundamental measure, nor were his opponents who, like Warwick, equally propagandized themselves as defenders of the "ancient liberties," thusly remembered.

Case Study on Henry VII

Henry VII's reign, starting in the eighteenth century, and continuing to this day, was and is the most widely regarded turning point in British constitutional history; many historians argue Henry's defeat of Richard III in 1485 at the Battle of Bosworth signaled the end, not just of a royal dynasty,[44] but of a legal and political system, one built upon despotism, corruption and power lust. As with Edward IV, contemporary chronicles highlight how Henry VII was remembered during his time, while an examination of modern scholarship suggests that historical memory impacted and reflected the traditional British historical narrative. The chronicled histories paint Henry in a nearly messianic light, and these descriptions spawned centuries of historical praise of Henry VII as the harbinger of modernity and the originator of practiced and legally protected quasi consti-

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[43] Ibid., 39.

[44] The Battle of Bosworth in 1485 ended the Plantagenet line of kings and queens. The Plantagenets took power with King Henry II's accession to the throne in 1154, having been made King Stephen's heir in lieu of his own son after Henry's successful invasion (his mother the Empress Matilda had her legal claim to the throne usurped by her cousin Stephen-thus Henry was born in exile in France).

tutional reforms. *Ingulph's Chronicle of the Abbey of Crowland* begun in the eighth century and contained continuations through to the coronation of Henry VII and was one of the most influential fifteenth-century histories. It has been used to compile historical analyses since its inception: the Archbishop Parker (1572), Dr Caius (1568), Sir Henry Savile (1596), Polydore Vergil, and Sir George Buck, to name a few, all based their own histories of the period on *Ingulph's Chronicle,* which in turn have informed modern understandings of the fifteenth century.[45] Thus, *Ingulph's Chronicle* has influenced the historical narrative of the period in a major way.[46] Additionally, as Michael Hicks points out in "The Second Anonymous Continuation of the Crowland Abbey Chronicle 1459-86 Revisited" (2007), the text has only recently been treated as a literary document with clear bias, instead of as a wealth of factual information through which the period can be pieced together.[47] The authors of the *Second Continuation* and *Third Continuation* are

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[45] Michael Hicks, "The Second Anonymous Continuation of the Crowland Abbey Chronicle 1459-86 Revisited," *The English Historical Review* 122 (2007); 351, accessed August 21, 2016, http://www.jstor.org/stable/4493807.
Polydore Vergil writes in *Anglica Historia: "*But since arms abroad sometime fail to ward off peril unless there is good council at home, he gathered to himself the most grave and wise men…being a man who believed all his cares should be concentrated on governing the kingdom aright, mindful that was why he was called to the throne by the people. He therefore thought it was of great importance that to take care that the realm might flourish once more in its laws, institutions, and manners and that hopes of its future improvement would be reborn for all men. Such was the foundation for his government that Henry laid from the outset." The progression of histories since the first (*Ingulph's Chronicle* was written in real time to the events it describes) focuses in on, and accentuates Henry VII's relationship with law, government working according to the law, and checks on the often reckless, depraved, and capricious will of the former dynasties.
　　Polydore Virgil, *Anglica Historia* (Irvine: The Philological Museum at The University of California Irvine, Ebook 2010), XXVI.

[46] The *Second Continuation* of I*ngulph's Chronicle* was written directly after the Battle of Bosworth, meaning that much of the early descriptions of Henry VII were written almost in real time to the events, as *The History of the Arivall* was during the events of Edward IV's reign

[47] Michael Hicks, "The Second Anonymous Continuation of the Crowland Abbey Chronicle 1459-86 Revisited," *The English Historical Review* 122 (2007); 349, accessed August 21, 2016, http://www.jstor.org/stable/4493807.

unknown; however, there is evidence that they were educated men, probably secular

figures with political and military ties to Edward IV, Richard III, and Henry VII; therefore

they (or he) would have been fully immersed in and aware of events at Court.[48] Thus,

this is a great source to examine: its material was most likely influenced by court, it had

a wide contemporary readership, and certainly impacted the memory of historians for

centuries. *Ingulph's Chronicle* describes the mindset of both Richard III and Henry VII

before and after the Battle of Bosworth:

