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

Avner Greif  
*Stanford University, Avner@stanford.edu*

Jared Rubin  
*Chapman University, jrubin@chapman.edu*

Follow this and additional works at: https://digitalcommons.chapman.edu/esi_working_papers

Part of the Econometrics Commons, Economic Theory Commons, European History Commons, and the Other Economics Commons

**Recommended Citation**


This Article is brought to you for free and open access by the Economic Science Institute at Chapman University Digital Commons. It has been accepted for inclusion in ESI Working Papers by an authorized administrator of Chapman University Digital Commons. For more information, please contact laughtin@chapman.edu.
Endogenous Political Legitimacy: The Tudor Roots of England's Constitutional Governance

Comments
ESI Working Paper 23-01
Endogenous Political Legitimacy:
The Tudor Roots of England’s Constitutional Governance

June 2023

Avner Greif
Stanford University
avner@stanford.edu

Jared Rubin
Chapman University
jrubin@chapman.edu

Abstract

This paper highlights the importance of endogenous changes in the foundations of legitimacy for political regimes. It focuses on the central role of legitimacy changes in the rise of constitutional monarchy in England. It first defines legitimacy and briefly elaborates a theoretical framework enabling a historical study of this unobservable variable. It proceeds to substantiate 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

* We are grateful for comments received from Bishnu Gupta, two referees, and participants at workshops at Cal Tech, Cambridge University, Duke University, Harvard University, University of Chicago, Chapman University, UC Berkeley, UC Irvine, Rutgers University, University of Washington, Martin Luther Universität, Canadian Institute for Advanced Research, All-UC Economic History Meetings, the Economic History Association Meetings, and the SIOE Meetings. Lee Alston, Robert Barro, Dan Bogart, Michael Bordo, Paul David, Brad DeLong, Tracy Dennison, Phil Hoffman, Timur Kuran, David Laitin, Weijia Li, Rachel McCleary, Joel Mokyr, Nathan Nunn, Mordecai Kurz, Martha Olney, Steven Quinn, Alvin Rabushka, Gérard Roland, Jean-Laurent Rosenthal, Daniel Stegmueller, Daniel Trefler, Barry Weingast, and Eugene White provided extremely useful comments. We thank Benedict Adler Bolton for his contribution to this research. All errors are ours.
Introduction

The emergence of constitutional 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 it was well on its way in the 16th century. These two conclusions differ from those in the consensus view in the social sciences—that Parliament’s military superiority led to the transition in the 17th century.\(^1\) This paper’s goal, however, is not to dismiss the importance of the 17th century military events but to draw attention to the important role of political legitimacy in the English transition.\(^2\)

What is political legitimacy? An authority is legitimate to the extent that her subjects have internalized the beliefs that she has the right to govern, and they have the moral obligation to obey. Legitimacy is thus a continuous variable, and the more an authority’s subjects internalize that she is legitimate, the more legitimate she is. Moreover, because obedience exhibits strategic complementarities, the more each subject believes that others consider the authority legitimate, the more likely they are to behave as if they consider the authority legitimate. An authority is thus legitimate when it is common knowledge that its subjects have internalized the belief that it has the right to govern and her subjects have the moral obligation to obey.

Gaining legitimacy thus requires managing beliefs, and analyses of legitimacy must be belief-focused. Within political science, however, the traditional approach to analyzing political legitimacy is performance-based, not belief-based (Dahl 1956; Lipset 1959; Weatherford 1992; Gilley 2006, Levi and Sacks 2009, Levi, Sacks, and Tyler 2009).\(^3\) Such studies tend to view legitimacy as an historically constant and exogenously given variable.\(^4\)

This paper therefore begins by briefly elaborating on a framework to study belief-based, endogenous legitimacy. This framework yields, among other insights, the intuitive proposition that a low-legitimacy authority would seek to gain additional legitimacy by cooperating with strong legitimating agents, whose public behaviors influence the legitimacy-beliefs held by others. Over

---


\(^2\) Due to length considerations, the analysis in this paper abstracts away from several important and interrelated issues including the role of administration (Brewer 1990; Greif 2008; Cox 2011; Hodgson 2017), social conflict (Hill 1972; Stone 2002) and the importance of newly formed political parties (Pincus 2009).

\(^3\) Some notable exceptions include Hurd (1999), Tyler (2006), and Hechter (2009).

\(^4\) In economics, the study of legitimacy has largely been ignored until the last decade. For recent studies, see Greif and Tadelis (2010), Rubin (2011, 2017), Cosgel, Miceli, and Rubin (2012a, 2012b), Schøyen (2021), Bentzen and Gokman (2023), Bisin et al. (2023), and Greif and Rubin (2023).
time, such cooperation can lead to internalization of the legitimacy of the authority and her legitimating agents in their respected roles.

The second—and primary—section of this paper evaluates the relevance of this insight for 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; they recognized this situation; they initially turned to the pope for legitimation but after the Reformation relied on legitimation by Parliament. Moreover, given the initial low legitimating power 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* legitimacy principle that still prevails in England. The Crown still declares new laws, 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. Inter-elite cooperation helps create a legitimate regime which generates mutually beneficial policies.

England’s transition to a constitutional monarchy has been extensively studied by historians and social scientists. The latter have developed a ‘consensus view’ regarding the process that led to it. (North and Weingast 1989; Acemoglu, Johnson, and Robinson 2005; Acemoglu and Robinson 2012, 2016; Bogart and Richardson 2011; Cox 2012; Pincus and Robinson 2014; Jha 2015). The premise of this view is that political authority is held by those who have the wealth required to finance the greatest degree of military power. Wealth buys coercive power, coercive power enables capturing political authority, and authority can be leveraged to gain wealth.

By implication, the English political transition reflects, according to this view, an increase in the military power of Parliament as revealed by its victories in the 17th-century military conflicts between the Crown and Parliament (the Civil Wars of 1642-51 and the Glorious Revolution of 1688-89). The balance of military power shifted in the 17th century in favor of Parliament due to an increase in the wealth of long-distance traders. In 1688, Parliament, which already used its

---

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

6 On this point, see Brenner (1993), Acemoglu, Johnson, and Robinson (2005), and Acemoglu and Robinson (2012).
newly found military power to dispose of two kings (Charles I and James II), forced another king (William III) to agree to respect his subjects’ legal rights. Constitutional monarchy was born.

The importance of access to resources and coercive power for effective governance and political transition is beyond doubt. But if, as this paper argues, the transition to constitutional monarchy was well on its way in the 16th century, was Parliament’s military power in fact the deus ex machina leading to constitutional monarchy in England? To address this question the paper’s third section examines the 17th century evidence and finds little support for the consensus view. First, there is little evidence indicating that voluntary contributions by merchants tilted the balance of military power. Second, Parliament had no army during the Glorious Revolution. Given that William III’s army was already in England, it is a leap of faith to argue that Parliament could credibly threaten to assemble an army to defeat William. Constitutional monarchy did not come about because of Parliament’s military superiority. In fact, it came about despite the military weakness of Parliament from 1646 onward.

