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“A Pattern for Princes to Live by”: Popery and Elizabethan
History During England’s Exclusion Crisis, 1679-1681

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Abstract

This article investigates the intersections of historical memory and political behavior during England’s “Exclusion Crisis” of 1679-1681. In doing so, I bring together theorists of social and historical memory in interpreting the Exclusion Crisis polemic. Between 1679 and 1681, opposition Whigs and Loyalist Tories rehashed sixteenth-century Elizabethan history because it provided potent analogues to the contemporary crisis over the succession. Through an analysis of parliamentary debates and historical writing, I argue that England’s sixteenth-century history was an integral part of the contemporary political debate. The context of Elizabeth’s Treason Act and the imprisonment of Mary, Queen of Scots provided historical parallels that opposition writers used to justify the exclusion of the Duke of York as well as make claims for parliamentary sovereignty in determining the succession. The Elizabethan era provided a wellspring of historical examples that could be culled to refute arguments for monarchical divine-right absolutism. Rather than foreground the role of political theory in structuring attitudes and assumptions about the monarchy and parliament, this article sets out to show that sixteenth-century historical polemic set the terms of contemporary debate and, thus, influenced political outcomes.

Keywords: Exclusion Crisis, historical memory, print culture, political theory, Reformation history, Elizabeth I, Mary, Queen of Scots, Charles II, Robert Brady

Since the early seventeenth century, Queen Elizabeth’s Ascension Day (November 17th) was a period of raucous celebration of the English monarchy. But in 1679 a new tradition came into vogue – burning the

pope in effigy. Narcissus Luttrell, a historian and Member of Parliament (MP) for Saltash, scribbled in his diary what was then a curious occurrence: "At night there were several bon fires and particularly a very great one at Temple Bar, where a pope burnt in *pontificalibus* that cost above 100 pounds" (1: 29). A year later, Roger North took careful notes of the Elizabeth Day celebrations. As a royalist, he was appalled at what he saw. He described the procession as "intolerably scandalous" and "the first time that the Rout was audacious and formidable" (North 574). Unlike the year before, the procession began at Temple Gate, symbolizing law and order, and led directly to a statue of Queen Elizabeth from which a sign that read "Protestantism, liberty, and the law, draped from her neck." North's detail of Queen Elizabeth is the most pronounced aspect of his description of the celebration. He wrote that "somebody had set her out like a heathen idol" and "a deity that like the Goddess Pallas stood as the object of the solemn sacrifice about to be made" (577). The following year in 1681, Luttrell again described what was now a familiar scene in London. The "commemoration of Queen Elizabeth was celebrated with more than ordinary solemnity," he wrote. This time, the procession concluded at Smithfield, the infamous place of the Marian burnings. "At just the precise moment, as the crowd arrived at the scene, the Pope was burnt in a great fire prepared on purpose ... [then a] store of fireworks concluded solemnity" (Luttrell 1: 144). The pope burnings were the talk of the town. The Duke of Rutland's wife attended the 1681 celebration in London. When she arrived home, her uncle remarked, "her tongue does run with the story" (HMC Rutland 2: 60). Reports of the Elizabethan celebration made it to the highest ranks of the King's government. Robert Southwell reported to the King's minister, the Duke of Ormonde, that a "constable brought [some]one lately before a justice of the peace for speaking treason against Elizabeth [I]" (Ormonde 4: 472). In late seventeenth-century political culture, Queen Elizabeth was a divisive figure whose celebration or condemnation could bring either an uproarious crowd of thousands – or the county prison.

England's Exclusion Crisis, 1679-1681, is an era in which historians credit the emergence of political parties, the Whigs and the Tories, the beginnings of parliamentary sovereignty, religious toleration,

and constitutionalism. In this context John Locke wrote most of the *Second Treatise of Government* and Algernon Sidney composed the *Discourses on Government*, justifying revolution and contractual government. In August 1678, a plot was discovered whereby French Jesuits would infiltrate England, assassinate the king to usher in the succession of his Catholic brother, James, Duke of York. Later that year, letters were found in Edward Coleman's closet, the duke's personal secretary, that implicated the duke in a conspiracy alongside the French king, Louis XIV, to provide subsidies to James to make him less reliant on parliament. The discovery of "Coleman's letters" gave fuel to suspicions that the monarchy was under attack by a nefarious Catholic plot to extirpate Protestantism and turn the monarchy into an absolutist tyranny. These events set the stage for the "Exclusion Crisis," which polarized the nation until the end of Charles II's reign in 1685. It produced an explosion of historical polemic to either justify the succession or the exclusion of the Duke of York.

This paper demonstrates that Queen Elizabeth's memory was central to these debates. Elizabeth's reign provided potent historical parallels; her reign offered a litany of highly relevant examples that could be used to justify the duke's exclusion. Historical appeals to Elizabeth's memory became crucial in lending credibility to a constellation of arguments that surrounded the succession and, thus, England's constitutional and political future. Histories of her reign were thus essential parts of contemporary discourse surrounding the succession. Because Elizabeth's succession was uncertain and relied on parliamentary statutes, histories of her reign provided legal and historical precedents from which to justify the exclusion of the Duke of York. Within and without parliament, Elizabethan history played a central role in debates over the succession, the role of parliament in making law, and provided a foundation for maintaining the Church of England. The debates surrounding her reign thus provide insight into the relationship between historical polemic and political behavior. Historians of early modern history often look to political philosophy to understand how contemporaries justified constitutionalism, the right of resistance, and

contractual government. What this paper illustrates is that political change happens at the intersections of history and memory.

