

THE TUDOR CONSTITUTION AND
SHAKESPEARE'S TWO TETRALOGIES

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Shakespeare wrote most of his English history plays during an era of considerable constitutional uncertainty. Elizabeth's reign fell between the Henrician Reformation, which confirmed for Parliament a permanent place of political importance in English government, and a civil war which was fought to determine whether Crown or Parliament had priority. The fact that a king is both an individual and a symbol of the Crown has long been recognized in studies of the plays; as David Bevington has observed, dramatic "allusions to kings or queens . . . pertain to the office" as well as to the individuals.¹ Relations were often difficult between Elizabeth and her parliaments particularly over such issues as the succession, foreign policy, royal purveyors and monopolies.² There were in addition jurisdictional disputes between prerogative (i.e., royal) courts and common law courts.³ Given these contemporary circumstances, it is possible that the English history plays, just because they treat English history, explore a constitutional relationship among all branches of government in the process of dramatizing the events of particular reigns. Shakespeare, without necessarily being a polemicist (and certainly not an allegorist), may present particular kings, justices, lords, and commoners who sometimes in addition represent institutions and offices.

Certain premises must be stated, however, before this hypothesis can be explored. One premise is that an analogy can be drawn between the multifaceted role of king and the more abstract constitutional concepts of consultation (or representation) and justice. Lords and commoners could at times signify the principle of consultative process just as the king represents the Crown; in a similar vein, references to law and justice along with the presence of jurists could at times symbolize the third cornerstone of government. Another premise or assumption is that particular issues or views need not be directly reflected in the plays; a general thematic concern with the relationship among people, Crown, and law could reflect the general political climate of London and Westminster in the 1590's. Finally, though an article provides space for only a brief exploration of a topic that may be controversial and require lengthier demonstration, once granted this limitation, some generally accepted views on the sixteenth-century constitution can be surveyed along with possible reflections in several English history plays, particularly in Shakespeare's two tetralogies. The three branches of the constitution are discussed in the order followed

by Thomas Smith, the principal Elizabethan observer of the constitution: first Parliament, then the Crown, and finally the law.⁴

I. Parliament

Before discussing broad thematic parallels between the plays and the times, I wish to cite a few examples of Shakespeare's general accuracy about constitutional matters. For example, parliamentary jurisdiction in several areas was well defined by the sixteenth century (according to Smith, pp. 48-49). These areas included, among others, determination of forms of succession and definition of doubtful rights. Shakespeare is therefore correct in showing that Somerset felt free to mock York's social standing in the rose-plucking scene where he said of York, "We grace the yeoman by conversing with him" (*IH6* 2.4.81).⁵ But once York's rights are restored by Henry in Parliament (3.1.164-71), York's rank in society is no longer subject to the jibes of the nobility. Later, in *3 Henry 6*, Parliament designates York as Henry VI's heir in an attempt at resolving the York-Lancaster conflict. Subsequently, Margaret feels she has no choice but to take to the field, because only arms could negate an act established by king and Parliament (1.1.254-59).⁶ Parliament also had jurisdiction over taxes, a principle that had been established by the middle of the fourteenth century.⁷ Consequently, when Henry VI in a private audience authorized Suffolk to impose a tax of a tenth to pay for the voyage and wedding to Margaret of Anjou, he was overstepping his authority as king, an ill omen for his rule (*IH6* 5.5.93). The good Duke of Gloucester refers to the improper authorization in *2 Henry 6*, revealing to the attentive listener or reader that though Suffolk had asked for less than Henry suggested, his action offended the Protector:

A proper jest, and never heard before,
That Suffolk should demand a whole fifteenth
For costs and charges in transporting her! (1.1.132-34)

And if the Protector was offended, so undoubtedly were many others, for even Gloucester's enemy, Cardinal Beaufort, acknowledged Gloucester's popularity ("What though the common people favor him," [*2H6* 1.1.157]).

