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Comments

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Endogenous Political Legitimacy: The Tudor Roots of England's Constitutional Governance*

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Abstract

This paper highlights the importance of endogenous changes in the foundations of legitimacy for political regimes. Specifically, it highlights the central role of legitimacy changes in the rise of constitutional monarchy in England. It first highlights the limitations of the consensus view regarding this transition, which claims that Parliament's military power enabled it to force constitutional monarchy on the Crown after 1688. It then turns to define legitimacy and briefly elaborates a theoretical framework enabling a historical study of this unobservable variable. The third and primary section substantiates that the low-legitimacy, post-Reformation Tudor monarchs of the 16th century promoted Parliament to enhance their legitimacy, thereby changing the legislative process from the Crown-and-Parliament to the Crown-in-Parliament that still prevails in England.

Keywords: political legitimacy, England, Reformation, Parliament, constitutional governance

JEL Codes: N44, N33, D02, D73, P48

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Introduction

The emergence of constitutional limited monarchy in England was a watershed in the history of political economy. This paper establishes the importance of *political legitimacy* in this transition and that the transition was well on its way in the *16th century*. These two conclusions differ from the consensus view regarding this transition—that Parliament’s *military superiority* led to the transition in the *17th century*.¹

Accordingly, this paper begins by establishing the shortcomings of the consensus view. Specifically, we address its three central claims. The first is that existential, external military threats left no choice to pre-1688 English monarchs but to abuse the rights of their subjects (North and Weingast 1989). Second, an increase in the wealth of those represented in Parliament (particularly intercontinental traders) tilted the balance of military power in favor of Parliament (Brenner 1993; Acemoglu, Johnson, and Robinson 2005; Acemoglu and Robinson 2012). Third, in 1688, the empowered Parliament used its military might to challenge the Crown and impose upon it the rule of law (North and Weingast 1989; Cox 2011, 2012; Acemoglu and Robinson 2012).

This paper evaluates the consensus narrative and finds it lacking. It establishes, for example, that the 17th-century English monarchs faced few external threats in absolute and relative terms and they were aware of this; that there is no evidence indicating that voluntary contributions by merchants tilted the balance of military power; and that Parliament had no army—and could not credibly threaten to create one—during the Glorious Revolution of 1688. We conclude that constitutional monarchy did not come about because of Parliament’s military superiority. In fact, as discussed below, it came about *despite* the military weakness of Parliament from 1646 onward.

This paper’s goal, however, is not to criticize the consensus view or claim that military force does not matter in political transitions.² Both coercive power *and* legitimacy are important in

¹ See, most prominently, North and Weingast (1989), Brenner (1993), Acemoglu, Johnson, and Robinson (2005), and Acemoglu and Robinson (2012).

² The consensus view has been challenged on several fronts. For example, Clark (1996) finds that property rights were broadly secure prior to the Civil Wars, while some degree of encroachment still existed after the Glorious Revolution. Murrell (2017) shows that patterns in various socioeconomic data reveal that change was well under way prior to 1688 and continued in a similar manner thereafter. Meanwhile, Coffman, Leonard and Neal (2013) challenge the view of North and Weingast (1989), arguing that multiple mechanisms—well beyond executive constraint—were necessary to convince investors that public debt was a reasonably safe and liquid form of investment. For further criticisms, see Carruthers (1990), Wells and Wills (2000), O’Brien (2001), Quinn (2001), and Sussman and Yafeh (2000, 2006). While these works point to deficiencies in the consensus view narrative, they do not offer an alternative.

providing the foundation of effective political authority—whereby an authority’s policies, by and large, are adhered to. Legitimacy—the common knowledge belief that an authority has the right to govern, and a subject thus has the moral obligation to obey—is a neglected topic in the social sciences. As such, we have no framework to study legitimacy and how it endogenously changes over time.³

Accordingly, the second section of this paper briefly elaborates a framework to study endogenous legitimacy.⁴ Of particular importance to this paper is an intuitive proposition; that a low-legitimacy authority would seek to gain additional legitimacy by cooperating with a strong *legitimizing agent*, one whose public behavior influences the legitimacy-beliefs held by others.

The third—and primary—section of this paper evaluates the relevance of this insight to the development of constitutional monarchy in 16th century England. It establishes that the Tudor monarchs (1485-1603) had low legitimacy by the prevailing legitimacy principle of hereditary monarchy; that they recognized this situation; that they initially turned to the pope for legitimation but ultimately relied on legitimation by Parliament after the Reformation. Moreover, given the initial weakness of Parliament (particularly the House of Commons), the Tudors labored to promote Parliament’s legitimating power in various ways such as increasing its size and relying on acts of Parliament in new policy domains such as succession. Perhaps most importantly, the post-Reformation Tudors changed the legislative process from the Crown-and-Parliament to the Crown-in-Parliament that still prevails in England. The Crown still declares new law, but the Crown publicly states that acts are enacted by the authority of Parliament composed of the Crown, the House of Lords, and the House of Commons.

In short, this paper argues—echoing the view of numerous historians—that a rule of law established itself in 16th-century England.⁵ It was not the result of inter-class military conflict as asserted by the consensus view. Rather, it was due to inter-elite cooperation in creating a legitimate regime that generated mutually beneficial policies. The section concludes by demonstrating the

³ The study of legitimacy has a long history, from Hobbes to Hume to Weber. It is a topic that is central to the literature in political philosophy. We argue here and elsewhere (Greif and Rubin 2023) that what is missing from this literature is a theory of *endogenous* political legitimacy.

⁴ For an elaboration of the framework, see Greif and Rubin (2023).

⁵ The argument that some degree of the rule of law was established and manifested in the Crown-in-Parliament has been argued by Elton (1953, 1969, 1974a, 1974b, 1982, 1991, 1992) and his many followers (e.g., Lehmborg 1970, 1977; Goldsworthy 1999; Zaller 2007).

importance of legitimacy considerations by explaining the secularization of the political decision making in post-Reformation England.

Although outside the scope of this paper, the conclusion reflects on the events of the 17th century that inspired the consensus view. The discussion emphasizes the benefit of studying an authority's political efficacy while recognizing that both power and legitimacy matter.⁶

The Consensus View and its Deficiencies

After the last Tudor monarch Queen Elizabeth I died in 1603, James VI (the king of Scotland) became King James I of England, the first king of the Stuart dynasty. Four Stuart kings reigned in England (and Scotland) from 1603 to 1688.⁷ The first two were James I (1603–25) and his son, Charles I (1625–49). In 1642, a Civil War began in England. There were three civil wars between 1642 and 1651 in which the Crown and Royalist supporters fought Parliamentary forces. Charles I was defeated in the First and Second Civil Wars (1642–46 and 1647–48, respectively). In 1649, a Parliamentary tribunal condemned him to death for treason and abolished the monarchy by an act of Parliament. Charles I's son, the future Charles II, led the Royal forces during the third Civil War (1648–51). He lost and fled to France. England became a commonwealth governed by a Parliament until 1653 and afterwards was ruled by a Lord Protector (military ruler). The monarchy was restored in 1660 and Charles II was king from 1660 until his death in 1685. His brother, James II, became king but fled England during the Glorious Revolution of 1688.

This section begins with a short discussion of the consensus view interpretation of the process leading to the emergence of constitutional monarchy in 17th-century England. It then proceeds to establish that the consensus view's main claims regarding this process are not supported by the evidence: (1) the Stuart monarchs faced a particularly *low* level of exogenous, existential threat; (2) there is *no* evidence indicating that the wealth of the new merchants was crucial to the Civil Wars; (3) Parliament *did not have the military force*—or the capacity to create one—to force the Crown to accept the rule of law in 1688. The evidence does not support the consensus view.

⁶ Due to length considerations, the analysis in this paper abstracts away from several important issues including the role of religion, see, e.g., Russell (1971); the role of social conflict, see, e.g., Hill (1972); Stone (2002); and the importance of newly formed political parties, see, e.g., Pincus (2009).

⁷ Queen Anne (1705–14) was the last of the Stuart line to rule. We follow the literature by focusing on the dynasty's monarchs up to 1688.

The consensus view regarding the emergence of constitutional monarchy in the 17th century

The interpretation of these events by the consensus view is as follows. The Stuarts, like the Tudors before them, were abusive because they feared attacks by foreign powers. Fearing losing their throne, they could not cooperate with Parliament to shore up their finances. As North and Weingast (1989, p. 807) explain, “One important context in which repeat play alone is insufficient to police repudiation concerns variations in the sovereign’s time preference or discount rate. States in early modern Europe were frequently at war. Since wars became increasingly expensive over the period, putting increasingly larger fiscal demands on the sovereign, the survival of the sovereign and regime was placed at risk. When survival was at stake, the sovereign would heavily discount the future, making the one-time gain of renegeing more attractive relative to the future opportunities forgone.”⁸

After 1640, Crown-Parliament relations rapidly deteriorated as a group of intercontinental merchants gained wealth. This group opposed the Crown, who did not grant them political influence and voice. The sides mobilized armies and “eventually [in 1642] the opposition [i.e., Parliament] challenged the king [Charles I], leading the country into civil war” (North and Weingast 1989, p. 814). In 1660, Parliament peacefully restored the monarchy. The following two Stuarts kings (Charles II and James II) however, were also abusive and another military conflict, known as the Glorious Revolution, transpired in 1688. In this revolution, King James II was “deposed by Parliament with the help of an invading Dutch army and [was] replaced by [James II’s son-in-law] William of Orange and a parliamentary regime with a constitutional monarchy” (Acemoglu, Johnson and Robinson 2005, p. 563; henceforth AJR 2005).

According to North and Weingast (1989, p. 815), in 1688 Parliament forced constitutional monarchy on the Crown using the threat of its military power. In their words, “Parliament restructured the society’s political institutions in the Revolution Settlement” to constrain the

⁸ To explain the difference between the Tudors and the Stuarts, North and Weingast noted that Elizabeth I sold much of the Crown land to fight off Spain, leaving the Stuarts with little land. This observation is correct but does not explain the lack of cooperation. It highlights that the Stuarts had more to gain from cooperation with Parliament. Later works such as Acemoglu and Robinson (2012) asserted that political economy is a zero-sum game.

Crown. Particularly important in rendering these new institutions self-enforcing were the military power and the wealth of Parliament: “two factors made the new arrangements self-enforcing. First, the credible threat of removal [by force] limited the Crown’s ability to ignore the new arrangements. Second, in exchange for the greater say in government, Parliamentary interests agreed to put the government on a sound financial footing, that is, they agreed to provide sufficient tax revenue” (North and Weingast 1989, p. 817).

Did existential threats lead to abuses?

Why did the Stuarts abuse rights instead of cooperating with Parliament in shoring up their finances? The consensus view holds that external, existential threats from European powers limited the ability of the Crown to commit to extract only an agreed upon amount. This narrative is intuitively appealing and is well grounded in the theory of repeated games. But is it supported by the evidence? The evidence indicates that the Stuarts did not face existential external threats nor expected one. The Stuarts faced a low level of foreign military aggression—much lower than the Tudors, who cooperated much more with their Parliaments as established below.

Under the early Stuarts (1603–49), England was never attacked, invaded, or raided by continental forces. Under the later Stuarts (1660–88), there were only three such events but none by a major power; 1667 (a Dutch raid), 1685 (a Dutch-backed invasion of Charles II’s illegitimate son challenging James II), and 1688 (a Dutch-backed invasion of William and Mary). In contrast, under the Tudors, England was attacked, invaded, or raided seven times and often by a main continental power; 1487 (a pretender), 1495 (a pretender), 1513 (a French-backed Scottish invasion), 1545 (France), 1588 (Spain), 1596 (Spain), and 1597 (Spain).

More generally, the Stuarts were less involved in wars than the Tudors (Table 1). The Stuarts spent only 9.68 years (15 percent of their reigns) fighting other European powers while the Tudors (after Henry VII) spent 35.6 years (38 percent) in such wars. Each of the three post-Reformation Tudor rulers (Edward VI, Mary I, and Elizabeth I) fought external wars between 41 and 49 percent of their reigning years while none of the Stuarts engaged in war to that degree.