History and Memory in the Late Seventeenth Century

Elizabethan “parallels” provided a historical lens through which contemporaries viewed the crisis over the succession. Throughout the late 1670s and early 1680s, Elizabeth was remembered for her defense of Protestants against popery and parliament against arbitrary rule. Roger L'Estrange, the royalist press censor, wrote: “Can anything be more prudential than for a government which is sick of the same disease under Charles II to make use of the same remedies that cured the state under Queen Elizabeth?” (*Observer*). The most salient aspect of her reign centered on the 1571 Treason Act commonly referred to as 13. Eliz Cap. 1. This statute made the Queen and parliament the executor of the succession and gave the Queen enormous discretion in altering the succession through Parliamentary statute. It also made it treason to “hold and affirm or maintain” that it is *not* in parliament’s power to “limit and bind the crown of this realm and the descent, limitation, inheritance” (Statutes of the Realm 4: 526-528). What made this statute even more important in the context of the Exclusion Crisis is that 13. Eliz Cap. 1 made it treason to affirm “ever after” that parliament did not have the authority to limit the succession by statute (Statutes of the Realm 4: 526-528). One anonymous pamphleteer in 1679 wrote, “...The ... statute of 13. Eliz is one of the Herculean arguments now in every man’s mouth” (E.F. 1). Robert Brady, the royal historian and polemicist, wrote in the *Great Point of the Succession* that it was from 13. Eliz Cap. 1 that the Whigs “derived their main strength” (22). Another royalist wrote, “[13. Eliz Cap. 1] is the great bugbear of the antiducal party, which like a scar-Crow they place up and down in their libels to frighten the simple people...” (Rider 32).

“Queen Elizabeth’s time,” as it was evoked in parliament and the popular press, took on an almost mythic aura in the late Stuart period. Daniel Woolf has shown that “history,” in the seventeenth century was “intended to be socially circulated and put to practical and political use”

(80). The Elizabethan era was one that both sides used as a standard from which to castigate ideological and polemical positions and deployed for partisan ends. As Maurice Halbwachs noted at the beginning of the twentieth century, all memory is social: “[T]here exists a collective memory and the social frameworks for memory; it is to the extent that our individual thought places itself in these frameworks that it is capable of the act of recollection” (38). To Halbwachs, these “social frameworks” determine the possibilities for remembering. In other words, his *On Collective Memory* asserts the primacy of the “influence of the present social milieu” in the process of recollection. Recent work by social scientists confirms Halbwachs’s thesis. Margaret Somers, for instance, discusses the relationship between memory and political behavior, how social and individual memory contributes to collective action. Examining the development of the nineteenth-century English working class, she shows that memory was key to the development of working class solidarity. Her research suggests that identity was viewed not in terms of “class consciousness” but rather through a dynamic and creative relationship with the past (Somers 606). It is a similar creative process of historical reconstruction that seventeenth-century English Royalists and Whigs came to view contemporary events.

Late Stuart parliamentarians and polemicists were predisposed by Renaissance learning to view the present in terms of the past. Late seventeenth-century historical polemic is a byproduct of the Renaissance ideal of reconstructing history to be put to use in the present. The notion of the *magistra vitae*, or history as the “teacher of life,” undergirded notions of history’s function in the late-seventeenth century. History served as a repository of wisdom to be actively incorporated into lived experience (Gilmore 76-80). For the seventeenth-century polemicist, England’s reformation history was both intimately tied to the present and an act of creative reconstruction. As Alexandra Walsham recently put it, “...the past is ‘a matrix to which the present is crucially connected’ and ... in remembering it we continually recreate it in our own image” (936). Her paper centers on the development and, most importantly, the contestation, of collective memories. In the late seventeenth-century, the sixteenth century past was remembered in the highly partisan culture of

the Exclusion Crisis polemic. The point is that in the late Stuart context, reformation history was hotly contested, and the struggle centered on the definition of history. Robert Brady, a preeminent royalist historian during the Exclusion Crisis, could not even bring himself to mention the history of Mary, Queen of Scots' execution. He stated that he wished the entire episode "were razed out of the annals of time, so that there might be nothing left to stain the reputation of that otherwise unblemishable princess Elizabeth" (Brady 23). However, one Whig parliamentarian speaking before parliament said, "[t]he case is now with the King [as] it was [between Elizabeth and] Mary, Queen of Scots" (Grey 8: 199). The differences in historical interpretation thus had important implications for England's political development. If Elizabeth was a constitutional monarch, then the Whigs could justify the duke's exclusion on the basis of historical precedent. If the Royalists were correct, then Elizabethan history illustrated the horrors that could befall the Protestant nation should parliament tamper with monarchial succession.

Historians of this period have excavated the "uses of history" in the late seventeenth-century context. Jonathan Scott and Matthew Neufeld have focused extensively on the memory of the English civil war during this period and its structuring political debate and party formation. To Neufeld, "historical writing ... was the most important product of cultural remembering in Late Stuart England" (5). To Scott, the lens through which contemporaries viewed the crisis of "popery and arbitrary government" was Elizabethan (9). Jacqueline Rose, likewise, has asserted the centrality of sixteenth-century history to politics; it was, "the whole framework in which the politics of religion took place" and the presentist nature of Reformation historical thought intensified "its political import" (276).¹ The argument presented here is that partisans produced polemic not as an academic exercise in historical reconstruction but rather to make forceful historical arguments for specific political ends. Contemporaries saw Reformation history play out in their present. They saw solutions to the seemingly intractable issues through a narrative-historical framework of sixteenth-century history.