Though constitutional development during the course of the sixteenth century was not strictly linear, Parliament did mature as a legislative body, achieving many small gains towards independence from the Crown. Particularly in the years following the Henrician Reformation, the House of Commons became the more important of the two houses as the place where most bills were introduced and political issues were debated.⁸ For example, pressure from the Commons in 1589 forced Elizabeth to accept parliamentary assistance in devising regulations for royal purveyors.⁹ During the historical periods dramatized in the two tetralogies, however, the House of Lords was the dominant house. Therefore, the

two scenes in which Shakespeare dramatizes actual meetings of Parliament (*1H6* 3.1. and *3H6* 1.1) correctly show assemblages of lords meeting with the king. However, at other times Shakespeare places particular emphasis on the opinions of the commons.¹⁰ In *2 Henry 6* Lord Salisbury says that the "commons" demand Suffolk's banishment for Gloucester's death (3.2.244), a demand which Henry immediately meets. In the deposition scene of *Richard 2*, Northumberland twice cites the "commons" as authority for proceeding against Richard (4.1.154 and 272). In *Henry 5* the Archbishop of Canterbury greatly fears the bill urged by the "commons" which would deprive the Church of half its wealth (1.1.1-20). There are no comparable references to the opinions of the lords as a group in the plays.

Parliament by the sixteenth century embodied two potentially conflicting principles. It was summoned and dissolved by the king and therefore dependent upon him as a "High Court" of the king.¹¹ It was at the same time a representative assembly whose authority was separate from and independent of the king because, as Thomas Smith wrote, every Englishman is understood to be present either in person or by delegate, so that "the consent of the Parliament is taken to be every man's consent" (p.49). Though "every man" actually meant every man of financial substance, since franchise was by no means universal, delegates considered themselves to be representatives of the whole nation not merely of separate localities (as was the case in France); the fact that delegates represented the whole nation made their decisions binding upon everyone. A distinction between a Parliament whose authority stemmed from the king and a representative body whose authority stemmed from the people was recognized by the terminology used in historical documents. When delegates of the realm were summoned by a king to join with him in devising legislation, such sessions were called meetings of "Parliament." But when there was any irregularity in successions which complicated the designation of the assembly being summoned by a particular king, then the body either was called the "Estates," or the three estates, or the groups were named. For example, the transition from the reign of Richard II to Henry IV was authorized in documents where the name "Parliament" was never mentioned. The sanctioning body was referred to as the "Estates."¹² Shakespeare maintains the same distinction in the text of his plays; the word "Parliament" appears only in scenes where there is no question as to who is king: two meetings of Parliament are dramatized in *Henry 6* (*1H6* 3.1 and *3H6* 1.1) and are referred to in anticipatory remarks (*1H6* 2.4.117 and *2H6* 5.3.25); several references to Parliament mark Henry V's taking final possession of the Crown (*2H4* 5.2 and 5.5 as well as *H5* 1.1). The entire play of *Richard 2*, on the other hand, including the deposition scene, contains no mention of Parliament except in a stage direction

probably added by a subsequent editor, "Enter as to the Parliament."¹³

Among the several illustrations of Henry V's "shape of a new man" once king, Raphael Holinshed includes the fact that shortly after Henry's being crowned he called a Parliament "in which diverse good statutes, and wholesome ordinances, for the preservation and advancement of the commonwealth were devised and established."¹⁴ Shakespeare particularly emphasizes this detail by having Henry twice repeat that he intends to summon Parliament and by then having the Lord Chief Justice and Lancaster affirm that Henry has kept his word. In Henry V's first appearance as king at the end of *2 Henry 4*, he announces:

Now call we our high court of Parliament.

.....

Our coronation done, we will accite,

As I before remembered, all our state. (5.2.134-42)

Lanc. The King hath called his Parliament, my lord.

Ch.

Just. He hath. (5.5.103-04)

Shakespeare thus has Henry accord respect to Parliament in his first appearance as king when Henry was most anxious to 'pay the debt he never promised' by giving proof of his dramatic reformation. I suggest that Shakespeare's handling of Henry's transformation reflects the importance of Parliament in sixteenth-century England. Henry's words acknowledge in particular Parliament's two functions as king's "high court" and as representative assembly ("all our state"), with the latter being accorded the prominent final position.

