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Counsel and the King's Council in England, c.1340-c.1540**JOHN WATTS**

‘Counsel’ is a ubiquitous term in historical writing about later medieval and early modern England, and the implications of the various ways in which kings sought, absorbed or rejected it form a recurring theme in political histories of the period. But not since the nineteenth century – when, for medievalists at least, it figured as a form of representation, in a historiography focused on the relations of crown, parliament and the ‘public’ – has counsel been a central element in readings of the political system. Among historians of the period before 1485, it has long been axiomatic that kings ruled by managing relations with the leading power-groups of the realm, but it is the exchange of interests and the provision of governmental services – above all, law, justice and defence – that have generally been given greatest prominence, not the processes of dialogue through which these relations were mediated. Among sixteenth-century historians, the emphasis is somewhat different: the forms of mediation – the ‘court’ and the ‘council’, ‘faction’, ‘points of contact’ and the ‘politics of intimacy’ – have assumed greater significance, and a ‘problem of counsel’, concerned with how to get the ruler to act in accordance with virtuous advice, has been widely identified. Even so, it would be stretching things to say that ‘counsel’ provides a major lens through which the early Tudor polity is understood: much more attention has been given to the growth of central government, the functioning of clientage networks, the changing structures of political society and the securing of compliance.

At the same time, however, the fourteenth, fifteenth and sixteenth centuries are commonly regarded as a formative period in the history of the ‘king’s council’, an institution charged with some part of the task of counselling the ruler and helping him (or later, her) to govern. There is a richly-developed historiography on this institution, with its origins in the sixteenth and seventeenth centuries, and notable flowerings later on – first in the later-nineteenth-century era of ‘constitutional history’, and then in the great age of ‘administrative history’ between the 1910s and the 1950s or beyond. At times, this historiography has made direct connections between the rise and fall of the king’s council and the larger currents of counsel in the polity. To Bishop Stubbs, for instance, the representative council of the Lancastrian kings, appointed in parliament, was both the high point of early ‘constitutionalism’ and the means by which the overmighty baronage of Henry VI’s reign brought the medieval political system crashing down; the re-fashioning of this council as a bureau of royal placemen under Edward IV and Henry VII reflected the swing towards royal despotism in the second half of the fifteenth century.¹ For Geoffrey Elton, on the other hand, the creation of a small, administrative ‘privy council’ was a key step in the emergence of modern government: the development of an effective medium of expert decision-making, independent of the lobbying of great men and the anarchic pressure of representative institutions.² More commonly, however, as we shall see, the history of the ‘king’s council’ has been written without much regard for a wider politics – as a story of administrative development, internal to royal government and readily discernible from its own evolving

¹ W. Stubbs, *The Constitutional History of England*, 3 vols, 4th edn (Oxford, Clarendon, 1883-4), III, 254-7. I should like to express my grateful thanks to the Leverhulme Trust for providing me with a fellowship which allowed the time to research and write this essay, and also to Jacqueline Rose and to the other contributors for their valuable criticisms.

² See below, p. 00.

archives. Equally, like most features of this period, the council has generally been handled separately and differently by medievalists, on the one hand, and sixteenth-century historians, on the other.

A central aim of this overview essay is to consider how the history of ‘counsel’ and ‘the king’s council’ in this period might be brought together, and in two senses: first, how the storylines of ‘medieval’ and ‘Tudor’ treatments of the topic might be joined up; second, how the fortunes of the institutional council both reflected and affected the wider dialogue of king and subjects across the period. It makes sense to begin with a survey of the historiography of the king’s council, since that will help to establish the parameters of the topic as it is currently understood; but it will also be important to stand outside that historiography, to see if there are fresh ways in which the operations of ‘counsel’ and the development of the ‘king’s council’ may be apprehended. As we shall see, more attention to the political and constitutional context may allow us to look at the history of ‘counsel’ and ‘council’ differently.

I

There are perhaps three grand narratives in the history of the king’s council in this period. The most famous, or notorious, is probably Elton’s argument for a revolutionary change in the 1530s, in which the ‘privy council’ of the later Tudors and Stuarts was created between about 1536 and 1539, amid a suite of modernising developments in government associated with Henry VIII’s chief minister of the time, Thomas Cromwell.³ The hallmarks of this new

³ This argument first appeared in *The Tudor Revolution in Government* (Cambridge, Cambridge University Press, 1953), ch. 5. Elton’s intellectually lively, but notably sketchy and ignorant, treatment of the medieval background appears in ch. 1.

institution – many of them fully clear only from 1540 – included its name; its defined membership of royal officers and close advisers; its limited size (of 19 members); its extensive political competence; its separation from judicial functions; its daily meetings in royal palaces (but without the king); and its registers, kept consistently, in a book, to a set form. For Elton, this body was sharply distinguished from the large and timeless ‘medieval’ council that had persisted one way or another through to 1529, with its undifferentiated roles; its indiscriminate membership; its loosely-defined ‘inner ring’; and its tendency to remain at Westminster, wherever the king was, and to meet only during the law terms. Elton’s interpretation was resisted by medieval historians from the very start. ‘There is hardly a page without lunacy’, wrote K. B. McFarlane in a private letter of 1953, and both S. B. Chrimes, in 1959, and Gerald Harriss, in 1963, challenged the claim that the privy council of the 1540s was significantly different from its medieval counterpart.⁴ Elton, with some justice, claimed that he had argued only for ‘significant transformation’ in the council in the course of the 1530s – the heart of his ‘Tudor Revolution in Government’ lay elsewhere – though he insisted on the importance of daily and recorded meetings in the king’s palaces.⁵

In this modified version of his original claims, Elton moved closer to what was then, and has since remained, the mainstream view of the king’s council: that it evolved gradually

⁴ K. B. McFarlane, *Letters to Friends, 1940-1966*, ed. G. L. Harriss (Oxford, Magdalen College, 1997), p. 98; S. B. Chrimes, *An Introduction to the Administrative History of Mediaeval England*, 2nd edn (Oxford, Blackwell, 1959), pp. 261-2 (note his waspish aside in this updated section: ‘The subject of Tudor administration still awaits its historian!’); G. L. Harriss, ‘Medieval Government and Statecraft’, *Past & Present*, 25 (July 1963), 8-39, at 31-4. Some Tudor historians were also critical, notably Penry Williams, ‘The Tudor State’, *Past & Present*, 25 (July 1963), 39-58, at 48-50.

⁵ ‘The Tudor Revolution: A Reply’, *Past & Present*, 29 (December 1964), 26-49, at 45.

between about the 1340s and the 1540s, with particularly formative phases occurring between the 1370s and the 1440s, and then again between the 1480s and the 1530s. This was the approach favoured by medievalists, from J. F. Baldwin in 1913 through to those who challenged and refined his arguments between the 1950s and 1970s: above all, J. R. Lander and A. L. Brown; and elements of it persist in the standard modern accounts, notably Harriss's 2005 New Oxford History of England volume, *Shaping the Nation*.⁶ A similar line was taken on the period after 1485 by A. F. Pollard in the 1920s, and then, on the basis of thorough new research, by John Guy on the Wolsey period in the 1970s and 80s, and by his student Lisa Ford on Henry VII's reign, in 2001.⁷ Again, the evolutionary approach has been endorsed and echoed in the survey literature – notably in Steven Gunn's important 1995 book

⁶ J. F. Baldwin, *The King's Council* (Oxford, Clarendon, 1913); J. R. Lander, 'The Yorkist Council and Administration, 1461-85' and 'Council, Administration and Councillors, 1461-85', in his *Crown and Nobility* (London, Edward Arnold, 1976), originally published in *English Historical Review* (1958) and *Bulletin of the Institute of Historical Research* (1959), respectively; A. L. Brown, 'The King's Councillors in Fifteenth-Century England', *Transactions of the Royal Historical Society*, 5th ser., 19 (1969), 95-118, and *The Governance of Late Medieval England, 1272-1461* (London, Edward Arnold, 1989), ch. 2; G. L. Harriss, *Shaping the Nation: England 1360-1461* (Oxford, Clarendon, 2005), pp. 74-80.