The paper concludes by asserting the benefit of studying an authority’s political efficacy while recognizing that both power and legitimacy matter. Although the consensus view has been criticized over the years, its critics generally focused on some aspect of the argument but do not offer an alternative framework. The framework presented here, in contrast, provides such framework.

While the legitimacy weak Tudors of the 16th century cooperated with and strengthened Parliament’s legitimating power, the opposite was true under the 17th century Stuart monarchy. Parliament was too strong of a legitimating agent given the high legitimacy of the Stuarts. The resulting legitimacy conflict manifested itself, among other ways, in the 17th century military conflicts, the legitimacy principles the Stuarts advocated, their religious policies, and the

8 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. 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. Kulkarni and Pfaff (2022) argue that freedoms, especially religious freedoms, were not secured after the Glorious Revolution; the Revolution simply transferred power from one coalition to the other. 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.
Restoration of the monarchy in 1660. In sum: this paper introduces a conceptual framework for analyzing political legitimacy and demonstrates its usefulness by examining the role of legitimacy in England’s political transition.

**Legitimacy, its Foundations, and Endogenous Changes**

Can integrating legitimacy in the study of England’s political history enhance our comprehension of its transition to constitutional monarchy? Before addressing this question, this section defines legitimacy and presents its relations to related concepts. It then substantiates that English monarchs cared about their legitimacy. This section concludes with a framework for studying why and how legitimacy endogenously changes.⁹

**Political legitimacy: A belief-based definition**

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. Because intrinsic beliefs are unobservable, however, they are not the only type of beliefs that contribute to an authority’s (perceived) legitimacy. Some subjects behave as if they believe in the legitimacy of an authority because they believe that others believe in the legitimacy of the authority. Hence, creating common knowledge regarding legitimacy beliefs is a key mechanism through which authorities try to enhance their legitimacy.

Commonly known, 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. An authority’s (perceived) legitimacy thus depends on managing shared, commonly known beliefs about her legitimacy and the legitimacy of her actions. Over time, perception and reality can converge as people internalize patterns of behavior.

---

⁹ For further elaboration, see Greif and Rubin (2023).
Political legitimacy can be personal or action-based. Personal legitimacy is the extent to which an authority is viewed as legitimate. Action-based legitimacy is the extent to which an action taken by a particular entity is viewed as legitimate. We denote the set of policies that must be consented to by a specific agent for the policy to have action-based legitimacy as that agent’s legitimacy domain. For instance, some policies were legitimate for a pre-17th century English monarch to enact on her own based on royal prerogative (e.g., determining royal marriages) while other policies could only be legitimated by an act of Parliament (e.g., direct taxation).

Action-based legitimacy is different from legality. An action can be legal but illegitimate, illegal but legitimate, or legal and legitimate. This distinction is important in the case under study because in the build up to the Civil Wars, Charles I levied several fees that were legal, as there were medieval precedents. But these fees were widely considered illegitimate, as they had not been imposed for centuries and had thus fallen outside of his legitimacy domain. Similarly, Prohibition in the US was legal but highly illegitimate and thus difficult for the federal government to enforce.

Legitimacy also 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 of several U.S. presidents have 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.

Legitimacy is also different from state capacity: the “ability of a state to collect taxes, enforce law and order, and provide public goods” (Johnson and Koyama 2017, p. 2). The two are clearly related: legitimacy reduces the cost of governance and thus improves state capacity. Hence, state

---

10 The Ship Money episode under Charles I is a clear-cut example of the importance of legitimacy domain. Ship money was among the old royal prerogatives aimed at facilitating quick mobilization of naval forces in time of emergency. In 1634, Charles demanded ship money for the first time; this was a legitimate prerogative of the king, and it therefore may not be surprising that Charles I faced little objection when he began collecting it in 1634. As time passed, however, the revenue collected declined substantially. This was not because Charles asked for less. Over time, he simply had difficulty motivating local administrators to remit the amount demanded by the Crown. The primary contention with ship money was that it was illegitimate. Ship money was initially successful because the Crown had the legitimate right to collect it in time of emergencies. However, collecting regular taxation required approval by Parliament. Otherwise, it was not considered legitimate since it did not follow the law. It was also considered illegal because it was collected from inland counties and in the absence of naval threat (in the past, only maritime counties had paid for naval defense) (Langelüddecke 2007).

capacity is a function of legitimacy. But the two are distinguishable, both empirically and conceptually. This is because state capacity is also a function of other inputs such as administrative institutions. This means that a political authority with a weak administrative apparatus may be highly legitimate but have low state capacity. For instance, nearly every medieval European king had low state capacity regardless of his legitimacy. On the other hand, it is possible for authorities to have high state capacity but low legitimacy; warlords with a stronghold over a region may be able to be highly extractive even if none of their subjects view them as legitimate. Hence, while legitimacy and state capacity are typically positively related, they are distinct concepts.

Legitimacy fosters an authority’s efficacy because it reduces governance costs. A political authority is more effective the more her subjects comply with her policies. Compliance is an issue whenever an authority demands actions that are costly to a subject (e.g., taxation). Authorities thus generally invest in the capacity to punish non-compliance. Motivating compliance by punishment is costly, however, even if it is not practiced. Legitimacy, in contrast, induces compliance based on intrinsic motivation and does not depend on future reward or punishment. In general, power and legitimacy are substitutes and co-exist, and although legitimacy is not the sole basis for political authority, it can be crucial for a regime’s effectiveness and longevity.

**Did English monarchs care about their legitimacy?**

How can we know that legitimacy matter to English monarchs? 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).

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.

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.

In general, coronation ceremonies can foster shared beliefs regarding both power and legitimacy. But because England was a hereditary monarchy, they can 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. 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 1 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 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). There are certainly many factors that contribute to the “days to coronation” metric, which is merely suggestive evidence that legitimacy may have mattered to English monarchs. Yet, this relationship has no meaning in a world where rule is by power alone. Its meaning is clear in a world where legitimacy matters.

12 The English monarchy has long been a hereditary monarchy in which the right to the Crown passed from father to his oldest surviving son (born in wedlock). 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 were no female monarchs in England.

