

INVESTING IN ENGLAND: THE DESIGNATION OF
HEIRS TO THE CROWN THROUGHOUT
ENGLISH HISTORY

by

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Abstract

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It was not until the late eighteenth century that rules for succession to the English throne were written. Succession to the throne has never been random. As such, the heir to the throne plays an important part in the history of England. The heir was the personification of the future of England and signified stability, dynastic continuity and power. This study examines the designation of the heirs from the oath received by William of Normandy, which justified the conquest of 1066, to the current Prince of Wales, Charles, investiture in 1969. In reviewing the methods and reasons for designating an heir there is an evolution as sovereigns sought to secure power for themselves and for their families.

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Chapter 1

Introduction

1.1 Tradition defined

A primary duty of the sovereign is to produce heirs for the continuation of the dynasty but also for the good of the country. However, even with heirs the continuation of the dynasty remained uncertain throughout much of the history of England. The rules that govern succession to the throne were unwritten until the late seventeenth century. This does not mean; however, that succession to the throne is or has ever been random. Inheritance to the English crown in the twenty-first century follows the common law principle of male primogeniture, but the rules of primogeniture were not firmly established until the thirteenth century.¹ Although, succession followed the male primogeniture, this does not mean that succession was always smooth or without complications.

The English monarchy is at the heart of what it means to be British. The sovereign not only aids in the government of the commonwealth but is the ultimate example of Britishness. As such, succession is of the most importance as it is will determine who will be the visual representative of a nation. The heir plays an important part in the history of England. The desire to ensure the continuity of the dynasty, sovereigns placed importance on not only determining the heir but gaining recognition from the nation as to the heir's right to claim the throne. The heir is the personification

¹ *Succession to the Crown Bill*, 110 2012-13, 2012-2013 sess., (2012): .
<http://services.parliament.uk/bills/2012-13/successiontothecrown/documents.html>.; A. W. B. Simpson, *A History of the Land Law*, 2nd ed. (New York: Clarendon Press, 1986), 51.

of the future of England as it signifies stability for the government as well as dynastic continuity and power for the sovereign.

This study will examine the designation of the heirs from Saint Edward the Confessor (r. 1042-1066) to the current sovereign Elizabeth II (r. 1952-present). These dates between were chosen because they are two iconic events in the history of England. The reception of Williams' oath of fealty by Edward's magnates was used for William's justification of the Conquest and the investiture of Charles, Prince of Wales in 1969 was the most recent example of the appointment of an heir. This thesis demonstrates an evolution in the reasons and methods in the designation of heirs to the throne.

1.2 Primary Sources

A valuable source of primary documents is found in the volume series, *The English Historical Documents*. Each volume of the twelve volumes covers a particular span of years usually beginning and ending with major events in English history. Each volume is further divided by concept or theme, such as the Crown, Land, Parliament, and Ireland, with each topic being considered through a handful of excerpts from contemporary sources. These sources range from chronicles, laws, journals, correspondence as well as wills not only from political but also lay persons. Many of these volumes are outdated being published more than 30 years ago, however, some volumes have been updated with second editions in the late 1990s. The publisher Routledge announced earlier this year that it would be creating an online version and the information is available now for a free trial (www.englishhistoricaldocuments.com).

Information on medieval England in this study is obtained through chronicles. Usually of a religious origin, chronicles usually contain not only contemporary history but all that has come before and often times after. Existing chronicles are rarely the originals and usually have been edited by several generations of scribes and further translated and edited by modern scholars. As Susan Reynolds argues, this itself lends to a different understanding of the contents of the chronicles as the words are shaped by time and events are colored by hindsight.² Thus while chronicles are invaluable sources, they must be used with caution, requiring verification and corroboration by other contemporary sources.

Parliamentary documents are a necessary source for research on the designation of heirs. Parliament was instrumental in the development of succession and the appointment of heirs, so much so that the legislature has its own chapter in this thesis. The Parliamentary Rolls of Medieval England (PROME) are an invaluable source. Thanks to the work of the National Archives and Chris Given-Wilson, the original and translated transcripts are not only available online at British History Online for a subscription fee but also entirely searchable (www.british-history.ac.uk). Parliamentary statutes are also available through a website maintained by the National Archives and Her Majesty's Stationary Office (www.legislation.gov.uk) and in the volume series titled *Statutes at Large*.