⁷ A. F. Pollard, 'Council, Star Chamber and Privy Council under the Tudors', *English Historical Review*, 37 (1922), 337-60, 516-39; and 38 (1923), 42-60; J. A. Guy, *The Cardinal's Court: The Impact of Thomas Wolsey in Star Chamber* (Hassocks, Harvester Press, 1977), esp. chs. 1-2 and (among many other essays) 'The Privy Council: Revolution or Evolution', in C. Coleman and D. Starkey (eds), *Revolution Reassessed* (Oxford, Clarendon, 1986); L. Ford, 'Conciliar Politics and Administration in the Reign of Henry VII', Ph.D. thesis (St Andrews, 2001).

Early Tudor Government.⁸ Joining the medieval and ‘Tudor’ storylines together, we can see the formation of a more organised council around the king from about the first half of the fourteenth century, with the seal set on this development by the provision of a room for it: the famous Star Chamber, at Westminster Palace, in 1343.⁹ The first appointments of wages for councillors came in the 1370s, and we have evidence of a clerk writing fuller endorsements on warrants and petitions from around 1377, indicating that the council was able to act on the king’s behalf.¹⁰ Ordinances for the council, previously the product of discrete political crises, were issued with unusual frequency between 1376 and 1406, gradually acquiring normative status, and serving as the basis for Henry VI’s councils in the 1420s and 30s, for the temporary council established for Henry VII’s absence in 1491-2, and probably influencing the schemes of 1526 and 1550.¹¹ The first series of council minutes survive from 1389,

⁸ S. J. Gunn, *Early Tudor Government, 1485-1558* (Basingstoke, Macmillan, 1995), pp. 48-53.

⁹ For Star Chamber, see, most recently, W. M. Ormrod, *Edward III* (New Haven, Yale University Press, 2011), pp. 372-3. For recent guides to the earlier history of the council, see e.g. M. Prestwich, *Plantagenet England, 1225-1360* (Oxford, Oxford University Press, 2005), pp. 57-8; Brown, *Governance of England*, pp. 31-4.

¹⁰ Brown, *Governance of England*, pp. 30-1, 34-5.

¹¹ For these ordinances, see: J. Watts, *Henry VI and the Politics of Kingship* (Cambridge, Cambridge University Press, 1996), pp. 114-15; S. B. Chrimes and A. L. Brown, *Select Documents of English Constitutional History, 1307-1485* (London, Black, 1961), pp. 115-16, 158-9, 220-5, 251-5, 275-6; M. M. Condon, ‘An Anachronism with Intent? Henry VII’s Council Ordinance of 1491-2’, in R. A. Griffiths (ed.), *Kings and Nobles in the Later Middle Ages* (Gloucester, Sutton, 1986); G. R. Elton, *The Tudor Constitution*, 2nd edn (Cambridge, Cambridge University Press, 1982), pp. 94-8.

typically recording which councillors were present, and the first regular journal or register covers 1392-3.¹² Thereafter, minutes survive sporadically (and endorsements frequently) through to the 1450s, with notable clumps early in Henry IV's reign, and then during 1421 to 1435, when a 'Boke of the Counseill' (really a series of rolls) was created by the clerk, Richard Caudray, and between 1437 and 1444 for which the detailed notes of another clerk, Henry Benet, survive.¹³ Most historians consequently believe that the king's council 'matured' and became a normal institution of government between around the mid-1370s and the mid-1440s.¹⁴

After this, Baldwin thought the council subsided amid the factional discords of Henry VI's reign, the chaos of the civil wars and the despotic inclinations of Edward IV and Richard III (there were signs of organised council in the coups of 1453-4, when Henry VI was ill, and some signs of a recovery by the late 1460s, but the evidence was uncertain).¹⁵ By the 1950s, however, Lander was using material in the Public Record Office to demonstrate the continuous existence of the council under the Yorkist kings, while W. H. Dunham, G. E. Bayne and others were showing its further development under Henry VII, on the basis of extracts from early Tudor council registers in the Huntington Library.¹⁶ It became clear that

¹² A. L. Brown, *The Early History of the Clerkship of the Council* (Glasgow, University of Glasgow, 1969), pp. 4-12; *PPC*, I, 6-9.

¹³ Brown, *Clerkship*, *passim*, but esp. pp. 21-4 and 31-2.

¹⁴ e.g. Brown, *Governance of England*, pp. 34, 42; Baldwin, *King's Council*, pp. 115-16, 147.

¹⁵ Baldwin, *King's Council*, pp. 204-5, 392, ch. 16.

¹⁶ Lander, 'Yorkist Council'; W. H. Dunham, 'The Ellesmere Extracts from the "Acta Consilii" of King Henry VIII', *English Historical Review*, 58 (1943), 301-18; *Select Cases in*

the judicial role of the council grew strongly under Edward IV and even more under Henry VII; that minutes were kept in registers, normally recording attendance, from 1484 or 1485 or 1486; that regional councils were established for judicial and administrative purposes from the 1480s; that a council or court of ‘requests’ – that is, an institution for assessing bills and complaints that came to the king in person – was established in 1493-4; that meetings were taking place more regularly and the volume of conciliar business was expanding. By the 1490s, John Guy was able to show that these developments continued under Henry VIII and Wolsey, with a particularly sharp growth in the council’s judicial functions and a growing problem of how to co-ordinate conciliar activity between a peripatetic king and an overloaded and static office at Westminster under the Cardinal.¹⁷ An early solution to both these problems lay in the Eltham Ordinances of January 1526, which created a nominated council attendant on the king for political purposes and a judicial council at Westminster with different membership: in this way, it seemed to Pollard, and later to Guy, this initiative prefigured the privy council by a decade or more, though the impending crisis of the royal Divorce meant that it was not implemented.¹⁸ All Cromwell had to do in the 1530s, as the post-Wolsey dispensation began to settle down, was to implement what the Cardinal had already devised.

Between the 1340s and the 1520s and 30s, then, the king’s council could be seen to have evolved from an ill-defined and unrecorded cluster of leading men and ministers to an indispensable part of the government with a range of differentiated functions, a clear

the Council of Henry VII, ed. G. C. Bayne and W. H. Dunham, Selden Society, 75 (London, B. Quaritch, 1958).

¹⁷ Guy, *Cardinal’s Court*, chs. 1-2.