Exclusion Parliaments, Elizabethan History

Elizabeth I in the late seventeenth-century imagination protected the Protestant interest and fought against popery at home and abroad. Speaking before parliament, Colonial Birch articulated this theme of the Exclusion Crisis debate: “the Declaration of the Succession by parliament is no new thing. ... it proved well in Queen Elizabeth’s time [and] the Queen’s time is parallel to ours, as to the fears of a Popish Successor” (Grey 7: 165). Because Elizabeth’s and Birch’s situations were “parallel,” history could inform the present. Between the revelations of the Popish Plot in 1678 and the Oxford parliament in 1681, the impending doom of Protestantism at the hands of insurgent Catholics seemed imminent. One Parliamentarian exclaimed that the Exclusion Bill was “the greatest thing upon your hands that ever was in parliament” (Grey 7: 240). “The eyes of *Europe* are upon the happiness or misery of this parliament,” spoke Richard Graham (Grey 7: 164). As Parliamentarians debated the exclusion of the Duke of York, they looked to the age of Elizabeth to guide them. Henry Coventry, the former Secretary of State, was one of the most outspoken members of parliament and supporter of the duke’s exclusion. As the first vote on the Exclusion Bill was taken up, the age of Elizabeth was almost incessantly debated: “The Statutes of Q Eliz and Hen. VII are of great moment,” he said “That of Q. Eliz ... adapted to the present emergency” (Grey 7: 143). The present emergency was the exclusion of the Duke and the Elizabethan statute he referenced was 13. Eliz Cap. 1. As the bill was read in the grand committee, Parliamentarian John Boyer made a motion that underscored Elizabeth’s relevance to the Exclusion Crisis polemic. What better way to commemorate the age of Elizabeth than with parliamentary legislation drawn from the lessons of her reign? On November 8th, John Boyer motioned that the Exclusion Bill would take effect on Queen Elizabeth’s Ascension Day, November 17th. The link between Elizabethan history and the present crisis over the succession were thus inexorably linked (Grey 7: 432).

Sir Hugh Cholmondeley put the matter rather succinctly, “Without delay, I would make Laws to defend ourselves and Religion, in case a Popish Prince should attempt it, and to put us in arms against a Popish

King too" (Grey 7: 244). Mr. Boscawen saw in Elizabethan history just the way to achieve this. He spoke before parliament advocating that Elizabeth's Treason Act was still in force and could be used against those that argued that the succession was inviolable and divinely ordained: "What is so by act of parliament is lawful, and it is *praemunerie* to say to the contrary, by [13. Eliz Cap. 1]" (Grey 7: 147). Edward Vaughan reiterated a similar point: "But we have a statute of the 13th of Queen Elizabeth, that the crown may be disposed of, for the good of the nation, and it was treason in her life-time, to affirm the contrary, and *praemunerie* for ever after" (Grey 7: 252). When parliamentarians reflected on the constitutional crisis, Elizabethan history sprang to mind. To them the duke's Catholicism was simply the most recent manifestation of popish conspiracies going back to the sixteenth century. In the early days of the crisis, parliamentarians considered remedies to what they thought an outright assault on some of their most cherished political and religious institutions: the monarchy and the Church of England. From the beginning of the crisis in the late 1670s, parliamentarians and polemicists began to scour history books for the lessons of history looking for ways out of the potentially apocalyptic scenario of a popish succession.

There was almost no end of historical reconstruction in parliament and press. "I will tell you a story, and a true one, of Queen Elizabeth," began a long historical speech by Sir Charles Harbord (Grey 6: 245). In 1678, he voted against a proviso that would have disabled the Duke of York from taking the Test Act and thereby allowed him to ascend to the English throne and sit in the House of Lords without confirming his religious beliefs. The Lords' "proviso" to the Exclusion Bill passed in the Commons was a contentious issue, one of the most contentious in the first few months of the Exclusion Crisis. Harbord's speech is significant because he looks not back to the later conspiracies during Elizabeth's reign but rather to the younger Queen Elizabeth under house arrest at Hartford Castle during her half-sister Mary I's reign. This was a dark period in England's history. In the late seventeenth-century political imagination, Mary's reign captured some of the worst possibilities of England's future – one where a Catholic sat on the throne and was beholden to a popish superpower. In the early 1550s, the Pope and the

Holy Roman Emperor had “ratified” the marriage of Mary I and her Spanish husband, King Philip II. At least during Mary’s reign, Harbord noted, “King Philip had a dispensation by the pope to wed Elizabeth,” should “Mary die without heirs” (Grey 6: 246). The specter of a popish successor was thus mitigated by Phillip’s right to marry Princess Elizabeth, thereby establishing a Protestant monarchy in England. Harbord’s apprehension of the duke’s succession centered on both his Catholicism and the dynastic uncertainties if James ascended to the throne and established a Catholic dynasty. Harbord’s speech spoke to some more specific apprehensions about James – that he might exact revenge on MPs for his attempted exclusion. James’s purported vengeance was an ongoing issue in the Exclusion parliaments. Speaking of the Exclusion Bill, Thomas Player voiced a similar concern: “We have passed excellent votes, and gone as far as we can to insure the Protestant Religion, but that has produced rage and revenge among the papists” (Grey 8: 236). What if now, Harbord rhetorically asked “the lady Elizabeth be killed and Queen Mary dies, there is an end of your, *there is an end* ... [to the Protestant succession]” (Grey 6: 245). On the basis of Elizabethan history, Harbord advocated for the outright exclusion of the duke as well as any Catholic. Harbord’s point was that the ascension of the Duke of York following his attempted exclusion would have embittered him to parliament. The proviso would have the effect of alienating the Duke of York and leaving him exposed, so when Charles II died, James would ascend to the throne looking for revenge against Parliament for having tried to exclude him.