Table 1: Wars under the Tudors and Stuarts

Monarch	Reign	Number of Years at War	Share of Reign at War
<u>Tudors</u>			
Henry VIII	1509-1547	12.04	0.32
Edward VI	1547-1553	3.17	0.49
Mary I	1553-1558	2.38	0.45
Elizabeth I	1558-1603	18.01	0.41
<i>Weighted Average</i>			<i>0.38</i>
<u>Stuarts</u>			
James I	1603-1625	1.43	0.06
Charles I	1625-1649	4.00	0.27
Charles II	1660-1685	4.25	0.17
James II	1685-1688	0.00	0.00
<i>Weighted Average</i>			<i>0.15</i>

Note: The table includes the entire reign of Henry VIII. It excludes the period from 1649 to 1660 (the Interregnum). Source: various standard works.

The table reveals that James I (1603–25) was at war for only 1.43 years (6 percent) of his 22-year reign. Charles I (1625–49) fought in 27 percent of his reign (prior to the Civil Wars and excluding wars with Scotland and Ireland). Charles I’s wars—the Anglo-Spanish war (1625–30) and the Anglo-French War (1627–29)—were fought at his initiative at the beginning of his reign. Charles II fought three wars (1665–67, 1665–69, 1672–74) against the Dutch Republic, Spain, and the Dutch again. All were wars he initiated and terminated. James II (1685–88) did not fight any external war (although he faced two revolts supported by the Dutch).

The reasons for the favorable military situation were structural and systemic and were well understood at the time. A prominent historian of the period, Lawrence Stone (2002, p. 78–79), noted that fear “of invasion [from] abroad ... by the early seventeenth century ... had greatly diminished and indeed, had all but vanished.”⁹ During the second half of the 17th century, neither Spain nor France threatened the Stuarts. Spain was in decline and Charles II challenged it by marrying a Portuguese princess. France could have been more of a threat as it was the rising

⁹ Stone (2002, p. 79) elaborates: “[T]he danger of invasion from Spain, which had been so real under Elizabeth, finally disappeared with the peace of 1604. The possibility that Ireland could be used as a staging point for invasion by Spanish forces seemed to have been eliminated ... Scotland was eliminated as a staging point for invasion by French forces by the conversion of the Scottish nobility to Protestantism and, in 1603, by the [personal] union of the two crowns under James I and VI. France had been so weakened by the Wars of Religion [1562–98] that it was no longer feared as the menace it once had been under Francis I [r. 1515–45, the time of Henry VIII] and would be again under Louis XIV [r. 1648–1715] ... in the 1620s few thought that England was directly threatened.” See also Brice (1994, p. 41–46).

continental power. The late Stuart kings (Charles II and James II), however, had strong personal connections with the French monarchy, as they were first cousins of the king of France.¹⁰ Both Charles II and James II sought shelter in France after the English Civil Wars and James served in the French army. After the Restoration, Charles II negotiated an alliance with France. The resulting Treaty of Dover (1670) had public and secret components including Anglo-French military cooperation against the Dutch Republic, French military support in case of an English revolt against Charles, and a yearly payment to him from the French king.

In any case, existential wars were neither necessary nor sufficient for running a deficit during this period. James I had a large deficit despite a peaceful reign while Elizabeth I balanced the books during the 15 years she fought to prevent Spain from conquering England and deposing her. Under James I, England was at peace from 1604 to 1621, although an Irish revolt cost James £600,000 (Brice 1994, p. 29). By 1606, James “had already accumulated a debt of £816,000 that by 1618 rose to £900,000 despite selling £400,000 of the Crown land” (Brice 1994, p. 17, 32). His fiscal woes were due to both systemic and idiosyncratic reasons. The fiscal needs of 17th-century England outstripped the traditional sources of royal income, but James I contributed greatly to this by his “unbridled extravagance,” inefficient financial management, large gifts to his Scottish and later English favorites, and not compromising with Parliament (Anderson 1999, p. 33–34; Brice 1994, p. 17). By 1612, James I “spent 185,000 on jewels; pensions given as rewards to courtiers rose by 50,000 to 80,000 a year; expenditure on the household doubled by 1610 ... [In contrast,] Elizabeth had spent less than 300,000 a year in peace time. Under James this figure rose immediately [that is, in 1604] to 400,000 and reached a peak of 522,000 in 1614” (Brice 1994, p. 26).

Elizabeth I fought a defensive war against Spain for the last 15 years of her reign and also faced a costly revolt in Ireland that was financially draining. Nevertheless, Elizabeth remained solvent and upon her death in 1603 she had “a surplus of 9,000 in her treasury and [her] debt of 400,000 was covered by outstanding debts owed by France and the Dutch and by an uncollected

¹⁰ Their mother was Henrietta Maria, the daughter of the French king Henry IV. The reigns of Charles II and James II (1660-1685) overlapped with that of their first cousin, Louis XIV of France (r. 1643–1715). Their sister Henrietta married the French king’s brother and was influential in connecting the French and English courts.

subsidy voted in 1603” (Brice 1994, p. 17).¹¹ Some of the revenues were from sources to which Parliament did not approve. She was successful, nevertheless, at generally retaining good relations with Parliament.

In short, the consensus view does not explain why the Stuarts failed to cooperate with Parliament. The evidence does not support the claim that the Stuarts could not commit to respect rights due to the threats of external military aggression.

Did the rising wealth of new merchants tip the balance of power?

In any case, if the Crown-Parliament balance of military power kept the peace as the consensus view asserts, explaining the military conflicts requires explaining what tilted the balance of military power in favor of Parliament.

The consensus view claims that Parliament’s power increased due to changes in the wealth distribution brought about by the expansion of inter-continental trade on the eve of the Civil Wars (Brenner 1993; AJR 2005; Acemoglu and Robinson 2012). Specifically, the expansion of inter-continental trade enriched a group of non-elite merchants who operated mainly abroad and were thus beyond the reach of the Crown. Members of this group sought to align their political power with their wealth and thus supported Parliament; they voluntarily contributed to Parliament’s war effort, tilting the military balance in favor of Parliament.

AJR (2005) suggest that profits from trade during the Civil Wars were £200,000 and that “many merchants used their profits from Atlantic trade to support the conflict against the Crown” (p. 565). Their contributions to the fight against the Crown were “large relative to the resources necessary to make a difference politically and militarily” (ibid). Specifically, their contributions substantially increased the size of Parliament’s fighting force: “[A]rmies on both sides of the English Civil War were small, 10,000 to 20,000 men, ... the presence or absence of a few thousand troops was therefore decisive” (ibid n. 26).¹²

¹¹ Elizabeth relied, to some extent, on extra-Parliamentary revenue sources to balance her budget. Some of these, such as the sale of chartering private business ventures to finance an English counter-Armada were legal. The legality of other revenue sources was in doubt and among these were forced loans and monopolies.

¹² Brenner (1993), who first noted the formation and role of the new merchants, asserted that their role in the Civil Wars was linking the landed gentry (who controlled Parliament and opposed the Crown’s attempt to rule without Parliament) to the traders in London (who opposed James’s commercial policy). Both groups were Puritan.

This analysis is appealing; it clearly delineates causality and provides some supporting quantitative measures. This narrative, nevertheless, is not supported by the evidence. To illustrate, it is well known that Parliament and the Crown received voluntary contributions from many groups and individuals. Many more pledged contributions, but it is unknown if they delivered. Importantly, the consensus view does not present evidence regarding the relative or actual contributions by merchants.

We found only one additional piece of useful information on this issue. The *total* voluntary contributions to the anti-Royal forces from 1642 to 1659 was £480,000, out of which £180,000 was donated to subdue the Irish (Sinclair 1804, vol. 1, p. 284). In other words, the donations from *all* sources amounted to only £17,650 per-year to fight the Crown. The consensus view holds that the new merchants *alone* contributed £200,000 per year. Clearly, historical data on voluntary contributions during a civil war may be particularly difficult to decipher and may be under-reported in the historical sources. Yet, we have no evidence that the merchants contributed a particularly large amount.

But even if the merchants contributed the hypothesized annual amount of £200,000 that AJR (2005) postulated they could have, it was insufficient to have a large impact on the war outcome. The impact of this amount is estimated to finance about 10,000 men based on £20 a soldier for equipment and yearly pay (AJR 2005, p. 565, n. 26). The fallacy here is clear once we note that Parliament's annual budget was £4,472,000 while fighting the Crown (Colquhoun 1815, p. 164). At £20 a soldier, the Parliamentary army should have had more than 220,000 soldiers. The calculation in AJR (2005) is misleading because it ignores the difference between the marginal cost of a soldier and the much larger average cost of a soldier while running a revolution. If the size of Parliament's army was between 10,000 and 20,000 as conjectured, the average cost of one soldier were more than ten times larger and ranged between £224 and £448 per soldier. If so, the traders' contributions would have increased the army by about 400 to 900 soldiers rather than the thousands that AJR (2005) postulated, constituting a small increase in the fighting forces.

The conclusion that the consensus view overstates the impact of the merchants' contribution holds if we also correct the claim in AJR (2005) regarding the size of Parliament's army and the army fighting specific battles. In 1645 there were "at least, 60,000 to 70,000 [military] men in the pay of the Parliament" (Firth 1902, p. 34) implying that the traders' £200,000 would have increased

Parliament's army by less than 3,000 soldiers total or about 400 men in every battle of 10,000 soldiers.

Finally, AJR (2005, p. 564) argues that the importance of the merchants in Parliament's victory is evident from the higher number of merchants who became MPs after the Civil Wars. The claim is that "the fraction of MPs who were merchants increased dramatically. Although even in the 1690s this number was not large enough to constitute a majority on its own." The evidence on the occupational structure of the Parliament, however, does not support this claim. The share of merchant MPs was and remained low both before and after the war.¹³

Figure 1 presents the occupational breakdown of MPs in various Parliaments. Specifically, it shows the fraction of MPs who were merchants and the fraction who were legal professionals. The fraction of merchants in the House of Commons reached a peak of 17% under Elizabeth I (the Parliaments of 1559 to 1571), declined to a low of 7.8% in 1625 and 1626, and was above 10% only once thereafter (11% in 1679). It was just 9% in the first Restoration Parliament of 1660 and declined further in the next Cavalier Parliament (1661–78) in which merchants held only 7% of the seats. Merchants held 10%, 7%, and 8% of the seats in Charles II's last Parliament, the only Parliament of James II, and the first post-1688 Parliament.¹⁴