13 By ‘heir’ we mean the legitimate (born in wedlock) son of the previous monarch. Non-adult male heirs thus include males who established new monarchical lineages such as William I, Henry VII, and James I.
### Table 1: Days to Coronation of English Monarchs, 1066–present

<table>
<thead>
<tr>
<th>Monarch</th>
<th>Reign</th>
<th>Days to Coronation</th>
<th>Monarch</th>
<th>Reign</th>
<th>Days to Coronation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult Male Heirs</td>
<td></td>
<td></td>
<td>Non-Adult Male Heirs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>William II</td>
<td>1087–1100</td>
<td>17</td>
<td>William I</td>
<td>1066–1087</td>
<td>0</td>
</tr>
<tr>
<td>Henry I</td>
<td>1100–1135</td>
<td>3</td>
<td>Stephen</td>
<td>1135–1154</td>
<td>0</td>
</tr>
<tr>
<td>Richard I</td>
<td>1189–1199</td>
<td>59</td>
<td>Henry II</td>
<td>1154–1189</td>
<td>0</td>
</tr>
<tr>
<td>John</td>
<td>1199–1216</td>
<td>51</td>
<td>Henry III</td>
<td>1216–1272</td>
<td>10</td>
</tr>
<tr>
<td>Edward I</td>
<td>1272–1307</td>
<td>641</td>
<td>Edward III</td>
<td>1327–1377</td>
<td>12</td>
</tr>
<tr>
<td>Edward II</td>
<td>1307–1327</td>
<td>233</td>
<td>Richard II</td>
<td>1377–1399</td>
<td>24</td>
</tr>
<tr>
<td>Henry V</td>
<td>1413–1422</td>
<td>19</td>
<td>Henry IV</td>
<td>1399–1413</td>
<td>13</td>
</tr>
<tr>
<td>Henry VIII</td>
<td>1509–1547</td>
<td>64</td>
<td>Edward IV</td>
<td>1461–1483</td>
<td>116</td>
</tr>
<tr>
<td>Charles I</td>
<td>1625–1649</td>
<td>312</td>
<td>Richard III</td>
<td>1483–1485</td>
<td>10</td>
</tr>
<tr>
<td>Charles II</td>
<td>1660–1685</td>
<td>329</td>
<td>Henry VII</td>
<td>1485–1509</td>
<td>69</td>
</tr>
<tr>
<td>James II</td>
<td>1685–1688</td>
<td>76</td>
<td>Edward VI</td>
<td>1547–1553</td>
<td>23</td>
</tr>
<tr>
<td>George II</td>
<td>1727–1760</td>
<td>122</td>
<td>Mary I</td>
<td>1553–1558</td>
<td>104</td>
</tr>
<tr>
<td>George III</td>
<td>1760–1820</td>
<td>332</td>
<td>Elizabeth I</td>
<td>1558–1603</td>
<td>59</td>
</tr>
<tr>
<td>George IV</td>
<td>1820–1830</td>
<td>537</td>
<td>James I</td>
<td>1603–1625</td>
<td>123</td>
</tr>
<tr>
<td>William IV</td>
<td>1830–1837</td>
<td>439</td>
<td>William III</td>
<td>1668–1702</td>
<td>57</td>
</tr>
<tr>
<td>Edward VII</td>
<td>1901–1910</td>
<td>564</td>
<td>&amp; Mary II</td>
<td>1688–1702</td>
<td></td>
</tr>
<tr>
<td>George V</td>
<td>1910–1936</td>
<td>412</td>
<td>Anne I</td>
<td>1702–1714</td>
<td>46</td>
</tr>
<tr>
<td>George VI</td>
<td>1936–1952</td>
<td>152</td>
<td>George I</td>
<td>1714–1727</td>
<td>80</td>
</tr>
<tr>
<td>Charles III</td>
<td>2022–</td>
<td>240</td>
<td>Victoria</td>
<td>1837–1901</td>
<td>373</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Elizabeth II</td>
<td>1952–2022</td>
<td>482</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Average (Overall)</th>
<th>242.2</th>
<th>Average (Overall)</th>
<th>84.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average (pre-1689)</td>
<td>164.0</td>
<td>Average (pre-1689)</td>
<td>40.2</td>
</tr>
</tbody>
</table>

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 excluded is the disputed reign of Matilda (1141) and the short reign of Edward VIII (1936); neither had a coronation. Charles II’s reign dated from May 29, 1660, when he entered London, marking the first meeting of Crown and Parliament since the Crown was abolished in 1649.

The details of various coronation ceremonies reaffirm that legitimacy mattered to claimants to the English Crown. Legitimacy-weak rulers invested much to enhance the legitimating impact of their coronations. 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.

**Legitimacy principles: The cultural and institutional foundations of legitimacy**

Our analytical and empirical strategy rests on the interplay between the cultural and institutional foundations of legitimacy. The cultural foundations of legitimacy specify the conditions necessary for a particular individual or organization to have legitimate authority or the legitimate capacity to enact policies in certain domains. For instance, in many monarchies, the eldest son of the previous king has the most legitimate claim to the throne. Meanwhile, in a democracy, the winner of a fair and free election has the right to rule. As these examples illustrate, the cultural foundations of legitimacy go well beyond simply specifying who has legitimate authority. They overlap with the cognitive structures that people use to comprehend the world around them (Greif and Mokyr 2017).

The institutional foundations of legitimacy are the means fostering the shared beliefs that an authority satisfies these conditions. It specifies how one attains legitimacy, what institutional means one can employ to demonstrate or enhance their legitimacy, and the process through which policies must be formulated to be considered legitimate.

The cultural and institutional foundations of legitimacy together constitute a society’s *legitimacy principle*. It articulates why a particular individual (or organization) has legitimate authority or action-based legitimacy (including the right to legitimate an authority or her action) and how she should establish legitimate authority in some policy domain. Like its constituting foundations, legitimacy principles are a product of historical development and as such they are history-dependent and society-specific. Moreover, prevailing legitimacy principles are not necessarily unique. It is possible for several, non-mutually exclusive legitimacy principles to coexist. In the case of early modern England, as we shall discuss below, the legitimacy principle of

---

14 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. The method of context-specific analysis is elaborated in Bates et al. (1998) and Greif (2006).
inherited monarchy coexisted, at different times, with legitimacy principles of Parliamentary (legal) legitimacy and the Divine Right of Kings.

**Legitimating agents and endogenous legitimacy principles**

A particularly important (and observable) component of the institutional foundations of legitimacy is *legitimating agents*; those whose actions and sayings influence others’ beliefs.\(^\text{15}\) Although an authority can choose whomever she pleases to legitimate her, the effectiveness of a legitimating agent depends on satisfying two conditions. The first condition is that the agent is perceived as having the information, knowledge, and credentials 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 electoral boards legitimate elected officials.