> He [Richard III] had seen dreadful visions…and imagined himself surrounded by
> a multitude of daemons…he…presented a countenance which…was on this
> occasion more livid and ghastly than usual and asserted that the issue of this
> day's battle…would prove the utter destruction of the kingdom of England. At
> length a victory was granted by heaven to the said earl of Richmond [Henry VII],
> now sole king together with the crown of exceeding value, which king Richard
> had previously worn on his head.[49]

The equally anonymous author of the *Fourth Continuation* adds commentary on the

Parliament which Henry VII called at Westminster following his victory. The author pro-

claims that day a monumental one, where sovereignty reseted on merit, because Henry

"rules most rightfully…not so much by blood as of conquest."[50] *Ingulph's Chronicle*

paints Henry VII as a savior; his victory over the ghoulish and possibly demonically pos-

sessed Richard III did not cause the end of the kingdom of England, instead the king-

dom grew in importance and greatness, beginning almost the moment kingship passed

from one man to another, as symbolized by the crown. Henry VII was marked by his

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[48] Ibid., 355.

[49] Henry T. Riley, trans., Ingulph's Chronicle of the Abbey of Croyland with the Continuations by Peter of Blois and Anonymous Writers (London: George Bell and Sons, 1908), 503-504.

[50] Ibid., 512.

character to be a good king rather than by his direct blood relation to the previous

monarch, as *Ingluph's Chronicle* suggests. The traditional passage of kingship is dis-

dained here, despite that it remained the sole method of succession until the Glorious

Revolution. It is easy to see why Whig historians and later scholars who drew on their

work would have been fascinated by Henry VII: his elevation from Earl of Richmond to

King of France, England, and Lord of Ireland based, according to the extant primary

source evidence, on personal merit, parallels the events of the Glorious Revolution and

gives provides evidence in the form of historical precedent support to the questionable

legality of monarchial removal. Winston Churchill, in *A History of the English Speaking*

Peoples Vol. I, echoes the sentiment set forth by contemporary and later scholars in

praise of Henry VII. His work, written in the 1950s, demonstrates the longevity of the

Tudor narrative and shows just how influential Henry VII's propaganda and his contem-

porary historians have been in solidifying and creating a historical tradition in British na-

tional memory. He writes that "an oligarchy whose passions, loyalties, and crimes had

for long written English history was subdued."[51] Churchill sees Henry VII's accession as

fulfillment of Richard I's infamous prognosis on the Plantagenet line: "From the Devil we

Sprang and to the Devil we shall go."[52] This analysis parallels the traditional narrative of

English history seen in the chronicles discussing Edward IV: English medieval history is

comprised of valiant attempts of the good against the tyranny of a corrupted monarchy.

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[51] Winston Churchill, *A History of the English Speaking Peoples: Volume I: The Brith of Britain* (London: Cassel and Company LTD., 1956) 394.

[52] Ibid.

The historical memory of chronicled narrative (hugely influenced by Henry VII's own self promotion, as are, for the most part, modern histories on Tudor history) created a longstanding traditional understanding of the first Tudor as a constitutional champion; an understanding which created constitutional growth centuries later. Henry VII created a heritage for himself to justify his legitimacy. The heritage was derived partly from the claim of his wife Elizabeth of York (Edward IV's eldest daughter), partly as the last Lancastrian heir standing, based on the legitimacy of the Beaufort line (his mother Margaret Beaufort's family), and, as Kenneth Pickthorn claims, partly on his right as the divinely chosen champion against the abuses of the usurper Richard III.[53] Henry VII built up these claims to legitimacy by disseminating visual propaganda, implementing active measures which highlighted his bloodline connection to the hereditary rulers of England and connected him to legendary prophecies, and taking a hard line on restoration of good rule, law and order. These claims of legitimacy influenced the historical memory of Henry as a king, and of England's constitutional narrative.

