

A War of Roses or Ideologies?

*The Influence of Common Law, Natural Law Theory, and Commonwealth Principles of Chivalry
on England's First Civil War*

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Constitutional thought has been a part of England's political tradition for many centuries, although it has certainly changed significantly throughout the years, and it would be anachronistic to label it as "constitutional thought" at all before the tumult of the 17th century. There are several components of this constitutional thought that bear understanding, to a medieval or early modern English political thinker, the rule of law based on natural law theory and expressed both in positive and common law traditions was a major part of all legal thought. So too, was the limitation of the power of the King by various other social forces and to various degrees including but not necessarily limited to the law, the clergy, and Parliament.¹ Finally, the commonwealth tradition derived from antiquity weighed heavily in all English political thought.² During the 15th century, there was an adoption of these three ideals among the nobility which led members of the Houses of Lancaster and York to become convinced that the aristocrats in general, and the institution of Parliament specifically, needed to take a more direct role in limiting and directing the monarchy. Although the *Magna Carta* had begun this process in the 13th century, it was during the transition to the early modern period at the end of the 15th century that the nobility really began to codify functional limitations on the power of the King.³

¹ The King was sometimes limited by the law, and at other times he defined it within the English legal tradition. According to Henry de Bracton, anything that was created for the good of the commonwealth with "the authority of the king or prince, having first been added thereto, has the force of law" (On the Laws and Customs of England, Introduction) which gave the King the ultimate legitimating power by his choice or not to execute the law. And yet, he was confined both by the commonwealth tradition mentioned by de Bracton, and by the natural law, as expressed by John of Salisbury when he stated "Princes should not suppose that they are disparaged by the belief that the justice of God, whose justice is eternal justice and whose law is equity, is preferable to the justice of their own statutes." (*Policraticus*, Book IV, Chapter 2)

² "Antiquity" could refer to the *Magna Carta*, earlier Arthurian legend and the concepts of chivalry within a feudal society, or Roman *res publica* or commonwealth ideology, depending on the context.

³ There were two primary ways that this was achieved. The first was Constitutionally through Parliament and the increased role that Parliament played, but the second was perhaps even more important. Certain nobles also sought social redefinition on the role of the King, specifically by defining what a good noble and by extension, what a good King should be and do.

English historiography of the Wars of the Roses has been entrenched by Shakespeare since the end of the 16th century. According to Sutherland, Shakespeare's works primarily dealt with the question of "What is the best way to replace one king with another?"⁴ Shakespeare's historical tetralogy, which included the play *Henry VI* and *Richard III* makes it clear that the Wars of the Roses were mainly caused by pettiness between squabbling factions caused by a weak and inept king. By the 18th century, authors like that of *The Life and Death of Jane Shore* interpreted the Wars of the Roses to be almost entirely due to the contrast in gallantry between Edward IV and Henry VI, still conforming to the Shakespearean claim that Henry VI's ineptitude factored largely in his fall, and in York's rise. The author claimed that King Edward was "one of the most Gallant princes of his time; not more dreaded by his Enemies in the field."⁵ S.R. Gardiner, one of the most eminent historians of the turn of the 20th century essentially blamed the conflict on the unpopularity of Edward IV's wife, Elizabeth Woodville; however his interpretation makes it clear that this was an explanation for the continuing conflict after Henry VI's inept reign.

Even in *The Wars of the Roses* edited and written by some of the foremost historians of the 20th century on the topic, A.J. Pollard asserts that the primary cause of the conflict was civil war between rival houses that left the vast majority of the nation relatively unaffected.⁶ Hence it is that very little of Shakespeare's interpretation of the Wars of the Roses has been challenged: petty lords fought over control of the Crown for largely superficial reasons which lay rooted in power politics. However, as Pollard notes, historian Michael Hicks has demonstrated that most

⁴ Sutherland, John. "The Bard: Shakespeare." In *A Little History of Literature*, Yale University Press, 2013, 41.

⁵ *The Life and Death of Jane Shore*, J. Roberts, 1714.

⁶ Pollard, A.J. "Introduction: Society, Politics, and the Wars of the Roses" in *The Wars of the Roses*. Problems in Focus. 1995, 1-2.

primary sources available at the time fall into the literary category of propaganda, making it difficult to reconstruct the actual causes or motivations of the primary actors in the struggle.⁷ What Pollard and Hicks fail to account for is that propaganda will only work when it connects with some latent attitude already present within its targeted audience. The Shakespearean interpretation, itself a form of Tudor propaganda, served well to justify the transition to a more authoritarian government led by a strong monarchy, because it cautioned English subjects to the dangers of anarchy created in a vacuum of power. This narrative only worked because it connected to the fear that citizens within England had of having a similar conflict destroying times of relative prosperity and peace. This research project does not seek to refute the Shakespearean narrative, nor does it seek to disprove Pollard, Hicks, and other historians that interpret the conflict as power politics, but to add another dimension to it. It is the argument of this essay that although the superficial reasons and power politics did motivate Lancaster and York to war, these conflicts were justified with arguments for just war based on common and natural law which was developing into substantive political thought.

It is important to note that hardly any significant English political thinkers at any period of time before the 20th century have had serious reservations about the institution of the monarchy as a system of governance.⁸ The debate within English politics has typically taken two different forms, both which played prominent roles during the War of the Roses. The first debate was about the specific character of the King, most specifically whether the man possessed

⁷ Pollard, "Society, Politics, and the Wars of the Roses," 2.

⁸ Even during the revolutionary period of the 17th century, the Parliamentarians that declared Charles I a tyrant and traitor tried to establish Cromwell as a king, and many of them were directly involved in the Restoration of Charles II after the Interregnum Period essentially failed to express the English commonwealth principles as well as a limited monarchy. Many had reservations about the Restoration but saw no other system of governance that could work, and so finding the proper limitations on the monarchy became the critical aspect of Parliamentary debate.

the character traits and honor necessary to lead England well. Although it was not a defining feature, military and political success, specifically within the context of foreign relations factored heavily into many nobles' definitions of a "good" king. Tyranny was tolerable, as long as money and prestige from foreign struggles remained a net positive within English society, it was only once these struggles failed, as was the case after the Hundred Years' War, that the accusations of tyrant and usurper became relevant. During the Wars of the Roses, the various nobles of Lancaster and York had different ideas about what constituted a "good" king for England, and these arguments then led them to fight to install upon the throne a king that they believed would be best suited to the international success of England, primarily in struggles against the Irish, Scots, and French. Henry VI was not a good king by any potential understanding of such, and therefore the historiography from Shakespeare to Gardiner is rooted in historical fact.

The second debate within English political history has been about the ways in which the monarchy would be limited. The *Magna Carta* signed by King John represented a significant expression of this concept, although the document as a symbol of the English ideal of limited monarchy has proven to be much more powerful than the document itself. The clergy had represented a significant and separate entity of authority, and as the official representative of divine law, served an important role in limiting the power of the Crown during the medieval period, but by the mid-15th century, the clergy had already become largely absorbed into English society as a political entity that was increasingly connected to the Crown.⁹ This left the nobility as a socio-economic and as a political class as the main restraints on the power of the King. These two spheres of influence took two separate, although often intersecting roles within the

⁹ Foxley, Rachel. "More Precious in Your Esteem than It Deserveth?": Magna Carta and Seventeenth-century Politics." In *Magna Carta: History, Context and Influence*, edited by Goldman Lawrence, University of London Press, 2018, 62.