The second condition is that the agent is perceived as being able to refuse legitimating with relative impunity. Legitimating agents must be sufficiently independent of the authority; yes-men and sidekicks are not king makers. Agents under the authority’s thumb provide no new information about whether the authority (or her actions) satisfies the conditions necessary to legitimately rule, and they thus do little to affect shared beliefs in the authority’s legitimacy. This logic leads to a counter-intuitive conclusion; yes-men and sidekicks can be particularly effective in *delegitimating* the authority they rely upon. Because they are not independent, their condemnation of the authority is a strong signal that the authority (or her actions) is illegitimate exactly because these agents have much to lose by declaring the authority illegitimate.

Legitimating power can change endogenously when the authority changes her legitimating agent. The mere act by an authority of requesting legitimation enhances the power of the chosen agents to legitimate. It endows them with legitimating power in a particular policy domain. The request by the authority signals that she accepts that these agents can recognize whether she and/or her actions are legitimate or not. For instance, when a king calls a session of Parliament to enact legislation, he thereby recognizes the legitimating power of Parliament’s stamp of approval.

Legitimation by legitimating agents has a peculiar attribute rendering it particularly effective in constraining authorities and enabling them to credibly commit to a particular policy. Bestowing

\(^{15}\) For more on the role of legitimating agents, see Scott (1995, p. 60), Deephouse (1996, p. 1025), Coşgel, Miceli, and Rubin (2012a, 2012b), and Rubin (2017). *Coordinating* legitimacy agents influence shared behavioral beliefs but legitimating agents can also be moral authorities who can directly affect moral beliefs (Greif and Schøyen 2023).
legitimacy is a \textit{reversible} act (unlike the transfer of tangible assets). 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 violent 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 legitimating agents are fundamentally those of \textit{cooperation}. An authority and her legitimating agents gain from cooperation, which reduces governance costs and enables the extraction of more resources from the population.

The reliance of an authority on legitimating agents influences the legitimacy of the authority and also impacts the distribution of \textit{political power}: the power to influence political decisions or their execution. To reward legitimating agents while satisfying the above conditions, an authority is likely to concede to them direct participation in \textit{political decision-making} or \textit{administrative control} that affects the execution of policies. The credibility of such concessions is achieved by the authority declaring that they are in the legitimacy domain of the agents. Hence, legitimating agents with legitimating power also gain the capacity to influence policies and/or their execution.

Legitimacy principles change endogenously over time. As an integral component of a society’s cultural heritage, the initial set of legitimacy principles are part of the conditions that impact an authority’s initial choices. In the long run, however, an authority’s choices can influence the distribution of legitimating power and thus political power. Legitimacy principles are prone to change in the long run.\footnote{Legitimacy principles are quasi-parameters (Greif and Laitin 2004; Greif 2006): they are exogenous in the short run and endogenous in the long run. For the limits of coercive power in inducing legitimacy, see Skitka et al. (2009), Greif and Tadelis (2010), and Schøyen (2021).}

When will an authority seek to change the prevailing legitimacy principle by changing her legitimating agents? When will such change take place cooperatively and when will it be conflictual?\footnote{For simplicity of presentation and without loss of generality, the discussion ignores the use of coercion to induce compliance.} Recall that legitimacy afforded by an effective legitimating agent increases compliance with a legitimate policy. Legitimacy generates a surplus, but it comes with a cost to the authority. The cost is that the authority has to make policy compromises to accommodate the preferences of her legitimating agents. An authority faces a trade-off between compliance and
compromise. A stronger (weaker) legitimating agent increases compliance by more (less) but can extract bigger (smaller) policy concessions from the authority.

The implications of this insight are intuitive. A low legitimacy authority would prefer a strong legitimating agent because without such an agent compliance would be minimal. If the agent is initially weak, the authority would benefit from increasing the agent’s legitimating power. This can be done, for example, by increasing the immunity of that agent or publicly accepting the agent’s legitimating rights.

Such a process is cooperative, as both sides benefit, but its inverse is confrontational. When a legitimacy-strong authority inherits a strong legitimating agent, she prefers to weaken the agent. After all, the authority can achieve a high level of compliance without making any policy concessions to the agent. The agent in turn would seek to employ his legitimating power to protect it, conflicting with the authority. A legitimacy conflict would transpire.

**Legitimation under the Tudors (1485–1603)**

Is the insight laid out in the previous section—that a legitimacy weak (strong) authority prefers having a strong (weak) legitimating agent, *ceteris paribus*—relevant to the transition to constitutional monarchy in England? This section presents evidence that it is. 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, Lords, and 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 17th century 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. Victories by Yorkist 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. He was fortunate that Richard III was neither legitimate nor popular.\textsuperscript{18}

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. Despite his efforts, Henry was repeatedly challenged for more than 20 years by pretenders who claimed to be the missing sons of the Yorkist king Edward IV and thus had a stronger claim to the throne. Henry VII’s low legitimacy cast a long shadow on his dynasty while most of the other Tudors also had low legitimacy for other, idiosyncratic 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 one exogenous and two endogenous proxies (Table 2). First, and perhaps most important is the legitimacy associated with being the closest male (next-in-kin) adult heir of the previous monarch.\textsuperscript{19} 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, four out of four monarchs did (James I was the closest living male relative of Elizabeth and her chosen successor; James II was the brother of the previous king who had no legitimate children).

\textsuperscript{18} 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.

\textsuperscript{19} Note that “next in kin” is a less strict metric than “adult male heir” employed in Table 1. The latter implies that the individual is the son of the previous monarch.
<table>
<thead>
<tr>
<th>Monarch</th>
<th>Adult Male Heir (next in kin)</th>
<th>Days to Coronation</th>
<th>Legitimacy Act</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tudors</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Henry VII</td>
<td>No</td>
<td>69</td>
<td>No</td>
</tr>
<tr>
<td>Henry VIII</td>
<td>Yes</td>
<td>64</td>
<td>No</td>
</tr>
<tr>
<td>Edward VI</td>
<td>No</td>
<td>23</td>
<td>No</td>
</tr>
<tr>
<td>Mary I</td>
<td>No</td>
<td>104</td>
<td>Yes</td>
</tr>
<tr>
<td>Elizabeth I</td>
<td>No</td>
<td>59</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td></td>
<td>63.8</td>
<td></td>
</tr>
<tr>
<td><strong>Stuarts</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>James I</td>
<td>Yes</td>
<td>123</td>
<td>Yes</td>
</tr>
<tr>
<td>Charles I</td>
<td>Yes</td>
<td>312</td>
<td>No</td>
</tr>
<tr>
<td>Charles II</td>
<td>Yes</td>
<td>329</td>
<td>Yes</td>
</tr>
<tr>
<td>James II</td>
<td>Yes</td>
<td>76</td>
<td>No</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td></td>
<td>210.0</td>
<td></td>
</tr>
<tr>
<td><strong>Post-1688</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>William III &amp; Mary II</td>
<td>No</td>
<td>57</td>
<td>Yes</td>
</tr>
</tbody>
</table>

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 was more confident in their 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 was a public event as, similar to all acts, it was widely circulated in the kingdom as an open letter and thus was common knowledge. Like the days to 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 or 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.
Papal legitimation and its demise

Relying on Parliament to legitimize was not the Tudors’ initial intention. The primary way that the first Tudor king, Henry VII (1485–1509) responded to his legitimacy deficit was by appealing to papal legitimation (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 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. Moreover, high clergy held all the office-years under the Catholic queen Mary I (1553–58).