¹⁸ Elton, *Tudor Constitution*, pp. 94-6; Pollard, ‘Council’, pp. 358-9; Guy, ‘Privy Council’, pp. 84-5 (but cf. also Elton, *Tudor Revolution*, pp. 347-50).

membership and organised records. Yet, as we have seen, it was possible for medievalists to argue that there were few significant differences – in business, documentation or membership – between the privy council of 1540 and the councils of the 1390s and 1400s. Equally, the conciliar arrangements of the early 1530s, before Henry VIII had fallen under Cromwell’s improving influence, were quite as inchoate as those of the 1350s and 60s, or the 1410s, or indeed the reign of Edward IV, from all of which periods little evidence of formalised councils survives.¹⁹ So it is that there is, and has long been, a third strand in interpretations of the king’s council, to set alongside ‘revolution’ and ‘evolution’ – an emphasis on continuity and/or fluctuation in the form, status and nature of the body. In older treatments, the council was the scene of an ongoing struggle between the king and the magnates (often with the commons in parliament behind them): while the former wished to have an executive council of his own choosing and obedient to his will, he was frequently forced to accept councils of magnates and ministers, imposed on him as a means of obliging him to govern in the interests of the realm.²⁰ More recent work has preserved elements of this approach, noting that inadequate rulers – the elderly Edward III, the infant-martinet Richard II, the spendthrift-usurper Henry IV, or the infant-idiot Henry VI – were more likely to experience

¹⁹ For the early 1530s, see Elton, *Tudor Revolution*, pp. 321ff, Guy, ‘Privy Council’, pp. 68-71. For the other periods, see W. M. Ormrod, *The Reign of Edward III* (New Haven and London, Yale University Press, 1990), pp. 74-5; J. Catto, ‘The King’s Servants’, in G. L. Harriss (ed.), *Henry V: The Practice of Kingship* (Oxford, Oxford University Press, 1985), pp. 81-3; C. D. Ross, *Edward IV* (London, Eyre Methuen, 1974), pp. 308-12.

²⁰ e.g. A. V. Dicey, *The Privy Council* (Oxford, T. and G. Shrimpton, 1860); Stubbs, *Constitutional History*, III, 254; Baldwin, *King’s Council*, pp. 459-64; T. F. T. Plucknett, ‘The Place of the Council in the Fifteenth Century’, *Transactions of the Royal Historical Society*, 4th ser., 1 (1918), 157-89.

the imposition (or assistance) of organised councils, while more competent and energetic kings – Edward III in his prime, Henry V, Edward IV – were free of such constraints.²¹ The modalities of these councils were set by political conditions: where the king was notably weak or absent, the councillors might sign the warrants; when it was important to know who would be advising him, councillors were nominated and notes of their presence were attached to council minutes; when the king was competent and vigorous, however, minutes were less common, and details of who was present rare.²²

From this perspective, then, the strength and status of the council was determined largely by the performance of the monarch, but it is a line of argument that works better for the medieval period (to which it has mainly been applied) than later on. After 1471, kings ceased to have councils thrust upon them, and, from the 1480s, even the most forceful and effective among them ruled alongside comparatively organised and well-recorded bodies of advisers and ministers. In fact, however, these later developments can also be seen in conjunctural, rather than developmental, terms. For example, Henry VII's elaborate counsel-taking in the 1480s and 90s may have been the attempt of a notably insecure usurper to acquire legitimacy and to build a network of supporters.²³ A little later, the apparently authoritative council of 1509 to 1512, with its signed warrants and limited membership, was

²¹ Chrimes, *Administrative History*, pp. 242-3, 246-55, 259-62; Brown, 'King's Councillors', esp. pp. 115, 118; J. L. Watts, 'The Counsels of King Henry VI', *English Historical Review*, 106 (1991), 279-98, esp. 281-4; also Harriss, *Shaping the Nation*, pp. 78-80.

²² For discussion, see e.g. Watts, *Henry VI*, pp. 126-7 and chs. 5-7 *passim*.

²³ There are shades of this view in S. B. Chrimes, *Henry VII* (London, Eyre Methuen, 1972), pp. 100-2, Ford, 'Conciliar Politics and Administration', ch. 2, and, indeed, *The Anglica Historia of Polydore Vergil*, ed. D. Hay, Camden Society, 3rd ser., 74 (London, Royal Historical Society, 1950), p. 7n.

probably a reaction to the rule of Empson and Dudley and a response to the king's youth.²⁴ The conciliar bodies of the 1510s and 20s were partly shaped by Wolsey's judicial activities and by the unusual separation of king and administration produced by the destruction of the royal apartments at Westminster in 1512.²⁵ Those of the 1530s reflected a series of political pressures – the coup against Wolsey and the king's developing distrust of the new chancellor, Sir Thomas More; the course of the Reformation and the need to neutralise episcopal resistance; and then the desire to demonstrate to the rebels of 1536-7 that the king was adequately advised.²⁶ Finally, the privy council of 1540 was clearly a means of organising government in the wake of the fall of Cromwell.²⁷ If monarchs after 1485 were more able to resist calls for better counsel, therefore, and seem to have been more willing to rule with organised panels than their medieval predecessors, there was evidently just as much adhocery in the later period as before.

II

It is clear that each of these three approaches to the history of the king's council – revolutionary change in the 1530s, evolution across the period (or in phases within it), continuity modified by contingency – finds some support in the sources, even if there is also

²⁴ Elton, *Tudor Revolution*, p. 320; D. Starkey, *The Reign of Henry VIII: Personalities and Politics* (London, George Philip, 1985), pp. 28ff; Guy, *Cardinal's Court*, pp. 23-6.

²⁵ Guy, *Cardinal's Court*, ch. 2; D. Starkey, 'Introduction: Court History in Perspective', in D. Starkey *et al.*, *The English Court* (London, Longman, 1987), p. 18.

²⁶ Pollard, 'Council', pp. 359-60; Guy, 'Privy Council', pp. 68-9, 75-6, 79-80; see also Richard Rex's essay in this volume.

²⁷ Elton, *Tudor Revolution*, pp. 351-2; Starkey, *Reign of Henry VIII*, pp. 106ff.

evidence that challenges it. A daily council for administrative purposes, held in the palace where the king was, but meeting in his absence, with its records kept in a register, consistently including notes of presence, was indeed a novelty of the 1540s, and did serve as a template for the privy council of the later Tudor rulers.²⁸ To this extent, Elton's arguments, as modified by Guy and others, are convincing. Even so, they cannot be accepted in the drastic and schematic form in which Elton presented them, and – though it is beyond the scope of this essay – it is important to recognise that the privy council went on changing in form and status in the latter half of the century: Somerset more or less ruled without it, Mary's council was much bigger, Elizabeth's rather smaller; even Henry himself abandoned the 1540s principle of government by officers in his will of 1547.²⁹ Turning to evolutionary arguments, these make sense of the accumulating volume, scope and density of conciliar records, and fit with the belief that, as the scope of government expanded over the period, central mechanisms of co-ordination and determination would have needed to develop alongside. On the other hand, there are quite significant gaps in these records under Henry V and between about 1445 and 1485, and the records themselves are by no means straightforward to interpret; meanwhile, the actual way in which government grew in the fourteenth, fifteenth and sixteenth centuries is a topic that merits further investigation, as we shall see below. As for continuity and fluctuation, it is indeed the case that the 1540s council was often doing the same kinds of things as the Lancastrian council, and it is almost always possible to relate the strength and nature of the council to the immediate political setting: the person and preoccupations of the ruler, the distribution of power in the court and the

²⁸ Noted by Guy, 'Privy Council', pp. 59-60.

²⁹ D. Hoak, *The King's Council in the Reign of Edward VI* (Cambridge, Cambridge University Press, 1976), pp. 15ff, 39ff, 60-1, 77, 81; P. Williams, *The Later Tudors: England, 1547-1603* (Oxford, Clarendon, 1995), pp. 131-5.

kingdom, the direction of policy and so on. On the other hand, as we have seen, the close relationship between royal incompetence and organised counsel breaks down from the 1480s, and even before this there are indications of conciliar solidity in ‘strong’ reigns (stray minutes, with presences, from the reigns of Henry V and Edward IV, for instance) and gaps in the record in ‘weak’ reigns (notably under Henry IV and Henry VI).³⁰ More to the point, it seems inherently unlikely that there could have been no structural changes in the king’s council in a period of almost two hundred years.