The first limitation on the Crown in the *Magna Carta* was intended to prevent this from occurring.

War of the Roses which led some nobles to conclude that it was incumbent upon them to place more limitations upon the authority of the King. Those nobles who viewed their role as primary social in nature tended to emphasize the inherent traits of nobility and warred with each other when their definition of a “good king” differed.¹⁰ However, there were also a significant number of nobles who began to interpret Parliament as an institutional restraint on the Crown and sought to imbue the formal institution with increased authority in the governance of England. This also was a source of conflict, as nobles would appeal to natural law traditions to attempt to redefine the roles of Crown and Parliament within an English government that functioned with more formal restraints on the King than had been exercised in the past.

R.D. Budworth made several very interesting claims about the Wars of the Roses, including his opinion that it was a “crisis to which forgoing events had for a century been leading up, and which has enormously affected our history ever since. . . [despite being] an utterly un-English phase in our history.”¹¹ He furthermore claimed that it was at this stage of English history that feudalism was laid to rest with the emergence of a larger merchant and middle class which became increasingly blurred into the aristocracy. This is an important social explanation for the almost universal commitment to a meritocracy that was expressed by those nobles who developed systematic ideologies of nobility on both sides of the Wars of the Roses.

¹⁰ The response of various nobles was almost algorithmic in nature. Any king of any House was automatically “good” as long as he was victorious on the battlefield in foreign wars, most notably in the 13th to 15th centuries, with France. If he was not successful, if he was of your House or a close ally, the King still remained “good”, because in all likelihood, the authority of the Crown was still used to your advantage, only this time it often came at the expense of rival Houses, which obviously meant to those Houses, the king was “bad” because the betterment of his allies was coming at your expense. Notwithstanding this response, the nobility, in order to justify and excuse their actions, began to develop significant arguments which became political realities in future generations.

¹¹ Budworth, R. D. "The Wars of the Roses." *History* 2, 1913, 7-21. Budworth also noted that there were very little sieges, and that the countryside was relatively unmolested by the chaos and violence. He traces the twisted alliances, political and amorous intrigue that accompanied the reign of Henry VI. He also claims, based on the *Paston Letters* that there exists sufficient evidence that justice was not much disturbed by the conflict, and that education was also not disturbed, even among the middle classes.

However, it is Budworth's interpretation of the warring nature of the two Houses that express the traditional historiographical perspective of the Wars of the Roses since the time of Shakespeare. Budworth claimed that the violence during the Wars of the Roses bordered on senseless, and was bloody to an extreme, wiping out vast swathes of the nobility in both the Houses of York and Lancaster. Despite the brutality between these two sides, which saw an ever-shifting array of alliances, enemies, suspicious murders, and executions, the life of most commoners and Englishmen outside of the warring houses was not affected much. Budworth claimed that commerce continued much as it had, and "justice was little disturbed."¹²

He concluded however, that the Wars of the Roses were primarily a battle between very closely related bloodlines over the spoils of the realm left by a weak king who lacked the ability to compromise or deftly maneuver through the difficult times he was presented with.¹³

Budworth's interpretation of the Wars of the Roses has represented the traditional view of the conflict; that two rival houses engaged in traditional power politics in order to empower their chosen monarch. According to recent historiographies of the time period, however, it is this interpretation of the War of Roses that served the purposes of the Tudors, who had commissioned most of the chronicles and histories in the 16th century.

Michael Hicks claimed that the Tudors heavily influenced the historiography of the Wars of the Roses by commissioning the writing history in terms that clearly favored Henry VII as the legitimate heir, and therefore most of the chronicles written during the time period of the 16th

¹² Budworth, R. D. "The Wars of the Roses," 12. This claim directly conflicts with the claims of the Warkworth Chronicles, which stated that the common people were disillusioned by the reign of Edward IV due to the constant warfare which had ensued. Given the treatment of the chronicler of Edward in general, this may not have been accurate, or could have been accurate only to the point of the people that were in his immediate sphere of influence.

¹³ Ibid, 17.

century heavily favor an anti-Yorkist interpretation of the wars in general.¹⁴ Given the absolutist inclinations of the Tudors and the philosophical ideology among many Yorkist nobles that emphasized commonwealth principles based on a limited monarchy, it shouldn't be surprising that the Tudors would seek to downplay the philosophical arguments made by the Yorkist supporters. Hicks also claimed that the Wars of the Roses were not about a dynastic rivalry but rather an argument about what constituted "good government."¹⁵ Many of the York nobles admired Henry V, who was the son and heir of a usurper according to Edward IV and other Yorkist propaganda. Had the War of the Roses really been about two houses making rival claims to the same throne, there would have been no reason for any Yorkist nobles to point to a Lancaster King as an exemplar of their ideas of virtue, and yet this is precisely what many of them did. Ironically then, Henry IV and V only became "usurpers" because Henry VI was unsuccessful. This showed a clear rift in ideology between some of the high-minded the Yorkist nobles and their King.

There were ideologically motivated nobles within the Lancastrian ranks as well. Hicks claimed that for Sir John Fortescue, who was sympathetic primarily to Lancaster, "there was more to the defeat of the Lancastrians. . .and he accepted many of the Yorkist reforms as remedies."¹⁶ Fortescue, who was a chief justice prior to his writing about the events of the Wars, would have been especially interested in the legal and philosophical underpinnings of the Yorkist claims, and that he accepted many of them highlights the fact that there were ideas that were key motivations among some of the aristocrats on both sides, and that each envisioned certain redefinitions of governance.

¹⁴ Hicks, Michael. *The Wars of the Roses*. Yale University Press, 2010, 13.

¹⁵ *Ibid*, 14.

¹⁶ *Ibid*, 18.

There is also further evidence that the former historiographical interpretation of the Wars of the Roses as a rival power-based struggle is insufficient. J.R. Lander noted that the total amount of campaign action during the whole conflict was “little more than 12 or 13 weeks in 32 years” which was far from normal, even among other European wars during the same time period.¹⁷ In order to have such a cohesive struggle between two clearly designated foes with such little actual fighting demands that some extenuating factor explains the reason why the conflict could not be resolved. To maintain such a destructive war, particularly for the nobility themselves who paid an extremely high death toll, suggested that members of each House saw some greater reason to continue the fighting, which further suggests that principle may have played an important part.

Both sides of the Wars of the Roses had prominent leaders within the ranks of the nobility that sought to redefine or restore the role of the nobility as a significant limitation on the power of the Monarchy.¹⁸ Especially on the Yorkist side of the conflict, Sir John Fastolf was largely involved in redefining the ideas that governed the proper role of the nobility within English society as a restraint upon the Crown. Fastolf profoundly influenced William Worcester and Stephen Scrope, both of whom were important influences in expanding, writing down, or translating the works of contemporaries that further clarified the ideology of chivalry

¹⁷ Lander, J. R. "The Wars of the Roses." In *Crown and Nobility, 1450-1509: 1450-1509*, McGill-Queen's University Press, 1976, 62.