Elizabethan History and Mary, Queen of Scots in the Popular Press

While some parliamentarians imagined a nightmarish scenario of vengeance mixed with popish cruelty, others rummaged through sixteenth-century history and discovered the Elizabethan period, too, was chock-full of Papist conspiracies against the Queen. By far the most relevant parallel was the exclusion of Mary, Queen of Scots, Elizabeth’s cousin and legitimate successor to the throne. The struggle between Mary Queen of Scots and Elizabeth provided a potent historical analogue to the

contemporary crisis over the succession. The age of Elizabeth resonated with parliamentarians because the Queen protected the nation from Catholic conspiracies. Parliamentarians and polemicists looked to the Tudor period for precedents from which to act. The Speaker of the House, Henry Capel, ruminated on the implications of Elizabethan history during the second Exclusion Parliament: "In Queen Elizabeth's time there were conspiracies against her, when Mary Queen of Scots was taken off. In king James's time, the gunpowder treason. In the last king's time a horrid rebellion, that ended in his murder; but here the crown is under such a character as is more dangerous than all those and from popery..." (Grey 8: 149). Capel drew a direct line from the Catholic conspiracies going back to the Elizabethan period to his present. The great fear among parliamentarians was not the potential for absolutism *per se* but rather popery, an insidious disease that infected the monarchy and afflicted the body politic. The only cure was to quarantine the monarchy from its most pernicious effects, and the solution was discovered in Elizabethan history. In this context, Elizabeth's relationship with Mary, Queen of Scots came to take on a central place in the Exclusion Crisis debate. From the perspective of the seventeenth century, Elizabeth's arrest and imprisonment of her Catholic cousin was a viable precedent from which to cull historical examples for exclusion. As one parliamentarian put it, "Mary Queen of Scots was first excluded by Queen Elizabeth ... nothing can secure you more than that course..." (Grey 8: 168).

The history of Mary, Queen of Scots provided an obvious parallel for exclusion. Mary was a legitimate successor of Elizabeth and conspirator *par excellence*. She was arrested in 1569 for conspiring against the Queen and attempting to overthrow the state. In a fitting twist during the Exclusion Crisis the duke was exiled to Scotland at Holyrood House, the royal palace for the Scottish monarchy and notorious place of conspiracy under Mary, Queen of Scots. Mary's Secretary of State was assassinated there by the king consort, Lord Darnley, in 1566. Darnley's assassination precipitated Mary's arrest, subsequent escape from prison, and flight to England in 1568. These events were remembered in the late seventeenth century because they bore a direct relevance to legal and historical arguments for exclusion. Daniel Finch, an MP for Lichfield (and

future Secretary of State), was hesitant to let the duke stay under house arrest at Holyrood Palace. This was not because he was against the exclusion of the duke but rather the historical experience of Mary, Queen of Scots while there. Under house arrest, Finch exclaimed, "There were more attempts on Queen Elizabeth's person, when Mary Queen of Scots was in prison, than in all Queen Elizabeth's time besides. ... all the world was against her at once. The papists were in desperation, and it was with them 'now or never'" (Grey 7: 140). In Finch's view, the continued exile of the duke would lead to desperation and that desperation would lead to conspiracy and the possible overthrow of the state. In the 1680 parliament, another MP came to a similar conclusion as Finch: "So long as Mary Queen of Scots was alive, Queen Elizabeth was neither safe in her person nor government. ... Therefore I move for a bill to exclude the duke of York" (Grey 7: 396-398). Mary, Queen of Scots in the late seventeenth-century historical imagination evoked strong responses precisely because her reign served as a proxy for James's relationship with his brother: continued conspiracies against the monarchy and the dissolution of the Protestant state. Her reign highlighted the problems associated with imprisonment and exclusion.

Printed histories of Mary, Queen of Scots reflect similar concerns to those voiced in Parliament. The Mary, Queen of Scots parallel is reflected in popular histories. *A Brief History of Mary Queen of Scots* (1681) examines Catholic conspiracies in a *la longue duree* perspective from the beginnings of Elizabeth's reign to Charles II. Perhaps more than any other pamphlet of the period, the *Brief History* links popish conspiracies against Elizabeth to the present conspiracies purportedly led by the Duke of York. This writer saw in the past a confirmation of the present: "But as there are too many amongst us, that question the *Reality* of the present conspiracy; so there are not a *few* that deny the Truth of those heretofore" (1). The *Brief History* is geared to sway public opinion and sets out to discredit popular assumptions about the crisis. It achieves this through the deployment of the historical parallel between Elizabeth and Mary. Published in 1681, well after the Popish Plot had been discredited, this text sought to keep the conspiratorial aspect of the crisis in historical perspective. What the anonymous author hopes to show is that there is a