In the group of English history plays which Shakespeare wrote before Elizabeth's death, Henry V is the king who is most secure on the throne. That such a strong king should have to take into account the opinions of a parliament would have been unthinkable in France where kings succeeded in almost eliminating the national assembly.¹⁵ This contrast between the French and English monarchies enters the plays in the person of Margaret, Henry VI's French wife, who constantly chafes at the restraints imposed on Henry by council members and Parliament. She had grown up under the French monarchy "which was a model to monarchists in its theory, its power, and its unconfined freedom of action; it was also a byword for tyranny."¹⁶ When Henry VI tells of being forced to name York his heir, Margaret replies: "Enforced thee! Art thou King, and wilt be forc'd?" (*3H6* 1.1.237). Though their sentiments are in part disingenuous, York's sons Richard and Edward place blame for the civil wars on Margaret's French interpretation of the royal powers:

For what hath broach'd this tumult but thy pride?

Hadst thou been meek, our title still had slept,

And we, in pity of the gentle King,

Had slipp'd our claim until another age. (*3H6* 2.2.159-62)

II. The Crown

One of the most urgent issues involving the Crown during Elizabeth's reign was the question of succession. For, as Thomas Smith wrote, the English prince "is the life, the head, and the authority of all things that be done in the realm of England" (p.63). A change of monarch could mean a significant change in the realm, as those who knew of the Henrician Reformation, the Marian Restoration, and the Elizabethan Settlement well understood. Yet one set procedure for regulating succession had not been established by either custom or statute. There was a strong belief in heredity as the determining factor in choosing a king a precedent favoring heredity as sole determinant was in fact established when Edward II's reign was dated from the death of his predecessor, not from the date of his coronation as had hitherto been the custom.¹⁷ But this precedent was greatly weakened by Edward's later deposition. The long list of possible successors to Elizabeth is ample evidence that the order of ascent was not certain; Robert Parsons, alias Robert Doleman, surveyed a list of claimants which encompassed descendants of at least twenty families.¹⁸ It is probably no coincidence therefore that each of Shakespeare's English history plays written before Elizabeth's death raises the issue of succession from Richard II through to Henry VII. While heredity is often emphasized, the plays also explore and increasingly emphasize other sanctions for authority such as popular support, military strength, and administrative abilities especially in terms of law and justice.

1 Henry 6 begins with heredity determining succession to the throne. The nobility is not concerned to designate a new king but rallies to the support of the infant Henry VI because he is heir to the deceased Henry V. Yet by the time Henry VI is confronted by York in Parliament, his being the son of Henry V is no longer sufficient basis for possessing the Crown Henry acknowledges that "the city favors" York (*3H6* 1.67); Warwick accuses Henry of military failure for losing the French territories won by his father (110); finally, Henry admits in an aside that his "title's weak" (138) and thereupon agrees to exclude his own son from the throne in favor of the House of York if he can remain on the throne throughout his lifetime.¹⁹ The new parliamentary title to the throne is challenged, however, first by Margaret, then by York. In the first tetralogy the crown does not come to rest securely on one head until the arrival of Richmond. He combines military strength with possession and allegedly genuine popular support in contrast to Richard III's semblance of support provided by Buckingham's clique at the Guildhall (see *R3* 3.7.34-40). Richmond asks his lords to "consult" with him on the upcoming battle (5.3.45); Richard's isolation, on the other hand, is emphasized both by the nightmare of curses from his victims and by Lord Stanley's

open defiance (343). In charging his soldiers, Richmond states: "those whom we fight against/ Had rather have us win than him they follow" (5.3.243-44). No one counters this assertion; subsequently, Richmond goes on to gain possession of the throne through military means.