There are also some larger problems with existing views. The first, acknowledged by almost all historians of the council, concerns the documentary evidence. The so-called ‘council records’ have suffered catastrophic losses. Much of the medieval privy seal and signet archive, where originals or copies of council minutes, endorsements and warrants were originally kept, was destroyed in the Whitehall fire of 1619: the best-known (and only published) portion of the surviving material derives from the collections made by the antiquary Sir Robert Cotton in the preceding decades, and it favours minutes, signed warrants and affairs of state, because these were the things he thought were important.³¹ Meanwhile, the early Tudor registers of the council made before 1540 were lost, following a move to the

³⁰ For examples of minutes and the like from the reigns of Henry V and Edward IV, see Catto, ‘King’s Servants’, pp. 82-3, *PPC*, II, 128-30 (June 1413) and 153-4 (matters to be communed by the council in April 1415); Lander, ‘Yorkist Council’, pp. 177, 185, n. 63; TNA, E28/92/9 (1480) and 61 (1482), both judicial proceedings, interestingly; TNA, C81/1547/8-9 (both from the unusual situation of September 1469 when the king was still in Warwick’s custody). Meanwhile, there are surprisingly few minutes from the period between the end of 1406 and 1409, when we know that a council under Archbishop Arundel and Prince Henry was active (*PPC*, I, 295-323).

³¹ Brown, *Clerkship*, pp. 2-4. See also Jeremy Catto’s essay in this volume.

Star Chamber office in Holborn.³² We only know of their existence from the work of late Elizabethan antiquaries interested in the origins of the court of Star Chamber, and their copies from these registers consequently emphasise judicial business. Under these circumstances, it is difficult to know what once existed, and correspondingly hard to develop arguments about the institution based on the scale of its surviving records; it seems almost certain that we only have a tiny fraction of what was in the pre-1540 registers, but the size of that fraction is hard to determine – we may have a smaller proportion of endorsements than minutes, for reasons that are discussed below.³³ It is also difficult to know why the records were made in the first place. We tend to think in terms of administrative utility, but other concerns, such as due authorisation, the acquittal of councillors, or the creation of legal evidence, may have been more important. Richard Caudray's 'Boke of the Counseill' looks at first sight like a record of conciliar activity during the unusual circumstances of Henry VI's minority, designed perhaps for the king's use when he came of age. But, in fact, the 'Book' begins in 1421, while Henry V was still on the throne; its contents are patently a fair-copy selection from whatever rough drafts were once made of a larger number of actual meetings; while it ended up in the treasury, and was added to by later regimes, it probably began as a private, not a public record, just as John Prophete's journal of 1392-3 or Henry Benet's more detailed, but scrappier, records of meetings in the early 1440s must have been; it may even have been

³² J. Guy, 'Wolsey's Star Chamber: A Study in Archival Reconstruction', *Journal of the Society of Archivists*, 5 (1975), 169-80, at 169, 174ff.

³³ Guy, 'Wolsey's Star Chamber'; Brown, *Clerkship*, p. 3; G. R. Elton 'Why the History of the Early Tudor Council Remains Unwritten', in G. R. Elton, *Studies in Tudor and Stuart Politics and Government*, 4 vols (Cambridge, Cambridge University Press, 1974-92), I, ch. 18, pp. 323-4; below, p. 00.

made as a formulary.³⁴ Equally, it is not clear why the registers that seem to have begun in the 1480s were made (or what significance we should attribute to the switch from rolls and bundles – the older practice of the privy seal office – to bound books): the Elizabethans who thought they were looking at the records of a court may have been right – perhaps it was the growth of conciliar jurisdiction, and the fact that conciliar decrees could be cited in common law courts, as well as in subsequent cases before the council, that encouraged the creation of new, more accessible, forms of record.³⁵

But perhaps we are not helpless before the problems posed by the sources. For one thing, the lack of a distinct council archive before the appearance of the registers in the 1480s must tell us something about the way in which the council was perceived by the king and his ministers, including the councillors themselves. While it seems to have been necessary to record public acts performed by the council in particular circumstances, it was not normally necessary to make records of what the king and/or his ministers agreed with each other in the course of their normal duties; still less was it normally important, or even desirable, to have records of what advice was given to the king by the great men around him. The medieval council clearly did not have the institutional solidity of the law courts, the writing offices or the exchequer, and that is not without significance. Equally, we may have a better grasp of its records than we think. Cotton was clearly in a position to search the privy seal archives for the kind of material he was interested in: perhaps he got most of what there was in these categories, saving it from the 1619 fire. Certainly, most of the survivals are endorsements on petitions: their tendency to survive in clumps around particular dates is consonant both with

³⁴ Brown, *Clerkship*, pp. 25-7, 31-5; Watts, *Henry VI*, pp. 126ff.

³⁵ For conciliar jurisdiction, see J. Baker, *The Oxford History of the Laws of England, Volume VI: 1483-1558* (Oxford, Oxford University Press, 2003), ch. 10, with attention to the records at pp. 192, 196-7, 203-4. See also below, p. 00.

the effects of a conflagration and with a pattern of regular, perhaps daily, issues from the council; but the absence of minute-type evidence is suggestive.³⁶ It may be that few minutes survive from the period 1445 to 1485 because few were actually made during most of that period: Cotton knew that council minutes existed for the Lancastrian reigns, but there is no evidence that he believed there were similar records from the Yorkist period.³⁷ Equally, there are signs that registers were a genuinely new development of the 1480s or thereabouts: none of the Elizabethans looking for the origins of Star Chamber found register-type evidence earlier than that.³⁸ It has sometimes been suggested that they were an innovation of Henry VII – and it certainly seems likely that a new register of council business was begun in 1487 – but the survival of stray evidence in the same format from Richard III's reign may push the start date back to 1484.³⁹ If we place this evidence alongside other material – notably the signet book surviving from 1483-5 (thanks to the action of William Cecil, who kept it with his own collections), the first register of the Duchy of Lancaster council, which began in 1478, and the knowledge that a clerk of requests was rewarded in late 1483 for his service in keeping and registering poor men's petitions – we have the intriguing possibility that the royal administration and its record keeping were overhauled in the later 1470s and early 80s,

³⁶ Brown, *Clerkship*, pp. 3-4.

³⁷ K. Sharpe, *Sir Robert Cotton, 1586-1631* (Oxford, Oxford University Press, 1979), p. 78.

³⁸ C. L. Scofield, *A Study of the Court of Star Chamber* (Chicago, University of Chicago Press, 1900), p. 15, n. 1; Elton, 'Why the History', pp. 332-8; Bayne and Dunham, *Select Cases*, pp. xi-xvii.