Henry VII's dissemination of visual culture and assertion of active measures, marking his connection to the hereditary rulers of England and ancient prophecies enhanced the contemporary understanding of him as a king of superior moral character,

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[53] Kenneth Pickthorn, introduction to *Early Tudor Government: Henry VII* intro to Early Tudor Government (New York: Octagon Books inc., reprinted from Cambridge University Press, 1934, 1976), 5, 9. Henry VII, the first Tudor monarch, had almost no claim to the English throne when he was born (the grandson of Catherine of Valois, Henry V's Queen, and Owen Tudor); Henry became a genius at propagandizing himself, showing himself off as a legally, parliamentary chosen monarch in order to demonstrate his legitimacy as King.

uniquely fit to rule.[54] The Tudor rose represents Henry VII's cunning: the white rose of

York together with the red rose of Lancaster demonstrates the end of dynastic conflict

and heralds the new king as the savior of the realm - the one true soldier who could

unite the country (Of course, military prowess was one of the characteristics in the me-

dieval definition of good rule).[55] Henry VII's ornamental funeral pall features similar

iconography. The golden brocade is embossed with a red cross (strikingly similar to St.

George's flag). The cross is decorated with miniatures in golden thread of the Tudor

rose and features the Tudor coat of arms which displays a red dragon, a white dog and

a golden lion.[56] The Lion represents England, whereas the dragon had long been a

symbol of the Welsh.[57] The legend of King Arthur and the promise of Camelot had been

extremely popular in England during the Middle Ages, and in 1485 (the same year as

the Battle of Bosworth) William Caxton published Sir Thomas Mallory's *Le Mort de*

Arthur. Legend had it that this ancient and wonderful kingdom of Camelot came not from

England, but Wales. David Carlson claims that Henry VII used his tenuous claim to the

throne as a way of playing up his Welsh lineage to claim his lineage from and parallel

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[54] As previously discussed, the chronicle sources clearly focused on Henry's innate qualities which marked him out as the future king, one which would restore England and put away the memories of Richard III's despotism and the abuses of the Plantagenet dynasty. This historical understanding of Henry VII was then shown to have evolved into his reputation as a constitutional monarch.

[55]This same rhetoric is splashed across the stained glass windows at Hampton Court Palace, and upon the funeral cloth Henry VII ordered for his own burial. Henry VIII installed the stained glass in the vein of his father's symbolism at Hampton Court Palace (actually commissioned by Cardinal Wolsey). The stained glass creates a sort of family tree, combining the coat of arms with a facial rendering and a note of marriage from Edward III to Henry VII, with clear delineation of the roses at the York, Lancaster and Tudor heirs. View Image 1 in Appendix.

[56] Henry VII Funeral Pall, 1509 (Oxford: The Ashmolean Museum, June 2016). View Image 2, Appendix.

[57] Owen Tudor, the founder of the Tudor line was Welsh, and was relatively highborn.

himself to King Arthur,[58] and and evidence appears to corroborate this thesis. In his work, *History of the Kings of Britain,* Geoffrey of Monmouth detailed a prophecy in which Arthur would return and Britain would conquer the world. Monmouth's work would have been circulated among the elite of the time, and the prophecy was well known and had often been alluded to over the centuries since Monmouth's death.[59] The passage of Mallory's *Le Mort de Arthur* in "How Arthur was chosen king, and of wonders and marvels of a sword taken of stone by the said Arthur" has many parallels to the traditional story of Henry VII found in the contemporary chronicles, and this connection has also influenced the modern historical understanding:

> Then stood the realm in great jeopardy long while, for every lord that was mighty of men made him strong and many weened to be king…And upon New Year's Day the barons let make a jousts and a tournament, that all knights that would joust or tourney there might play, and all this was ordained for to keep the lords together and the commons, for the Archbishop trusted that God would make him known that should win the sword.[60]

In a land ravaged by the greed of overly powerful lords, while the lords and commons languished unheeded, one man was destined to come forth and heal the wounds of long warfare and protect the lords and commons, or Parliament. The claims that the one true king would protect parliamentary sovereignty fits perfectly into the *Chronicle*'s image of Henry VII as the protector and promoter of king Parliament, who saved its power

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[58] David Carlson, "King Arthur and Court Poems for the Birth of Arthur Tudor in 1486" *Humanistica Lovaniensia* 36 (1987): 148.