In the second tetralogy, once King Richard undermines his right to the throne as designated heir of his grandfather by trying to deny Bolingbroke his inheritance (and thereby frightening the propertied lords), he quickly finds that he must resign the throne. In order to retain the popular support which enabled him to obtain the Crown, Richard's successor Bolingbroke takes care to consult with his lords, to maintain at least the appearance of respect for the common people, and to see to the effective administration of justice (see section III). A contrast between Richard and Bolingbroke can be discerned throughout the play in terms of their attitudes towards lords and common people as well as in terms of the corresponding degree of support which they each can command.

First let us compare the relations of both men with the lords. Richard pressures Gaunt into giving advice (the banishment of his son) which he does not really support (1.3.237-46); Richard then ignores the heartfelt counsel of Gaunt and of York in 2.1. Even towards his "favorites," Richard does not display much respect since he is quick to condemn without proof Bagot, Bushy, and Green for betraying him to Bolingbroke (3.2.127-34). Soon thereafter the Gardener reports that all the English Peers desert the king (3.4.85); in his moment of need, Richard is publicly defended only by the Archbishop of Carlisle (4.1.114-49). Henry IV, on the other hand, is shown to be attentive to his lords both individually and in council; the first scene of *1 Henry 4* opens and closes with Henry's hearing a report of one Council meeting and preparing for another one (1.31 and 102). His care is repaid by the loyal service of a Walter Blunt, who rushes to his king with accurate information about events in Wales, and of a Warwick, whose worldly wisdom enables him to keep Henry from debilitating despair over the defections of Northumberland (*2H4* 3.1.80-92) and Prince Hal (4.5.87). One can similarly contrast Richard and Bolingbroke in their relations with common people. Where Richard in speaking of the lower orders evokes images of "poor craftsmen," and an "oyster wench," and a "brace of draymen" (*R2* 1.4.23-36), Bolingbroke speaks simply of "men" (*1H4* 3.2.46-52). Both Scroop (*R2* 3.2.112-20) and York (5.2.11-30) report that Richard is consistently unpopular among the common people. Bolingbroke, meanwhile, even in his weakest moment in *2 Henry 4*, when he must raise three armies to defend England against the French and Glendower as well as against the Archbishop (1.3.70-73), can muster more support than can the rebels: at Gaultree, Henry's men number a good 25,000 (11) or 30,000 (4.1.22), a number which equals or surpasses the number of men the Archbishop commands

(1.3.67). Thus in practical terms, support by the people (both noble and common) seems to be a critical sanction for determining succession, since without support by lords and commoners neither Richard II, Henry IV, Henry VI, Richard III, nor Henry VII could retain the Crown. Popular support in turn seems to be associated with leaders who maintain a "constitutional" relationship with the lords by seeking and accepting counsel and according respect.

III. Law

In addition to showing a relationship between a king's attitude towards lords and commoners and the general support which a king commands, Shakespeare gives particular attention to a king's attitude towards the law and the effectiveness with which he oversees the administration of justice as further factors in determining a king's popularity.

The justice with which law is administered has always been a profound indication of the health of a society. Sixteenth-century England was proud of its common law tradition which, as Thomas Smith wrote, differed "from the policy or government at this time used in France, Italy, Spain, Germany and all other countries which do follow the civil law of the Romans compiled by Justinian into his pandects and code . . ." (pp. 142-43). What distinguished English law was the absence of an authoritative text; England's law was a system of case law with a procedure for change which required participation by both Crown and Parliament. Where continental monarchies were able to proclaim and administer law with little or no restraint from national assemblies, the English Parliament greatly increased in strength in the sixteenth century. While a system of administrative law did exist in the prerogative courts in England, this law had the status of extraordinary law which was applied in cases not covered by common law. Yet even in Chancery, the most prominent prerogative court in the sixteenth century, common lawyers made the law administered in the court "more like that of England than that of Rome" because, beginning with Sir Thomas More in 1529, common lawyers held the office of chancellor.²⁰ Thus, despite tense moments, such as when Elizabeth wanted to have Secretary Davidson beheaded for forwarding the order to execute Mary Stuart, the belief persisted from Bracton through Cecil, Lord Burleigh, to Richard Hooker that all the Crown's proceedings must be limited by law.