¹⁸ For many, it was not so much a commitment to Constitutional limitations such as would be articulated by Montesquieu several centuries later, rather it was a belief that the inherent code of chivalry, which demanded a certain type of behavior by all nobles. There is almost a parallel to natural law ideology, in the fact that the nobles who sought to revive or even expand the notion of chivalry in England during the 15th century believed that just governance required that the nobility and the King especially conform to certain standards over and above those required of common men. As will be argued in this paper, for these nobles who valued the virtues prescribed by the chivalric code (based on Roman commonwealth ideology and English historical examples, real and mythological) the responsibility for ensuring that the King be an exemplar of these virtues was incumbent upon them, and they were required to exercise whatever restraining power that they possessed to ensure that the King was a “good King.”

and role which the nobility (with and without Parliament) limited the authority of the Crown. Worcester became an important person in the intervening years between the end of the Hundred Years' War and the Wars of the Roses, in particular because of the influence he had on the philosophical outlook of government and administration. Worcester is suspected to have been the author of the *Boke of Noblesse* which synthesized contemporary views of chivalry with the ideas of the Roman commonwealth.¹⁹ John Tiptoff and Anthony Woodville were also important contributors to the emerging Yorkist view of limited government and Kingly authority resting on conformity to the chivalric code.

There is no evidence that Edward IV or any other contemporary king was influenced by the writings of men like Fasolf, Woodville, or Tioptoft. Edward's actions were pragmatically aimed toward garnering support for his aspirations to the throne as an end to itself, not because he wished to be a part of any kind of revival of chivalry or just governance in England.²⁰ It should be noted therefore that any claim that any particular group in the War of the Roses shared a unified vision obscures a much more complicated picture, if not grossly misrepresents historical reality. The leaders of both Houses and many of the nobles that followed them were approaching the conflict from completely different perspectives. The claim that is being advanced in this essay is that the Wars of the Roses was a catalyst for the emergence of commonwealth, natural law, and limited government principles within a limited sector of the aristocracy. Therefore, it should not be said that the Wars of the Roses gave birth to the English view of constitutional governance; in some ways those ideas were both deeper in its history and yet to come in the conflict of the 17th century. Rather, what is significant in the Wars of the

¹⁹ Hicks, Michael. *The Wars of the Roses*.

²⁰ Saul, Nigel. "The Wars of the Roses and Yorkist Chivalry." In *Chivalry in Medieval England*, Harvard University Press, 2011, 346.

Roses was the development of revolutionary language and revolutionary conditions that specifically outlined just war theory and its connection to Civil War. Although none would have taken up arms against a successful king, it could even be said that for a limited number of nobles, these ideas became important factors in their participation in the conflict. For these nobles, the justifications for action against the Crown based on common and natural law traditions retroactively became their justification for civil war. It did not matter to them that these justifications would never have been made against Henry V.

Bertrand de Jouvenel specifically addressed the historical development of the English Constitutional system beginning in the feudal ages. Jouvenel postulated a sort of English exceptionalism based on the high degree of limitation that was placed on Power (i.e. the Crown) by the nobility. In Jouvenel's political framework, the Crown and the common people typically unite against the aristocracy, which represented the biggest limit to Power's ambitions for the expansion of its control.²¹ According to Jouvenel therefore, it is always the nobility in a feudal and early modern political structure, that provides the limitation of the power of the Crown. Budworth noted the same tendency, particularly in the Middle Ages in England.²² Alvin Rabushka noted that Parliament had already introduced some limitations to the Crown's power in the mid-15th century by requiring Regal Proclamations were procedurally converted into statutory law by the Parliament,²³ which then had the effect of binding all Englishmen to the Royal edict. This was an important development toward the role of the legislature in a modern constitutional monarchy, although during the 15th century, it was simply a procedural action

²¹ de Jouvenel, Bertrand D. *On Power: The Natural History of Its Growth*, Liberty Fund, 1993.

²² Budworth, "The Wars of the Roses," 14. "So long as a strong King, supported by the Church, could put down rebellion with a firm hand there was a reasonable prospect of quiet, but when the weaker monarch ascended to the throne, then was the barons' opportunity. . .the Sixth Henry himself [is an] instance in point."

²³ Rabushka, Alvin. *Taxation in Colonial America*, Princeton University Press, 2015.

taken by Parliament with certain laws made by the King. Even at this point, it had the significance of asserting that Royal Law lacked a sort of legitimacy that was only fully realized when it was also vetted by Parliament.

The gradual increase in Parliamentary influence had been building in the half-century immediately preceding the Wars of the Roses. Rabushka detailed the beginning of this build-up of political power in the early 15th century when “In 1407, Henry IV acknowledged that taxes must originate in the Commons.”²⁴ Henry V further elevated the authority of the House of Commons by granting them equal power to the House of Lords as it related to the introduction of legislation. The expansion of Parliament’s power during the 15th century and of the House of Commons in particular was the expansion of very real limits on the King’s prerogative by the legislature. Proclaimed by the king were still law within the realm, but they were often converted into written statutes by the Parliament which then bound all Englishmen to follow the law. The expansion of statutory law also began to cut into the common law traditions of the country.²⁵ When Henry VI attempted to reverse the precedents established of granting larger accommodations to Parliament during his reign, it would have been perceived as a regression back toward tyranny by those Englishmen who favored the investiture of more power in the Parliament. Budworth commented that Henry VI sought to govern through “autocratically selected ministers” rather than “through and with the Commons of the realm” as his predecessors had done.²⁶

²⁴ Rabushka, *Taxation in Early America*, 78.

²⁵ This was in its very early stages, and it would take centuries for statutory law to replace common law within English legal tradition. This is merely to make the observation that the power of statutory law always by definition cuts into the authority of common law, even as it attempts to codify the same principles.

²⁶ Budworth, “The Wars of the Roses,” 15.

The legal stakes within England were not only being posted by the aristocrats. The Pastons family, as an example of a middle-class family from whom records still exist, had what Budworth considered “a passing education” which included a “tolerably accurate knowledge of the law.”²⁷ Budworth demonstrated that the Pastons family used this knowledge regularly to regain access to their property which had been seized illegally during fighting between the rival Houses. One such example of the Paston family’s acquaintance with positive law can be seen in John Paston I’s letter to John Pampling, Richard Calle, and John Wykes where he cited “these statutes” against slandering “these lords and others” which caused strife between the “lords and community.” Paston wished to see them punished for such acts, and then furthermore saw the statutes as being protection for himself “if a lord do extortion to me or enter into my land. . . I and my servants may lawfully say that he doth me wrong and untruth, and tell the truth of my matter and the untruth of his matter as it is, and never offend the statute.”²⁸ It is clear from this letter that Paston viewed the law as a protection of his property, especially since he would be opposed by a person of higher station than he. While perhaps uncommon among their contemporaries, the *Paston Letters* contain enough similar allusions as this to make it plain that the rule of law in England to protect citizen’s natural rights was robust enough to be a serious consideration for 15th century Englishmen.