[59] Ibid.,150.
Geoffrey of Monmouth, who wrote about Arthur in an attempt to define the true qualities of exemplarily rule, ascribed to the mythical king the symbol of a red dragon, very much like the one which Henry VII used to create his coat of arms. He created gilded genealogies for his son Arthur which linked him to the mythical founder of Britain, the Trojan Brutus, and by extension, King Arthur.

[60] Sir Thomas Mallory, *Le Mort de Arthur* edited. William Caxton (E-Book: Project Gutenburg, 2013), Ch. 5.

fromRichard III, who sought to undermine its authority.[61] It is not coincidental that Henry

VII named his son Arthur, nor that he utilized the red dragon in his arms. It is clear that

he intended to publicize the parallel between himself and King Arthur. S.B Chrimes, au-

thor of *Henry VII* (1972), and David Carlson agree that the christening of his first son

Arthur is enormously telling.[62] Not only did he name the child Arthur, but he had him

christened in the legendary home of the Round Table, Winchester Castle. Winchester

Castle, according to *Hardyng's Chronicle*, was also the site of Arthur's own coronation.[63]

Such attempts to legitimize his claim to the throne were wildly successful. The parallel

with Arthur, the messianic qualities of a "chosen one" uniting the realm on the battle

ground, came, like Edward IV's memory, to be associated with protection of Parliamen-

tary sovereignty and the rise of constitutionality because of his qualities defining him as

a "good king."

The medieval chronicles and modern historians have championed Henry VII as a

a hero for English common law and the development of legal protection against royal,

noble, and judicial abuses, but this historical narrative appears to begin with Henry VII's

efforts to bolster his "right" to be king through an extensive propaganda project. Henry

VII, J.R Green argued, followed in Henry II's footsteps, creating a revolution in legal pro-

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[61] This is how Richard III is painted in the *Second Anonymous Continuation of the Crowland Chronicle,* and indeed in almost every history of the period until recently, when a small contingent of histo-rians and non-historians have focused on repairing Richard's reputation, claiming he has been unfairly maligned for centuries.

[62] By tradition, the king's eldest son ought to be named after his father, instead Henry VII chose a name which linked his lineage and his personal actions as king with mystical legends of extraordinary quality and prophecies of greatness.

[63] David Carlson, "King Arthur and Court Poems for the Birth of Arthur Tudor in 1486" *Humanisti-ca Lovaniensia* 36 (1987): 152.

tection and signaling the start of a new constitutional era.[64] Henry II is widely regarded as one of the most important earlier medieval kings because of his extensive legal reform; indeed, he has become one of the first points of precedential evidence for the traditional narrative of British history in medieval memory and modern analysis. A survey of surviving of legal cases from Henry VII's reign suggests Henry VII, like Edward IV before him, simply reinforced standard legal procedure and took an active role in its dispensation without changing the legal institution itself or creating a new understanding of the rights of the people against the administrative power of the Court or its subsidiaries.[65] Before Henry took the throne, chaos was rampant in the court systems; judges were not accustomed to being responsible to the law they ostensibly practiced and the North was so entrenched in a more feudal manner of justice where the will of local lords, not King's justices, determined conviction or acquittal.[66] A.F Pollard convincingly argues, drawing on the primary documentation, that Henry VII contributed to the growth of "positive law," which he defines as law developed and enforced by humanity; instead of being founded in the divine will of God. The signing of protocols for public trials in the Star Chamber created a new means for justice to be administered. This creation, and the fact that Henry was present at many of these proceedings, has lead to

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[64] Bryce Lyon, "Edward IV," *Journal of British Studies* 106 (1976): 179-180, accessed August 21, 2016, http://www.jstor.org/stable/175289.