popish plot perpetrated at the highest echelons of the Stuart government. The purpose of the *Brief History* is to change the perception of the crisis and show that "[t]hese conspiracies were 'carried on' 'successively...not by a few Desperadoes', but by a great number of persons of the most considerable fortunes and abilities of the Roman Catholic Religion" (1). By implicating the aristocracy in Elizabethan plots against the monarchy, the anonymous author links the duke to conspiracies against his brother. One of the most interesting aspects of *the Brief History* centers on the outcome of Mary, Queen of Scots conspiracies against the Queen: her execution. The author shies away from making an explicit parallel between the necessity of executing Mary and James, Duke of York. But by the end of the tract, Mary and her co-conspirators are dead and the Protestant monarchy saved.

13. Eliz Cap. 1 and the Popular Press

No one during the crisis advocated for the outright execution of the duke.² Many did however use sixteenth-century legal history to confirm parliament's historic right to alter the succession – and emphasized that it was a crime to deny it. John Somers's famous *Brief History of the Succession* (1681) is a case in point. Somers' *Brief History* was one of the most significant historical tracts produced during the Exclusion Crisis. Somers was a Whig and vehement supporter of parliamentary right. This tract was first published during the Exclusion Crisis, but republished during the Glorious Revolution (1689) and again following the Hanoverian Succession (1714), thus underscoring its importance to the Protestant succession and Parliamentary sovereignty. A central facet of Elizabeth's reign that Whigs repeatedly insisted was that 13. Eliz Cap. 1 was still in effect: that to deny parliamentary supremacy in establishing the succession was treason. Somers warned that according to 13. Eliz Cap. 1 it was "saucy talk" to deny the parliament's historic right of settling the succession (14). Somers cites the statute verbatim and gives it a legal gloss in terms of the present. "It were well if some rash men who presume in their discourses to restrain the power of parliament...in this great business of the succession would be wise to remember this act (which is

still in force) and the penalty which they subject themselves" (14). Somers contends that 13. Eliz Cap. 1 plays a defining role in nature of England's political institutions and that it alone can "limit and bind the crown of the realm." In support of 13. Eliz Cap. 1, Somers cites a letter written by Lord Burleigh to Francis Walsingham, the English Ambassador to France, confirming the statute's intent of excluding "the popish successor at that time," Mary, Queen of Scots. Somers ends his tract by concluding, "I shall leave every man to make his own observations on this historical deduction ... that it hath been the constant opinion of all ages that the parliament of England had an unquestionable power to limit restrain and qualify the succession" (14-15).

There are constitutional and democratic overtones to Somers' argument. Near the end of his discussions of Elizabeth and Mary Tudor, he analyzes the fate of property and English common law should a Catholic come to the throne. What was at stake here, in Somers's view are two diametrically opposed world views: one in which the king, lords, and commons represent the public good by upholding the common law and another where a divine-right monarch rules for its own benefit. He writes:

[Royalists] who being desirous to bestow upon the crown a complement ... that monarchy is of divine right, that princes succeed by the laws of god, that their title is not subject to any earthly cognizance, nor owing to any consent of the people. But these consequences of this opinion are not once considered by these men, that thereby the property of all subjects and the laws of all country's are destroyed together. For no human power, laws, or contracts can bind or restrain a power divinely instituted. A jurisdiction which is of divine right is not alterable by the will or power of man. (15)

Somers voices a major theme in the Exclusion Crisis historical polemic: the connection between parliamentary supremacy and constitutional government. In his conception of mixed government, the monarchy and parliament owed their authority to the consent of the people. His charge that with divine right comes the abolition of property and common law makes it one of the few tracts that make the explicit connection. The discourse of parliamentary supremacy and popular sovereignty is usually discussed in contemporary historiography in the context of John Locke's

Two Treatises of Government, which makes similar claims based on the natural-right theory. Thus, discussions of Elizabethan history could elide into and serve as historical justifications to important theoretical discussions of property rights and the supremacy of the common law.

Two other tracts underscore the relevance of Elizabethan history to the Exclusion Crisis polemic. Elkanah Settle's pamphlet *The Character of a Popish Successor and What England Should Expect from Such a One* is a key text in this period. L'Estrange went so far as to say, "I have heard of some people that with only holding their noses over it but one quarter of an hour have run stark mad upon it. This fume, once taken upon the brain, there's nothing in the world...to set a man right again" (1). What made this tract so noxious was Settle's view of the monarchy as essentially constitutionalist in nature and subservient to parliament in matters of law. Reviewing Tudor history, Settle declares, "we may plainly see that the succession of the English Crown was wholly subjected to the disposal and determinations, and limitations of parliament." Much like Somers, contemporary debate over the succession flummoxed Settle because Elizabethan history seemed to provide relevant legal-historical precedents from which to act: "I know no excuse they can make for themselves but by owning their ignorance to be as great as their imprudence," Settle wrote (27). Settle's *Character* went through two editions in the course of a year and several replies were made to it. John Phillips, a parliamentarian polemicist, responded the Settle's tract as well as attacks against it. His *The Character of a Popish Successor Complete* (1681) advocated for the exclusion of the Duke of York and justified his opinion on the basis of Elizabeth's Treason Act. In his view, "The laws and statutes of the realm with the royal consent have power to bind the right of the crown and to limit and govern the descent and succession; as it is Treason otherwise to affirm in reference to the laws and statutes of this by the 13th of the Queen" (15). Thus, outside the halls of parliament, opposition polemicists underscored Elizabeth's statute of laws to support their case for the exclusion of the Duke of York. In doing so they argued from a position of legal right, rights not based on nature or God. 13. Eliz Cap. 1 "was in general to reserve a power in the parliament to settle the succession for the greatest advantage of the nation," W.G. Gent, the author of *The Case of*