Probably the most eminent political philosopher of the 15th and 16th centuries, Sir John Fortesque, who supported the House of Lancaster rather than York, delineated law into three categories: natural law, custom (common law), and statutes (positive law.)²⁹ According to his

²⁷ Budworth, “The Wars of the Roses,” 12.

²⁸ John Paston I, “Letter To John Pampling, Richard Calle, and John Wykes, 1463?” in *Paston Letters and Papers of the 15th Century Part I*

²⁹ Fortesque, Sir John. “*De Laudibus Legum Angliae.*” Translated and Annotated by Amos, Andrew. J. Smith, 1825, Chapter XV.

political philosophy, whenever natural law or common law were written down, they became positive law. It is further significant to note that Fortesque claims that positive law and “constitution” are the same thing. Fortescue based his framework of laws on the “civil laws. . . [of] the Roman Emperors” and further stated that the positive laws were legitimized by their adherence to natural law.³⁰ He finally claimed that “the Law of England is not only an excellent law, but that, in its kind, it is as well chosen as the Civil Law.”³¹

One of the most interesting ideas put forth by Budworth is that although Parliament’s power was growing, the clash between Parliament and the Crown as the dominant power structures within English society was facilitated by the War of the Roses. Parliamentary power in the 15th century was still in its infantile stages, and therefore required a cause for greater investiture by society as a whole in its institutional influence; and to arrive at that point, other significant restraints to Power’s expansion needed to crumble. Budworth observed that the high nobility was essentially executed and wiped out of existence during the War of the Roses, and the clergy had ceased to be a religious institution, and was so embroiled in politics that by the end of the War of the Roses, it was the “parasite of the Crown when the Crown was strong, and its tyrant when the Crown was weak.”³² S.R. Gardiner agreed, noting that “neither the Church nor the opponents of the Church had any longer a sway over men’s hearts.”³³ Although it might be true that the Barronage in its feudal form ceased to restrain the power of the Crown, as it will be shown below the powers of the Barronage did not altogether disappear, merely transfer into other English institutions.

³⁰ Fortesque, “*De Laudibus Legum Angliae*,” Chapter XV

³¹ Ibid.

³² Budworth, “The Wars of the Roses,” 17.

³³ Gardiner, S.R. *Student’s History of England: From the Earliest Times to 1885*. Longman, Green, and Co., 1910, 330.

John Russell spoke as a representative of the clergy during the opening of Parliament during the brief rule of Edward V. In it, Russell stated that the nobility has a right to rule based on Mosaic as well as Roman precedent.³⁴ Given the fact that he was talking to Parliament, this was not a surprising argument to make, but it demonstrated that the nobility took seriously its responsibility to assist in the ruling of the country in a way within a rhetorical commonwealth framework. Russell's writing in general was heavily influenced by both religious overtones and one cannot help notice that Russell appealed very little to the authority of the Church in any matter but the religious. His speeches, which would have given him the perfect opportunity to commission Parliament with specific institutional objectives related to the Church had there been the social initiative to do so, were totally absent of the same. These speeches reveal that the Church had indeed, as Budworth claimed, hitched its metaphorical wagon to the Crown, and was most definitely not a source of political restraint to Power. The same tone is struck throughout the Warkworth Chronicles, where various bishops and archbishops throughout the realm are almost always mentioned as being attached to the actions of either Edward IV or Henry VI. Their mention denotes their social status in the eyes of the chronicler, but the lack of institutional or individual agency serves to highlight the lack of institutional restraint placed on the Crown.

The loss of power within the English clergy may have had something to do with the loss of moral legitimacy as related to positive law. Men were able to escape prison sentences and literally get away with murder by claiming to be or joining the clergy.³⁵ Some clergymen were known to be murderers and perpetrators of "crimes of the most grievous nature."³⁶ Given the

³⁴Russell, John. *Two Speeches Opening Parliament*. In *Grants from the Crown During the Reign of Edward V*. Tanner Ritchie Publishing. 2011, xlii.

³⁵ Redstone, Vincent B. "Social Condition of England during the Wars of the Roses." *Transactions of the Royal Historical Society* (1902), 190-191.

³⁶ *Ibid*, 191.

strong connections between the Crown and Church, all citizens who were concerned with the “rule of law” would have seen Parliament as their only option for eliminating the loopholes which enabled unlawful men to perpetrate crimes with relative impunity. This would have been a definite motivation behind Parliament’s codifying Royal Proclamations into positive law via legislative processes, as the King and clergy could no longer circumvent common law if it had been directly converted to positive law by Parliament. After the Wars of the roses, the only two powers left to vie for hegemony in England were the nobles (via Parliament) and the King.³⁷

An important philosophy within the chivalric code and Western society in general still needed to be addressed at the outset of the War of the Roses, which was under what auspices the York nobility would challenge the authority of King Henry VI. Richard of York had a legitimate claim to the throne by way of Edward III but was superceded in the order of succession when Henry VI had a son, Edward of Westminster. Hicks claims that the war broke out initiated by York which “failed to distinguish between the champion[ing] of reform and retrenchment, which was acceptable, and taking up arms against his anointed king, which was not.”³⁸ Hicks claimed that “participants in the Wars of the Roses were obviously moved by intangible motives such as self-interest and self-preservation, political and constitutional standards and expectations. . .”³⁹ which demonstrates that in Hicks’ view, the philosophical argument of the role and nature of governance and what constitutes good governance was an important factor to consider. The

³⁷ The best historiographical interpretation is that after the weak rules of Henry VI and Richard III, which bookended the tumultuous reign of Edward IV, the re-establishment of strong rule exemplified among the Tutor rulers effectively tabled the power-struggle and differences in political philosophy of the aristocracy and the Crown, but these differences, becoming all the more pronounced, would re-emerge in the 17th century. Of course, by that point, the increased religious strife introduced to England by the Protestant Reformation and formation of the Church of England would add an entirely new dimension to the conflict that was completely absent in the 15th century.

³⁸ Hicks, *The Wars of the Roses*, 19.

³⁹ *Ibid*, 20.

struggle may have eventually devolved into a dynastic struggle of two Houses, but it didn't begin as such.⁴⁰ In order to fully prove the idea that the Wars of the Roses was rooted in ideology, it is critical to determine the just war theory that was adopted and articulated by the Yorkist rebels against Henry VI.

The *Boke of Noblesse* clearly outlines the ideas of Sir John Fastolf, who was potentially the most influential political thinker of the mid to late 15th century for the Yorkist nobility. Fastolf is the common link to several notable Yorkist nobles who all sought to justify action against the House of Lancaster outside of the simple context of power politics and House rivalry. The *Boke*, whose precise authorship is unclear although clearly influenced by Fastolf's ideas, begins with the author wrestling with a just war theory between two rival Christian armies, a circumstance with undeniable application to the Wars of the Roses. Within contemporary tradition, wars against Muslims or other native groups was clearly sanctioned culturally and historically, but it was imperative that for one contingent of Christendom to wage war on another that a clear sense of justice and honor compel the action.

Although Aquinas had previously articulated a just war theory in *Summa theologia*,⁴¹ the substance of the argument made in the *Boke* was different in several ways that made it more applicable to the contemporary struggle. In the *Boke*, the first just cause was a rather nebulous concept of doing right and justice, which was not clearly defined, and can be best summarized as the author's idea of a self-evident concept.⁴² It is most likely that the author knew this concept

⁴⁰ Hicks, *The Wars of the Roses*, 19.