³⁹ Bayne and Dunham, *Select Cases*, pp. xvi-xvii; *Letters and Papers Illustrative of the Reigns of Richard III and Henry VII*, ed. J. Gairdner, 2 vols (London, Longman, 1861), I, 63-7.

a development which fits rather well with the new forms of funding and local management adopted by Edward IV in the wake of the French war.⁴⁰

A second general problem concerns the interpretative tendencies of administrative history. We may have shaken off its founding fathers' conviction that the royal administration was the scene of a struggle between tyrannical kings, conniving courtiers and oligarchic magnates, but other features of the sub-discipline have been harder to shift. It carries a presumptive trajectory towards bureaucratisation, for example, and this is amply reflected in evolutionary narratives of the council, but we might reflect that the pressure to keep things informal, unrecorded and simple is just as strong and persistent as the pressure to record and standardise; innovation does not always mean complication; and older, more redundant, functions can be laid aside as new ones are taken on. Instead, particular phenomena – wages, minutes, registers – are treated as ‘developments’ rather than circumstantial responses, as if institutions had a continuous life of their own ‘apart from the men who worked them’, as McFarlane put it.⁴¹ In its most extreme form, this approach has led to a belief that changes in the organisation of administration drove larger political and governmental movements, rather than simply forming part of them or responding to them. So it was that, in 1934, V. H. H. Galbraith could write in a letter to Geoffrey Elton that ‘between

⁴⁰ *British Library Harleian Manuscript 433*, ed. R. Horrox and P. W. Hammond, 4 vols (Gloucester, Alan Sutton, 1979), I, iii-iv, xi-xvi, xx; TNA, DL5/1; *Calendar of the Patent Rolls [of] Edward IV..., 1476-85* (London, HMSO, 1901), p. 413. For royal policy after 1475, see e.g. R. Somerville, *History of the Duchy of Lancaster, Vol. 1, 1265-1603* (London, Chancellor and Council of the Duchy of Lancaster, 1953), ch. 12; C. Carpenter, *Locality and Polity: A Study of Warwickshire Landed Society, 1401-1499* (Cambridge, Cambridge University Press, 1992), ch. 14.

⁴¹ *The Nobility of Later Medieval England* (Oxford, Clarendon, 1973), p. 280.

say 1450 and 1550, a series of administrative changes took place which together revolutionised the working of central government': in other words, if we want to know how it was that the institutional cart came before the horse of a wider political and constitutional account, the answer lies partly in the tradition of administrative history.⁴² Meanwhile, as part of this tradition, certain terms – 'privy council', 'great council', 'lords of the council', 'whole council' and so on – are endowed with specific meaning, when they were probably used unreflectively (as Kenneth Pickthorn neatly put it, it is worth remembering that 'Henry VII could hold a council as ... George V [held] a conversation').⁴³ It is quite clear that many of the uses of 'privy council' on which Elton seized simply indicated the king's closest advisers, just as it had on earlier occasions: certainly, as the institution of the 1540s became more established, its apt description as 'the privy council' became its normal name, and the term, in turn, began to refer to the institution.⁴⁴ While 'great councils' were clearly larger gatherings, requiring the summons of great men who were not currently at court, it is not clear that they had any particular constitutional significance or even recognition: the term is a peculiarity of the later fifteenth and sixteenth centuries, but it is more a feature of the secondary literature

⁴² Cited by I. Harris, 'Some Origins of a Tudor Revolution', *English Historical Review*, 126 (2011), 1355-85, at 1377.

⁴³ K. Pickthorn, *Early Tudor Government: Henry VII* (Cambridge, Cambridge University Press, 1934), p. 12.

⁴⁴ Elton occasionally acknowledged the flexibility with which 'privy council' was used – *Tudor Revolution*, pp. 317, 320 (but cf. pp. 323, 335). For a pejorative reference to 'prive counsaile' in 1440, see Watts, *Henry VI*, p. 144; for a neutral one in 1522, *LP*, III, no. 2013 (those 'as well off the pryvie counseyll as othir'); for other pre-1485 instances, Brown, *Governance*, p. 35.

than the sources themselves.⁴⁵ As for ‘lords of the council’ and ‘the whole council’, the significance attached to these names was debunked long ago, but that point itself deserves some attention.⁴⁶ The writers of administrative history have been particularly concerned with historiographical correction and debate, and this has tended to detach the subject from broader perspectives on the political and governmental landscape. Arguments over prominent theses and questions of definition have at times become an end in themselves, and a sense of why – and how much – the subject matters can easily be lost.

Finally, there is the problem we began with: the history of the king’s council has rarely been integrated with a history of counsel, whether that is considered as a set of ideas and discourses about advice-giving and policy-making, or as a series of practices of representation, incorporation, dialogue and so on, essential to the conduct of affairs in a society where power was widely distributed and authority partly shared.⁴⁷ As we have seen, the king’s council was seen as an important medium of public representation by nineteenth-century historians, but, as early as Baldwin’s study of 1913, it had become clear that the

⁴⁵ P. J. Holmes, ‘The Great Council in the Reign of Henry VII’, *English Historical Review*, 101 (1986), 840-62, and ‘The Last Tudor Great Councils’, *Historical Journal*, 33 (1990), 1-22.

⁴⁶ G. L. Harriss, review of B. Wilkinson, *Constitutional History of England in the Fifteenth Century*, in *History*, 51 (1966), 81; Elton, ‘Why the History’, pp. 312-13.

⁴⁷ Treatments linking the ideas, discourses and institutions of counsel are more common than treatments linking institutions with structures and practices. For examples of the former, see e.g. Watts, *Henry VI*, chs. 2-3; J. Guy, ‘The King’s Council and Political Participation’, in A. Fox and J. Guy, *Reassessing the Henrician Age* (Oxford, Blackwell, 1986); J. Rose, ‘Kingship and Counsel in Early Modern England’, *Historical Journal*, 54 (2011), 47-71. Watts, *Henry VI*, chs. 4-7, includes an attempt at the latter.

capacity of lords and MPs to shape the body was limited and, after each confrontation, it quickly returned to being a group of officials and courtiers hand-picked by the crown.⁴⁸ Partly for this reason, and partly because of the general reaction against ‘constitutional history’, twentieth-century historians of the council mostly treated its history as politically uncontroversial. It is true that some (notably Guy) have acknowledged a tension between representative ideals and executive convenience, and others (such as myself) have emphasised – or over-emphasised – the way in which organised counsel could infringe royal freedom.⁴⁹ But there is more to be done here. Ideas, patterns and practices of counsel must have had some bearing on the institution of the king’s council, and, in turn, they – especially the practices – must themselves have been affected by that institution.

III

If we want to understand both counsel and the king’s council, we need to place these things in a broader constitutional – which is to say political, social, governmental and cultural – setting; we need to identify the basic shapes and dynamics of the English monarchy and its interface with political society in our period, and consider what functions conciliar practices and institutions were required to perform. It could be said that, over a very long time – at least between the twelfth century and the seventeenth – the English monarchical polity

⁴⁸ Baldwin, *King’s Council*, pp. 460-1.

⁴⁹ J. Guy, ‘The King’s Council and Political Participation’, in Fox and Guy, *Reassessing the Henrician Age*; Watts, *Henry VI*, pp. 84-6 (persuasively challenged in Harriss, *Shaping the Nation*, pp. 74-80).

contained three fundamental elements.⁵⁰ The first was a sovereign king, who ruled in person and whose authority was ultimately mysterious and independent. The second was a legal-bureaucratic infrastructure, linked to the crown, and composed of relatively knowable, predictable and accessible routines and agencies; it was staffed by a large number of officers with varying forms of attachment to the king, and it was the major means through which political and governmental services – justice and regulation, taxation, defence, articulations of policy – were provided to subjects. The third was a political society, which might be represented (figuratively and institutionally) as a community or as a hierarchy, and which was organised in a host of ways, many of them free of royal sanction, but existing very much in dialogue with royal government. Of course, there were other things too – most notably an ecclesiastical order, with its own property, institutions, hierarchy and laws, all of them partly independent of the crown; there were the semi-private properties and networks of lords, merchants, citizens and others; there was a larger context of interactions with foreigners, across the British Isles and much of northern and western Europe – but, in attempting to characterise this closely-governed and more-or-less insular nation-state, it makes sense to grant centrality to the three elements identified above: their interplay was a central dynamic of the political system.