The calendar of charter and letters patent are beneficial in the research of titles for the heirs. Thanks to Google Books, several of the volumes of Calendars of Patent

² Sverre Bagge, "Introduction," in *Feudalism: New Landscapes of Debate*, eds. Sverre Bagge, Michael Gelting and Thomas Lindkvist (Belgium: Brepols, 2010).

Rolls are available online; the rest are available in print and located in libraries across North America. The volumes containing the Calendar of Charters Rolls have been printed by Her Majesty's Stationary Office and are available at many libraries in North America. As of this time, they have not been digitized.

1.3 Secondary Sources

Scholarship on the designation of heirs is limited. Chris Given-Wilson has examined the designation of the heir in several of his works; his focus, though, is not on the evolution or metamorphosis of the designation but rather on the reason for the designation. His chapter "Legitimation, Designation and Succession to the throne in fourteenth-century England" sought to examine the types of ascension to the throne in Medieval England and explored how the process of designation proceeded if there was more than one claimant.³ It does, however, demonstrate that the heir and designation are important in the history of succession and needs to be examined further.

The majority of secondary work on succession to the English throne has been on the icon of the Prince of Wales, although much of that scholarship is biographical rather than an examination of the role and title, such as the books by Elsie Thornton-Cook and Wynford Vaughan-Thomas.⁴ David Loades, in his books, *Princes of Wales: Royal Heirs in Waiting*, examines the role of the prince and the title's connection to Wales and the affect it had on the governance. The author successfully portrays the individual princes

³ Chris Given-Wilson, "Legitimation, Designation and Succession to the Throne in Fourteenth-Century England," *Building Legitimacy: Political Discourses and Forms of Legitimacy in Medieval Societies* 53 (2004), 89.

⁴ Elsie Prentys Thornton-Cook, *Kings in the Making; the Princes of Wales*, (Freeport, N.Y.: Books for Libraries Press, 1968).; Wynford Vaughan-Thomas, *The Princes of Wales* (Kingswood, Surrey: Kaye & Ward, 1982).

and their effect on Wales, England and the government as well as their relationship with the sovereign, England and power. Loades attempts to delve into the reasoning and use of the title as a method for designation of an heir but stops short of examining the meaning of the title in relation to succession.⁵

There are many gaps in the research of the designation of heirs. Michael Bennett's re-discovery of the entail of Edward III has sparked revisions of the reign and ascension of Richard II as well as the character of John of Gaunt and the events of the War of the Roses.⁶ Little scholarship, though, has been done on the entail of Edward I; in fact, the premier authority on Edward I, Michael Prestwich, does not mention its existence in his biography.⁷ Prestwich does tend to maintain a focus on the life and reign of Edward as he barely mentions the establishment of his son as Prince of Wales; an iconic event in the history of England. Even with current scholarship focusing on ceremony, the coronation of the co-monarch of Henry II, his son, Henry the Young King, has received little attention from scholars except Anne Heslin.⁸ The sourcing on Henry II's co-sovereign is limited but it would seem that a scholar would be able to piece together information if they were familiar with the time period and sources. The examination of the appointment of future sovereigns in England could provide a valuable insight into the evolution of English society and government as well as provide a better and different understanding of the reigns of sovereigns.

⁵ David Loades, *Princes of Wales: Royal Heirs in Waiting* (Richmond: The National Archives, 2008).

⁶ Michael Bennett, "Edward III's Entail and the Succession to the Crown, 1376-1471," *The English Historical Review* 113, no. 452 (Jun., 1998), pp. 580-609.

⁷ Michael Prestwich, *Edward I* (Berkeley: University of California Press, 1988).

⁸ Anne Heslin, "The Coronation of the Young King in 1170," *Studies in Church History* 2 (1965), 165-178.

1.4 Method of Organization

The organization of this thesis became clear during the research. Originally, the thought was to divide the history of England since 1066 into the medieval, early modern and modern eras. This was quickly rejected due to the ambiguous nature of some of the time periods and more importantly the realization that the methods used by sovereigns did not readily fit into one time period or another. How could one review Edward I's creation of his son as Prince of Wales in 1307 and his entail in the same chapter and then explain Henry VIII's Will and Charles II's Exclusion Bill in another? The obvious answer was to divide the study according into the methods employed by the sovereigns.