⁴¹ Aquinas, Thomas. "*Summa theologia*." Edited by Dyson, R.W. Cambridge University Press, 2004. Thomas Aquinas outlined his just war theory based on the ideas of Augustine in *Summa theologia*, Chapter 6, "War, sedition, and killing." Aquinas also outlined 3 conditions for just war: 1. There has to be a governmental authority authorized to make war in defense of the commonwealth. 2. The war has to be waged for a just cause. 3. The war must be waged for a just intent.

⁴² "*Boke of Noblesse (1475)*." Edited by Nichols, John. Project Gutenberg, 2010.

was outlined by Aquinas and assumed his readers to be familiar with that idea. The second just cause for warfare between Christian armies is “to withstand all such misdoers the which would do foul grief and oppress the people of the country. . .”⁴³ Importantly, the author made no distinction between a domestic and foreign threat to this sort of justice, the only criteria is that the individual or opposing force be seeking to tyrannize the subjects of the realm. This idea is much more deeply connected to natural law theory, which would have been present within English society, even if it was not clearly defined. It was also phrased in a substantively different way to specifically allow and imply civil war as a justified war as well, since Aquinas primarily assumed foreign conflicts. The third and final justification for warfare offers another aspect of natural law theory, expressing that a just war could be to “recover lands. . .and goods that be unrightly ravished, taken away by force, or usurped.”⁴⁴ What is significant about this is that Aquinas and Augustine connected this idea to the more broad concept of a just cause for war, and was connected explicitly to redress of injuries, personal and civil. This also calls attention back to the second clause, which must have been different enough to the author to feel that personal and civil injuries could not be considered grief and oppression. This is further evidence that the second clause was intended to address natural rights of a more abstract nature. The entire Yorkist justification for action against Henry VI and the House of Lancaster should be viewed through the lens of these three principles.⁴⁵ It is even possible to see the general English framework for the various levels of law within the three justifications for warfare in the *Boke*:

⁴³ *Boke of Noblesse*.

⁴⁴ *Ibid*.

⁴⁵ Coincidentally, the second two justifications offered in the *Boke of Nobless* correspond nicely to Locke’s principles of (life,) liberty, and property. Although the *Boke* was clearly justifying these actions on a social level rather than individual one, the principles were rooted in English tradition long before the 17th century.

natural, common, and positive. However, equally important was the idea that any violation of law be grounds for action.

Despite all of these considerations, it is likely that had Henry VI been an effective king, which to a 15th century Englishman meant success against the French, there would have been no crisis. His grandfather, Henry IV was the contemporary Yorkist example of a virtuous king, and his father was no less tolerated than his grandfather had been. Henry VI was not his grandfather or father. Polydore, a chronicler in the early 16th century, blamed Henry VI for the ruination of France and the degradation of the rule of law in England during the end of the Hundred Years' War, to the point that "the entire West resounded with the groans of both nations."⁴⁶ The *Warkworth Chronicles* claimed that when Henry VI was "put out of his realm by King Edward, all England for the more part hated [Henry VI]. . .the cause was the good Duke of Gloucester was put to death."⁴⁷ Polydore recounts of a time when Duke Phillippe or Burgundy was considering an alliance with the King of England but quickly cut his connection with the King when it became clear that he planned to exercise his "hereditary right, and to have full control over courts, laws, peace, and war."⁴⁸ The *Crowland Chronicles* also revealed a strong bias toward Edward IV as a man "now in the flower of his age. . .elegant in person, of unblemished character."⁴⁹ The *Crowland Chronicles* went on to justify this interpretation, comparing Edward to Gideon, who eschewed the Crown until he had victoriously defeated his enemy in

⁴⁶ Vergil, Polydore. "Chapters XXIII and XXIV" in *Anglica Historia (1555)*. Edited by Sutton, Dana. The University of California. 2010.

⁴⁷ Warkworth, John. "*Warkworth Chronicles (1500)*." Edited by Orchard, James. JB. Nichols & Son, 1839, 11.

⁴⁸ Polydore, *Anglica Historia*. What is uncertain in Polydore's account is which was the worse offense, violating the fledgling English principle of "balance of power" or ruining the potential for an advantageous political association.

⁴⁹ *The Crowland Chronicles*. Translated by Riley, Henry. Henry G. Bohn, 1854, 424.

battle.⁵⁰ However, one also finds that the Chronicler clearly viewed Henry VI as a poor defender of the laws of the realm, noting that “there was an extensive rising of the commons throughout nearly all of England” in 1449, of which one example of an armed band of men beheading prisoners held in London is given in detail.⁵¹ The writer also found it “right to hand down to remembrance” the infringement of the monastery’s property by John Witham which transpired for years.⁵²

Polydore also discussed a Parliamentary negligence in the execution of the Duke of Gloucester, but agreed with Warkworth that they had been strong-armed into supporting the Crown because “a goodly portion of the nobility saw that their freedom of speech had been taken away.”⁵³ Polydore’s interpretation, combined with Henry’s reversal of tolerance for increased Parliamentary participation in governance leads one to conclude that there was an ongoing power struggle between elements of the nobility and Henry VI. Polydore’s account clearly allowed for this and reflected the fact that Henry had violated recent custom and laws protecting the noble’s rights, which contributed to the loss of a cooperative spirit between the two groups. It is also significant to note that the Parliamentary role in governance was a good bellwether for the relative roles of nobility and Crown.

In contrast to Henry VI, Polydore began his discussion of the reign of Edward IV by stating that he was “created king the traditional way” by which he meant a Proclamation of Parliament.⁵⁴ He also acknowledged that a lot of Edward’s reforms “founded anew” the commonwealth of England by working with the Parliament to “partly correct the laws, and partly

⁵⁰ *The Crowland Chronicles*, 424-425.

⁵¹ *Ibid*, 413.

⁵² *Ibid*, 414.

⁵³ Polydore, *Anglica Historia*.

⁵⁴ *Ibid*.

decree new ones.”⁵⁵ Polydore’s biggest criticism of Edward was for being friendly to people of all stations of life, “more than was fitting,”⁵⁶ which reveals his own bias toward the nobility as a social class, but given the vast discrepancies between his treatment of Edward and Henry, it is clearly evident that Polydore viewed the Monarch as a member of the nobility, and not as a separate political class as Jouvanel later envisioned it. It is important not to view Parliamentary support of a King as a legitimization of the King’s rule during the Wars of the Roses, because when Henry VI escaped from prison and was briefly restored to the throne, Parliament annulled all of Edward’s laws (just as he had previously done to Henry) and “admitted to his crown and dignity again.”⁵⁷

One of the very interesting turns of phrase that Lander employed in his discussion of the Wars of the Roses is to discuss the “nobility in parliament” which highlighted the aristocracy rather than the legislative aspect of Parliament during the 15th century.⁵⁸ The aristocracy itself by contemporary European standards had very little power and were merely “rich landlords.”⁵⁹ Lander’s historiography of Parliament during the War of the Roses clearly interpreted Parliament as merely a formal voice of the interests of the nobility in general, rather than a constitutional authority as a legitimate political limit to the power of the executive. “Parliament occupied no static place in the constitution.”⁶⁰ According to Lander, once Edward IV was able to raise money without the increase of taxation, Parliament “sank into the background, content enough to accept. . .no demands on its purse,”⁶¹ implying that Parliament’s concern was not for a

⁵⁵ Polydore, *Anglica Historia*..