Bracton: The king must not be under man but under God and under the law, because law makes the king.

Burleigh: I would be loath to live to see a woman of such wisdom as she is, to be wrongly advised . . . that her prerogative is above her law.

Hooker: . . .so is the power of the king over all and in all limited, that unto all his proceedings the law itself is a rule.²¹

Other Elizabethan playwrights stressed the impartial administration of the law as a characteristic of a good king. Peele's Edward I tells his Spanish wife:

No justice but the great runs with the small . . .
 Here [in myself] must the law begin . . .
 Else Princes ought no other do,
 Fair lady, then they would be done unto . . .²²

At the end of Marlowe's *Edward II*, the young king, around whom the lords reunite, tells his mother that he will administer justice impartially: "If you be guilty, though I be your son,/Think not to find me slack or pitiful . . ." ²³ Shakespeare makes more explicit the association between a king's attitude towards law, his administration of justice, and the general support which he enjoys. For example, when Henry VI's inadequate administration of justice is unable to keep Duke Humphrey alive even until the beginning of his trial, and when there exists the possibility of the murderer's going unpunished, Henry's commons are at the point of insubordination: "An answer from the king, or we will all break in!" (*2H6* 3.2.277). Only Henry's immediate acceptance of the commons' demand that Suffolk be banished or executed quiets the clamor. Henry sends word to the commons:

I thank them for their tender loving care;
 And had I not been cited so by them,
 Yet did I purpose as they do entreat. (279-81)

Edward IV's career, meanwhile, provides a slightly different perspective on the relationship between the king and the law. Despite his pledge to Warwick that he would always seek Warwick's counsel and consent (*3H6* 2.6.99-102), Edward IV alone determines to marry Lady Grey and to enrich Lord Hastings by a good marriage, two decisions which he justifies in the following terms:

I am Edward,
 Your King and Warwick's, and must have my will. (4.1.15-16)
 It was my will and grant;
 And for this once my will shall stand for law. (48-49)

Edward's headstrong manipulation of the law to suit his own purposes drives away critical support. When both Warwick and Clarence abandon Edward, he forfeits the Crown. The loss is only temporary, however, for the alternative to a willful Edward was a figurehead Henry who had surrendered all power to Warwick and Clarence (4.6.41-42).

In dramatizing the deposition most well known in Elizabethan times, Shakespeare has Gaunt couch his most profound criticism of Richard II in terms of law. In reproaching Richard for "farming" out the kingdom, by which he meant leasing to others the revenues due the Crown in re-

turn for a fixed payment, Gaunt tells Richard: "Landlord of England art thou now, not king./ Thy state of law is bondslave to the law . . ." (R2 2.1.113-14). When Richard then seizes Gaunt's wealth, Shakespeare presents this act as being in blatant disregard of legal procedure and makes it seem to be the key to Richard's impending downfall. York declares:

Let not tomorrow then ensue today:
Be not thyself. For how art thou a king
But by fair sequence and succession? (197-99)

Thereafter, Richard's successors, according to one of his most ardent adversaries, Hotspur, made legal reform the ploy by which he secured the support necessary to gain the Crown:

[He] takes on him to reform
Some certain edicts and some straight decrees
That lie too heavy on the commonwealth;
Cries out upon abuses, seems to weep
Over his country's wrongs, and by his face,
This seeming brow of justice, did he win
The hearts of all that he did angle for . . . (IH4 4.3.78-84)

Some confirmation of Hotspur's assertions about Henry's effectiveness as head of the judiciary is provided in the two parts of *Henry 4*. While Falstaff and company are able to carry out a robbery, they are almost immediately located by the Sheriff (IH4 2.4.480ff.). In addition, the Lord Chief Justice is so confident in *2 Henry 4* of the working of the legal system that he knows that Falstaff, whatever his intentions may be, has no real "power to do wrong" (2.1.128). Falstaff would be arrested if he could not persuade the Hostess to drop the charges she has brought against him (2.1.136-60). The Hostess, furthermore, is uneasy in 2.4. because she has been warned by "Master Tisick, the debuty [sic]" (83) about the reputation of her tavern; in the same scene Falstaff mentions an "indictment" against her for allowing meat to be served on fish days (339-42). And then the Hostess and Doll are arrested in 5.4. for the death of one or two people whom they had beaten (6, 17-18).