Counsel, both in theory and in practice, lay at the connection between these three elements. On the one hand, it helped to harmonise them, informing the king about the

⁵⁰ For broad treatments of these, see esp. G. L. Harriss, ‘Political Society and the Growth of Government in Late Medieval England’, *Past & Present*, 138 (January 1993), 28-57, and ‘The Dimensions of Politics’, in R. H. Britnell and A. J. Pollard (eds), *The McFarlane Legacy* (Stroud, Alan Sutton, 1995); Watts, *Henry VI*, ch. 2 and *The Making of Polities: Europe, 1300-1500* (Cambridge, Cambridge University Press, 2009), *passim*; C. Carpenter, *The Wars of the Roses* (Cambridge, Cambridge University Press, 1997), esp. chs. 2-3.

concerns of his subjects, helping him to identify the common interest of the realm and enabling him to produce action which was enforceable and legal, or which moderated or extended the law. At the same time, the sphere of counsel articulated the tensions between and within these rather different means of power – a sovereign man with discretionary authority, a body of institutions governed by fixed procedure, a complex society with some common interests and many diverse ones. So it was that, throughout the period, kings faced demands that they should be better advised or that they should be released from the tutelage of their counsellors; they received calls for the relaxation of laws and demands, or equally for their more rigorous enforcement; they were reminded of their obligations to their people, but they and their advisers would also remind the people of the duty to obey. Conciliar institutions and practices had to meet these partly-conflicting demands. They should not infringe royal liberty, or the king would resist them (often with widespread support, since it was ultimately in everyone's interest that there should be a single and sovereign ruler, free to amend the laws, to intervene in official structures and to authorise action). Councils should operate broadly within the law and have the confidence of royal officers, or they would outrage public opinion and be unable to act. And councillors/counsellors should plausibly represent political society in some manner, or they would be challenged as a clique of self-interested rogues and traitors. In practice, these demands were met in two main ways – first, through a rough division of the functions of counsel across a range of institutions and practices, each answering different socio-political needs; and second, by a persisting, or at least recurring, informality in the forms of counsel closest to the king – their records never fully complete or finally authoritative, their memberships ultimately inchoate and at the king's discretion, their routines tending to prosper only to the extent that each king found them useful. This second feature was important because it protected royal liberty, on which

the governance of the realm ultimately depended; the first feature is worth exploring at more length.⁵¹

It is important to understand that it was normal for counsel to be realised through a range of formats, some of which were more institutionalised than others. This reminds us that no single institution – such as ‘the king’s council’ – was expected, or able, to fulfil all the conciliar functions⁵² that the monarchical polity required, and suggests, in turn, that it would be wrong to imagine an evolution towards a single end-point – a move from medieval diversity to early-modern unity, for example. In fact, there were four, or perhaps six, main types of royal counsel/council in this period. The first was large, formal, representative councils, such as parliaments and great councils, the latter disappearing in the course of the reign of Henry VIII, but the former, of course, continuing, notwithstanding the long gaps between them in the decades around 1500.⁵³ These major assemblies, at which representatives of the ruling classes – the lords, county society, urban oligarchies – were normally present, dealt with major items of public business, such as war and peace, taxation, law-making, redress of grievances, state trials, public protests, debates and confrontations. They were temporary and relatively formal, their records kept with some care: those of parliament had legal force, but the proceedings of great councils (which did not) were also often preserved, commonly with an indication of who had been present and what had been agreed.

⁵¹ The dependence of later medieval governance on royal liberty and the implications of this central constitutional fact for the organisation of counsel is a central theme of Watts, *Henry VI*.

⁵² See section V of Jacqueline Rose’s introduction to this volume.

⁵³ For overviews, see Harriss, *Shaping the Nation*, pp. 66-74 and the essays by Holmes cited in n. 45, above.

A second form was smaller, more continuous and formally-representative councils, typically imposed on weak or defaulting kings, to enable or force them to govern in a more responsible fashion, especially in fiscal terms.⁵⁴ As Baldwin noted, these were most common between 1376 and the early 1440s, but there are examples going back to 1258, and, later on, Edward IV faced demands for such a council in 1469, while one was probably created for the Readeption in 1470-1.⁵⁵ Even after this, the principle persisted: with some modifications, it was promoted in the works of Fortescue; Henry VII's councils may have been influenced by it in the 1480s and 90s; and it suited Henry VIII and Protector Somerset to pretend that they ruled with representative councils in 1536 and 1547-9 respectively.⁵⁶ Councils like this, often nominated in parliament, governed by fixed ordinances and required to supervise royal financial administration, normally generated records, both minutes and endorsements. They were usually short-lived: as we have seen, pre-1480s kings typically resisted them and, partly for that reason, they were onerous or even dangerous for the non-ministerial lords and others who sat on them.⁵⁷

⁵⁴ See above, n. 21.

⁵⁵ Baldwin, *King's Council*, p. 116, chs. 2 and 4; for 1469, see the manifesto in *A Chronicle of the First Thirteen Years of the Reign of King Edward the Fourth* by John Warkworth, ed. J. O. Halliwell, Camden Society, old ser., (London, John Bowyer Nichols, 1839), pp. 46-51, and for the Readeption, Fortescue's 'Advice to Warwick' in *The Governance of England*, ed. C. E. Plummer (Oxford, Oxford University Press, 1885), pp. 348-53.

⁵⁶ *Governance of England*, ed. Plummer, esp. chs. 15-16; J. L. Watts, "'A newe ffundacion of is crowne": Monarchy in the Age of Henry VII', in B. J. Thompson (ed.), *The Reign of Henry VII* (Stamford, Paul Watkins, 1995); Guy, 'King's Council and Participation', pp. 143-5; Hoak, *Council of Edward VI*, pp. 15ff, 39ff.

⁵⁷ Above, p. 00.

Often these bodies subsided into, or were replaced by, a third form of council, which was common throughout the period: that is to say, frequent meetings of the king's top ministers and full-time advisers, on a fairly informal basis, to discuss and organise the execution of difficult business.⁵⁸ These meetings – or interactions – were dominated by the king's chief secretarial and financial officers, who, together with leading courtiers (often officers of the household, such as the chamberlain and steward, but also useful agents like secretaries, almoners, chaplains, grooms, knights of the body and so on), constituted a kind of 'inner ring', meeting more frequently than others.⁵⁹ A typical attendance was fewer than ten people, but larger meetings were not uncommon, at which ministers and courtiers were accompanied by other lords who were then at court and/or by such experts as the business required (most commonly the judges and other legal officers, but also merchants, ship-owners, diplomats and others).⁶⁰ The king was not normally present, though he clearly received reports of what had been agreed and authorised the outcomes. Meetings like this took place at various locales, and were not restricted to term-time, but the majority of records of this kind of activity place it at or near Westminster, since the major government departments were located there or in London. As far as we can tell, record-keeping for this kind of council was variable, at least until the 1480s: if it was important to know what had

⁵⁸ Discussed e.g. by Harriss, *Shaping the Nation*, pp. 77-8; Brown, *Governance*, pp. 34-6; Watts, *Henry VI*, pp. 84-5; Gunn, *Early Tudor Government*, pp. 48-50; G. Dodd, 'Henry IV's Council, 1399-1405', in G. Dodd and D. Biggs (eds), *Henry IV: the Establishment of the Regime, 1399-1406* (Woodbridge, Boydell, 2003).

⁵⁹ For 'inner ring' in this sense, see Elton, *Tudor Revolution*, pp. 34-5.