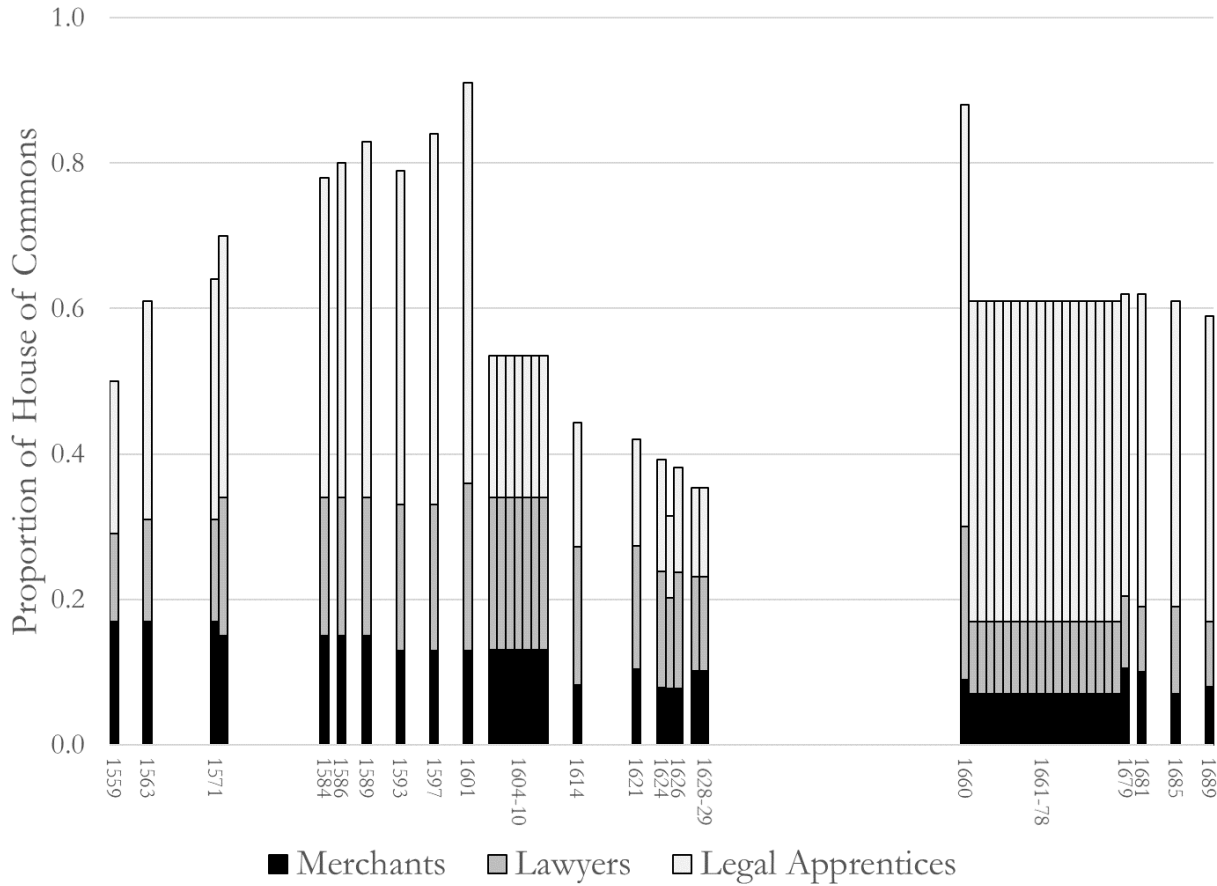
The figure also reflects that legal professionals were the largest occupation group. Among them were judges, lawyers, and members of the inns of courts (training schools for lawyers in which the trainees lived, learned, and socialized with other members of the profession). The size of this group—and not the merchant group—became particularly large after the Civil Wars. Like the case of merchants, the share of lawyers and members of Inns of Courts was higher under Elizabeth than under James I and Charles I who were, as can be expected, hostile toward lawyers (particularly those in their Parliaments). This is understandable if James I and Charles I struggled to free themselves from the law from which legal professionals made a career. The evidence in fact reveals that James went as far as nominating the most eminent legal scholar of the period, Edward Coke,

¹³ We follow the Parliament History Online definition of merchants. We exclude the Rump Parliament. Acemoglu, Johnson and Robinson (2005, p. 564) also suggests (without elaborating) that more pro-trade policies after the Civil Wars reveals the impact of merchants on policies. This is possible, but it ignores that the Crown had its own interest in expanding trade and infighting the Dutch, the English main commercial rival at the time. See Pincus (2006).

¹⁴ Adding the share of MPs with interest in trade and those from mercantile families does not change the conclusions. The data for the calculation regarding 1660–89 are from <https://historyofparliamentonline.org/volume/1660-1690/survey/i-composition-house>.

who was an MP, to a sheriff position to prevent him from sitting in Parliament. The Restoration (1660) exhibited a marked increase in the number of MPs who were legal professionals to almost 90%, and this share remained more than 50% in 1688 and 1689.

Figure 1: Merchants and Legal Professionals in the House of Commons, 1559–1689



Sources: History of Parliament online and in print. Various entries in surveys and MPs bibliographies.

The facts therefore do not support the claim that the rising wealth of the new merchants group tipped the balance of power. Their rising strength was likely important in convincing some of the landed elite to join on the side of the Parliamentarians, as suggested by Jha (2015). But they were simply too small a part of Parliament to have been remotely decisive. Legal professionals, on the other hand, did have the numbers to tilt the balance of power.

Did Parliament's military power force the rule of law on the Crown in 1688?

In any case, the evidence also does not support the consensus view's claim that Parliament's military power was the *deus ex machina* in the emergence of the rule of law in England. In fact, Parliament had an army only during the First Civil War, that is, from 1642 to 1646. The armies that Parliament mustered early in the Civil Wars were ineffective until 1645, when Parliament created the New Model Army—a well-equipped, well-trained, highly motivated, mobile army that led Parliament to victory. After Charles I was taken captive in 1646, Parliament sought to dissolve its costly army, but the army refused to dissolve and created its own leadership (the Army Council, which included several MPs). The army became a political actor distinct from Parliament. To illustrate, after the king was captured at the end of the first civil war, the army negotiated with him, independently of Parliament, how to resolve the crisis that led to the Civil Wars.

In the years between 1646 and the Restoration of 1660 the army sometimes cooperated and sometimes conflicted with Parliament. In any case, the army, not Parliament, was central to many of the political events that the consensus view identifies as particularly important and generally attributes to Parliament. The army initiated the execution of Charles, the termination of the monarchy, the institutional experiments during the interregnum, and the Restoration of the monarchy.

To illustrate, consider the trial and execution of Charles I. Although Charles I was captured by the end of the first Civil War (1646), he escaped and joined forces with the Scots against Parliament. In the second Civil War (1648–49), the New Model Army again prevailed and Parliament—the majority of which sought a negotiated solution to the crisis—entered negotiations with Charles (the failed Treaty of Newport). The army, in contrast, sought to get rid of Charles I and the monarchy once and for all. Accordingly, the army purged Parliament (Pride's Purge) of the 231 MPs who were in favor of a negotiated solution. The resulting Parliament, known as the Rump Parliament, had only about 210 MPs (Lynch 2002, pp. 19, 40). The actions of the army suggest that the majority of the MPs in the Long Parliament sought a negotiated solution, a position that contradicts the premise of the consensus view that Crown-Parliament relations were a zero-

sum game. Shortly afterward, in 1649, the Rump put Charles I on trial, executed him, and terminated the monarchy. England became a commonwealth.¹⁵

In 1653, however, the army concluded that the Rump was ineffective in governing England and dissolved it. England became a Protectorate led by a Lord Protector, Oliver Cromwell, who was an MP and military leader. Cromwell, a de facto military dictator, sought to restore civil government, or at least the appearance of one, but each of the several assemblies he created was ineffective. Cromwell thus relied on military governors and county commissioners to rule. Discontent and resentment of the protectorate were widespread, and after Cromwell's death in 1658, his son, the new Lord Protector, resigned shortly after taking office.

In 1660, one component of the army instigated the Restoration of the monarchy. Specifically, after the death of Oliver Cromwell in 1658, various military and civil factions struggled to gain control. In 1659, General George Monck, the English army commander in Scotland, captured London. He then labored to create a civil government by engineering a reconciliation between Parliament and Charles II, the son and heir of Charles I. General Monck restored the Long Parliament of 1640 (which, as noted above, sought a negotiated solution to the conflict and not to end the monarchy). Monck also advised Charles II how to make the Restoration offer one that Parliament could not refuse. Monck's military units maintained order during the Restoration process and facilitated dissolving other army units. The process of dissolving the army was paused due to a republican uprising in 1661. Parliament thus approved a small royal standing army of two regiments (Fellows 1995, p. 19).

Following the Restoration, Parliament legislated that the Crown would control the army and the militia. Previously, before and after the first and second Civil Wars, Parliament demanded a weakening of the Crown's prerogative rights over the armed forces.¹⁶ In sharp contrast, Parliament did not seek such control in the Restoration and approved a standing army for Charles II. This was the first peacetime standing army in England since the Magna Carta (1215). The army was small, consisting initially of only six regiments and having about 9,000 men in early 1685 (Fritze and

¹⁵ See Lynch (2002) and Pincus (2006) regarding the interregnum.

¹⁶ For a short discussion see Fritze and Robison (1996, p. 25–27).

Robison 1996, p. 26). In short, Parliament approved that only the Crown would have military force after the Restoration, and it allowed the Crown to have a standing army.¹⁷

Not surprisingly, Parliament had no military force during the Glorious Revolution. The Crown retained and expanded its hold over military power during the Restoration. James II, an experienced, professional military man, in contrast, had a well-equipped, well-trained, and well-paid army of some 30,000 or 40,000 men. He maintained and expanded his army after Parliament approved in 1685 that James would muster an army of about 20,000 men to subdue revolts (Fritze and Robison 1996, p. 26). In 1688 James's army faced a mercenary army of about 21,000 men led by William of Orange (James II's Dutch son-in-law) and financed by the Dutch.¹⁸

That the English opposition to James II had no army is well-known and was noted by contemporaries. For example, an eyewitness to the event, the Scottish writer and politician Andrew Fletcher, asserted that in 1688 "Britain stood in need of a foreign force to save it" (Fletcher 1698, p. 10). Moreover, William was neither invited by Parliament nor promised the crown. In fact, there was no sitting Parliament in England in 1688, as James dismissed his only Parliament a year earlier. William was invited to England by seven political leaders who represented a "wide cross-section of political leaders" (Anderson 1999, p. 195) who assured William that he had broad support in England. William and Mary were declared the rulers of England by a Convention Parliament but only after they consented to the principles of the Bill of Rights.

Clearly, in 1688 the military strength of Parliament was not the factor leading to an outcome favorable to it. Moreover, if, as asserted by the consensus view, military power is the primary determinant of political power, then William and Mary, whose military strength caused James to flee, should have been more dictatorial than he was and less accommodating to Parliamentary rights. They were not. Military force alone cannot explain the Glorious Revolution.

¹⁷ See, for example, Pincus (2006) and Trevelyan (1938). Parliament also lost its informal control over the county militia. Charles II and James II let the militia to decay and it "had virtually disappeared in most parts of England by 1688" (Fritze and Robison 1996, p. 26).

¹⁸ Pincus (2006, pp. 17–20) argues that the Dutch financed this invasion because they feared James II joining Louis XIV of France against them. James was Catholic. The Dutch Republic was a Protestant republic and had the most advanced economy of the period. Its success was contradictory to the Stuarts' claim that monarchy was the only form of government that God approves of. An unknown number of English volunteers joined William after he landed in England.

In sum: Parliament controlled an army for less than 10 percent of the period from the first to the last military conflicts, that is, 1642–88. Moreover, after 1646, there was generally an army in England that had the first mover advantage to prevent Parliament from mustering an army if it were to try. Parliament had no army during the Glorious Revolution of 1688. More generally, the recurring—and puzzling—pattern during the 17th century is that military victories poorly predicted winners. The monarchy lost the Civil Wars yet was restored. The victorious Model Army and its leader, Oliver Cromwell, won the Civil Wars but failed to create either a lasting military dictatorship or a lasting republic. In 1688, Parliament won—it obtained from the monarchy more rights than ever before—despite having no army. Clearly, the consensus view must be re-thought. This is not the objective of this paper, however. Its purpose is only to highlight that legitimacy of the Crown-in-Parliament might be the variable that the consensus view is missing.

Legitimacy and its Foundations

Can integrating legitimacy in the study of this period enhance our comprehension of the process through which England became a constitutional monarchy? Addressing this question requires us first to define legitimacy and elaborate on how to study it given its unobservability. Accordingly, this section defines legitimacy, substantiates that English monarchs cared about their legitimacy, and presents an analytical framework to further study endogenous legitimacy (for a further elaboration, see Greif and Rubin 2023).

Political legitimacy: Shared beliefs and their management

A political authority is more effective in achieving her objectives the more economic agents comply with her policies (e.g., regarding taxation). Compliance is an issue whenever the authority demands actions that are costly to a subject. Authorities thus generally invest in the capacity to punish non-compliance. Motivating compliance by punishment is costly, even if it is not practiced. For this reason, an authority's power is often identified in the political economy literature with wealth: resources are a key to power-based political authority (North and Weingast 1989; Tilly 1990; Stasavage 2011; Acemoglu and Robinson 2012).

Political legitimacy reduces such governance costs. An authority is considered legitimate by a particular subject if that subject accepts the morality of her rule and thus his moral obligation to

comply with her policies. An authority is more legitimate the more subjects consider her legitimate and the stronger is their moral commitment to comply. More precisely, an authority is more legitimate the higher the degree of common knowledge among her subjects of her right to rule and their moral obligation to obey.

Political legitimacy can be *personal* or *action-based*. Personal legitimacy is the extent to which the authority is viewed as legitimate. Action-based legitimacy is the extent to which an action taken by a particular entity (such as the authority) is viewed as legitimate. To illustrate, a US president derives personal legitimacy by winning a free and fair election. Yet, the president only has the action-based legitimacy to undertake certain actions: a president cannot, for example, legitimately declare war as the action-based legitimacy to do so resides in Congress.