Chapter Two will examine oaths as a method of designation. This chapter also considers the lack of an oath, as sometimes the lack of something provides a greater understanding than its existence. The use of political treaties as a method of the appointment of an heir will be discussed. The third chapter will review the use of wills and deathbed testaments as a mode of providing a successor. Chapter Four will discuss the importance of titles. This chapter will examine the meaning of the title "Prince of Wales" but also extends beyond the narrow scope of this title as a designation to the crown to examine the other titles that heirs to the throne have obtained. Chapter Five will review Parliament's role in the designation of heirs as well as the establishment of succession legislation.

1.5 Conclusion

The designation of the royal heir provides evidence of the shift from the personal power of the monarch to the power of institution of Parliament. The heir of the sovereign

was used to secure the right for the throne not only for the family but also for that particular monarch. Almost every sovereign has designated an heir in English history. The reason and method of appointment varied depending on the monarch and heir and has changed over time. In examining oaths, wills, the investment in titles and the use of Parliament as a method of acknowledgment, the important role that the heir played in English political and social history becomes clear. The evolution of the designation of the heir by the sovereign facilitated the loss of personal power of the monarch and subsequently the rise of the power of Parliament.

Chapter 2

Until Death Do You Part

When the majority of English people were illiterate, men used the oath to bind themselves into agreements in the place of written contracts. Women could not swear an oath of fealty or preform homage but they could receive the oath of fealty. The oath was part of the visual ceremony of homage, which bound participants through religion, honor and gifts. As such, the oath was not only an important part in the governance of the English people but also extended into their social lives.⁹ The concept of hereditary right and the desire to establish lines of descent also found their development wrapped up into the institution of the oath. As result of social changes caused by the Conquest, the oath developed into a practice of recognizing the future ruler during the early middle ages.

2.1 Scholarship

2.1.1 Study of Oaths

Despite its important place in the history of England, there is little research on the oath. The majority of research relating to oaths has been on fealty and homage and their function and use in the feudal system of government. F. L. Ganshof's *Feudalism (1944)* and Marc Bloch's *Feudal Society (1939)* have undergone re-examination and as such created new interpretations of the meaning and ramifications of feudalism. The scholarship of Reynolds determined that the examination of the primary sources that led to the arguments of Ganshof and Bloch was fundamentally flawed. She argues that the primary sources that historians rely upon were manipulated by continual rewriting by

⁹ Simpson, *A History of the Land Law*, 15.

medieval clerics, which augmented the words, their meanings and provided hindsight.¹⁰ Despite the debate, which continues concerning feudalism, the oath remains an integral part of medieval society. Recent scholarship is now focusing on ceremony and differentiating between the meanings of homage, fealty and oath.¹¹ The oath as it applies to the coronation of a sovereign has been heavily studied. Not only have specific instances of oaths been studied but also the metamorphosis of the coronation oath throughout English history. Percy Schramm was the authority on the English coronation oaths ever since the publication of his book, *A History of the English Coronation*, in 1937.¹² Nevertheless, H. G. Richardson has added valuable commentary and scholarship in his re-examination of Schramm especially in his treatment of the legal authority of Bracton.¹³ Even with all the scholarship on feudalism and coronation oaths, there is a definite absence of discourse on the reception of an oath by the royal heir.

2.1.2 Study of Oaths for heirs

The reception of the oath of fealty as the heir of the lord receives little scholarly attention. Isolated incidents have been examined, sometimes as a part of a bigger event or as a previously overlooked aspect of the event. Such examples occur in the scholarship on William I's receiving of the oath as heir from King Edward as a part of biographies on William I and Edward the Confessor, as well as in the general works in

¹⁰ Bagge, *Introduction*

¹¹ Kenneth Pennington, "Feudal Oath of Fidelity and Homage," in *Law as Profession and Practice in Medieval Europe: Essays in Honor of James A. Brudage*, eds. Kenneth Pennington and Melodie Eichbauer (Burlington, VT: Ashgate, 2011), 93-115.; Jenny Benham, *Peacemaking in the Middle Ages: Principles and Practice* (New York: Manchester University Press, 2011), 250.

¹² Percy Ernst Schramm, *A History of the English Coronation*, trans. Leopold G. Wickham Legg (Oxford: Clarendon Press, 1937).

¹³ H. G. Richardson, "The English Coronation Oath," *Speculum* 24, no. 1 (Jan., 1949), 44-75.