⁶⁰ Brown, 'King's Councillors', *passim*; Guy, *Cardinal's Court*, pp. 23-4. Attendances under Edward IV and Henry VII appear to have been higher: Brown, 'King's Councillors', p. 114; Ford, 'Conciliar Politics', pp. 5ff, 59ff.

been decided, and/or by whom, minutes or endorsements were made; if not, not – the resulting royal warrants or acts would be sufficient. While these meetings and activities were seen by contemporaries as done by counsel, or by the council, it is not clear that we are really talking about a body here. There were certainly some boundaries to its membership – we have evidence of a conciliar oath going back to the thirteenth century, and there is sporadic evidence of wages for councillors who were not royal officers – but what mattered in these meetings was the exchange of views between leading royal advisers, or, in some cases, the constitution of a panel sufficient to speak for the crown.⁶¹ Except in this last and rather specific sense, this kind of council had no representative function: expertise and royal authority were its keynotes; its central task was to make the king's government work effectively at the highest level. Throughout the period, it was the basic form of conciliar organisation around the king: the 'continual councils' created and imposed between the 1370s and the 1440s were intended to imitate it (albeit afforded with greater numbers of magnates and prelates to bind the king to what parliament and the lords had ordained), and it was the model for the smaller councils of the later period – the Duchy of Lancaster council, the 'council learned in the law', the court of requests and arguably the court of star chamber, the court of wards and Cromwell's revenue courts, the various councils attendant, and – except for the named membership and daily minutes – the privy council of the 1540s.

A fourth form of counsel was the informal dialogue that took place most of the time between the king and his subjects, typically, of course, the greater ones, who were more likely to be in his presence at court, on campaign, out hunting, during progresses and so on, but also other people who might seek to advise the king through petitions, bills and demonstrations, the presentation of books and pageants, or the circulation of pamphlets or

⁶¹ For wages and oaths, see Baldwin, *King's Council*, pp. 131ff, 174ff, 345-54 and *passim*.

rumours.⁶² This was a crucial source of power for both ruler and subjects at all times, and was a central reason for the preservation of royal liberty – the king’s ultimate freedom not only to choose his councillors and counsellors, but also to reject their advice. It was well-represented in images of counsel – the king choosing from the counsels offered him, the king in conversation with one or two of his courtiers, the king going secretly among his subjects, to learn their opinions at first hand – but it was also a real phenomenon. Because it was part of the *arcana imperii*, this kind of counsel was rarely recorded directly in the archives of the government (though there are certainly examples of grants being made ‘at the instance of’ X or Y), but it is indirectly evidenced in many other sources – chronicles, letters, seditious words, literary texts and royal proclamations.

The other two forms of counsel are not fully distinguishable from the forms discussed above. One was the council sitting as a court.⁶³ This was really just one of the first three kinds of council handling a particular kind of business, but it might deserve separate treatment for three reasons. First of all, it is clear that conciliar justice became a more developed and specialised activity during the course of this period, acquiring a more institutional character from around the middle of the fifteenth century and, by the 1520s, forcing consideration of a separation between the council’s judicial functions and its administrative ones.⁶⁴ A second reason is that the growth in conciliar justice may have been a powerful reason for the re-organisation of council records in about the 1480s, and specifically for the creation of registers in which earlier decisions and other precedents could

⁶² Discussed e.g. by Harriss, *Shaping the Nation*, p. 76; Brown, *Governance*, pp. 36-7; Watts, *Henry VI*, pp. 79, 85 and *passim*.

⁶³ See above, n. 35.

⁶⁴ e.g. Guy, *Cardinal’s Court*, chs. 1-2.

easily be found.⁶⁵ A third reason is historiographical: the separation of judicial and administrative functions was a keystone of Elton's arguments about the privy council, and has influenced much of the subsequent literature on the early Tudor council. But the problem that the 1530s reforms were addressing was a recent one, deriving from the enormous growth of conciliar justice under Wolsey,⁶⁶ nor was it fully soluble – it was perfectly possible to create equity courts detached from the council (the court of chancery had taken this form in the middle of the fifteenth century, if not before), but the most politically-tricky cases could never be separated from the authority of the sovereign and his or her leading advisers.⁶⁷

A final form of counsel, perhaps, was the condition of being 'of counsel' – that is, sworn to keep the monarch's secrets.⁶⁸ Once again, this overlaps with other forms: it was a precondition of both the second and third kinds of council mentioned above that their members or attenders swore an oath. If it is worth distinguishing, it is because there were many people who were sworn to be 'of counsel', especially after 1485, who never or only rarely sat in an actual council: diplomats, members of the royal affinity, serjeants and judges, and ultimately Cromwell's network of spies – it was this kind of counsel that the secretary had in mind when, in 1534, he recommended that 'the most assured and substantial

⁶⁵ Ford, 'Conciliar Politics', pp. 5-8.

⁶⁶ Guy, 'Privy Council', pp. 63-8.

⁶⁷ Baker, *Oxford History of Laws*, pp. 200-3.

⁶⁸ As the councillors' oath of 1505-6 put it: 'The kings counsell, as long as it is ordeined to be counsell, yee shall conceale and keepe secret': *Select Cases in the Court of Requests, 1497-1569*, ed. I. S. Leadam, Selden Society, 12 (London, B. Quaritch, 1898), pp. xxx, xciii.

gentlemen in every shire ... be sworn of the king's council, with orders to apprehend all who speak or preach in favour of the pope's authority'.⁶⁹

Taking all this together, there is powerful support here for an emphasis on continuity in the history of counsel and the council – or rather on flexibility within a roughly continuous framework. There was always a variety of conciliar formats, and their actual configuration at any one time was shaped primarily by conjunctural or contingent factors – the nature and quality of the king, the level of public spending, the general state of order and well-being within the realm. Kings like Richard II, Henry IV and Henry VI, ruling badly in periods of considerable fiscal pressure and political dislocation, faced pressure for afforced councils, better able to represent the realm, to bind the king to policy generated in parliament and to minimise the influence of advisers judged less suitable. Kings like Henry V, Edward IV for much of his reign, Henry VII and Henry VIII, ruling more effectively, were allowed a freer hand to determine how they took counsel: like other rulers, they maintained a council of the third type, but they did not have councils of the second type thrust upon them. Within this general model there were, perhaps, some evolutionary elements: precedents could not but be formed and built upon, so that, for example, relatively organised and well-recorded councils may have become normative in the periods between about 1376 and 1410, or 1422 and c.1445, while conciliar jurisdiction clearly developed in tandem with the court of chancery and grew incrementally on its own foundations – as consumers became aware that they could use the king's council to pursue litigation, so the government was obliged to revise and expand its processes and record-keeping in response. But evolutionary pressures did not trump constitutional ones: the fundamental determinants of counsel were the needs of king, government and political society, and the relationship between them; changes in this

⁶⁹ Condon, 'Anachronism with Intent', pp. 231-2; *LP*, VII, p. 420; cf. Elton, *Tudor Revolution*, p. 340.

relationship had greater impact, however temporary, than administrative tradition or even practicality (after all, experience should have taught politicians that imposed councils did not work, but political dynamics obliged them to keep trying this solution, at least up to 1470 or so).

IV

But limits must be set to this emphasis on continuity. For one thing, as we have seen, it underplays the dynamic relationship between precedent, practice and the formation of custom and habit. For another, it misses the very substantial changes in government, political society and political culture in the last quarter or so of our period: let us say from the 1470s onwards. These changes affected the structures and practices of counsel, just as they affected every other sphere of public life; inevitably, they also had an impact on the king's council. While many historians have argued for some kind of 'new monarchy' in this period (often distancing themselves from that term and seeing its content and causation in rather different ways), they have rarely considered the impact of that development on the themes explored in this essay. In fact, the changing structures of royal authority and government had a direct and significant part to play in the organisation of counsel and the form of the king's council.