the Succession Stated, wrote (15). In the popular press, Elizabeth's Treason Act allowed polemicists to have their proverbial cake and eat it too. They could openly oppose the Duke of York's succession but remain loyal to the crown and the common law tradition. Elizabeth's established reputation as a protector of Protestants and parliaments in contemporary political culture provided almost unassailable cover for rather subversive claims of parliamentary supremacy in matters of the succession.

The Tories responded to the Whig polemic with their own brand of historicity. Tory historian Robert Brady reconstructed medieval and Tudor history to reflect his political bias, a bias, incidentally, that was historically accurate.³ His Tory interpretation of history was a persuasive one to many royalists sympathetic of Charles II's prerogative and hereditary right. This is because Brady cogently argued against the prevailing idea that an immemorial ancient constitution guided English law. Brady's scholarship is most noted by contemporary historians for its discussion of feudalism, not sixteenth-century history. Rose has, however, recently illustrated the sixteenth-century grounding for Brady's interpretation of political theory. Late royalist political theory was remarkably diverse. Rose dissects the linkages between sixteenth and seventeenth-century political theorists and history to illustrate the present mindedness of Restoration historiography. Much of this historical discourse of the period is rooted in the language of antipopery and royalist writers wrote with the intention to discredit opposition historians. Restoration polemicists were "haunted" by the specter of theories of popular sovereignty by sixteenth-century Reformation writers. Brady's histories tried to steer a course between Catholic and Calvinist theories of popular and magisterial rebellion by underlining the divine origins of the English monarchy. Royalist polemic thus illustrates a powerful connection that contemporaries made between sixteenth-century history and contemporary politics.

Brady responded to Whig claims for parliamentary supremacy by reframing the context in which 13. Eliz Cap. 1 was produced. Robert Brady's *The Great Point of Succession Discussed* (1681) provides a historical overview of the English history and argues that the succession has always followed the lineal, hereditary, line. He begins his analysis of

Elizabethan history by addressing those that believe “the history of those times, [are] the only true touchstone to try matters by” (22). The implications Brady draws from the past were entirely different from those drawn by the opposition. Where the Whigs provided a mostly textual analysis of 13. Eliz Cap. 1, Brady delved into a thicket of historical reconstruction to illustrate that Elizabeth’s Treason Act was created during extraordinary times. 13. Eliz Cap. 1, in other words, was not intended as a legal precedent for parliamentary supremacy in determining the succession – it was intended to counter her father’s succession statutes, which bastardized her and removed her from the succession. The creation of 13. Eliz Cap. 1 thus owed everything to political expediency rather than to Elizabeth’s belief in Parliament’s supremacy in determining the succession. In making Elizabeth out to be a constitutionalist monarch, the Whigs were in manifest historical error. Many Tory historians turned their ire against Elizabeth’s father, King Henry VIII. Elizabeth’s dynastic problems all stem from his succession statutes promulgated in the second half of his reign. Herein lie the origins of the Treason Act. During the Exclusion Crisis, Henry’s succession statutes came under almost as much scrutiny as Elizabeth’s. As Henry married, divorced, and executed his wives, he altered the succession of his children through Parliament to fit the changing circumstances of his marital status. After Elizabeth’s birth in 1533, Henry pushed through his first succession statute, 25. Hen 8 Cap. 22 that year. This statute bastardized Mary the daughter of his now divorced wife Catherine of Aragon and established Elizabeth first in the line of succession. However, after the execution of Elizabeth’s mother, Anne Boleyn, in 1536, Henry once again altered the succession to accommodate the evolving royal bloodline. The second succession statute, 28. Hen Cap. 7, now bastardized Elizabeth and left no heirs to the throne. Finally in 1543, after the birth of the future Edward VI, Parliament passed the third succession act, 35. Hen VIII Cap. 1, which established the succession according to Henry’s last will and testament. In royalist historiography, these succession statutes figured prominently in discussions over Elizabeth’s Treason Act because they illustrated Henry’s tyranny over his wives and his parliaments. As Brady put it, “[Henry VIII’s succession acts] ought no more be urged as precedents for us to guide ourselves ...

than his arbitrary and illegal methods of bringing those who had the misfortune of falling into [Henry VIII's] hatred [and] the block" (22). Thus for virtually all royalist historians, Henry VIII was a tyrant *par excellence*. In the Tory interpretation of sixteenth-century history, Elizabeth used Parliament in a last ditch effort to support her weak claim resulting from her father's tyrannizing Parliament. In Brady's tracts, Henry VIII's "extravagancy" was more inimical to English liberty than the specter of the popish successor (22). Henry's use and abuse of his parliaments was shameful: He "sacrifice[d] everything to his humor"; his "manifest injustice" and "illegality" in using his parliament "is a riddle beyond my skill to unfold" (Brady 22).