Anglo-Norman studies and the Conquest of 1066. The establishment, evolution and cessation of the oath of fealty to the heir to the crown as a method of designation are not discussed except in passing in the majority of scholarship.

2.2 Oath

The medieval sources relay little of the ceremony employed in swearing fealty to an heir. It can be assumed to be a similar practice to that of the oath of allegiance to a particular lord taken during the homage ceremony. The oath was obtained as the man stood before his lord in the presence of witnesses and verbally declared his support and fealty to his lord. At that point, the lord took the vassal's hands between his and pledged to protect and support his man.¹⁴ Any differences between fealty to the lord and that to his heir would probably be apparent in the wording of the oath.

Although no transcript exists for such a ceremony, chroniclers have provided valuable information regarding the wording of an oath for an heir. Consistently there is a caveat of "saving" fealty to the king, meaning that the vassal supported the heir but only after supporting the father. Should this caveat be rigorously enforced, this would create tension between the father having all the power and the heir receiving power and authority only at the behest of the sovereign. William I and Henry II are such examples, as they maintained absolute power within the realm giving no power or authority to their recognized heirs. This caveat was made all the more confusing during the oath to Matilda, daughter of Henry I. The caveat included a clause that required the lord swear fealty to Matilda saving that to her father as well as to any future son Henry might

¹⁴ Benham, *Peacemaking in the Middle Ages: Principles and Practice*, 90.

produce. Such strings undoubtedly allowed contemporaries to question the validity of the oath and allowed for Matilda's disinheritance.

The oath was usually taken with the blessing of a clergyman and sworn using the gospels, the cross or a relic.¹⁵ This religious element was two-fold. Often the churchmen were the only persons available who could write down the proceedings, if needed. The English legal system in the Middle Ages was still being established and the recourse for the breaking of an oath was limited. The use of religion and religious iconography also conveys the understanding that should either party break his oath, he not only submitted himself to secular law and punishment but also to God's. Nevertheless, the threat of eternal damnation did not hinder many monarchs from breaking their oaths.

Oaths obtained by lesser lords usually occurred in the presences of clergymen and local lords. It is apparent that the parties involved would attempt to gain the attendance of the highest ranking and most powerful persons available. The oaths for designating of royal heirs would be taken by the leading magnates of the realm usually those in residence at the king's court or attending a council or Parliament.¹⁶ However, the demand by the king for others to swear an oath to the heir was not unheard of. David, King of Scotland, was the first to swear allegiance to Matilda's claim to the throne.¹⁷ Henry III, in his desire to have all males twelve years of age and older swear fealty to his

¹⁵ Ibid.

¹⁶ John Robert Maddicott, *The Origins of the English Parliament, 924-1327* (Oxford: Oxford University Press, 2010), 70.

¹⁷ Marjorie Chibnall, ed., *The Ecclesiastical History of Orderic Vitalis*, Vol. 3 (New York: Oxford University Press, 1990), 518.

son Edward, made alderman go to the homes of those unable to attend the city meeting to receive their oaths of fealty.¹⁸

2.3 William's Oath

2.3.1. *Edward the Confessor, Norman King*

Anglo-Saxon succession had no designated heirs and did not follow the rules of primogeniture. Primogeniture is a system of inheritance whereby the eldest son inherits all land and titles of the parents to the exclusion of all younger siblings.¹⁹ Primogeniture was the method of inheritance favored on the continent. Anglo-Saxon kings were succeeded by a male family member who were able to secure support from the *witan* or king's council. Therefore, all male relatives (usually blood relatives) of the king were potential heirs to the throne. Edward's designation of William by oath was thus an anomaly in Anglo-Saxon England. However, King Edward's use of oaths can be viewed as continuing the tradition not of Anglo-Saxon England but one of Normandy.

Edward was the first son of Æthelred II, King of England, and Emma of Normandy. The *Vita Ædwardi Regis* states that Emma, when pregnant with Edward, received an oath from "all the men of the country" that if she gave birth to a son, he would be their future "lord and king who would rule over the whole race of the English".²⁰ The *Encomium Emmæ Reginae* mentions that Emma obtained the same oath

¹⁸ David C. Douglas and Harry Rothwell, eds., *English Historical Documents, 1189-1327*, Vol. 3 (London: Eyre & Spottiswoode, 1975), 167.