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, 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).

---

20 Data from Powell and Cook (1977, p. 20). Years are not adjusted for months served.
21 Only the identities of her Chancellors are known.
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 and excluding the reign of the Catholic Queen Mary I), high clergy held the office of Lord Chancellor only twice, that is, three percent of the total. No high clergy held the office of the Keeper of the Privy Seal. In total, out of the 138 office-years, 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 have 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.

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).

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).

---

22 This is not to say that the post-Reformation English monarchs ceased using religion or the Church of England to legitimate their rule. Elizabeth I, for instance, frequently employed religious symbolism. Yet, the Church of England was under the thumb of the Crown, since the latter was the formal leader of the Church. Our framework indicates that this should have made Church authorities weaker legitimating agents, though their capacity to delegitimate rule should have been greater. Moreover, as we shall discuss below, the fact that other Christian denominations with more hierarchical institutional structures (Catholicism, Arminianism) offered a path to an alternative legitimacy principle meant that there was incentive for both the Crown and MPs to make religious appeals either in favor of or against the Crown in Parliament legitimacy principle.

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

24 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.
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). 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 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). 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 delegitimation, the post-Reformation Tudors relied on Parliament to legitimate their policies. They therefore labored to strengthen Parliament’s legitimating power. 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.

Breaking with Rome entailed advancing an alternative legitimacy principle to papal legitimation. 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

---

25 That opposition was marginal is the dominant view among historians. For more, see Elton (1991, p. 115). More generally, 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) and Becker, Rubin, and Woessmann (2021). Of particularly relevance for the present discussion are Rubin (2017) and Cantoni, Dittmar, and Yuchtman (2017), both of whom argue that the Reformation encouraged political authorities to seek alternative means of legitimation. Cantoni, Dittmar, and Yuchtman provide empirical evidence from the Holy Roman Empire showing that religious competition altered the balance of power between religious and secular elites, and where the Reformation took hold there was a major shift in resources towards secular purposes.

26 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.
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.27 Subsequent Tudors continued doing so and this enactment formula became standard ever since.

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).28 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

27 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” were 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.”

28 Also see Russell (1971, p. 43).
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.\textsuperscript{29} 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 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.\textsuperscript{30}

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 encouraging Parliament 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 English monarchs to allow such abuses.\textsuperscript{31} 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.

\textsuperscript{29} Membership in the Convocation and Parliament overlapped, as wealthy members of the Church sat in the House of Lords.

\textsuperscript{30} 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.

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).

Table 3: Acts of Parliament under Henry VIII, 1509–1546

<table>
<thead>
<tr>
<th>Year</th>
<th>Pre-Reformation</th>
<th></th>
<th>Post-Reformation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total Acts</td>
<td>Public Acts</td>
<td>Year</td>
<td>Total Acts</td>
</tr>
<tr>
<td>1509</td>
<td>20</td>
<td>15</td>
<td>1529</td>
<td>26</td>
</tr>
<tr>
<td>1510</td>
<td>0</td>
<td>0</td>
<td>1530</td>
<td>23</td>
</tr>
<tr>
<td>1511</td>
<td>23</td>
<td>15</td>
<td>1531</td>
<td>34</td>
</tr>
<tr>
<td>1512</td>
<td>20</td>
<td>8</td>
<td>1532</td>
<td>16</td>
</tr>
<tr>
<td>1513</td>
<td>19</td>
<td>8</td>
<td>1533</td>
<td>34</td>
</tr>
<tr>
<td>1514</td>
<td>26</td>
<td>18</td>
<td>1534</td>
<td>26</td>
</tr>
<tr>
<td>1515</td>
<td>11</td>
<td>6</td>
<td>1535</td>
<td>63</td>
</tr>
<tr>
<td>1516-22</td>
<td>0</td>
<td>0</td>
<td>1536</td>
<td>52</td>
</tr>
<tr>
<td>1523</td>
<td>35</td>
<td>14</td>
<td>1537-38</td>
<td>0</td>
</tr>
<tr>
<td>1524-28</td>
<td>0</td>
<td>0</td>
<td>1539</td>
<td>28</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1540</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1541</td>
<td>46</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1542</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1543</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1544</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1545</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1546</td>
<td>1</td>
</tr>
</tbody>
</table>

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.

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 scope. The evidence confirms this prediction. Table 3 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 the activities of Parliament after 1529.32 The left half presents the data for the pre-

---

32 Elton (1969) discusses the general patterns of the use of Parliament in English history.
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 4 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.

Table 4 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,

---

33 1547 is excluded because Henry VIII died on January 28, 1547 while Parliament was still in session (and yet to pass an act).

34 For a comparison of parliamentary activity between England and the Iberian countries, see Henriques and Palma (2023) and van Zanden, Buringh, and Bosker (2011). Henriques and Palma find major changes in England (relative to Spain and Portugal) only happened after the English Civil Wars of the 1640s. This is not inconsistent with our framework and analysis; we suggest that the institutional foundations of what would happen in the 17th century were laid by the Tudors in the 16th century.
although it increased under Elizabeth I. Elizabeth had her share of conflicts with Parliament, particularly in her later years when England was in war with Spain and she was in need of financing. Creating monopolies was part of her response. Despite these tensions, her relations with Parliament were primarily those of cooperation, especially relative to what it would become under the Stuarts (see Table 5).


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


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, about 68 percent of which were private (Pickering 1767). The large number of private acts is

---

35 The most common type of private bills concerned estates (Bogart and Richardson 2011).
remarkable given the substantial number of public acts dealing with the major reforms of the period.