⁵⁶ Ibid.

⁵⁷ Warkworth, *Warkworth Chronicles*, 13.

⁵⁸ Lander, “The Wars of the Roses,” 60.

⁵⁹ Ibid, 68.

⁶⁰ Ibid, 71.

⁶¹ Ibid, 72.

constitutional limitation of powers, but for the financial interests of the nobility as an economic and social class. Lander's interpretation of Parliament is therefore somewhat muddled by the fact that he cites Parliament's condemnation of Henry IV which accused him of being a usurper of "unnatural, unmanly, and cruel tyranny" who was crowned "against God's law. Lander dismisses the meaningfulness of such language, which he claimed was Yorkist propaganda.⁶²

There are two observations to be made about this interpretation. The first is that regardless of its true intent, the English Parliament of the 15th century was adopting much of the same terminology that was common in English conflicts of the 17th and 18th centuries. Accusations of a "usurper" and "tyrant" who was contrary to "God's law" was a clear appeal to the concept of natural law and the idea that Henry IV's actions had de-legitimized his right to rule. Even if this was simply a platitudinal justification, it still represents that Parliament clearly needed to go to the length of making such a justification. At a minimum, constitutional rhetoric, if not actual thought, was required by the time of the Wars of the Roses to justify war. The second observation is that when this Parliamentary condemnation of Henry VI is taken as a part of a much larger body of ideology evident among various members of the nobility, it seems even more likely that certain members of Parliament may have meant exactly what they had said.

The author of the *Boke of Noblesse* cautioned any king against any action without first seeking the "council of the most sage approved men of a realm or country that the prince is of."⁶³

⁶² There is validity to this statement. An excellent example of the post-victory accolades lending an air of gravity to the eventual victor was the ultimate victory of Edward over Henry after Henry had been restored to the throne in the early 1470's. One anonymous Chronicler spoke of "the manner how the Most Noble and right victorious Prince Edward. . .by his force and valour, again reconquered the realm. . ." against the "usurper Henry and his accomplices." This chronicle by a faceless Englishmen, reminds the historian that a large burden of proof and unified train of thought should be presented in order to take seriously any source this time period. ("History of the Arrival of King Edward IV" in *The Chronicles of the White Rose of York :a series of historical fragments, proclamations, letters, and other contemporary documents relating to the reign of King Edward the Fourth ; with notes and illustrations, and a copious index.* Second ed. Edited by Bohn, John, 1845.)

⁶³ *Boke of Noblesse*

Given the overall theme of the *Boke* being the careful refinement of the nobility, it is without doubt that the author of this work saw those “approved men” to be none other than the nobility of the country, and in this argument is presented a philosophical framework for a Parliamentary limit of the king’s power to make war. Given the fact that it was already a practical reality of all English warfare that the Crown eventually needed to get funding from Parliament to continue action, the author of the *Boke* is essentially justifying that practice already within a greater just war theory, because it was also possible that princes would make war, “for magnificence, pride, and willfulness. . .in such undo enterprises there can be no greater tyranny, extortion, or cruelty.”⁶⁴

Fortesque also believed that the separation of powers in England that led to statutes not being “enacted by the sole will of the Prince, but, with the concurrent consent of the whole kingdom, by their Representatives in Parliament” made the laws themselves to be superior to all other principles.⁶⁵ Therefore, Fortesque’s tendency to support the legitimacy of the claim of Henry VI would have been grounded in his willingness to ascent to this governmental framework. According to the translator and annotator of Fortesque’s work,

“It is worthy of observation, that in the reign of Henry VI. the practice became established of making up complete Statutes in the first instance, under the name of Bills, instead of the old petitions which were frequently very much altered after they had passed the Houses : this change may be considered an important circumstance in the History of the Constitution.”⁶⁶

In other words, what Amos claimed was that the rule of Henry VI was the first time in English Constitutional history that Parliament had taken to specifically enumerating their Bills, rather than simply issuing concepts that were then often further interpreted by the Crown and Judiciary.

⁶⁴ *Boke of Noblesse*

⁶⁵ Fortesque, “*De Laudibus Legum Angliae*,”

⁶⁶ Amos in Fortesque, “*De Laudibus Legum Angliae*,” Chapter XVIII.

Since Fortesque was sympathetic to the House of Lancaster in general, it is particularly important to note that even those opposed to the Yorkist perspective saw potential issues in the means of Henry's governance, most notably his attempts to take power away from Parliament that had been established by precedent over the previous fifty years.

The shift of legislative control and power fully to Parliament encountered a significant amount of friction within the English legal tradition. The first was that, since common law was such a profound part of English society, the King's equity and Star Chamber existed to override certain rulings as an important limitation of itself on the somewhat arbitrary nature of interpretation of common law and the potential the judges would not do justice. According to Harry Potter, a "lawful resolution of an issue. . .was not always a just one."⁶⁷ Potter noted many problems with the legal system within the 15th century. Essentially, the legal system has become "fossilized" to the point where it was "rigid, while injustice increased, and circumstances changed."⁶⁸ This fact had several important implications at the outset of the Wars of the Roses. The first is that a "weak King" to some nobles would have been one that failed to assert enough justice to counteract common and occasionally even statutory law. However, an equal number of nobles could blame him for asserting himself too much and attempting to override tradition and precedent within English society. Finally, since the entire legal system was experiencing the growing pains of a common law system that was slow to adapt to the rapidly changing economic and social realities within Europe in the transition from feudal to mercantile economies⁶⁹, Henry VI would have been expected to utilize his discretionary power to maintain the economic

⁶⁷ Potter, Harry. "The King's Conscience, the Lord Chancellor's Foot." In *Law, Liberty and the Constitution: A Brief History of the Common Law*, 97-102. Boydell & Brewer, 2015, 98.

⁶⁸ *Ibid*, 98-99.

⁶⁹ *Ibid*, 99.

stability of the commonwealth at precisely the time that nobody really understood what that meant. The eventual solution, an extremely strong monarchy with an increasingly important Star Chamber and a Parliament that literally granted Henry VIII the power to issue proclamations with the force of law during emergencies, was not yet an apparent solution in the 15th century to the nobility (i.e. Parliamentarians) who did not wish to play second fiddle to the authority of the king.⁷⁰

In the proclamation made at the coronation of Richard III, Parliament asserted certain basic commonwealth principles; that the function of the King was to bring prosperity to the land, and that this was achieved by “following the advice and counsel of certain Lords Spiritual and Temporal.”⁷¹ At this time, Parliament clearly associated itself with Richard III by positing its own historiographical interpretation of the legitimacy of Edward IV, concluding that his ascension to the throne had “perverted the Laws of God, and of God’s Church, and also the Laws of Nature, and of England. . .so this land was ruled by self-will and pleasure, fear and dread, [and] all manner of Equity and Laws laid apart and despised.”⁷² However, given the circumstances around Richard III’s usurpation of the throne from Edward V, it is certain that by this point the Shakespearean interpretation of power politics is the most correct. The pretense that Richard used to usurp the throne, “that the sons of Edward were bastards, on the ground that he had contracted a marriage with one lady Eleanor Boteler, before his marriage to Queen Elizabeth” was tenuous at best, even at the time it was made.⁷³ It should be understood then, that a large portion of Edward’s support came from his conformity to the ideals of a nobleman, as

⁷⁰ Potter, "The King's Conscience, the Lord Chancellor's Foot," 99.