Although legitimacy is not the sole basis for political authority, it can be crucial for a regime's effectiveness and longevity. Legitimacy motivates compliance exactly when power is least effective: when the authority faces an existential threat (e.g., an invasion) that reduces the motivation effect of future punishments. Legitimacy induces compliance based on intrinsic motivation and does not depend on future rewards or punishment. In general, power and legitimacy are substitutes and co-exist.

Legitimacy differs from popularity. A ruler can be legitimate even if she is unpopular and a popular ruler may be viewed as illegitimate. The key distinction between the two concepts is that legitimacy entails a *moral obligation* to obey, whereas popularity does not. To illustrate, the approval ratings numerous U.S. presidents has been well below 40% but they were generally considered legitimate by the citizens. Meanwhile, military coups sometimes reflect popular anti-regime sentiment, but they are often considered illegitimate even by their supporters.

An authority's effectiveness thus depends on managing shared, commonly known beliefs about her legitimacy and the legitimacy of her actions. Shared beliefs matter because subjects' best responses are strategic complements. The more one expects others to comply, the higher is the gain from compliance. Hence, it is not necessary for the entire population to view the ruler as legitimate for the population to act as if they do. If enough of the population views the ruler as legitimate, a shared belief regarding the ruler's legitimacy can prevail.

The general principle of managing shared beliefs is well known. Public events—such as coronations—during which one is exposed to information relevant to the belief-formation process are crucial. The public nature of such events makes one aware that all others have been exposed

to the same information as well (Kuran 1995; Chwe 2001). Moreover, because public events are observable, they provide an opportunity to empirically examine the impact of otherwise unobserved phenomenon. In general, legitimacy is non-observable, and this frustrates comparative statics analyses in which legitimacy is either the dependent or independent variable. However, the content and timing of publicly observable events provide an alternative, particularly in past societies in which we can neither conduct surveys nor administer randomized experiments.

Did English monarchs care about their legitimacy?

Choices made by English monarchs since 1066 reveal that they cared about their legitimacy and tried to manage shared beliefs regarding it. When an English monarch died, members of their inner circle immediately declared a new monarch. Although the decision was made public, the event was private and presumably had limited impact on shared beliefs. A second event, the coronation ceremony, was public. It transpired over several days and was held in highly visible and symbolic locations. During the coronation ceremony the new monarch's legitimacy was recognized by subjects deemed important. The coronation thus provided an opportunity to manage shared beliefs.

Clearly, coronation ceremonies fostered shared beliefs regarding both power and legitimacy, but because England was a hereditary monarchy, they reveal that legitimacy mattered to English monarchs. If legitimacy mattered, those with a lower legitimacy endowment—non-adult male heirs—should have had more to gain by holding earlier coronations.¹⁹ A non-adult male heir had more to gain by quickly creating shared beliefs regarding their legitimacy. If English monarchical authority was based only on power (resources), adult male heirs and other heirs would have been equally motivated to hold the ceremony as soon as possible. In contrast, if legitimacy contributed to their authority, heirs who were not the adult son of the previous monarch would rush to be coronated.

The data confirm that this was the case. Table 2 shows the days between the monarch's accession to the throne and their coronation since 1066. The data separate adult male heirs of the previous monarch and all other heirs. It took an average of 84.3 days for a non-adult male heir to

¹⁹ The English monarchy has long been a hereditary monarchy in which the right to the Crown passed from father to his oldest surviving son. Transitions from father to son were not always easy or possible, however, particularly when a king passed away without an adult son because a child king was controlled by a regent, while prior to the 16th century there was no female monarch in England.

hold a coronation ceremony while it took adult male heirs 242.2 days, on average, to do so. Prior to the period of Parliamentary supremacy, when securing legitimacy may have been more important for monarchs, the data also shows a substantial difference in the days to coronation between adult male heirs (164.0 days) and non-adult male heirs (40.2 days). This relationship has no meaning in a world where rule is by power alone. Its meaning is clear in a world where legitimacy matters.

Table 2: Days to Coronation of English Monarchs, 1066–present

Monarch	Reign	Days to Coronation	Monarch	Reign	Days to Coronation
<i>Adult Male Heirs</i>			<i>Non-Adult Male Heirs</i>		
William II	1087–1100	17	William I	1066–1087	0
Henry I	1100–1135	3	Stephen	1135–1154	0
Richard I	1189–1199	59	Henry II	1154–1189	0
John	1199–1216	51	Henry III	1216–1272	10
Edward I	1272–1307	641	Edward III	1327–1377	12
Edward II	1307–1327	233	Richard II	1377–1399	24
Henry V	1413–1422	19	Henry IV	1399–1413	13
Henry VIII	1509–1547	64	Edward IV	1461–1483	116
Charles I	1625–1649	312	Richard III	1483–1485	10
Charles II	1660–1685	329	Henry VII	1485–1509	69
James II	1685–1688	76	Edward VI	1547–1553	23
George II	1727–1760	122	Mary I	1553–1558	104
George III	1760–1820	332	Elizabeth I	1558–1603	59
George IV	1820–1830	537	James I	1603–1625	123
William IV	1830–1837	439	William III & Mary II	1688–1702	57
Edward VII	1901–1910	564	Anne I	1702–1714	46
George V	1910–1936	412	George I	1714–1727	80
George VI	1936–1952	152	Victoria	1837–1901	373
Charles III	2022–	240	Elizabeth II	1952–2022	482
Average (Overall)		242.2	Average (Overall)		
Average (pre-1689)		164.0	Average (pre-1689)		

Notes: Adult male heirs are men who are 17 or older at time of succession to the throne, and their father (mother) was the previous monarch; Henry VI ascended to the throne at nine months and we do not include him; also excludes is the disputed reign of Matilda (1141) and the short reign of Edward VIII (1936). Neither had a coronation.

The details of various coronation ceremonies further reaffirm that legitimacy mattered to claimants to the English Crown. Legitimacy-weak rulers invested much to enhance their coronations' legitimacy impact. For instance, in 1399, Henry IV usurped the crown from Richard II. In need of legitimation, he added many new features to the coronation to give it a more spectacular aura. These included donning ceremonial robes (instead of dressing in white as a

“humble suppliant”), lifting the Coronation chair on the scaffold for enthronement, using the Holy Oil of St. Thomas, and presenting himself as a “man of God” (Strong 2005, pp. 166, 169).

On the other hand, those who had a strong legitimate claim to the throne, based on the principle of hereditary monarchy, held modest ceremonies. Consider, for example, the coronation of Charles I (r. 1625–49), who was the first adult male heir to ascend to the English throne in over a century. Charles’s ceremony was a relatively simple matter, and he did not even bother to enter London in a procession as was done by his father James I and the Tudor monarchs (Strong 2005, p. 267). In other words, Charles I did not feel that a public display promoting his legitimacy was necessary. He was the king by right and inheritance, and a coronation ceremony was held pro-forma only.

To go beyond such general evidence and to comprehend changes under the Tudors, it is useful to make some additional theoretical observations.

Legitimacy principles: The cultural and institutional foundations of legitimacy

The prevailing shared beliefs regarding legitimacy are a society’s *legitimacy principle*. It specifies why a particular individual (or an organization) has legitimate personal authority or action-based legitimacy, including the right to legitimate an authority or her actions. More generally, using the conceptual framework developed in Greif (2006), legitimacy principles are commonly known internalized beliefs (moral norms) and behavioral beliefs (expectations), complemented by rules that guide and coordinate behavior, and a corresponding cognitive framework that justifies the distribution of political authority. As the previous subsection attests, the interdependence of observable and unobservable components facilitates the empirical analysis of legitimacy.

It is thus analytically useful to distinguish between two components of a legitimacy principle: the cultural and institutional foundations of legitimacy. The cultural foundations specify the conditions for an authority and her actions to be legitimate. The institutional foundations specify the means substantiating that a particular authority satisfies the cultural foundation.

A particularly important component of the institutional foundation of legitimacy is *legitimizing agents*; those whose actions and sayings influence *others’* beliefs.²⁰ An authority can choose whomever she pleases to legitimate her, but for a legitimizing agent to be effective—to influence others’ legitimacy beliefs—the choice of legitimizing agents must be perceived as satisfying two

²⁰ For more on the role of legitimizing agents, see Coşgel, Miceli and Rubin (2012a, 2012b) and Rubin (2017).

conditions. The first is having the information and knowledge necessary to make an informed decision regarding the legitimacy of the authority and her actions. Catholic cardinals legitimate a pope, high nobles legitimate a monarch, and voters legitimate elected officials. Second, the legitimating agent should be able to refuse legitimating with relative impunity. Yes-men and sidekicks are not king-makers.

Legitimation has a peculiar attribute rendering it particularly effective in constraining authorities. Bestowing legitimacy is a *reversible* act (unlike the transfer of wealth). After legitimacy is bestowed, it can be easily taken away without the consent of the receiver. For instance, legitimacy bestowed by a parliament to a king in the past means little if the parliament decides to revolt against the king in the present. Such conflicts may be the most visible part of the relations between an authority and her legitimating agents.

Yet, the relations between an authority and her legitimate agents are fundamentally those of *cooperation*. A ruler and her legitimating agents gain from cooperation, which reduces governance costs and enables the extraction of more resources from the population. Legitimating agents are often well rewarded for their cooperation but doing so while satisfying the above conditions implies that this reward is often best achieved by giving the legitimating agent *political power*, namely, a role in the process of political decision making.

Legitimacy principles can and do endogenously change. They are quasi-parameters (Greif and Laitin 2004; Greif 2006); exogenous in the short run and endogenous in the long run. As integral components of a society's cultural heritage, the initial set of legitimacy principles and legitimating agents is beyond the control of the authority; they are part of the initial conditions that impact an authority's initial choices. In the long run, however, an authority's choices influence the legitimacy principle and the distribution of legitimating power. The mere act by the authority of requesting legitimation enhances the power of the chosen agent to legitimate. The request signals that the authority accepts that these agents can recognize whether she is legitimate or not. For instance, when a king calls a session of Parliament to enact legislation, he recognizes the legitimating power of Parliament's stamp of approval, which in turn increases the power of Parliament to enact legislation in the future. An authority's choices of legitimating agents therefore influence not only the legitimacy of the authority but also the power of other political actors.

When will an authority seek to change the legitimacy principle and her legitimating agents? The discussion above suggests that there is an important trade-off for rulers seeking legitimation:

by asking for legitimation in the present, rulers cede future power to their legitimating agents. By implication, a legitimacy-weak authority whose policies would hardly be followed in any case would seek a strong legitimating agent, promoting the agent's legitimating power through public statements and deeds. The authority would have to compromise in enacting policies with a stronger agent but would gain from the higher compliance generated by the higher legitimacy.

Is this intuitive insight—that a legitimacy weak (strong) authority prefers having a strong (weak) legitimating agent (*ceteris paribus*)—relevant to the transition to constitutional monarchy in England? The next section argues it is.

Legitimation under the Tudors (1485–1603)

This section substantiates that during the Tudor dynasty (1485–1603) there was an *endogenous* change in the legitimacy principle underpinning the authority of the monarchy. The low legitimacy of the Tudors motivated them to enhance their legitimacy and that of their policies by relying first on the pope. Following the Reformation, however, they turned to Parliament as their primary legitimating agent. They thus promoted Parliament's legitimating power through their actions and statements. The Crown-in-Parliament became the ultimate legitimating body in England and acts issued by Parliament (composed of the Commons, the Lords, and the Crown) became the ultimate sources of statutory law and legitimate authority.

The Tudors' legitimacy challenge

Low personal legitimacy is a necessary condition for an authority to seek a strong legitimating agent. Did the 16th century Tudors have weak personal legitimacy? The evidence indicates they had low legitimacy, much lower than the Stuarts.