For Parliament to legitimate it could not be comprised of yes-men. In order for agents to successfully legitimate a political authority, they must have some degree of independence. Was this the case for the Tudor Parliaments? On the one hand, Parliament met at the discretion of the Crown, who summoned and dismissed it at will (although the Crown could not determine its composition). The Crown 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., Lehmberg 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?**

That MPs benefited from their service, although unpaid by the Crown, is well known. One way they benefited was by advancing private bills for which the promoting MP was financially (and legally) compensated by the individual or corporation seeking the bill. 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 such as a seat in the House of Lords (Wasson 2000, p. 31). 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 legitimization 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

---

36 Private bills were first delineated as such in the Parliament of 1539, although private bills were advanced previously (Cruise 1835, p. 2).
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. The mere use of Acts to declare this compromise is informative. Parliament correctly recognized that the Crown would not infringe upon 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. The evidence, however, confirms the legitimacy view. The consensus view predicts that new membership in Parliament would change following military conflicts, revealing new (military) power holders. In the case under consideration, the consensus view would predict that new entrants in Parliament would emerge in greater numbers following the Civil Wars and Glorious Revolution. The legitimacy conjecture, in contrast, implies that new entry into Parliament would rise following the Reformation. The increasing reward associated with Parliament’s higher legitimating power would attract new MPs.

The evidence confirms the prediction of the legitimacy conjecture. Figure 1 reveals that the proportion of new entrants into the House of Commons reached a peak in the years during and following the Reformation. 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.

Parliament—particularly the Commons—was initially weak and the Tudors labored to extend its reach. Election of individual members was the responsibility of the locality and beyond the reach of the Crown. However, the Crown could authorize a permanent acceptance of a town to the House of Commons. In the early Tudor period, representation was spotty; towns from only two

---

37 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).
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).

Figure 1: New Entrants (Families) into the House of Commons, 1400–1919


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. This expansion was important because 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 seats added initially 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,

---

38 The Tudor monarchs retained the right of inviting a county or a city to send representatives to Parliament.
they would have expanded the Commons by creating constituencies they could control. However, the evidence is that they did not (see Figure 2). For example, nearly all (39 of 45) of the MPs added during Henry VIII’s reign were not from rotten boroughs.

Figure 2: Total Borough MPs added by Monarch, 1284–1707

On the other hand, 39 of the 62 seats created by Elizabeth were those that would eventually be labeled as rotten boroughs. Ten of the 39 seats were actually in need of representation under Elizabeth, but most of the rest were “rotten” from the start.\footnote{The status of each rotten borough is from various Wikipedia entries on the borough in question.} But the very fact that Elizabeth attempted (unsuccessfully) to influence Parliament reveals the strength of Parliamentary approval, not the Crown’s capacity to control Parliament. If Parliamentary legitimacy did not matter, such measures would be unnecessary, as the Crown could act unilaterally without Parliamentary approval (as Charles I would attempt in the 1630s). Such “stacking” of Parliament—to the extent that the new boroughs supported the Tudors—could have had at most limited influence; the boroughs that were actually rotten under the Tudors were a small fraction of Parliament.

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. The Crown and Parliament cooperated in confronting common internal and external adversaries and used acts of Parliament in doing so. A prominent example, mentioned 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, have it seated, and dismiss it. Thus, Parliament sat only when the Crown wanted 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.

40 For instance, 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.
Table 5 presents the data, which combines data presented in Table 4 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 VI. In comparison, it took at least eight days to issue an act under each of the Stuarts and as many as 50 days under Charles II. The Tudors cooperated with their Parliaments, the Stuarts did so much less.

Table 5: Crown-Parliament Cooperation under the Tudors and the Stuarts

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

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. For most sessions the dates of assembly are known, but in rare cases we must use the designated dates for the assembly. Source for acts is Pickering (1767), for proclamations are 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—and contributes further evidence supporting our conjecture—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.\textsuperscript{41} The Reformation, however, marked the end of the Spiritual Lords’ majority in the House of Lords. Figure 3 presents

\textsuperscript{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.
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 13\textsuperscript{th} century and the first Tudor 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 17\textsuperscript{th} century, their share was always lower than 35 percent and averaged around 20 percent.

This change is puzzling. Temporary factors reduced the relative share of the Spiritual Lords in the Reformation Parliament.\textsuperscript{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

\textsuperscript{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).
higher delegitimating power than their pre-Reformation counterparts. The pre-Reformation clergy had greater 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 delegitimating rendered a refusal to legitimate less informative. This argument also implies, however, that the post-Reformation Protestant clergy had lower legitimating 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 (Catholic) coronation, but not in the ceremonies of subsequent Protestant Tudors. 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 Imperial 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 For more, see Hunt (2008, p. 85).
The Consensus View, its Deficiencies, and an Alternative

Thus far, this paper has presented evidence supporting the conjecture that the Crown in Parliament legitimacy principle became entrenched during the Tudor dynasty. Although it is outside the scope of this paper to analyze the events of the 17\textsuperscript{th} century, this section evaluates the alternative conjecture—the consensus view—that the rule of law was the product of 17\textsuperscript{th} century military conflicts.

Accordingly, this section begins with a short discussion of the consensus view interpretation of the process leading to the emergence of constitutional monarchy in 17\textsuperscript{th}-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 evidence indicating that the wealth or political power of the new merchants was crucial to the Civil Wars leaves much to be desired; (2) Parliament did not have the military power to force the Crown to accept the rule of law in 1688. The discussion then turns to speculate regarding an alternative conjecture. The evidence regarding the 17\textsuperscript{th} century events is consistent with the view that the Stuarts and their Parliaments were engaged in a legitimacy conflict.

The consensus view regarding the 17\textsuperscript{th} century emergence of constitutional monarchy

The main events of the 17\textsuperscript{th} century were as follows. 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.\(^{44}\) The first two were James I (1603–25) and his son, Charles I (1625–49). In 1642, a period of civil war began in England. There were three civil wars between 1642 and 1651 in which the Crown and Royalist supporters fought Parliamentarian 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. His brother, the would-be James II, also fled to France. England became a commonwealth governed by Parliament until 1653 and afterwards was ruled by a Lord Protector (military ruler).

\(^{44}\) 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 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.

The premise of the consensus view is that wealth is the primary means to obtain and maintain military power, which in turn is the primary way to attain political power. Accordingly, the interpretation of the above events are 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. 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 [a Dutch] and a parliamentary regime with a constitutional monarchy” (Acemoglu, Johnson and Robinson 2005, p. 563; henceforth AJR 2005).

North and Weingast (1989, p. 815) provides a more nuanced account of the 1688 revolution. Parliament, using the threat of military action, forced constitutional monarchy on the Crown. In their words, “Parliament restructured the society’s political institutions in the Revolution Settlement” to constrain the Crown. Particularly important in rendering these new institutions self-

---

45 This short discussion is broad and does not do justice to various arguments within the consensus view.
46 Due to length considerations, the paper does not evaluate this argument which is presented in detail in North and Weingast (1989) who claim that external, existential threats from European powers limited the ability of the Stuarts to commit to extract only an agreed upon amount. Yet, England was never attacked, invaded, or raided by continental forces under James I or Charles I. 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). The Stuarts were tied by close family bonds to the French. Charles I married Henrietta Maria of France, the daughter of the French king Henry IV. This made their sons, Charles II and James II, first cousins of the king of France, Louis XIV (r. 1643–1715). Furthermore, their sister Henrietta was married to the French king’s only brother and was influential in connecting the French and English courts. More generally, the Stuarts were less involved in wars than the Tudors. 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. One can argue that the costs of war were rising in this period. That is correct, but the Stuarts kings had been in deficit even in periods of peace and were not in the business of gathering war chests.
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 the rising wealth of new merchants tip the balance of power?