[65] A.F Pollard, *The Reign of Henry VII from Contemporary Sources* (New York: AMS Press, 1967 reprinted from London; Longmans, Green & Co. LTD.,1913), vi.
A.F Pollard argues that Henry VII was the founder of the "new monarchy," which created a revolution in the conditions of the "political, constitutional, social, economic, and ecclesiastical" systems over which Henry VII had influence.

[66] Ibid., xviii.

the assumption that justice was the main focus of Henry's reign.[67] In fact, it appears that

his interest in justice may well have been simply another facet of his good commander-

ship and pragmatism, both as a king and as a propagandist with a need to prove him-

self, additionally evidenced in Henry VII's dealing with the northern rebellion in 1489.

Pollard's most ardent defense of Henry as a constitutional revolutionary is based on

Henry's response to the northern rebellion of 1489. Pollard claims that the details of the

attainders Henry drew up for various rebels, namely the northern rebels in 1489, defi-

nitely point to a growth in the crown management of jurisdiction because the issue was

dealt with so efficiently. Attainders in the fifteenth century (starting with Richard II) had to

be presented to parliament, which during Edward IV's reign, was called irregularly and

infrequently.[68] Henry VII, in response to the rebellion of 1489, quickly opened parlia-

ment, and settled the matter of punishment quickly. Justice against the wrong-doers

was quick and legal in all aspects of its commission.[69] However, the amount of attainder

reversals under Henry VII's reign, unprecedented under Edward IV, tends to indicate

that Henry VII was dispensing justice to the high nobility, not necessarily based on the

letter of the law, but on pragmatism. The highest lords, having been judged guilty and

separated from their property (and occasionally, their lives), in comparatively high num-

bers, were given pardons after the passage of time. It would appear that these pardons

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[67] Ibid., xviii.

[68] J.R Lander, "Attainder and Forfeiture, 1453 to 1509" *The Historical Journal* 4 (1961): 135, accessed August 21, 2016, http://www.jstor.org/stable/3020411.

[69] A.F Pollard, *The Reign of Henry VII from Contemporary Sources* (New York: AMS Press, 1967 reprinted from London; Longmans, Green & Co. LTD.,1913), xviii.

were inspired by political events, and were given in treaty. His contemporaries praised Henry as "merciful" and "benevolent" because he revered so many of these attainders.

Henry was able to maintain and build alliances within the nobility and construct an image as a "law and order" king focused on "mercy," forgiveness, and fairness.[70] In dealing with the northern rebels in 1489, he condemned their actions as an attempt to "rob, despoil, and destroy all the south parts of his realm, and to subdue and bring to captivity all the people of the people of the same," and brought them to justice using the newly reappointed and organized system of jurisdiction to try and execute the leaders of the rebellion on these charges. Looking at "Skelton's Lament," an epic song about the conflict, written by sympathizers or perpetrators of the rebellion, it appears the rebellion was not precipitated by simple desires to plunder southern land, but to protest Henry's taxes: "the commons reyned ther taxes to pay, of them demaunded and asked by the kynge; with one voice importune they playnly sayd nay; they buskt them on a bushment themselfe in baile to bring…they sayd… they cared not to dy".[71] The rebellion actually centered on what appears to be remnants of the civil war (the Wars of the Roses), where local support for lords might challenge the legitimacy of the current king. The lament points to grievances of the sort very common during the Wars of the Roses and earlier civil strife (such as the first Baron's Revolt against King John): inept kingship and tyrannical practice of tax collection without parliamentary consent. Henry's focus on the

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[70] J.R Lander, "Attainder and Forfeiture, 1453 to 1509" *The Historical Journal* 4 (1961): 133-134, accessed August 21, 2016, http://www.jstor.org/stable/3020411.