As discussed above, the oldest legitimate son of the previous monarch was the most legitimate heir in pre-modern England. Under this principle, however, the Tudor monarchs had low personal legitimacy. The dynasty's founder, Henry Tudor (the future Henry VII) was not the son of the previous monarch but won the throne on the battlefield. He was born in 1457 during the Wars of the Roses (1455–85) fought between the royal houses of Lancaster and York. Henry was Lancastrian with a weak claim to the throne from his mother's side while his father was Welsh, not English. Yet, victories by Yorkish forces implied that in 1471 Henry was among the last surviving Lancastrian claimants to the throne. Henry was sent to safety in Brittany (France) but

returned to England in 1485 and defeated the Yorkist king Richard III. Dethroning Richard III was arguably treason, although Henry claimed that he was a conqueror and thus not a traitor. In any case, he was fortunate that Richard III was neither legitimate nor popular.²¹

Henry VII was aware of his legitimacy deficit. Even prior to defeating Richard III, he announced his intention to marry the daughter of the late Yorkist king Edward IV so that his son and heir would have bloodlines from both houses. In any case, Henry was repeatedly challenged for more than 20 years by pretenders who claimed to be the missing sons of the Yorkish king Edward IV and thus had a stronger claim to the throne. In comparison, the first Stuart king, James I, was the nearest living kin of the previous monarch who chose him as her heir. In any case, Henry VII's low legitimacy cast a long shadow on his dynasty while most of the other Tudors also had low legitimacy for other reasons. One was a sickly child (Edward VI) and two were the first female monarchs in English history (Mary and Elizabeth).

It is possible to measure the legitimacy of each Tudor and Stuart monarch (when they came to the throne) using an exogenous and two endogenous proxies (Table 3). First, and perhaps most important is the legitimacy associated with being the closest male (next-in-kin) heir of the previous monarch. Adulthood smoothed royal transitions, as the new monarch could rule from day one rather than being subject to a regent. Among the Tudors, only one (Henry VIII) out of five monarchs satisfied this condition while among the Stuarts to 1688, three out of four monarchs did (and the only one who did not, James I, was the closest living relative of the previous monarch and her chosen successor).

Two endogenous proxies of a ruler's legitimacy reveal the perception of contemporaries regarding the monarch's legitimacy. The first is days to coronation that was discussed above. A higher number reveals that the monarch is more confident in his or her legitimacy. The Tudors seem to have been much less confident than the Stuarts; the average days to coronation for the Tudors was less than 64 days while that of the Stuarts was 210 days. The second proxy is whether a monarch's first Parliament passed an act of legitimacy. Such an act recognizes the legitimacy of a monarch—it was a parliamentary seal of approval. It was a public event as, similar to all acts, it was also widely circulated in the kingdom and this was common knowledge. Like the days to

²¹ Richard III was widely believed to have murdered the legitimate Yorkist heirs to the throne (the sons of his late brother, Edward IV). Henry VII's military victory was due to a defection by two of Richard III's military contingencies.

coronation proxy, a legitimacy act indicates weak personal legitimacy; it signifies the monarch's need for Parliament's stamp of approval. It was first enacted to legitimate Mary I, the first female queen of England. It was later issued for Elizabeth I. In the 17th century it was awarded to every monarch that Parliament brought to power; James I, Charles II, and William III and Mary II. A legitimating act was not issued to Charles I and James II, both of whom lost their thrones due to internal opposition led by Parliamentary supporters. This suggests that the Stuarts who either had particularly high personal legitimacy (Charles I) or a particularly large army (James II) were more likely to conflict with Parliament. History indicates that they greatly underestimated the power of Parliament. As discussed above, Parliament had no military power after 1646. Did it have legitimating power?

Table 3: Legitimacy Attributes of the Tudors and Stuarts

Monarch	Adult Male Heir	Days to Coronation	Legitimacy Act
<i>Tudors</i>			
Henry VII	No	69	No
Henry VIII	Yes	64	No
Edward VI	No	23	No
Mary I	No	104	Yes
Elizabeth I	No	59	Yes
<i>Average</i>		<i>63.8</i>	
<i>Stuarts</i>			
James I	No	123	Yes
Charles I	Yes	312	No
Charles II	Yes	329	Yes
James II	Yes	76	No
<i>Average</i>		<i>210</i>	
<i>Post-1688</i>			
William III & Mary II	No	57	Yes

Papal legitimization and its demise

Initially, relying on Parliament to legitimate was not the Tudors' intention. The primary way that the first Tudor king, Henry VII (1485–1509) responded to his legitimacy deficit was by appealing to papal legitimization (Russell 1971, pp. 69–103). Responding to Henry's request, the pope sent him (in early 1486) a papal bull confirming his right to the throne and requiring obedience from

his subjects on pain of excommunication. A new pope sent another papal bull in 1492 (Crawford 1967, p. lxxvii). These bulls were translated into English, circulated to parish churches, and were to be read by (or to) all. The second Tudor monarch, Henry VIII (1509–47), went even further in obtaining papal legitimation and published a treatise (1521) rejecting Luther’s challenge (1517) to papal authority. The treatise was sufficiently influential to elicit Luther’s response. In return, the pope bestowed on Henry VIII the hereditary title of the “Defender of the Faith.” Henry VIII was the first (and only) English monarch to receive this title from the pope.

The evidence confirms that the Tudors rewarded their Catholic legitimating agents by giving them the opportunity to influence policy. High clergy held policy-influential public offices during the first (pre-Reformation) 45 years of the Tudor dynasty (1485–1529). Specifically, high clergy held the most important offices of Lord Chancellor and Keeper of the Privy Seal throughout this period. In total, high clergy held 100% (90 out of 90) of the office-years for these offices during this period.²² Moreover, high clergy held all the office-years under the Catholic queen Mary I (1553–58).²³

The pope also benefited when clergy held high public posts. Consider, for example, Thomas Wolsey (b. 1473–1530), who held important clerical offices but was also the Lord Chancellor. He initially advanced in the ranks of the church, but in 1507 entered the service of King Henry VII. Upon Henry VII’s death in 1509, Wolsey gained a seat in Henry VIII’s Privy Council, and in 1515 he became the Lord Chancellor. Prior to his fall from power in 1530 (see below), he also rose in the ranks of the Church, becoming the Bishop of London, the Archbishop of York, a Cardinal, and the Papal legate in England. Although Wolsey was a dedicated and capable Chancellor who recognized his dependence on Henry VIII’s patronage, he “adapted his country’s foreign policy to the needs of the pope” (Elton 1991, p. 114).

Protestant high clergy had no comparative advantage in intermediating between the papacy and the Crown. Were the Protestant Tudor monarchs therefore less likely to nominate Protestant high clergy to policy-influential posts? The evidence confirms that this was the case. After the Reformation, from 1530 to 1603 (when the Tudor dynasty ended), high clergy held the office of Lord Chancellor only twice, that is, three percent of the total. No high clergy held office of the

²² Data from Powell and Cook (1977, p. 20). Years are not adjusted for months served.

²³ Only the identities of her Chancellors are known.

Keeper of the Privy Seal. In total, out of the 138 office-years (excluding the five years of the Catholic Mary I), high clergy held office only in 2 years (1.45%).

The reason that Henry VIII broke with Rome also reveals the legitimating role of the papacy in pre-Reformation England. Notwithstanding the role of religiosity and greed in the drama of the Reformation, if the pope were a legitimating agent, the Crown and papacy might had failed to reach a policy compromise. Was this the case? Did the pope and Henry VIII fail to reach a policy compromise that Henry was willing to accept, and the pope was willing to legitimate? The evidence supports this interpretation.²⁴ Specifically, Henry VIII and the pope failed to reach a compromise regarding the annulment of the marriage of Henry and Catherine of Aragon. By 1527, Henry had already concluded that their marriage would not produce a male heir. Accordingly, he sought an annulment. The case for annulment had merit and Cardinal Wolsey, Henry's Chancellor and the Papal legate, was expected to quickly resolve the matter. By 1529, however, neither a viable compromise nor a process leading to it was in sight. In fact, the pope seemed to have been playing for time, perhaps because Charles I, the emperor of the Holy Roman Empire, objected to the annulment. Henry VIII responded by dismissing Cardinal Wolsey and accusing him of treason for placing the authority of the pope above that of the Crown (*praemunire*).²⁵ From 1529 to 1536, Henry VIII achieved the annulment, reformed the Church in England, and became its supreme head (to the exclusion of the pope).

From Rome to Westminster: Promoting parliamentary (legal) legitimation

Prior to 1529, papal legitimacy was effective because most of the English population was Catholic. It is therefore puzzling that “the break with Rome was achieved with a minimum of opposition” (Lehmberg 1977, p. 279).²⁶ If the Pope was important in legitimating policies, how did Henry VIII and the other Protestant Tudors motivate compliance with policies to which the Pope objected? The Tudors, after all, had low personal legitimacy and faced numerous policy challenges including twice breaking with Rome (under Henry VIII and Elizabeth I), restoring Catholicism (under Mary

²⁴ See, for example, Russell (1971, ch. 2) and Turvey (2015, ch. 4).

²⁵ Wolsey died in 1530 on his way to stand trial. Henry also dismissed the Bishop of London from his office as the Keeper of the Privy Seal.

²⁶ That opposition was marginal is the dominant view. See, for example, Elton (1991, p. 115).

I), crowning England's first female monarchs, marrying a reigning Queen (Mary I) to a Spanish prince, and a long war due to the refusal of another queen (Elizabeth I) to do so.

Although compliance can sometimes be coercively induced, this was not the case under the Tudors. As G. R. Elton noted with respect to Henry VIII, the most legitimate and powerful Tudor ruler, "despotic action" to counter popular resistance "would have been beyond Henry's means" (Elton 1991, p. 115).²⁷ This is not to say that the Tudors failed to use brute force and monetary incentives, when needed, to get their way. Yet, they refrained from policies leading to popular resistance, and they adjusted policies to accommodate such resistance when it arose.

To strengthen their legitimacy and withstand Papal delegitimization, the post-Reformation Tudors relied on Parliament to legitimate their policies. Thus, they labored to strengthen Parliament's legitimating power. Specifically, the post-Reformation Tudors relied on legitimation provided by acts of Parliament (the statutory component of common law), which combined the legitimacy principle of hereditary monarchy with those of representation, consent, and rule of law.²⁸

Breaking with Rome entailed advancing an alternative legitimacy principle to papal legitimacy. Beginning in the 1530s, Henry VIII fostered the legitimating power of Parliament by regularly and publicly declaring that acts were issued by the authority of Parliament and not by his authority. An act was now declared, in Henry's words "by the King's most excellent majesty, with the advice and assent of the Lords spiritual and temporal, and the Commons, in the present Parliament assembled, and by the authority of the same" (Elton 1974b, p. 30). This formula explicitly recognized that a law was enacted by the Crown-in-Parliament, requiring the consent of the Commons, Lords, and the Crown.²⁹ Subsequent Tudors continued doing so and this enactment formula became standard ever since.

²⁷ Turvey (2015, pp. 182–85) summarizes the literature on this issue. The Tudors' limited capacity to overcome popular resistance was apparent from their response to the Pilgrimage of Grace and the Revolt of the Northern Earls. Similarly, in 1525, Henry VIII failed to impose the Amicable Grant, a tax imposed without Parliamentary approval.

²⁸ The economic and political causes and consequences of the Reformation has seen a resurgence of interest among social scientists. For recent surveys, see Becker, Pfaff and Rubin (2016); Becker, Rubin and Woessmann (2021).

²⁹ This formula was used previously, particularly after the 1450s, but not constantly so. An act was considered enacted by the Crown after consulting with Parliament if the clause "by the authority of the same Parliament" was omitted. The act, in this case, was enacted by the Crown-and-Parliament. The consensus view noted the importance of the "king-in-parliament" but argued it was used only after 1688. In the words of North and Weingast (1989, p. 816): "First and foremost, the Revolution [of 1688] initiated the era of parliamentary 'supremacy.' This settled for the near future the issue of sovereignty: it was now the 'king in Parliament,' not the king alone."

In other words, the Tudors increased the legitimating power of Parliament by publicly changing the legislation process from one in which the Crown legislated in consultation with the Lords and the Commons (Crown-and-Parliament) to one in which Parliament legislated by the consent of the Lords and Commons, with the assent of the Crown (Crown-in-Parliament).