The king in *Famous Victories of Henry the Fifth* names the Lord Chief Justice to be protector of the realm while he is in France,²⁴ much as Shakespeare's Richard II names York governor in his absence without making any acknowledgement of York's advice. But Shakespeare's Henry V on becoming King pledges to the Lord Chief Justice.

You shall be as father to my youth.
My voice shall sound as you do prompt mine ear,
And I will stoop and humble my intents
To your well-practis'd wise directions (2H4 5.2.118-21)

Instead of banishing the Lord Chief Justice from the court for having

once imprisoned him as prince, the new king tells his former chastiser that he will henceforth be his prime advisor. For greater emphasis, Henry repeats the pledge: "you, Father, shall have foremost hand" (140). In addition to the moral significance of Henry's seeking advice from a figure who is old and wise (Irving Ribner sees him as a symbol of sobriety, order and the justice upon which all good government is based),²⁵ there is constitutional significance in the pledge because Henry is speaking of the relationship between king and chief justicer. In *Henry 5* the Lord Chief Justice is not present as a character; but the king, nonetheless, makes a great show of being concerned with justice—in requiring justification from the Archbishop for his already claimed French title, in turning Scroop and company over to the law, and in applying martial law by ordering Bardolph and the prisoners executed. Many instances of Henry's concern with legality are clouded, however, by the surrounding circumstances²⁶; Henry's pledge to emphasize justice is not therefore applied in an entirely satisfactory manner. But from a constitutional viewpoint, Henry's feeling that public concern with law and justice is necessary to the Crown is significant in and of itself. Henry's preoccupation with proper legal appearances suggests the strength of the law as a potential restraint on the monarchy.

Though there can be no doubt that the Crown was the single most important element in the late sixteenth-century English constitution, Elizabeth nonetheless had to attend to the power and constitutional significance of Parliament and the system of common law.²⁷ The relationship among the Crown, the people, and the law was of great interest and even urgency as the long Tudor reign was drawing to a close.²⁸ Any question of the impact of the times in which he lives on an artist is exceedingly complex, particularly when external evidence is not available to confirm that correlations were intended between contemporary events and the plays. Notwithstanding, I think that we should expect to find constitutional issues reflected in Elizabethan literature, especially in plays which dramatize constitutional and political institutions.

NOTES

- 1 *Tudor Drama and Politics, A Critical Approach To Topical Meaning* (Cambridge: Harvard University Press, 1968), p. 25. Also see Ernst Kantorowicz's study of *Richard 2* in *The King's Two Bodies, A Study in Mediaeval Political Theology* (Princeton: Princeton University Press, 1957) and Una Ellis-Fermor's analysis of Shakespeare's political plays in *The Frontiers of Drama*, 2nd ed. (London: Methuen, 1964).
- 2 See John Neale's works (cited below) on the Elizabethan House of Commons and on Elizabeth and her parliaments for thorough discussions of the relationship between Crown and parliaments during Elizabeth's reign.