[71] "Skelton's lament upon the Doulouros dethe and muche lamentable chaunce of the most honorable Erle of Northumberlande" in *The Reign of Henry VII from Contemporary Sources* edited by A.F Pollard, (New York: AMS Press, 1967 reprinted from London; Longmans, Green & Co. LTD.,1913),72.

legal aspect of this case rather than the remaining issues regarding his legitimacy and fitness as king parallel his method of publicly dealing with his dubious claim to the throne by connecting himself to the symbol of the red and white rose, and to the heroes Brutus and Arthur.[72] However, chronicles never discuss the continuing skirmishes and rebellions like that in 1489 in terms of a continuing dynastic rivalry focused on questioning the basis of Henry's personal and hereditary legitimacy.[73] The rebellion in 1489 was not the only challenge to Henry VII's legitimacy and quality of reign that he treated thus; this case simply serves as an example of the methods Henry employed against many such threats. Nor were the rebels ever treated any differently in a legal sense than they had been under previous monarchs. The Star Chamber and Parliament as the High Court may have conducted their proceedings in public, and may have been forced to actually follow the ancient laws regarding treason, but the trials themselves followed a traditional model of summary execution.[74] Even so, Henry continues to receive credit for creating a new system of protections against arbitrary and unjust prosecution.

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[72] "Proceedings of the Privy Council" in the introduction to *The Reign of Henry VII from Contemporary Sources*, edited by A.F. Pollard (New York: AMS Press, 1967 reprinted from London; Longmans, Green & Co. LTD.,1913), xix.

[73] Polydore Virgil, *Anglica Historia* (Irvine: The Philological Museum at The University of California Irvine, Ebook 2010), "Henry VII: 14."
 In *Anglica Historia* Polydore Vergil writes that these rebels had been "secretly striving to create new trouble for King Henry" while the King was simply trying to protect the sovereignty of the "parliament's decrees," lest they be nullified in this case, by the ravings and machinations of lawless "common folk." The chronicle plays up Henry's commitment to law and conciliar authority while undermining the claims and protests of the rebels, adding fire to the historical narrative of Henry VII's great undertakings on behalf of "proto-parliamentary" reforms and law, as well as cementing the historical concept of Henry VII's "chosen one" persona (that once he defeated Richard III, England was saved, the dynastic conflict had ended, and justice bloomed for all under a contracted monarchy).

[74] Ryan Patrick Alford, "The Star Chamber and Regulation of the Legal Profession," *The American Journal of Legal History* 51 (2011): 645, accessed August 21, 2016,http://www.jstor.org/stable/41345436.

Historical memory also credits Henry VII with transforming the office and institution of kingship and its relationship to advisers. However, upon examination of Henry's actions as regards the Great Council, his Privy Council, and the Commons suggests that historians have taken Henry's interest in ruling actively as well as his cool pragmatism and spun it into the mythology of the traditional British history model, feeding the belief that Henry had been "chosen," and that his reign marked the end of an age.[75] The mythology surrounding Henry VII, visible in the contemporary chronicles, weighs heavier in the constitutional narrative than the actual events of his administrative reign.[76] In examining Henry VII's memory in history, it is necessary to look at his political accomplishments in order to judge the distinctions between the reality of the man and the reality of his memory in the historical narrative of Britain's legal and constitutional development. Henry VII's practice of attending to and watching over court cases, and publicly campaigning for a return of law to the realm, became the catalyst in his "constitutional" immortalization. It is in these actions where historians such as A.F Pollard have for centuries sought to use as evidence of constitutional innovation. Like Edward IV, Henry VII fits the classical elements of good kingship, as defined in Geoffrey of Monmouth's hugely influential medieval work, and like Edward IV his (mostly) peaceful rule combined with

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[75] Henry's "new monarchy" in the medieval mindset, continued in the unique British historical narrative that Edward IV's memory belonged in: a pattern of savior kings fighting against the corrupted despotism of foreign or foreign-associated monarchs for the good of the common weal, and Henry VII became known as the ultimate savior king. His "character" became the main focus of historians; he was temperamentally suited for the office of kingship, and his good qualities could be traced through prophecy. He was the one king in centuries who focused his blood in English tradition, stressing his relationship to Brutus, the founder of Britain against the Plantagenets, who were rooted in French and Norman ancestry.