⁷¹ Parliament of England, *Titulus Regius*, 1483.

⁷² *Ibid.*

⁷³ *Crowland Chronicles*, 489.

expressed in *The Boke of Noblesse*, rather than a specific bloodline claim. Richard III manipulated his claim to the extreme, and it was tolerated not based on its own legitimacy but based on extraneous factors⁷⁴ that were considered more important to the nobility at the time.

The expanded role of Parliament within the political society of England was not the only concern amongst the nobility of the 15th century. While some believed that Parliament needed to play a more important role in the governance of the nation, others argued that the nobility itself as a social class needed to regain its influence in order to promote commonwealth principles. These ideas intersected one another and should not be seen as being necessarily opposing perspectives, but rather complementary ones. One such aristocratic who had a renewed vision for the nobility was Anthony Woodville, who was one of Elizabeth Woodville's⁷⁵ brothers, and the eventual steward who helped raise the young Edward V after the death of his father. Woodville rejected the high standing that his new family associations afforded him, instead embarking on quests, crusades, pilgrimages, and jousting matches.⁷⁶ To Woodville and others who thought like him, the keys to the common good of England lay in the refinement of its aristocrats, and the real key to leadership should be merit, not noble birth.⁷⁷

⁷⁴ A significant factor was the unpopularity of the Woodvilles, and the general concern that the Queen's family would have more influence in the future of the monarchy, rather than Richard's conformity to the same standards of chivalry as Edward IV or the legitimacy of his bloodline claim. However, just because Richard III usurped the throne in this way, it does not follow to say that this was the rationale during and prior to the reign of Edward IV. It is entirely possible for the Wars of the Roses to have ended under totally different pretenses than it began.

⁷⁵ Queen Consort Elizabeth by marriage to Edward IV. Her marriage was a political problem for Edward, as many nobles on both sides of the Wars of the Roses were opposed to her House, which they viewed to be problematic for various reasons.

⁷⁶ Saul, "The Wars of the Roses and Yorkist Chivalry," 335.

⁷⁷ *Ibid.* 336.

By the late 15th century, it was common among the Yorkist and Lancastrian noblemen, to claim that nobility should be based not on inherited wealth but rather on merit.⁷⁸ This interpretation is later reinforced in the *Boke of Noblesse* by evoking Caton's history of Rome, in which the young rulers of caused cities to be "destroyed and brought to desert" because they rejected the counsel of the senate, which he defines as a "company of aged men assembled together."⁷⁹ Specifically, according to the author, the young leaders of Rome were "not rooted nor expert in the law nor the policy of governance"⁸⁰ which led to foolish decisions that ruined the commonwealth. In this section of the *Boke* the author clearly connected the well-being of the commonwealth in general to the specific willingness of the leaders to listen to those men who have more experience, which at this time would be Parliament.

Fortescue philosophically agreed with Yorkists like Woodville that the hereditary nobility was a threat to good governance, and that power should be invested in men who demonstrate their competence.⁸¹ The primary difference between Fortescue and Woodville, and it is a significant one, was that Fortescue wished to see the meritocracy evidenced by careful selection of bureaucratic rulers who would further improve the governance of the nation. It is this difference in opinion that also demonstrated that Fontescue, who wished to see the nobility be a meritocracy of bureaucrats was not compatible with the Yorkist vision of a knightly nobility.

John Tiptoft, another man who partook in Fastolf's philosophical circle of the mid-15th century, translated thhe early 15th century work, *Declamation of Noblesse* by Italian philosopher Montemagno because he considered the ideas to be important enough to be beneficial to all

⁷⁸ *Boke of Noblesse*, wealth: "gold, silver, and precious stones surmounteth not nor conquereth not enemies." Merit: furnished and stored with good men of arms well-learned and exercised""

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Hicks, *The Wars of the Roses*, 18.

Englishmen who could read it. Montemagno's interpretation of what made a person noble was also merit and character rather than birth. According to Montemagno, only the common people valued "noble Ancestry" as the definition of noble.⁸² He cited one example of Scipio, who by virtue of his being related to Cicero, was given "the office named among us Pretore."⁸³ Soon, all within the Senate came to regret such nepotism as having led to a general worsening of the State until the rest of the nobles ordered, "that he was never suffered to sit in his place annexed to his office, nor to give any judgement."⁸⁴ To strip a nobleman of his property would be a clear violation of his own rights, so Scipio could not be removed, but the clear moral of the story that Montemagno wished to convey was that only virtue could truly make one noble.

Embedded in this argument was the very legitimacy of the English Parliament with a Roman-inspired political structure. According to Tiptoft, Fastolf, and the rest of their intellectual circle, the nobility was an important check on the power of the monarch, but the feudal system regrettably allowed too many nobles who were unworthy to have authority to have such power. It is a logical conclusion that it was therefore necessary to have a Senate-type structure which allowed those nobles of great virtue to exercise greater political influence for the shared benefit of society. While they never specifically or systematically made these claims with reference to Parliament and the English Crown, the number of times they cited Roman antiquity and commonwealth principles is enough to deduce that they believed it to be true, for what political body other than Parliament could fulfill the role of the Senate?

⁸² Montemagno, Buonaccorso. *"Declaration of Noblesse."* Translated by Tiptoft, John, c. 1460, Printed by Caxton, 1481.

⁸³ Ibid.

⁸⁴ Ibid.

Worcester invoked commonwealth ideas specifically to frame his perceived moral failures of the nobility to maintain the chivalrous dignity and responsibility necessary for the success of the commonwealth. He drew extensively from Roman antiquity in his writings for moral principles of sound governance.⁸⁵ Another man influenced by Fastolf was Stephen Scrope, who translated two works into English in order to put forth his own version of a moral knighthood. The works themselves had a similar theme to that of the *Boke of Noblesse* and although drawing on different historic examples, essentially concluded the same thing. For both Scrope and Worcester, “England could realize its destiny provided English knighthood committed itself to serving the common good.”⁸⁶

Woodville was deeply influenced by Roman antiquity as well, and translated several French texts into English, including Christine de Pisan’s *Livre du Corps de Policie*. His interest in this text in particular was that it “brought together writings from ancient Rome which stressed virtue and self-discipline as the foundations of imperial greatness.”⁸⁷ The *Declamation of Noblesse*, translated by another Fastolf acolyte Tiptoft, set in a Roman Senate debate where the character that one was meant to empathize with argued that nobility had to do with character qualities rather than heritage or wealth.⁸⁸ Even more importantly, it was argued that that the proper nobility should be applying their talents toward the betterment of the state. Both Tiptoft and Woodville also used Henry V as their exemplars of the ideal nobleman, a well-informed, chivalrous, and ultimately victorious warrior that extended the glory of the *res publica*.⁸⁹ It is

⁸⁵ Saul, “The Wars of the Roses and Yorkist Chivalry,” 328-329.