Political and governmental change happened all the time, of course, just as it does today, but – at the risk of some crudity – it is possible to argue for a significant shift, between the 1440s and the 1480s, from a polity founded on war and frequent taxation of the laity, in which the territorial nobility were the key brokers between the crown and the rest of landowning (and martial) society, to a polity dominated by landowning kings, who enjoyed unusually extensive control of aristocratic tenure, reduced dependence on lay taxes, and

relative disengagement from foreign warfare.⁷⁰ Where the personal leadership of semi-independent noble landowners had been an essential part of the task of pre-1450s kingship, the rulers of the 1480s onwards presided, somewhat more remotely, over an extensive network of clients and dependants, the nobles among them mostly recent creations; while these people certainly required management, that task was shared with leading courtiers and ministers, rather than with magnates. At the same time, the crown provided a richer range of centralised services to its subjects; it extended the reach of policy, legislation and enforcement; and it engaged in more elaborate and continual diplomacy with neighbouring powers than it had done previously. The political centre grew in size and became less mobile; parliaments were less frequent; and more of the business of the localities – political, religious and economic – was channelled through networks and institutions linked closely to the crown.

It is not hard to see how these changes would have adjusted the patterns of counsel and fostered different formats for the king's council. In the era of the Hundred Years War, there had been a growing need for co-ordinated activity on the part of the king's leading ministers, as they got to grips with simultaneous expansion in justice, finance and the scale and frequency of warfare: this must be an underlying reason for the accumulating evidence of activity on the part of an administrative council.⁷¹ At the same time, the modes of governance and warfare that emerged under Edward III rested heavily on the preservation of good relations between the king and key partners, such as the nobility and the major lenders; dependence on taxation – which provided 75% of royal income between 1336 and 1453 –

⁷⁰ For surveys, see e.g. Gunn, *Early Tudor Government*; Carpenter, *Wars of the Roses*.

⁷¹ C. Carpenter, 'War, Government and Governance in England in the Later Middle Ages', in L. Clark (ed.), *The Fifteenth Century VII* (Woodbridge, Boydell, 2007), pp. 1-22, esp. pp. 6-8.

meant accountability to the commons in parliament, and more generally to creditors, taxpayers and their representatives, whether these last were MPs, magnates, urban oligarchs or popular captains. It was under these circumstances that kings succumbed to the imposition of representative councils, appointed in parliament, headed by magnates, governed by ordinances and required to keep records.⁷² At the same time, because these bodies cut across royal rights and frustrated the all-important relationship between the king and the lords, they were often challenged and countered by royal policy, with messy results.

By the 1480s, the dynamics were different. In the more centralised realm that emerged from the Wars of the Roses, there was an enhanced need for central supervision: supervision of the expanded demesne, and the royal patronage and prerogative rights that went with it; supervision through discretionary justice and social regulation; supervision of the royal network, which was being registered by the 1480s and numbered a thousand men by the 1520s; supervision of diplomatic activity, which grew in complexity and volume throughout the period, but especially from the 1460s and then, in further step-changes, from the 1490s and the 1510s; and supervision of ecclesiastical responsibilities, especially from the 1530s.⁷³

⁷² As Eliza Hartrich points out in her chapter in this volume, the same pressures produced similar forms of governance in the towns and cities of the realm.

⁷³ For these different forms of supervision, see generally Gunn, *Early Tudor Government*, but for the registration of the royal network, see *Harleian 433*, ed. Horrox, I, xxxiv-v (lists of gentry); J. Guy, 'Wolsey and the Tudor Polity', in S. J. Gunn and P. G. Lindley (eds), *Cardinal Wolsey: Church, State and Art* (Cambridge, Cambridge University Press, 1991), p. 67 (lists of annuitants). The growth in diplomacy in this period lacks a modern published discussion, but some impression can be gained from G. Mattingly, *Renaissance Diplomacy* (London, Cape, 1955), chs. 10, 16 and R. B. Wernham, *Before the Armada: the Growth of English Foreign Policy, 1485-1588* (London, Jonathan Cape, 1966), ch. 1.

While some of this increased need for central oversight was met by the king in person, and more by leading ministers – above all those *alter reges*, Wolsey and Cromwell – much of it was handled by the king’s council, whether in the chamber or the signet office, as a large body, or in the form of specialised panels, some of which came to be separate institutions, such as the councils of the North or of Wales, the council learned in the law and the various revenue courts created under Henry VII and Cromwell. These developments surely underpinned the expansion in conciliar record-keeping and the changes in its formats – notably the beginnings of registers in the 1480s.⁷⁴ While great ministers were left to keep their own archives, it is not insignificant that the papers of Wolsey and Cromwell were seized on their falls (and tempting to suggest that the need to have those papers was a factor in the dynamics of ministerial destruction). The same broad developments help to explain the development of a larger and more complex conciliar estate (more men sworn to be of counsel, many of them performing more specialised functions in the king’s service). They also help to explain why there needed to be a council that was large enough to act as a ‘point of contact’ for the king’s leading agents and subjects – hence the wide membership that persisted up to the 1530s – and yet capable of being small enough to handle secret and complex business – hence the ‘inner ring’ and the appearance of a ‘privy council’ in the tense circumstances of the 1530s. It is worth noting that the privy council of the 1540s was still fairly large, at 19 members, and that – tellingly – it represented the most powerful lords, officers and courtiers of the period, just as the less defined assemblages of previous generations had done; together with the privy chamber, it must have represented a wide range of interests and clients. Meanwhile, the switch to a different kind of fiscal politics – less based on regular taxation of the mass of the laity organised in traditional districts, more dependent on patrimonial and prerogative revenues, supplemented by direct assessments of

⁷⁴ Above, p. 00.

notables – undermined the communitarian and more or less constitutionalist ethos from which the imposed councils of the 1370s to the 1440s had sprung.⁷⁵ In this sphere, as in others, the best way for elites to engage with the Tudor state was through private negotiation, mediated by courtiers and councillors, not by direct confrontation in the infrequent assemblies of the period. So it was that in this way too the dominant forms of counsel moved to reflect the larger dynamics of government and political society.

V

Drawing all this material together, it is clear that, in one sense, there was continuity: counsel is a broad term covering a range of different constitutional needs and political and governmental processes; a range of forms existed to realise these needs at all times in our period, and before and after it – arguably long before and long after, since the dialogues between rulers and subjects and those within the ruling circle have always been multiple and never containable within a single institution or even set of institutions. But from another perspective, there was quite a meaningful change in conciliar forms from about the 1480s – towards the concentration of certain governmental functions in the hands of a more defined group of councillors, whose activities were somewhat better recorded and whose collective role in the affairs of the realm was somewhat elevated. In no sense was this a ‘revolution in government’, however: it was merely a response to wider changes in the political system and the crown estate, many of them driven by the prolonged instability of the Wars of the Roses

⁷⁵ See e.g. W. C. Richardson, *Tudor Chamber Administration, 1485-1547* (Baton Rouge, Louisiana State University Press, 1952), pp. 103ff, 118-21, 141-58; R. W. Hoyle, ‘War and Public Finance’, in D. MacCulloch (ed.), *The Reign of Henry VIII* (Basingstoke, Macmillan, 1995).

(an instability to which, in turn, they contributed). Were these changes evolutionary? Yes, in the sense that precedent built on precedent, and the forms that underpinned the new-model councils – demesne and prerogative, diplomacy and equitable jurisdiction – were persisting features of Tudor rule. But there was no teleology, no high-road towards that amiable chimera, modern cabinet government, nor yet to the ‘privy councils’ of 1640 or 1540.