[76] Even so, this narrative is not unimportant for this discrepancy; in fact, it contributed to the constitutional development of the seventeenth century as evidentiary support in the deposition of the Stuart monarchy.

"philosophical" mind,[77] (he spent much of his rule devoted to listening, as Edward IV did, to advisors and working on enforcing and correcting the ancient law of the kingdom) and a legendary reputation as a soldier and commander (The Battle of Bosworth remains well known to this day) compressed him into a historical narrative of which he was not really a player in his own lifetime. The scholars who claim that quasi-parliamentary legal reforms during this period signal the new era Henry VII is so revered for look to Henry's interactions with the conciliar bodies of medieval government. Henry VII was a brilliant political commander; he created and inspired centuries of historians with a "chosen one" legacy attacked to the messianic and darkly glamorous prophetic return of King Arthur to bring the kingdom of England back from the brink of disaster. Henry VII, without argument, employed his extensive leadership skills in the administrative running of the kingdom, and while Henry VII called together his Great Council much more often than previous monarchs had,[78] and while it is true that Henry VII stocked his council with men from many different backgrounds, ostensibly for their unique perspectives and experience, the actual purpose, composition and legal operation of the Great Council remained the same.[79] The council legally existed only as a formality; a king was bound to call upon a small contingent of the noble leaders of the realm. However, Kenneth Pick-

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[77] Geoffrey of Monmouth, *History of the Kings of Britain,* translated by Aaron Thompson and revised by J.A Giles (Cambridge, Ontario: Medieval Latin Series, 1999), 2.

[78] Peter Holmes, "The Great Council in the Reign of Henry VII," *The English Historical Review* 101 (1986):843, accessed August 21, 2016, http://www.jstor.org/stable/570643. During Edward IV's reign the Great Council, based on the document support from *Select Cases Before the King's Council,* became an important political institution, where previously it had fulfilled a mostly perfunctory and ceremonial role, and served as a platform for discord amongst the over mighty magnates. Edward IV, based on these same documents, held probably fourteen Great Councils and Henry VII held five, at least of note.

[79] Kenneth Pickthorn, *Early Tudor Government* (New York: Octagon Books Inc., 1976, reprinted from the Cambridge: Cambridge University Press, 1934 edition)*.* 13.

thorn, constitutional history scholar, while he plainly attests that he believes Henry VII's

victory at Bosworth began a new epoch of British governance, cautions others in his

camp from putting too much weight on Henry VII's changes in the Great Council. The

Great Council, he stresses, convened out of political necessity to maintain alliances with

the most powerful lords of the time, and continued to exist in such a capacity long after

Henry VII was dead and the Council ceased to be used in such a productive and innov-

ative manner.[80] Henry VII's innovations speak to his pragmatism, and desire to rule ef-

fectively and wisely, but not to a directed plan of action to limit the dangerous executive

authority of the monarch with legal institutions of conciliar checks. Examining a passage

from Polydore Vergil (previously mentioned in notes),[81] it is evident that Henry VII's ac-

complishments and vision within the Great Council were translated into the historical

narrative. This passage proceeds the description of Henry VII's first Great Council,

where he restated his intentions to marry Elizabeth of York, which Vergil wrote was a

visible sign of his prophetic character:

> A parliament was summoned…and a day appointed for Henry to wed the girl
> Elizabeth…this was in the year of our salvation 1485. Thus Henry gained the

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[80] Ibid.,13.

[81] Polydore Virgil, *Anglica Historia* (Irvine: The Philological Museum at The University of Califor-
nia Irvine, Ebook 2010), "Henry VII: XXVI." But since arms abroad sometime fail to ward of peril unless
there is good council at home, he gathered to himself the most grave and wise men…being a man who
believed all his cares should be concentrated on governing the kingdom aright, mindful that was why he
was called to the throne by the people. He therefore thought it was of great importance that to take care
that the realm might flourish once more in its laws, institutions, and manners and that hopes of its future
improvement would be reborn for all men. Such was the foundation for his government that Henry laid
from the outset."

throne…since…797 years previously Cadwallader had forecast that his stock would reign once more.[82]

For Polydore Vergil, The wedding of Henry Tudor and Elizabeth of York symbolized the salvation of England, in terms marked with allusions to Monmouth's prophecy and biblical scripture. Actual documentation of the Great Council and Parliament remained virtually unexamined by historians until the early twentieth century,[83] contributing to the spread of the glorious narrative of Henry as a new Arthur, combined with a modern need to justify and defend current political upheavals (the Glorious Revolution, Whig reforms in Parliament) created and maintained the myth that a "new monarchy" was created at Bosworth.