¹⁹ G. D. G. Hall, ed., *The Treatise on the Laws and Customs of the Realm of England Commonly Called Glanvill* (New York: Oxford University Press, 2002), 75.

²⁰ Frank Barlow, ed., *The Life of King Edward Who Rests at Westminster*, trans. Frank Barlow (New York: Oxford University Press, 1992), 13.

prior to her second marriage to King Knut.²¹ The validity of these oaths is not certain as both sources are biased toward establishing the right of the throne for a claimant over another. Nevertheless, the belief that succession could be determined and secured by an oath is evident. Emma is obviously the connection between these oaths. Her Norman heritage is undoubtedly the key. She was certain to have learned that an oath of fealty could designate an heir and delineate succession.

Since its creation in the tenth century, heirs to the duchy of Normandy received an oath of fealty during the ceremony appointing them as future lord. William received his oath in 1034 prior to his father, Robert II, leaving for Jerusalem.²² William would continue this tradition with his own son, Robert, whom he designated heir prior to his departure for England in 1066. Emma was the sister of Richard I, duke of Normandy. Her brother obtained his oath as heir while she was in residence and she would have grown up with the knowledge of this tradition. It is possible that Emma could have requested the oaths during her pregnancy as a continuation of Norman tradition. It is said that William had the same oath sworn to his wife Matilda, when she was pregnant with their eldest child.²³ There is an obvious lack of scholarship on the designation of an heir prior to the birth of the child. An examination of the Norman family history in reference to oaths to pregnant wives would help to determine the validity of Emma's claims.

²¹ Alistair Campbell, ed., *Encomium Emmae Reginae* (London: Cambridge University Press, 1998), 33.

²² Elisabeth M. C. Van Houts, ed., *The Gesta Normannorum Ducum of William of Jumièges, Orderic Vitalis, and Robert of Torigni* (New York: Oxford University Press, 1992), 81.

²³ Frank Barlow, *Edward the Confessor* (Berkeley: University of California Press, 1970), 31.

After his father's usurpation at the hands of Knut, Viking King of Denmark, Edward and his younger brother, Alfred, fled to the continent. Edward lived at the court of his cousin Robert I, Duke of Normandy and would have been personally acquainted with young William. Robert helped launch an invasion to England in an attempt by Edward to gain the throne. Unsuccessful, Edward remained in exile on the continent until the ascension of his half-brother, Harthacanute. William of Poitiers writes that it was this support that led Edward to designate William as heir, although, he erroneously credits the Conqueror with the support and not his father Robert.²⁴ Edward's Norman ties continued into his own reign; Edward supported an increasing Norman presence at court. The existence and rise of Normans at court was a point of contention between Edward and his father-in-law and the leading Anglo-Saxon magnate, Earl Godwin. Although he was a king of England, it would not be inconceivable that Edward saw himself as more Norman than Anglo-Saxon.

2.3.2 *William's Oaths*

Historians generally accept that William did receive an oath as heir to England. The majority believe that the designation of William occurred in or around 1051.²⁵ However, the events that followed 1051 to the conquest of 1066 cast doubts on the time, place and permanency of the oath. Scholars examine the relationship, the dates and events to piece together answers to these questions. Upon reviewing the oaths William is said to have received in 1051 and 1064, the designation of William seems less valid. It is

²⁴ R. H. C. Davis and Marjorie Chibnall, eds., *The Gesta Guillelmi of William of Poitiers*, trans. Marjorie Chibnall (New York: Oxford University Press, 1998), 21.

²⁵ David C. Douglas, *William the Conqueror* (Berkeley: University of California, 1964), 1100.

possible that the designation of William, if it happened, was never permanent or a part of family discussion regarding possible answers to the succession question.

In 1051, William went to England and spent time at the court of Edward. This visit was during the exile of the Godwin family and it is during this visit that it is argued that Edward had William designated as heir to the throne.²⁶ The Anglo-Saxon Chronicle does mention that Earl William came from “beyond the sea”; however, there is no mention of a designation or oath.²⁷ It would seem improbable that such an important event such as naming a successor could take place with no record of the event, although, there is always the possibility of records being lost throughout the course of history. This uncertainty only increases knowing that the heir was foreign, much less Norman. Perhaps William’s oath was Edward’s declaration of his desire to bequeath the kingdom to William should certain conditions be met or at a given point in the future. Given the circumstances following 1054, however, it would seem highly doubtful that the oath of 1051 occurred or that it was intended to be permanent.