Henry's tyranny over his parliaments left Elizabeth with an uncertain title. Placing Elizabeth's Treason Act in this historical context allowed the Tories to undermine the opposition's claim that Elizabeth was a constitutionalist monarch. *The Power of Parliaments in the Case of Succession* (1680) advocated for divine right monarchy and heavily criticized Henry for using Parliament to alter the succession: "The dubiousness of her legitimacy, and her being solemnly bastardized by act of parliament and by her own father too, necessitated her... to supply the defects of her title with a popular establishment against the pretensions of Mary Queen of Scotland who was generally looked upon in that age to have a far clearer right to the crown" (32). By taking this line of argument, royalists were able to show that using Parliament to change the succession was the cause of many of Queen Elizabeth's future headaches: "If we consider how questionable her birthright was then generally esteemed, we cannot but admire, if for her own interest and security she attributed much more to an act of parliament than otherwise she would have done" (Brady, *Great Point* 22). Because of her uncertain title, Elizabeth had to make her claim to the throne "as strong as she possibly could" (Brady, *Great Point* 22). Writers undercut the opposition's claim that Elizabeth was a constitutionalist ruler, who deigned to "court her people for her establishment" (Brady, *Great Point* 22). The Tories emphasized this point in the popular press. The anonymous writer of *An Answer to a Late Pamphlet Entitled A Character of a Popish Successor* wrote: "We must note that all these acts of parliament both of Henry VIII and Elizabeth I

are not made at all to alter the right of succession. Far from it, nay, rather to establish it, for they are only designed to declare in whom the right of succession and therefore were necessary both in the times of Henry VIII and ... Elizabeth I" (13). Echoing Brady, Rider argued that 13. Eliz Cap. 1 "was passed of necessity": "When her birth-right was not sufficient to court the people's favor and endeavor to supply the defects of her title with popular establishment.... She caused [13. Eliz Cap. 1] to be enacted" (Rider 32).

By reframing the context of 13. Eliz Cap. 1, the Tories were able to mount a historical counter attack. The Whig discussions of Elizabeth and Reformation England merely provided a cover for the opposition's treasonous and rebellious designs. This became a familiar charge throughout the Exclusion Crisis. The Whigs' appeal to Elizabeth and reformation history was pretext to the overthrow of the monarchy and the institution of a republic.

Was there ever such a deluge of prostituted impiety and profanes as that which brake in upon us under the masque of promoting the purity of gospel and a thorough Reformation? The king killing doctrines of the Jesuits were never let out more to life or more bitterly exclaimed against then by the very men that put the worst of those speculations in practice and under the name of Protestants...executed the most violence and sanguinary doctrines of the papists,

L'Estrange wrote in the newspaper the *Observer in Dialogue* (Jan 29 1683). With this, the anonymous author turns the tables on his polemical adversaries by aligning them with religious and political subversion – two charges the Whig polemicists leveled against the Tories. L'Estrange wrote that the Whigs were really "Papists in Masquerade." According to him, Whig and Protestant dissenters were allied in a design to overturn the monarchy and the Church of England. As he states at the beginning of his famous tract, the *Character of a Papist in Masquerade*,

But there is one *Main* point yet behind ... which is in effect the very *Hinge* of the Controversie. And this is it. ... the Pretext of the *Succession* will be look'd upon only as a *Stalking-Horse* to Countenance an approach to some further Design: In which Case, the *Question* will not be any longer the *Religion* of a *Successor*, but the very *Right* it self of *Kingly-Power*. (4)

In Brady's view, Elizabeth's weak title to the throne provoked all sorts of conspiracies against her. This was a theme of most royalist historical polemicists writing to counter Whig Elizabethan history.

Conclusion

In 1680, a tract was printed, called *A Pattern or Precedent for Princes to Rule By and for Subjects to Obey By*, ostensibly written by a "noble and learned pen of one that was bred under her from his Youth to her Death" (3). This tract highlights the main themes that appealed to the opposition about Elizabeth's reign: the destruction of popery, the Protestant succession, and the defense of the English Church (2-3). The title of the tract can also be considered an oblique criticism of the Stuart Monarchy as well as a discourse on the obligation that the subject owed the state. *A Pattern* is couched in the language of political obligation based on reciprocity: Elizabeth is "admired ... many ages after her death. Her ears were always open to ... complaints and her hands stretched forth to receive their petitions. Her manner was always to commend their causes to her council and judges" (18). As this author imagines her, Elizabeth was a monarch who listened to her subjects and used the law and parliament to arbitrate disputes – surely oblique criticisms of Charles II who had prorogued two parliaments without consensus on the succession and dissolved another after less than two weeks of meetings. Her defeat of the Armada in 1588 further burnished her legacy in the minds of late seventeenth-century Englishmen. One anonymous author suggested that England's victories should be a "pattern ... to future ages" (Anon, *True and Exact Account*, frontispiece). To the parliamentary opposition, Elizabeth's reign was a touchstone whereby to judge good government and created a framework in which to justify the exclusion of the Duke of York. In Elizabeth's reign the parliamentary opposition found almost everything they were looking for: a Monarch that ruled according to the common law, protected the Church of England from its enemies at home and abroad, and excluded the "then popish successor," Mary, Queen of Scots. Elizabethan history offered the opposition an arsenal of historically

relevant “examples” from which to make claims for the historic legislative rights of parliament, laying a foundation for parliamentary sovereignty, which will come to fruition following the Glorious Revolution (1688/89) and the enactment of the English Bill of Rights (1689).