- 3 "The issue was the rule of law versus rule by administrative fiat. As such it was to be a political dispute between the men who staffed the common law benches and their brethren in the House of Commons versus the crown and its agents in the prerogative courts"; Stuart E. Prall, "The Development of Equity in Tudor England," *American Journal of Legal History*, 8 (1964), 19.
- 4 *De Republica Anglorum*, ed. L. Alston (Cambridge: At the University Press, 1906). Subsequent references will be cited in the text.
- 5 Quotations from Shakespeare are based on the New Arden editions of the plays with the exception of *Richard 3*, for which references are based on the edition by John Dover Wilson for the University Press (Cambridge, 1968).
- 6 The notion of "sovereignty" remains a thorny one. Distinctions can be made between national independence and law-making ability (Bodin's definition). King and Parliament together enjoyed the power to declare or make (also an issue at times) law during the sixteenth century as well as for some time before that. See J.W. Allen, *A History of Political Thought in the Sixteenth century* (London: Methuen and Company, 1928), pp. 247-69.
- 7 G.R. Elton, ed. *The Tudor Constitution, Documents and Commentary* (Cambridge: The University Press, 1960), p. 42.
- 8 J.E. Neale, *The Elizabethan House of Commons* (New Haven: Yale University Press, 1950), pp. 372-73.
- 9 Neale, *Elizabeth I and Her Parliaments 1584-1601* (London: Jonathan Cape, 1957), p. 214.
- 10 "Commons" in the sixteenth century could signify the commonalty as distinguished from the nobility, the body of free citizens exercising common rights, the third estate represented by the Lower House, or the Lower House itself (*OED* s.v. "commons"). It is not always possible to be certain whether Shakespeare distinguished among the several meanings.
- 11 R.W.K. Hinton, "English Constitutional Theories From Sir John Fortescue to Sir John Eliot," *English Historical Review*, 75 (1960), 425.
- 12 S.B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge: The University Press, 1936), p. 107.
- 13 The word "Parliament" appears in stage directions in Q1 and Q2 but not in Q3, Q4, or Q5; Peter Ure, ed. *King Richard 2*, New Arden Ed. (Cambridge: Harvard University Press, 1956), p. 124. The appearance of the word similarly varies in the First Folio. It is no. 13 reproduced in the Facsimile edited by Sir Walter Greg and Professor Charlton Hinman in 1966 and used as the basis of the *Oxford Shakespeare Concordances of Richard II* (Oxford: Clarendon Press, 1971), p. 181. It is not in Folger Shakespeare Library First Folio number 11 edited by Charlton Hinman as The Norton Facsimile (New York: W.W. Norton & Company, 1968), p. 355.
- 14 *Chronicles of England, Scotland, and Ireland*, vol. 3 [ed. Henry Ellis] (1808; rpt. New York: AMS Press, 1965), pp. 61 and 62.
- 15 Russell Major, *Representative Institutions in Renaissance France, 1421-1559* (Madison: University of Wisconsin Press, 1960), pp. 126-47.
- 16 Elton, "Constitutional Development and Political Thought in Western Europe," *The New Cambridge Modern History*, vol. 2, *The Reformation 1520-1559*, ed. G. R. Elton (Cambridge: The University Press, 1958), p. 439.