If the Crown’s military superiority kept the peace before 1642, as the consensus view asserts, explaining the military conflicts after 1642 requires explaining what tilted the balance of military power in favor of Parliament.

The consensus view claims that Parliament’s power increased in part 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) note that profits from trade around the Civil Wars were £200,000 per annum 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 because “[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).47

This analysis is appealing. It clearly delineates causality and provides supporting quantitative measures. This narrative, nevertheless, finds weak evidence in support of its central claims. First, 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

---

47 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).
donations from *all* sources amounted to only £16,667 per annum to fight the Crown (£30,000 if all funds were spent during the Civil Wars, from 1642-51). This amount is much smaller than the £200,000 per annum that the consensus view insinuates could have been the contribution of the merchants alone (had they contributed all their profits). Clearly, historical data on voluntary contributions during a civil war are difficult to decipher and may be under-reported. Yet, there is no evidentiary support to the claim that the merchants contributed a particularly large amount.

But even if the merchants contributed the annual amount of £200,000 that AJR (2005) postulated they could have, it is unclear if even this amount would have had a large impact on the war outcome. AJR asserts that it could 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 the assumption that all this sum would have been spent on infantry force. Parliament did not spend all its resources on military force. Parliament’s annual budget was £4,472,000 while fighting the Crown (Colquhoun 1815, p. 164). Even had the merchants contributed all of their profits, it was less than five percent of the total. Moreover, at £20 a soldier, the Parliamentary army could have had more than 220,000 soldiers. It did not.

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 AJR argued, the average cost of one soldier was more than ten times larger and ranged between £224 and £448 per soldier. Hence, 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.48

AJR (2005, p. 564) also argue that the higher number of merchants who became MPs after the Civil Wars was a reward for their support. After the Civil Wars, “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 Parliament,

48 The conclusion that the consensus view overstates the impact of the merchants’ contribution holds if we also address the claim in AJR (2005) regarding the size of Parliament’s army. It was far larger than the 10,000 or 20,000 that AJR noted were 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).
however, does not support this claim. The share of merchant MPs was and remained low both before and after the Civil Wars.\textsuperscript{49}

\textit{Figure 4: Merchants and Legal Professionals in the House of Commons, 1559–1689}

![Figure 4: Merchants and Legal Professionals in the House of Commons, 1559–1689](image)

\textit{Sources: History of Parliament online and in print. Various entries in surveys and MPs bibliographies.}

Figure 6 presents the occupational breakdown of MPs in various Parliaments. It shows the fraction of MPs who were merchants and the fraction who were legal professionals (judges, lawyers, and legal apprentices (members of an Inn of Court)). 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

\textsuperscript{49} We follow the Parliament History Online definition of merchants. We exclude the Rump Parliament. Acemoglu, Johnson and Robinson (2005, p. 564) also suggests that more pro-trade policies after the Civil Wars reveals the impact of merchants on policies. This is possible, but unlikely. It ignores that the Crown had its own interest in expanding trade and fighting the Dutch, England’s main commercial rival at the time. The success of the Dutch was costly to the Crown as it reduced customs and was contradictory to their ideology of the Divine Right of Kings. See Pincus (2006).
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.50

The figure also indicates that legal professionals were the largest occupation group. Among them were judges, lawyers, and members of an Inn of Courts (training schools for lawyers in which the trainees lived, learned, and socialized with other members of the profession).51 The size of this group—and not the merchant group—became particularly large after the Civil Wars. As was true 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 in which legal professionals made a career. James went as far as nominating the most eminent legal scholar of the period, Edward Coke, 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 higher than 50% in 1688 and 1689.52

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

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. Clearly, had James II won in 1688, England’s political history would have been different. But James II was not defeated by Parliament’s military force.

Parliament had an army only during the First Civil War (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

50 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.


52 The rising strength of merchants 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.
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. 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. Yet it was the army, not Parliament, that was central to many of the political events that the consensus view identifies as particularly important and generally attributes to Parliament. The army—which was much more radical than Parliament—initiated the execution of Charles, the termination of the monarchy, the institutional experiments during the interregnum, and the Restoration of the monarchy.

Consider the trial and execution of Charles I. Although Charles I was captured by the end of the first Civil War in 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.53

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.

After Cromwell’s death, 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 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 the dissolution of 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. 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 Robison 1996, p. 26). In all these post-Restoration actions, Parliament approved that only the Crown would have military force, and it allowed the Crown to have a standing army.

Parliament had no military force during the Glorious Revolution. Meanwhile, in the years leading to it, the Crown retained and expanded its hold over military power. James II, an experienced, professional military man, had a well-equipped, well-trained, and well-paid army of some 30,000 or 40,000 men. James maintained and expanded his army after Parliament approved in 1685 that he 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.

54 For a short discussion see Fritze and Robison (1996, p. 25–27).
55 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 decay and it “had virtually disappeared in most parts of England by 1688” (Fritze and Robison 1996, p. 26).
56 Pincus (2006, pp. 17–20) argues that the Dutch financed this invasion because they feared the Catholic James II joining Louis XIV of France against them. 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.
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—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 politicians 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.

The point here is not that Parliament had no capacity to raise an army. Parliamentary leaders invited William of Orange to overthrow James II. The point is that while neither side had an army on the eve of the Civil Wars, prior to and after the Glorious Revolution only the Crown (James II and then William and Mary) had an army ready at its disposal. If military power were 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 of Parliamentary rights. They were not. Military force alone cannot explain the Glorious Revolution.

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. 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 New 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 principle of the Crown in Parliament might be the variable that the consensus view is missing.
Was the 17th century one of a legitimacy conflict?

Clearly, it is easier to point to the deficiencies of a thesis than providing a solid alternative. In fact, the consensus view survived much criticism for that reason.\textsuperscript{57} Does the conjecture that legitimacy conflict characterized the 17th century provide such an alternative? Evaluating this question is beyond the scope of this paper but a few comments are in order.

The claim advanced in this paper is that Parliamentary legitimation became an important legitimacy principle under the post-Reformation Tudors. This new legitimacy principle was part of the initial conditions that James I faced when he ascended to the throne in 1603. The Stuarts were more legitimate than the Tudors, as revealed in Table 2. 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 wrote and lectured extensively about his belief in the legitimacy principle of the Divine Right of Kings, according to which Kings are the equivalent of God on earth and have the absolute right over their subjects’ life and property. His son (Charles I) and grandchildren (Charles II and James II) held similar views.