Following the Glorious Revolution, one of William and Mary’s closest confidants, Gilbert Burnet, remarked upon the significance of Elizabethan history, particularly 13. Eliz. Cap. 1. Burnet was a key player during the Exclusion Crisis and a prolific historian of England’s Reformation, author of the first two volumes published during the Exclusion Crisis. Much like the earlier historians and polemicists, Burnet wrote with a sense of duty. He believed that historical research could help correct present ills. The public good brought Burnet to the *History of the Reformation*.⁴ His six-volume, semi-autobiographical *History of My Own Time* is crucial for understanding Burnet’s position at court as well as his sense of history. Burnet remarked at length on the centrality of Elizabethan history to the development of constitutionalist government in England during the Exclusion Crisis. In his view, the arguments for exclusion were rather tightly drawn. To him, the debate centered on matters of law and the public good. Elizabethan history offered precedents for exclusion but, more broadly, justified parliamentary sovereignty:

In our own time there were several instance of Exclusion; and that the power of parliament in this respect was according to law and founded on an act in Queen Elizabeth’s time to limit the succession of the Crown. They argued that Government was appointed for these who were to be governed and not for the governors themselves; and therefore all things that were related to it by the people’s safety and the public interest. (Burnet 164)

The historical narrative centering on Elizabeth’s reign was a highly contested feature of the Exclusion Crisis polemic and set the terms of the debate as well as providing solutions to what parliamentarians and polemicists considered intractable legal issues. Burnet’s suggestion that the crisis hinged on interpretations of Reformation history illustrates the degree to which both Reformation historical thought and politics were intertwined. There was much more in Elizabethan history than simply propaganda – it was a whole framework through which contemporaries

debated the succession, parliamentary sovereignty, and English constitutionalism. What this paper has tried to show is that the Elizabethan past was highly contested in the streets of London as well as scholarly study. Michel Foucault noted that “historical memory is ... a very important factor in struggle.... if one controls people’s memory, one controls their dynamism. It is vital to have possession of this memory, to control it, administer it, tell it what it must contain” (qtd. in Baker 134). Through the travails of the Elizabethan past, late seventeenth-century parliamentarians and polemicists embarked on a reworking of their history and, in doing so, profoundly shaped their future.⁵

Notes:

¹ Only in the last 25 years or so have historians taken seriously the relationship between historical memory and political behavior. Jonathan Scott’s *Algernon Sidney and the Restoration Crisis* marks the beginning of interest in the Exclusion Crisis as a period of historical crisis. See for instance: Jonathan Scott, *Algernon Sidney and the Restoration Crisis, 1677-1683* (Cambridge: Cambridge University Press, 1991); Patrick Collinson, “The Elizabethan Exclusion Crisis and the Elizabethan Polity,” *Proceedings of the British Academy* 84 (1994): 51-92; Kristen Post Walton, *Catholic Queen Protestant Patriarchy* (Houndmills and New York: Palgrave MacMillan, 2007); Michael Dobson and Nicola J. Watson, *England’s Elizabeth: An Afterlife in Fame and Fantasy* (Oxford: Oxford University Press, 2002); Jack Lynch, *The Age of Elizabeth in the Age of Johnson* (Cambridge: Cambridge University Press, 2003); James Watkins, *Representing Elizabeth in Stuart England: Literature, History, Sovereignty* (Cambridge: Cambridge University Press, 2002); Melinda S. Zook, “The Restoration Remembered: The First Whigs and the Making of their History,” *The Seventeenth Century* 17 (2002).

² But the period between 1678 and 1681 did witness the republication of Reformation resistance tracts that advocated for the execution of the King. George Buchannan’s *De Jure apud Scotos, or the Dialogue on Kingship* was published in 1680. Incidentally, Robert Filmer’s anti-resistance tract, *Patriarchia* was published that year as well.

³ For Brady’s accuracy as a historian see: Corrine Comstock Weston and Janelle Greenburg, *Subjects and Sovereigns, the Grand Controversy over Legal Sovereignty in Stuart England* (Cambridge: Cambridge University Press, 1981); Janelle Greenberg, *The Radical Face of the Ancient Constitution: St. Edward’s Laws in Early Modern Political Thought* (Cambridge: Cambridge University Press, 2001). Jacqueline Rose, “Robert Brady’s Intellectual History and royalist Antippery in Restoration England,” *English Historical Review* 72.499 (2007): 1287-1317. J.G.A. Pocock, *The Ancient Constitution and the Feudal Law: A*

Study of Historical Thought in the Seventeenth Century (Cambridge: Cambridge University Press, 1991); Glenn Burgess, *The Politics of the Ancient Constitution: An Introduction to English Political Thought, 1660-1642* (University Park, Penn State Press, 1999).

⁴ Andrew Starkie's work on Burnet and the early modern historical polemic has illustrated the political nature of late seventeenth-century ecclesiastical history. Andrew Starkie, "Gilbert Burnet's Reformation and the Semantics of Popery," in *Fear, Exclusion, and Revolution: Roger Morrice and Britain in the 1680s* (London: Ashgate Publishing, 2006); Andrew Starkie, "Contested Histories of the English Church: Gilbert Burnet and Jeremy Collier," *The Huntington Library Quarterly* 68, 1 and 2 (2005): 336.

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