Henry VIII further reinforced Parliamentary (legal) legitimacy in various ways. This included explicitly recognizing the legal immunity of MPs. To illustrate, consider the Ferrers case of 1543, which involved an MP (George Ferrers) who was arrested for a default on a loan to which he stood surety. When Parliament's Serjeant-at-Arms sought his release based on the immunity of members of Parliament, the arresting officers refused. The dispute escalated and eventually the king ordered the release of Ferrers and noted the unity of Parliament and the Crown. In Henry VIII's words, the Crown "at no time stand[s] so highly in our estate royal as in the time of Parliament, wherein we as head and you as members are conjoined and knit together into one body politic, so as whatsoever offence or injury (during that time) is offered to the meanest member of the House is to be judged as done against our person and the whole Court of Parliament. Which prerogative of the court is so great (as our learned counsel informeth us) as all acts and processes coming out of any other inferior courts must for the time cease and give place to the highest..." (Elton 1982, p. 277).³⁰ In other words, Henry VIII publicly recognized the ultimate legitimating powers of the Crown-in-Parliament.

Henry VIII also fostered Parliament's legitimating power as a legislative body by transforming his conflict with the papacy from one over *religious* authority to one over *legal* authority. Henry advanced Parliamentary supremacy over the Convocation, the legislative assemblies of the clergy. The histories of Parliament and the Convocation date to the 13th century when both were summoned by the Crown to grant taxation. While Parliament represented secular subjects, the Convocation represented the people of the Church.³¹ By the Tudor period, both assemblies deliberated on and made laws; Parliament issued acts and the Convocation issued canons. Acts were the statutory component of common law and thus adjudicated in common law courts, of

³⁰ Also see Russell (1971, p. 43).

³¹ Membership in the Convocation and Parliament overlapped, as wealthy members of the Church sat in the House of Lords.

which the highest court was the High Court of Parliament. Canons were the statutory component of canon law, whose highest procedural authority was the papal court in Rome.³²

The Convocation, canon law, and church courts were visible manifestations of the legitimacy of the papal claim of supreme authority. One of the first steps taken by Henry VIII in breaking with Rome was subjecting the clergy to acts of Parliament and canon law to common law. Upon calling the Reformation Parliament in 1529, he encouraged it to present him with the Supplication against the Ordinaries (1532) that listed complaints about corruption in the Church and abuses by the Church courts. Henry exploited (or assisted in inventing) animosity between the Church and the gentry who dominated Parliament (Fritze 1991, p. 366). Ironically, the Crown's reliance on papal legitimacy had previously motivated the English monarchs to allow such abuses.³³ Henry VIII sent the Supplication to the Convocation requesting a response. Shortly afterward, prior to the Convocation responding, he invoked the 140-year-old Statute of Praemunire of 1392 (16 Richard 2 c 5) to accuse the clergy, as individuals and as a group, of praemunire (i.e., placing the authority of the pope above that of the Crown). The Convocation agreed to pay a very large fine, submit to the Crown's authority (with some ambiguous qualifications), and place canon law under the supervision of common law. In the following year (1533), Parliament issued the Ecclesiastical Appeals Act (24 Hen 8 c 12), prohibiting legal appeals to any court outside England, including Rome.

Although Convocations continued to meet and legislate, acts of Parliament limited their legislative authority. Similarly, the Church courts survived the break with Rome, but "the Reformation radically altered the position of the Church courts" (Fritze 1991, p. 106) and placed them under the authority of common law (e.g., Act for the Submission of the Clergy, 1534). Once the Church courts were subdued, their authority was extended by acts of Parliament and under the supervision of the Crown (Fritze 1991, p. 106).

The conjecture that the Reformation was a turning point in relying on Parliamentary legitimation implies that starting in 1529, Parliamentary activities would increase in number and

³² Common and canon laws were supposed to have distinct spheres of adjudication. Common law was applicable to civil and criminal matters of secular Englishmen while canon law was applicable to spiritual matters. In practice, however, the laws overlapped substantially, as members of the English clergy lived under canon law and every English person was subject to canon law in spiritual matters (the definition of which was open to arbitrary definition by canon law). For instance, canon law dealt with marriages and inheritances and thus overlapped with common laws governing property.

³³ See Elton (1991) and Russell (1971). Turvey (2015) surveys the literature.

scope. The evidence confirms this prediction. Table 4 presents the number of Acts of Parliament per year during Henry VIII's reign. It shows that there was a sudden, significant, and persistent increase in activities of Parliament after 1529.³⁴ The left side presents the data for the pre-Reformation years (1509–28) and the right side for the post-Reformation years (1529–46).³⁵ Calculating the yearly average of the number of acts indicates a substantial increase in the latter period. Between 1509, when Henry VIII came to power, and 1529, when he began the break with Rome, the yearly average of Parliamentary acts was 7.58 while the yearly average from 1529 onward was 30.51, a fourfold increase. The same was true of public acts, which increased from 4.14 to 18.86 per year. These are reflective of how much Henry used Parliament not merely for royal private acts. Parliament was also in session much more after the Reformation. Prior to the Reformation, it was in session 5.0% of days. This share nearly tripled to 13.8% after the Reformation. Moreover, the number of days it took a sitting Parliament to issue an act declined. The pre-Reformation Parliaments only enacted about four acts for every ten days in session, while the post-Reformation Parliaments enacted about six acts every ten days in session. A similar increase in Parliamentary activity occurred with respect to public acts (an increase from 2.25 to 3.75 public acts for every ten days in session).

The higher level of Parliamentary activity persisted during the reigns of the other Tudor monarchs, suggesting an increased reliance on Parliamentary legitimation. Table 5 presents the number of acts and acts per year for every monarch from 1399 to 1603 (that is, from Henry IV to Elizabeth I). The number of acts (both public and total) per year under Henry VIII after the Reformation was higher than any previous monarch and it remained high under Edward VI and Mary I. Although it declined somewhat under Elizabeth I, it was still higher than for most of the 15th century.

³⁴ Elton (1969) discusses the patterns of use of Parliament in English history.

³⁵ 1547 is excluded because Henry VIII died on January 28, 1547 while Parliament was still in session (and yet to pass an act).

Table 4: Acts of Parliament under Henry VIII, 1509–1546

Pre-Reformation			Post-Reformation		
Year	Total Acts	Public Acts	Year	Total Acts	Public Acts
1509	20	15	1529	26	21
1510	0	0	1530	23	16
1511	23	15	1531	34	20
1512	20	8	1532	16	13
1513	19	8	1533	34	22
1514	26	18	1534	26	18
1515	11	6	1535	63	28
1516-22	0	0	1536	52	18
1523	35	14	1537-38	0	0
1524-28	0	0	1539	28	14
			1540	80	50
			1541	46	39
			1542	48	28
			1543	25	18
			1544	0	0
			1545	32	25
			1546	1	0
Acts/Year	7.58	4.14		30.51	18.86
Acts/Days in Session	0.412	0.225		0.608	0.375
Share of Days in Session	0.050			0.138	

Sources: *Pickering (1767)*; *Days Parliament in session: History of Parliament online, various surveys of Parliaments.*

Table 5 also presents the ratio of proclamations (royal executive orders) to public acts as a proxy for the relative increase in the use of acts over time. If legitimation were immaterial, the Crown would have preferred to rely only on proclamations that the monarch could issue without Parliament. The table shows that this was not the case. The ratio of proclamations to public acts dropped to its lowest level of 0.55 during the post-Reformation reign of Henry VIII, implying a greater reliance on acts than proclamations. This ratio remained low under the other Tudors, although it increased under Elizabeth I. Yet, this ratio is still low relative to what it would become under the Stuarts (see Table 6). Higher reliance on acts versus proclamations reveals a greater reliance on Parliamentary acts.

Table 5: Acts of Parliament and Crown Proclamations, Henry IV–Elizabeth I

Monarch	Reign	House	Acts per Year	Public Acts per Year	Proclamations per Year	Proclamations to Public Acts Ratio
Henry IV	1399–1413	Lancaster	10.46			
Henry V	1413–1422	Lancaster	6.56			
Henry VI	1422–1461	Lancaster	5.19			
Edward IV	1461–1483	York	2.45		0.95	
Richard III	1483–1485	York	15.29	6.90	7.87	1.13
Henry VII	1485–1509	Tudor	13.01	4.81	2.83	0.59
Henry VIII	1509–1528	Tudor	7.58	4.14	3.69	0.89
Henry VIII	1529–1547	Tudor	30.51	18.86	10.46	0.55
Edward VI	1547–1553	Tudor	22.44	15.86	15.32	0.97
Mary I	1553–1558	Tudor	12.75	12.19	13.50	1.11
Elizabeth I	1558–1603	Tudor	9.85	6.58	9.42	1.43

Note: Reign of Henry VIII split into pre-Reformation (1509–28) and post Reformation (1529–47). Sources: Pickering (1767); Crawford (1967); Steele (1910); Days Parliament in session: History of Parliament online, various surveys of Parliaments; https://en.wikipedia.org/wiki/List_of_parliaments_of_England.

Another indication that acts were used to legitimate policies is the large expansion in acts concerning issues that were beyond Parliament’s traditional purview. The use of acts in policy areas new to Parliament suggests the expansion of its legitimacy domain. Henry VIII, for example, sought acts to legitimate each step in the break with Rome. The issues involved were ones Parliament never dealt with before, including religion, marriage, divorce, and royal succession.

The high legitimation value of acts of Parliament is clear from the high demand for private bills regulating the affairs of specific locations, individuals, and corporations. As Elton (1974a, p. 195), noted, “in the course of the sixteenth century Parliament came to be a very important instrument in the management of the political nation’s private affairs ... people wanted Parliaments not only to make laws for church and commonwealth, not only to serve the economic and social needs of particular areas or sectional interests, but also as the major—the most conclusive—means for settling the legal problems.” In fact, the total number of acts under the Tudors was about 1,800, and about 68 percent of them were private (Pickering 1767).³⁶ The large number of private acts is remarkable given the substantial number of public acts dealing with the major reforms during this period.

For Parliament to legitimate it could not be composed of yes-men. Was this the case? The evidence indicates that Parliament was not subservient to the Crown during the Tudor period.

³⁶ The most common type of private bills concerned estates (Bogart and Richardson 2011).

Parliament met at the discretion of the Crown, who summoned and dismissed it at will. It influenced the legislative agenda and could decline assenting to any bill. Yet, the Crown was unable to manipulate elections of MPs to any significant extent, force MPs to accept demands, or wholesale buy their obedience. Elton (1982, pp. 307–08) noted that “Parliament was so little packed, subservient or submissive that it could never be relied upon with real certainty to support the policy of the Crown.” Other notable historians of the period concurred (e.g., Lehmborg 1977, p. 275; Schofield 2004, p.16). Because Parliament was not subservient to the Crown, it could legitimate.

Legitimacy-based cooperation or balance-of-power conflict?

Unpaid MPs were rewarded for legitimating policies in various ways. One way was by advancing private bills for which the promoting MP was financially compensated by the individual or corporation proposing the bill.³⁷ An MP was also rewarded by voting on and advancing public bills and submitting petitions regarding grievances. Interactions with the most powerful men in England opened the door to lucrative possibilities. Finally, and perhaps most importantly, MPs were highly esteemed socially among their peers and members of their community (as one would expect with respect to legitimating agents).

Evaluating whether the Tudors and Parliament shared the gains from legitimation is challenging because Parliament can rarely be considered a unitary actor. It was too large, diverse, and eclectic for its members to have identical preferences over most issues. One issue unifying Parliament arose during the restoration of Catholicism under Mary I, and it reveals how the Crown and Parliament used the legitimating power of acts of Parliament to their mutual benefit. The desire of Mary I to return to Catholicism raised the issue of property rights in land that had belonged to Catholic monasteries prior to the Reformation and confiscated by Henry VIII during the Reformation. Much of this land was subsequently acquired by the county gentry that dominated Parliament. They stood to lose this land if restoring Catholicism meant restoring that land to the Church. The policy compromise was to enact the restoration of Catholicism—as Mary wanted—but also to issue an act securing the property rights of the new owners—as Parliament wanted.

³⁷ Private bills were first delineated as such in the Parliament of 1539 (Henry VIII), although private bills were advanced before (Cruise 1835, p. 2).