The attempts by the Stuarts (particularly Charles I) to leverage their higher legitimacy and higher revenues, the latter mostly from the expansion of trade, led, as predicted by our theory, to a legitimacy conflict with Parliament. Although military fights were the most visible manifestations of this conflict, the conflict transpired in other ways as well. For example, Charles I tried to rule without Parliament during the period of “personal rule” from 1629 to 1640 during which he did not call Parliament. He called Parliament after he tried to raise taxation based on his prerogative rights despite the fact that taxation was in Parliament’s legitimacy domain.

Military power played a role in the Crown-Parliament conflicts, but it was secondary. Parliament needed a monarch 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 (assembled by the Crown and following the Crown in Parliament procedure). 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,

\textsuperscript{57} See footnote 8.
but their legitimacy was lower than the previous Stuarts (see Table 2). Legitimacy considerations thus seem to account for several key historical facts that the consensus view either does not account for or does not consider altogether. 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.

To further demonstrate the ability of the legitimacy conflict view to better comprehend the 17th century events, consider the role of religion. It was an important feature of the 17th century conflicts but largely ignored by the consensus view though certainly not by historians of the period. Charles I imposed unpopular religious policies throughout his reign—all without the consent of Parliament (Zaller 2007, ch. 7). His attempts to impose unpopular uniform religious practices on Scottish churches played a central role in fomenting the Scottish and Irish rebellions (which required Charles to call Parliament and was the proximate cause of the Civil Wars) (Russell 1990, ch. 5). The Exclusion Crisis (1679-81) was the result of Protestants in Parliament (unsuccessfully) attempting to prevent the Catholic James from succeeding his brother, Charles II, to the throne. The crisis split Parliament along lines that would become the first parties (Tories and Whigs).

The consensus view cannot account for these facts. North and Weingast (1989, p. 805) are aware of this fact: “Since we focus on the evolution and impact of the political institutions, of necessity we slight the larger economic and religious context, even though in many specific instances these larger religious and economic issues were proximate sources of actions and policies that we describe. Indeed, no history of the seventeenth century is complete that does not describe both the growing markets and the evolving organizations that accompanied economic expansion as well as the persistent religious tensions, particularly between Catholic and Protestant.”

Another way to highlight the similarity and distinction between the legitimacy approach and that of the consensus view is focusing on credible commitment. The issue is how can a ruler commit to respect any agreement with her subjects. The consensus view’s premise is that Parliament’s military power enabled such commitment. This view thus focuses on exogenous factors, such as the threats of foreign invasion, that rendered commitment difficult and shifted the

---

58 As was the case with the Civil Wars, Parliament was not a unitary actor during the Exclusion Crisis. Both cases reflect what we call legitimacy conflicts. In the case of the Civil Wars, the legitimacy conflict could not be peacefully resolved; in the case of the Exclusion Crisis, it was peacefully resolved with the Crown gaining the upper hand and Parliament splitting into two parties. This explains why parties did not arise earlier under the Tudors, as legitimacy conflicts between the Crown and Parliament were exceedingly rare.
balance of military power in favor of Parliament, as well as the military conflicts that make such a shift common knowledge. The legitimacy view emphasizes that legitimacy can also enable credible commitment, identifies the conditions incentivizing the Crown to promote Parliament as its legitimating agent, and why a legitimacy conflict can undermine such intra-elite cooperation. The threat of losing legitimacy can, in some circumstances, be sufficient to motivate political authorities to follow through on their promises. This was the case in 16th century England and recognizing this is necessary to comprehending political events in the 17th century.

These facts are all highly consistent with the legitimacy conflict view, suggesting that religious issues were more than mere propaganda. The high-legitimacy Stuart kings desired a new legitimacy principle that would allow them to rule without making major concessions to Parliament. The Divine Right of Kings ideology (which James I and Charles I exerted great effort to establish) and the supporting Episcopalian institutions (i.e., those associated with Arminianism or even Catholicism) were the most obvious alternative to Parliamentary legitimacy. This legitimacy principle would have left no place in the ruling coalition for Parliament. This left no part of the bargaining space in which a mutually beneficial policy existed. A legitimacy conflict ensued.

**Conclusion: The Legacy of the Tudor Period**

This paper establishes that following Henry VIII’s break with Rome, the legitimacy-weak Tudor monarchs relied upon Parliamentary (legal) legitimacy. The initial weakness of Parliament motivated them to foster Parliament’s legitimating power. They achieved this in various ways, such as public declarations, promoting Parliamentary immunity, extending representation throughout England, and expanding the range of issues that required Parliamentary legitimation. 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 legitimating power of acts of Parliament. The resulting legitimacy principle combined and reinforced the legitimacy principles of hereditary monarchy, consent, representation, and communal autonomy.
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—the consent of Parliament expressed as an Act—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 empowered the Crown in various ways. One was the enhanced legitimacy of policies. 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.”59 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 King Charles III cannot be prosecuted in any English criminal court, neither could any Tudor or Stuart monarch.60 More generally, 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

---


60 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 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.
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, the cultural and institutional changes that occurred during the Tudor period had an important legacy for what would come next. While demonstrating that the 17th military conflicts were a reflection of a wider legitimacy conflict is best left for future work, this paper has demonstrated the capacity to open the black box of endogenous political legitimacy.

References


Fletcher, Andrew. 1698. The Course of Government With Relation To Militias. In Selected Discourses and Speeches. The Online Library of Liberty.


Greif, Avner and Steven Tadelis. 2010. “A Theory of Moral Persistence: Crypto-morality and
Political Legitimacy.” Journal of Comparative Economics 38(3): 229–244.
279–288.
University Press.
Hill, Christopher. 1972. The World Turned Upside Down: Radical Ideas during the English
Hodgson, Geoffrey M. 2017. “1688 and All That: Property Rights, the Glorious Revolution and
Cambridge: Cambridge University Press.
53(2): 379–408.
Johnson, Noel D., and Mark Koyama. 2017. “States and Economic Growth: Capacity and
Commitment: Why Parliamentary Rule Failed to Secure Religious Liberty.” Social Science
History 46(4): 693–718.
Falsification. Cambridge, MA: Harvard University Press.
Langelüddecke, Henrik. 2007. “‘I finde all men & my officers all soe unwilling”: The Collection
University Press.
University Press.
Levi, Margaret and Audrey Sacks. 2009. “Legitimating Beliefs: Sources and Indicators.”
Regulation & Governance 3(4): 311–333.
Levi, Margaret, Audrey Sacks and Tom Tyler. 2009. “Conceptualizing Legitimacy, Measuring