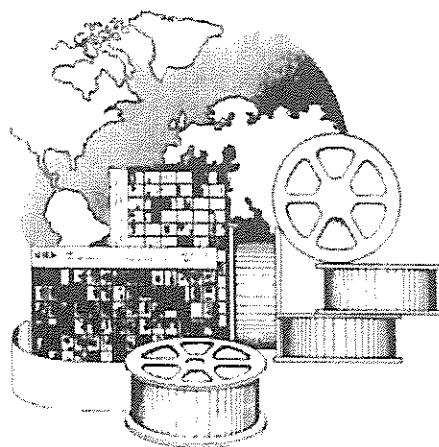
- 17 See S. B. Chrimes, *Lancastrians, Yorkists, and Henry VII*, 2nd. ed. (London: Macmillan, 1966), p. 77 and *Taswell-Langmead's English Constitutional History*, 11th ed., ed. Theodore F. T. Plucknett (London: Sweet and Maxwell, 1960), p. 478.
- 18 *A Conference About the Next Succession to the Crowne of Inghland* (1594), sig B2v-B3r. Huntington Library, S.T. C. no. 19398; *English Books Before 1640*, University Microfilms Reel 387.
- 19 Though Ernst Kantorowicz focusses on Richard II of Shakespeare's play in *The King's Two Bodies*, Henry VI would also provide an excellent illustration of the corporate nature of the Crown which breaks down into components when distinctions are increasingly perceived between king, Crown, and "magnates." See in particular pp. 381-82.
- 20 Elton, *Tud. Const.*, p. 152.
- 21 *Bracton on the Laws and Customs of England*, ed. George E. Woodbine, trans. and rev. by Samuel E. Thorne, vol. 2 (Cambridge: Harvard University Press, 1968), 33. Burleigh is quoted in Elizabeth Jenkins, *Elizabeth the Great* (New York: Coward-McCann, Inc., 1959), p. 280. Richard Hooker, *Laws* (8.2.13) in *The Works*, 7th ed., ed. J. Keble, rev. by R.W. Church and F. Paget (Oxford: Clarendon Press, 1888), III, 353.
- 22 George Peele, *Edward I*, ed. Frank S. Hook in *The Dramatic Works of George Peele*, ed. Frank S. Hook and John Yoklavich, vol. 2 (New Haven: Yale University Press, 1961), scene 10, lines 1669-77.
- 23 Christopher Marlowe, *Edward the Second*, ed. M. Moelwyn Merchant (London: Ernest Benn Limited, 1967), 5.6. 78-82. Bevington in commenting on this scene says that Marlowe defends not divine right but the "inner qualities of the Prince" as providing his claim to rule (p. 217). But as M.M. Reese points out, Marlowe has shown that a king who wishes to be strong "must choose good counsellors, respect their advice, and give his people justice"; *The Cease of Majesty* (New York: St. Martin's Press, 1961), p. 85. The "inner" quality is one of respect for a constitutional relationship between king and people, king and law.
- 24 This play is most easily found in *Chief Pre-Shakespearean Dramas*, ed. Joseph Quincy Adams (Cambridge: Houghton Mifflin Company, 1924), pp. 667-90; see lines 1191-1207.
- 25 *The English History Play in the Age of Shakespeare* (Princeton: Princeton University Press, 1957), pp. 176-77.
- 26 For instance, in explaining the execution of the prisoners, an act which Holinshead considered a "lamentable slaughter" (3.81-82). Gower makes it seem as if the prisoners were killed in retaliation for the robbery of the king's tent and not only because the French killed unarmed boys or because the prisoners posed a threat to the English (see *H5* 4.7.1-11). Gower's concluding praise might have an ironic edge.
- 27 Alfred Hart exaggerated to the point of inaccuracy when he wrote that "no monarch of England ever exercised such absolute power as 'good Queen Bess.' Autocracy was in her blood and the very breath of her nostrils. The term 'contrary to law' had no meaning when law came into conflict with her royal prerogative"; *Shakespeare and the Homilies* (Melbourne: Melbourne University

Press, 1934), pp. 11-12. Similarly John Dover Wilson overstated the point in characterising the Elizabethan constitution as "a monarchy . . . divinely ordained, strong, absolute, unchallenged, and entirely popular"; "The Political Background of Shakespeare's *Richard 2* and *Henry 4*," *Shakespeare Jahrbuch*, 75 (1938) 40. E.M.W. Tillyard also insisted that the Tudors inspired a religious respect "that caused the English to accept and even to approve the drastic curtailments of their old liberties made definitive by Henry VIII and continued by Elizabeth, her Parliament admitting that her prerogative would override any laws made by them"; *Shakespeare's History Plays* (1944; rpt. London: Chatto and Windus, 1956), pp. 66-67.

- 28 Elizabeth's successor was not grounded in English traditions as his *Trew Law of Free Monarchies* made clear in 1598. James claimed that kings are makers of law, not laws of kings (p. 62), that the king has power of life and death over the whole land, that the king is above the law (p. 63), that the king may make law without "any advice of Parliament or estates" and that this last specifically is true for England as well as Scotland (p. 62); *The Political Works of James I*, ed. Charles Howard McIlwain (Cambridge: Harvard University Press, 1918). An intriguing question for speculation is whether Shakespeare, in making Henry V state his intention to rule with respect to law and in concert with his estates, was replying to James, since *2 Henry 4* was written sometime in 1598 but not printed until a quarto edition in 1600; for dating of *2H4* see A. R. Humphreys, ed., *The Second Part of King Henry IV* (Cambridge: Harvard University Press, 1966), p. xiv.

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