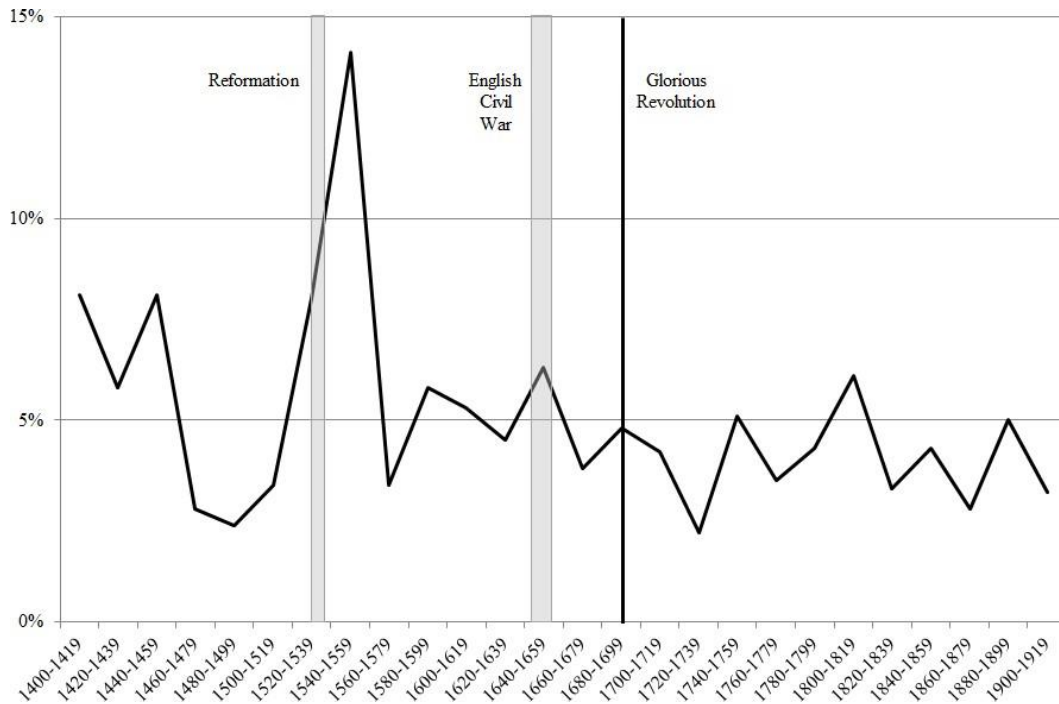
The mere use of Acts to declare this compromise is informative. Parliament correctly recognized that the Crown would not infringe on an Act, while Mary recognized that the legitimating power of an act would facilitate the religious change she sought.

The observation that Parliament was an arena for setting policies and benefiting MPs, however, is also consistent with other equilibrium theories of Parliament, including the consensus view.³⁸ The evidence, however, rejects the consensus view and confirms the legitimacy view. Specifically, the consensus view predicts that membership in Parliament would change following military conflicts, revealing new (military) power holders. In the case under consideration, the consensus view predicts that Parliament would expand following the Civil Wars and Glorious Revolution. The legitimacy conjecture, in contrast, implies that Parliament would expand following the Reformation. The increasing reward associated with Parliament's higher legitimating power would attract new MPs, while the Crown's interest in strengthening Parliament would open the door to these new MPs.

The evidence confirms the prediction of the legitimacy conjecture. Figure 2 reveals that the fraction of new entrants into the House of Commons reached a peak in the years during and following the Reformation. Entry into Parliament in the 16th century was facilitated by the motivation of the weak-legitimacy, post-Reformation Tudors to strengthen Parliament. In sharp contrast, and in contrast to the consensus view prediction, this fraction declined following the Civil Wars and Glorious Revolution. The evidence contradicts the assertion that these military conflicts opened Parliament to those who were previously excluded.

³⁸ Among these theories are the view of Parliament as a mechanism to aggregate information (Angelucci, Meraglia, and Voigtlaender 2022), reflecting balance of administrative power (González de Lara, Greif, and Jha 2008), or as in the consensus view reflecting the balance of military power (North and Weingast 1989; Acemoglu and Robinson 2012).

Figure 2: New Entrants into the House of Commons, 1400–1919



Source: Wasson (2000, Table 3.12)

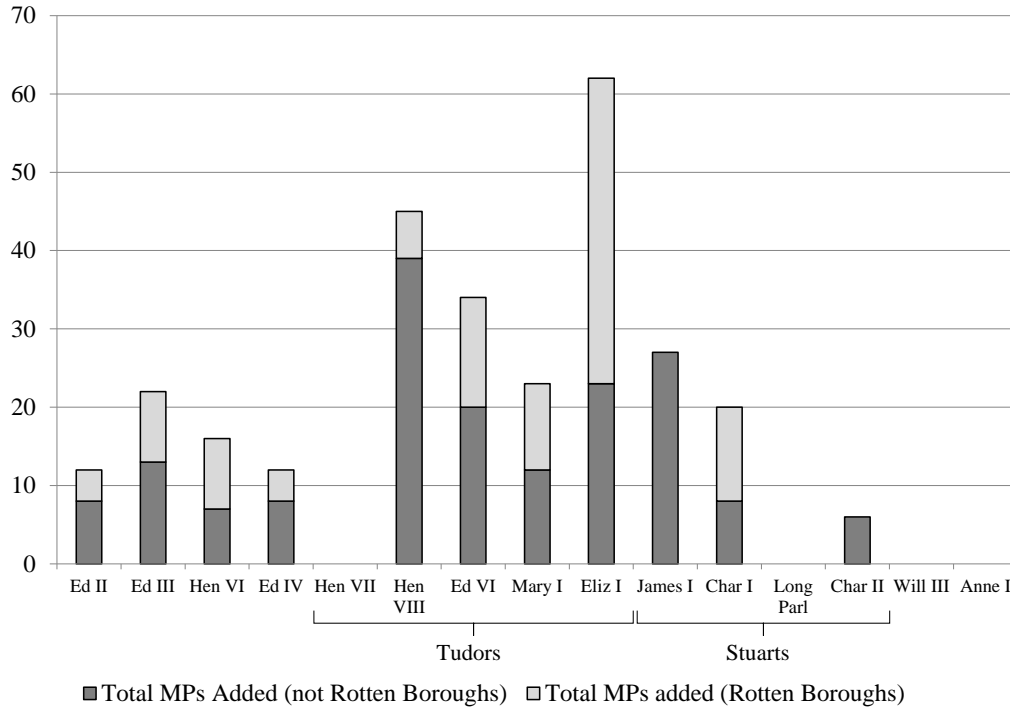
Parliament—particularly the Commons—was initially weak and the Tudors labored to extend its reach. In the early Tudor period, towns from only two counties (Cornwall and Wiltshire) were well represented, having 37 enfranchised boroughs between them. Most of the other forty English counties were only thinly represented. The county of Durham was not represented at all, as it was an ancient palatine county under the jurisdiction of its bishop (Thrush and Ferris 2012).

The Tudors increased the number of MPs much more than previous or later monarchs and expanded their geographical distribution to cover, for the first time, all of England and Wales.³⁹ Acts of Parliament were valid only in areas represented in Parliament. These new MPs were not subservient to the Crown, and the new localities they represented retained their independence in choosing their MPs. In fact, only a few of the added seats were from “rotten boroughs” (as denoted by the Reform Act of 1832). Rotten boroughs were constituencies with few people, whose seats could therefore easily be sold for financial gain. If the Tudors were interested in merely packing the Commons with favored MPs, they would have expanded the Commons by creating constituencies they could control. However, the evidence is that they did not (see Figure 3). For

³⁹ The Tudor monarchs retained the right of inviting a county or a city to send representatives to Parliament.

example, nearly all (39 of 45) of the MPs added during Henry VIII’s reign were not from rotten boroughs.

Figure 3: Total Borough MPs added by Monarch, 1284–1707



Sources: Powell and Cook (1977), Cook and Wroughton (1980), and Cook and Stevenson (1988).

Historians of the Tudor period have emphasized that the Crown and Parliament cooperated in governing England. The prominent historian of the dynasty, Conrad Russell (1971, p. 44), noted that “Tudor England was a one-party state.” As he explains, this means that the Crown and Parliament were different components of the same machinery of the state. As such, they had to work with each other, and they were successful in doing so. From the perspective developed above, they were successful because legitimacy-based cooperation was beneficial to both sides.

Crown-Parliament cooperation was not always smooth and MPs—as individuals and factions—objected to various policies advocated by the Crown. But such disagreements were political, not structural.⁴⁰ The Crown and Parliament cooperated in confronting common internal and external adversaries and used acts of Parliament in doing so. A prominent example, mentioned

⁴⁰ To illustrate, Henry VIII reneged on a promise to spend some of the wealth confiscated from the Catholic monasteries to provide public goods while Elizabeth I limited freedom of speech in Parliament.

above, is their cooperation in confronting the Catholic Church and confiscating its wealth. Although the Crown directly benefited from the wealth transfer, the gentry class that dominated Parliament benefited indirectly in two ways: lower taxation to finance Henry VIII's wars and the acquisition of much of the confiscated land at fire-sale prices.

In cooperating on other matters, such as taxation, Parliament often obtained from the grateful Crown concessions. Such reciprocity was taken for granted, as suggested by the observation that under the Tudors, Parliament did not condition acts granting taxation on reciprocity by the Crown. Moreover, Parliaments did not delay voting on taxation until its last session (that is, after the Crown addressed their concerns). Stanford E. Lehmberg (1977, p. 275), the prominent historian of the Parliaments of Henry VIII, concluded that although "the burden of taxation laid on subjects by the later Parliaments [of Henry VIII] was unprecedented ... the King used no threats or force save persuasion to obtain money. Parliament never insisted on redress of grievances before voting supply, nor did the King dissolve Parliament as soon as tax bills were passed in order to prevent enactment of unpalatable legislation."

Moreover, it is possible to evaluate Crown-Parliament cooperation during the Tudor and Stuart periods directly by measuring the number of days it took a sitting Parliament to agree on a public act. Recall that Parliament met at the discretion of the Crown, who had the action-based legitimacy to call Parliament, to have it seated, and to dismiss it. Thus, Parliament sat only when the Crown wanted to something—to cooperate—from Parliament. Such cooperation manifested itself in acts of Parliament, implying that the time it took a sitting Parliament to issue an act measures Crown-Parliament cooperation.

Table 6 presents the data, which combines data presented in Table 5 with data from the Stuart period. The last column presents the number of acts issued per day a Parliament sat for each monarch between the Reformation and the Glorious Revolution. It reveals that the Tudors cooperated with their Parliaments. It took no more than five days of a sitting Parliament to cooperate on an act (under Mary I) and less than two days (under Edward). In comparison, it took at least eight days to issue an act under the Stuarts (under James II) and as many as 50 days under Charles II. The Tudors cooperated with their Parliaments, the Stuarts did so much less.

Table 6: Crown-Parliament Cooperation under the Tudors and the Stuarts

Monarch	Reign	Acts per year	Public Acts per Year	Proclamations per year	Proclamations to Public Acts Ratio	Public Acts per day in session
<i>Post-Reformation Tudors (1529-1603)</i>						
Henry VIII	1529-1547	30.51	18.86	10.46	0.55	0.38
Edward VI	1547-1553	22.44	15.86	15.32	0.97	0.63
Mary I	1553-1558	12.75	12.19	13.50	1.11	0.21
Elizabeth I	1558-1603	9.85	6.58	9.42	1.43	0.33
<i>Stuarts (1603-1640, 1660-1688)</i>						
James I	1603-1625	13.71	6.09	12.13	1.90	0.10
Charles I	1625-1639	1.66	0.45	18.82	41.82	0.02
Charles II	1660-1685	19.77	7.51	15.98	2.13	0.06
James II	1685-1688	7.71	5.66	37.02	6.54	0.12

Note: Charles I data up to Long Parliament of 1640, as acts of Parliament were not recognized as such by the Crown after the onset of conflict. James II's share of days with Parliament is based on the last session of his only Parliament (Nov. 1685) and not the day of its resolution in 1687. For most sessions the dates of assembly are known, but in rare cases we must use the designated dates for the assembly. Sources for acts is Pickering (1767), for proclamations is Crawford (1967), Heinze (1976), and Youngs (1976).