⁸⁶ *Ibid*, 330.

⁸⁷ *Ibid*, 336.

⁸⁸ *Ibid*, 337.

⁸⁹ Here again is the proof that victory against France for Henry VI would have forstalled or even totally negated the ascendancy argument posited by the Yorkists. Constitutional and philosophical arguments aside, international power and prestige were still the primary issues of the Wars of the Roses.

also worth noting that Fortesque believed that the law and customs of England were not only the best examples to be found in the world, but that they had also transcended the various periods in English history (Roman, Norman, Saxon, etc.).⁹⁰ Under this framework, Fortesque could easily have dismissed Yorkist claims that Henry IV was a usurper by appealing or potentially even advancing to his upholding of the legal traditions within England. Fortesque did not adopt this position, because he eventually would have needed to defend the legitimacy of Henry VI, who was an equal failure as a king in his own interpretation.

Richard, the Duke of York, was largely considered by Fasolf and his circle to be the best person to personify the vision of the virtuous aristocratic leader that they believed was critical for their commonwealth view of England.⁹¹ This viewpoint was exacerbated even further when Henry VI lost many of the important English holdings in Normandy and other parts of France. Henry's contemporaries interpreted his failure to defend these holdings as his moral failure as a knight. Since Henry had been anointed as God's king and therefore the defender of the realm, he had failed "in the most vital aspect of his office."⁹² Edward, by contrast, according to the *Crowland Chronicles*, "encourage[d] the nobles and people to engage in the war against France . . . many speeches of remarkable eloquence were made in Parliament. . . the result was, that all applauded the king's intentions."⁹³

The *Boke* also clearly connected certain historical and mythological figures as its exemplars of kings who undertook such just actions. It drew clear connections between King Arthur, Charlemagne, William the Conqueror, Richard the Lionhearted, and Edward III as

⁹⁰ Fortesque, "*De Laudibus Legum Angliae*," Chapter XVII

⁹¹ Saul, "The Wars of the Roses and Yorkist Chivalry," 331.

⁹² *Ibid*, 333. Locke's social contract wasn't the only one which had been clearly precedented and demonstrated in the 15th century civil war, as the arguments made by Fortescue, Fastolf, Woodville, Scrope, and others was essentially the same social contract view of the monarchy that would later be credited to Hobbes.

⁹³ *Crowland Chronicles*, 471.

examples of such kings that undertook righteous action.⁹⁴ Given the fact that there was no lengthy justification for their inclusion in the book, it was more likely that the author included them as examples because of their military successes, which became a sort of retroactive justification in the eyes of the author. It is clear that 15th century nobles expected that God⁹⁵ would ultimately arbitrate the justness of a particular individual's cause by established military success.⁹⁶

This interpretation is also supported by the generally positive support for Henry V and his actions in France during the beginning of the 15th century. One sees clearly that the author of the *Boke* was not concerned with the legitimacy of certain houses' claim to the Crown, he was more concerned with the specific men that were at issue: Henry VI and Edward IV. The *Boke of Noblesse* claimed that Edward IV is a good king because he will lead and has led the nation to glorious victory, and Henry VI was a bad king because he was weak. Also aware that this particular historiographical interpretation doesn't work fully work given the length of Henry's reign which had stretched for decades, the author of the *Boke* addressed this question also. According to the *Boke*, based on the examples of Judas Machabeus and also the Crusades, there

⁹⁴ *Boke of Noblesse*

⁹⁵ This view is explicit in the *Chronicle of the Rebellion in Lincolnshire, 1470* where the author stated bluntly that Edward IV was aided directly by God by diverting Lord Wells, and then "so preceded against his said rebels by the help of Almighty God." Even in the 17th century, Locke's *Second Treatise* ended with the idea that God was the ultimate judge between opposing sides that both claimed justice and truth to be theirs.

The *Crowland Chronicles* noted "God, however, being unwilling that a city so renowned (London), and the capital of the whole kingdom of England, should be delivered into the hands of such wretches (Henry VI's followers), to be plundered by them, gave the Londoners stout hearts. . ." (467)

⁹⁶ There is a circular logic that follows this general theory, in which the author simultaneously argues for careful consideration of the justness of warfare prior to its initiation, but also argues by example that God will be judge and that there is a certain validity to simply initiating armed conflict, and once one side wins, it becomes easy to retroactively declare their causes as having been those that were just. Written at a time when Edward IV was king, the *Boke*, which was certainly written by a Yorkist supporter, would have had no problem asserting these kinds of claims, since their side won.

were times when God uses the “adventure, labor, and pain” to lead the righteous men to a point where they stand up to the tyranny at last, and overthrow it.⁹⁷

Polydore recounted one meeting between Sir John Stockton, John Ward and John Crosby in which they decided to follow Edward rather than Henry because Henry “was not the kind of man who could govern public affairs well in his own right” but that Edward would be a strong king who didn’t cave to the dictates of others.⁹⁸ This demonstrates that not all leaders at the time were looking for a balance of power, and some were actively seeking to strengthen the monarchy. This is where one must be careful to consider Polydore’s Tudor influence, as he would be unlikely to write favorably of any person who supported a strongly limited monarchy, given the general disposition of his patrons toward that particular political ideology. Yet even having considered this, the general historical fact that the 16th century did not see an escalation of Parliamentary involvement in English governance can be interpreted as the final decision having been made by the nobility that England needed an Arthur with his knights in Camelot, not a constitutionally limited monarchy; it needed Leviathan more than it needed Lockean principles.

Propaganda obscures much of the actual rationale of the individual actors during the Wars of the Roses. However, it also consistently demonstrated an emerging constitutional lexicon that valued the roles of natural and common law as justifications for public action, in particular armed action against the Crown. There were some true believers, such as Sir Fasolf and his circle on the Yorkist side and Sir John Fortesque on the Lancastrian side, and their political ideals, which synthesized constitutional ideology with various definitions of a Roman-

⁹⁷ *Boke of Noblesse*. There is no attempt at systematic logic, which is clearly not possible given the *Boke*’s circular logic being applied here. Good kings win battles which legitimizes their reign. Bad kings don’t win battles and are dethroned by better kings. Except when they aren’t, then it is God trying to teach the nobles a lesson.

⁹⁸ Polydore, *Anglica Historia*.

influenced commonwealth meritocracy were articulated, adopted, and modified for wider use within the general society. By the end of the Wars of the Roses, more pragmatic rulers like Henry VII and Richard III were forced to at least adopt the terminology, if not its spirit, in order to legitimize their reigns. Power politics between York and Lancaster in the 15th century paved the way for a different type of struggle in the 17th century based on constitutional ideology by imbuing English society with a just war theory of revolution and succession based on natural and common law principles. By the end of the 15th century, Richard and Henry VII had to offer token rationalizations based on the principles that would become logically and philosophically necessary two centuries later.

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