In 1688-89, the Stuart monarchy in Britain was replaced with a foreign ruler; the 1689 Bill of Rights legally established that the office of monarchy was subject to Parliament, and claimed that this assertion was a reinstatement of the realms's "ancient rights."[84] The Bill of Rights is arguably one of the most important documents in the world. It is a representative article of modernity and a harbinger of classical liberalism

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[82] Ibid. The original latin "concilio" had been translated as "Parliament" here, but from the surviving documentation from the Great Council meetings makes it clear that the reference here is to the first Great Council meeting and not a summoned Parliament. Early Tudor Government, 13.

[83] Arthur Percival Newton, "KIng's Chamber under the Early Tudors," *The English Historical Review* 32 (1917): 350, accessed August 21, 2016, http://www.jstor.org/stable/551043.

[84] Bill of Rights on the Avalon Project (New Haven: Lillian Goldman Law Library, Yale University, 2008). The Bill of Rights declares, "Now in pursuance of the premises the said Lords Spiritual and Temporal and Commons in Parliament assembled…do pray that it may be declared and enacted that all and singular the rights and liberties asserted and claimed in the said declaration are the true, ancient and indubitable rights and liberties of the people of this kingdom…And the said Lords Spiritual and Temporal and Commons, seriously considering how it hath pleased Almighty God in his marvellous providence and merciful goodness to this nation to provide and preserve their said Majesties' royal persons most happily to reign over us… their said Majesties did become, were, are and of right ought to be by the laws of this realm our sovereign liege lord and lady, king and queen of England, France and Ireland and the dominions thereunto belonging…"

and the revolutions of the eighteenth, nineteenth, and twentieth centuries which re-shaped political theory, the map, and human society itself. This document proclaimed the sovereignty of the British constitution, that tangle of historical precedent in protecting the legal rights of citizens, Parliament, and the monarchy. The language of the Bill of Rights echoes the language of the fifteenth century chroniclers in their discussions of Edward IV and Henry VII: both mediums claim both God's will and the will of the people brought new monarchs to the throne to protect and save the realm of Britain from the despotic excesses of the previous rulers. Messianic imagery and grandstanded descriptions of military and administrative feats in these chronicles created a mythology surrounding the forever shrouded in indefinable mystery "ancient liberties," and constructed a narrative of British history as a continual struggle against despotic rulers, foreign influence, and the obfuscation of the these "ancient liberties." In this narrative, the war is finally won with William III and Mary taking the throne, but the battles give legal precedent and empowerment to Parliament in 1688 to overthrow their king and invite the Dutch Stadholder and his wife to rule Britain. Edward IV and Henry VII are not the only kings to be celebrated in British historical tradition for contributions to the constitution development of the kingdom, but they are perhaps the best known and most highly regarded as possible turning points in the origins of actual checks on monarchial power during the medieval period. Instead of focusing on the debate over which monarch in history contributed more to British constitutionality— a tedious assignment due to the unimaginable difficulty surrounding actually defining "constitutionality"— this paper has looked at the ways in which historical memory grew out of the Wars of the Roses, and how this historical memory in turn impacted modern narratives of constitutionality. The

medieval historical memory placed these men in the context of a constant, long endur-

ing struggle and created a narrative of English "resistance" to total monarchial authority

which created precedents for checks on power which make up the modern British Con-

stitution. Historical memory is responsible for the growth of one of the greatest, most

complex, and most influential legal systems in human history.

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Appendix

Image 1.

Image 2.