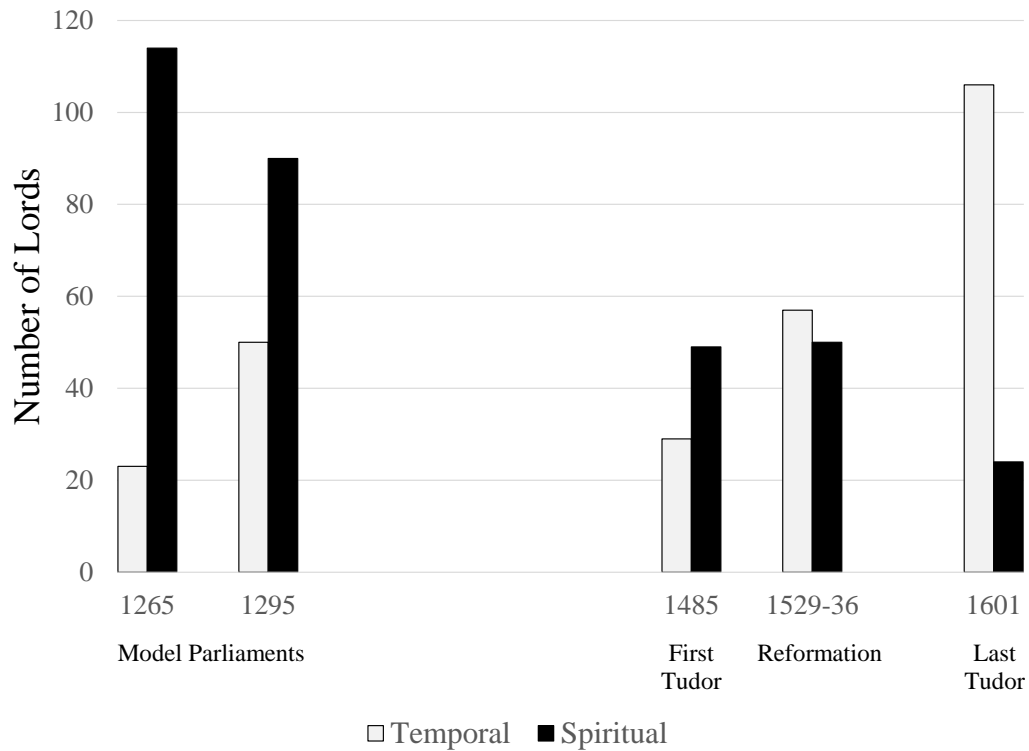
Legitimacy and the structure of Parliament

The transition to Parliamentary (legal) legitimacy had important implications for many aspects of England's polity and economy. This subsection illustrates this point by considering the impact of the distribution of political power in England.

One important question is why the decline in the number of Spiritual lords in the House of Lords was *permanent*. Prior to the Reformation, the Spiritual Lords regularly held more seats than the Temporal Lords and thus had veto power over any act of Parliament.⁴¹ The Reformation, however, marked the end of the Spiritual Lords' majority in the House of Lords. In fact, the Reformation Parliament (1529–36) was the last in which the Spiritual lords held a majority. Figure 4 presents the composition of the Lords at various points in time and illustrates that the Spiritual Lords held the majority of the seats in the model Parliaments of the 13th century and the first Parliament after the Wars of the Roses in 1485. The Spiritual Lords were still almost at par with the Temporal Lords in the Reformation Parliament; they held 50 out of 107 seats (Lehmberg 1970, p. 37). But the Spiritual Lords never held the majority again. During the 17th century, their share was always lower than 35 percent and averaged about 20 percent.

⁴¹ Pike (1894, pp. 165–66) noted that since the time of Henry III (d. 1272), the number of those eligible for either Spiritual or Temporal seats was roughly the same but the number of attending Temporal Lords was often lower due to demographic factors.

Figure 4: Composition of the House of Lords, 1265–1601



Sources: Pike (1894), Lehmborg (1970), and Cook and Wroughton (1980); Cook and Stevenson (1988).

This change is puzzling. Temporary factors reduced the relative share of the Spiritual Lords in the Reformation Parliament.⁴² But why was the decline *permanent*? Why did the Protestant Tudor and Stuart monarchs not pack the House of Lords with Protestant clergy? After all, the Crown had the prerogative to invite whomever it wished to the House of Lords, while as the head of the Anglican Church, the Crown had discretion regarding who to nominate as high clergy.

The reason is transparent if, as argued here, Parliament was a legitimating agent. Sidekicks cannot legitimate, and the post-Reformation Spiritual Lords thus had lower legitimating power and higher delegitimizing power than their pre-Reformation counterparts. The pre-Reformation clergy had more legitimating power because the papacy provided them with an outside option in case they faced the Crown’s ire after they declined legitimating his policies. The opposite holds, however, regarding delegitimation. The lower personal cost of delegitimizing rendered a refusal

⁴² Some pre-Reformation clergy were invited to the House of Lords due to their role as heads of wealthy Catholic organizations. See Pike (1894, p. 156) and Graves (1985, p. 89).

to legitimate less informative. This argument also implies, however, that the post-Reformation Protestant clergy had lower legitimation and higher delegitimation power than the pre-Reformation Catholic clergy. A refusal to legitimate was more personally costly to a post-Reformation Spiritual Lord, rendering such an action highly informative. The high cost is well reflected in the executions of the high clergy who refused to support Henry VIII, such as Fisher and More.

The transition away from legitimation by high clergy—Catholic or Protestant—is also revealed by the details of coronation ceremonies. Traditionally, during a coronation, two bishops escorted the monarch to the coronation throne. This was still the case in Henry VIII’s coronation, but not in the ceremonies of subsequent Protestant Tudors. To illustrate, in the coronation ceremony of Edward VI—the first post-Reformation coronation—the role of religion was either reduced from previous ceremonies or altogether absent. Perhaps the most important difference was the identity of Edward’s escorts. Instead of the two customary bishops, he was escorted by a single bishop and a secular lord, the Earl of Shrewsbury (Strong 2005, p. 199–200). In addition, the order of homage to the new king differed: Lord Somerset was the first to render homage, followed by the Archbishop of Canterbury and the Lord Chancellor, and then the lords and clergy collectively. These were important changes because they reflected a shift in the identity of the important legitimating agents. Strong (2005, p. 199–200) notes the general feel of the ceremony was vastly different than its predecessors: “What must have struck potently those present was the shift in emphasis away from the clergy in favour of the laity . . . When the young king was carried in a chair to the four sides of the scaffold, with Cranmer at his side, it was not for a ritual which could be regarded in any way as election, but for the recognition of Edward as the ‘rightful and undoubted enheritour by the laws of God and man to the Royal Dignitie and Crowne Imperiall of this realme’ . . . Edward was the first king to issue a proclamation declaring that he had come to the throne fully invested and established in the crown imperial of the realm.”⁴³

Conclusion: The Legacy of the Tudor Period

Following Henry VIII’s break with Rome, the legitimacy-weak Tudor monarchs promoted and relied upon Parliamentary (legal) legitimacy. The initial weakness of Parliament motivated the Tudors to foster Parliament’s legitimating power. They achieved this in various ways, such as

⁴³ For more, see Hunt (2008, p. 85).

public declarations, promoting Parliamentary immunity, extending representation throughout England, and expanding the range of issues that required Parliamentary (legal) legitimation.

Parliamentary (legal) legitimation thus became an important legitimacy principle under the post-Reformation Tudors. It combined and reinforced the legitimacy principles of hereditary monarchy, consent, representation, and communal autonomy. This new legitimacy principle was part of the initial conditions that James I faced when he ascended to the throne in 1603. Understanding the implications of these initial conditions—and legitimacy more generally—is best left to future work. Yet, a few words are in order.

The Stuarts were more legitimate than the Tudors, as revealed in Table 3. But they inherited a Parliament with strong legitimating power. Following the same logic used to examine the Tudor period, the high-legitimacy Stuarts should have preferred a *weaker* Parliament. Moreover, James I was accustomed to the weaker Scottish Parliament and thus believed in the legitimacy principle of the Divine Right of Kings. The attempts by the Stuarts (particularly Charles I) to leverage their higher legitimacy and higher revenues, mostly from the expansion of trade (particularly James II), led to a legitimacy conflict with Parliament. Military power played a role in this conflict, but it was secondary. Parliament needed a Crown to be legitimate itself, and it thus welcomed James I upon the death of Elizabeth, restored the monarchy in 1660, and crowned William and Mary in 1689. At the same time, effectively governing England required a legitimate Parliament. Hence, Charles I failed to govern without Parliament on the eve of the Civil Wars, and Oliver Cromwell failed to create either a republic or a lasting protectorate. William and Mary had military superiority once James II escaped in 1688, but their legitimacy was lower than the Stuarts (see Table 3). Legitimacy considerations thus seem to account for the deficiencies of the consensus view. The conflict between the Stuarts and their Parliaments was a legitimacy conflict; in the wake of the Tudor period, Parliament was too strong of a legitimating agent for the high legitimacy Stuarts.

While substantiating this conjecture is best left for future work, this paper has demonstrated the capacity to open the black box of endogenous political legitimacy. The legitimacy-weak Tudor monarchs gained more from the legitimation of policies by acts of Parliament than they lost by the compromise on policies necessary to have them legitimated by Parliament. The common interests of the Crown, the Lords, and the Commons in confronting external powers such as France, Spain, Scotland, and the papacy facilitated cooperation, which in turn motivated the legitimacy-weak

Tudors to increase the scale and scope of the Commons and to increase its legitimacy domains, thereby reinforcing the legitimation power of acts of Parliament. By the end of the Tudor period, acts issued by the *Crown-in-Parliament* replaced the Crown-and-Parliament as the ultimate authority of statutory law. As Frederick Maitland (1908, p. 298) concluded in his seminal work on the constitutional history of England, by the end of the Tudor dynasty, “there was nothing the Parliament could not do ...the king in parliament was absolutely supreme, above the king and above the law.”

Legality therefore constrained the Crown’s choice of action and in this sense (some measure of) the rule of law prevailed in Tudor England. At the same time, the rule of law also empowered the Crown in various ways. One was the enhanced legitimacy of policies in which the Crown held legitimate discretionary authority over the legislation process. The Crown had the legitimate authority over summoning, dismissing, and dissolving Parliament and the legitimate right to suspend and dispense of an enacted law. As noted by the Speaker of the House in Elizabeth I’s 1601 parliament, the Queen was “the only life-giver unto our laws.”⁴⁴ In addition, the Crown had the legitimate right to nominate, compensate, and dismiss all public officials, military officers, judges, bishops, and clergy.

At the same time, the houses of Parliament, particularly the House of Commons, benefited from the rule of law because “one of the prime functions of Parliament, if not its principle purpose, was to legislate” and “most bills were initiated in the lower House” (ibid). The rule of law increased the legitimating power of the Commons, and this enabled it to influence subsequent constitutional changes. As the prominent historian of the English Parliament, A.F. Pollard (1920, p. 160) noted, the 16th century was “the great period of the consolidation of the House of Commons, and without that consolidation the house would have been incapable of the work it achieved in the seventeenth.” None of this is to say that a completely impartial rule of law, which treats everyone the same, prevailed in Tudor England. The rule of law in England has always held the Crown above the law. Just as today Queen Elizabeth II cannot be prosecuted in any English criminal court, neither could any Tudor or Stuart monarch.⁴⁵

⁴⁴ Cited in the History of Parliament online, <https://www.historyofparliamentonline.org/volume/1604-1629/survey/i-nature-functions-and-remit-house-commons>.

⁴⁵ The trial of Charles I for treason by the High Court of Justice (1649) is an exception that proves the rule. This court was established by the Rump Parliament (which included only a subset of the members of the Long Parliament of

The rule of law under the Tudors differed from its more recent form in three important ways. First, judges served at the discretion of the monarch, who nominated and compensated them. English monarchs thus had leverage to impact the interpretation of the law and court decisions (Klerman and Mahoney 2005). Second, not every English subject enjoyed the same civil rights. One's rights depended on gender, class, and religion. Third, the law still did not supersede the prerogative rights of the Crown. In addition, the Crown could legitimate policies by relying on its role as the head of the Anglican Church.

Yet, even if the Tudor period did not result in impartial rule of law, the institutional changes that occurred during the period had an important legacy for what would come next. By the death of Elizabeth I in 1603, the principle of "legitimation by acts of Parliament" was firmly entrenched, thereby rendering the legitimating power of Parliament sufficiently strong to survive the storms of the 17th century.

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1640). During his trial, Charles I asserted that no court had authority over him. Civil cases involving the Crown and cases concerning agents of state were heard by the Court of the King's Bench, a Common Law court.

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