In 1056, Edward’s nephew, Edward, dubbed “Edward the ætheling” among historians, returned to England at the request of the king. In 1054, the king sent an embassy to Hungary where his nephew and his family lived, inviting them to return to England. The Worcester Chronicle states that the ætheling’s return was a precursor to Edward the Confessor’s designation of his nephew as heir and successor.²⁸ The young

²⁶ Stephen Baxter, "Edward the Confessor and the Succession Question," in *Edward the Confessor: The Man and the Legend*, ed. Richard Mortimer (Rochester, NY: Boydell, 2009), 86.

²⁷ M. J. Swanton, ed., *The Anglo-Saxon Chronicle*, trans. M. J. Swanton (New York: Routledge, 1998), 176.

²⁸ R. R. Darlington and P. McGurk, eds., *The Chronicle of John of Worcester*, trans. Jennifer Bray and P. McGurk (Oxford: Clarendon Press, 1995), 1:583.

Edward was perhaps a compromise as the future king. Edward the exile as the son of a king, Anglo-Saxon in heritage could satisfy the desires of the Anglo-Saxon elite and as a family member be acceptable for the Norman-bred Confessor. Nevertheless, Edward's death two days after landing in England in 1056 left the question of succession again unanswered. Edward's young son, Edgar, held close ties to King Edward until the death of the sovereign. Edgar was elected as king by the witan following the death of the Harold but his supporters deserted him for William when it became apparent that the Conqueror would win the war.²⁹

Norman chronicles tell of an oath sworn to Duke William in Normandy by Harold Godwinson, son and successor of Earl Godwin, in 1064. This event is fraught with questions, uncertainties and problems. There is no agreement between contemporaries or modern scholars as to the reason of Harold's journey of 1064; there is even doubt as to whether if Normandy was the destination. Some contemporary accounts state that Edward sent Harold to Normandy to confirm the designation of William as Edward's successor, while others that Harold's ship wrecked during a voyage to somewhere else. Still other sources state that Harold was visiting his brother and nephew whom were hostages at the Norman court.³⁰ The Bayeux Tapestry does depict a scene where Harold swears an oath to William; however, a previous scene reflects the receiving of arms.³¹ Therefore, it is unclear whether the oath is one of a vassal and overlord or the

²⁹ Nicholas Hopper, "**Edgar Ætheling (b. 1052?, d. in Or After 1125)**," Oxford Dictionary of National Biography, Oxford University Press, <http://www.oxforddnb.com.ezproxy.uta.edu/view/article/8465> (accessed 02/24, 2012).

³⁰ Baxter, *Edward the Confessor and the Succession Question*, 77-118

³¹ Andrew Bridgeford, *1066: The Hidden History in the Bayeux Tapestry* (New York: Walker, 2006), 88.

recognition of the appointment of William as successor to the English throne. It is difficult to understand Edward's role or confirm the events with English sources, as there is no recording by the Anglo-Saxon Chronicle for 1064.³² Further questions relating to the oath stem from whether or not William forced Harold to take the oath. Pro-Godwin sources argue that William forced the recognition of his status as heir after rescuing Harold from his imprisonment of Gui (Guy) de Ponthieu.

The oath sworn by Harold would be pivotal to William's argument for his claim to the throne. Harold was exiled and was not in England to take the oath in 1051 requiring that Harold, as leading magnate, eventually swear his fealty to William as heir.³³ William, without Harold, had no support in England upon which to maintain the primacy of his claim on the throne. Harold inherited a vast amount of wealth and land from his father and was himself a powerful and influential man at court. His relation to the royal family and the power he held would require him to help secure the throne or face opposition by others in England. Whether or not either of the oaths of 1051 and 1064 took place, William believed in his right to the throne. His successful defeat of Harold at the Battle of Hastings finally solved Edward's succession question.

2.3.3 Association

In the Middle Ages, social relationships were of paramount importance. These relations provided a broad network with which lords provided martial support and labor

³² Swanton, *The Anglo-Saxon Chronicle*

³³ Miles W. Campbell, "Earl Godwin of Wessex and Edward the Confessor's Promise of the Throne to William of Normandy," *Traditio* 28 (1972), 141.

and elites obtained power. But William held no lands as a vassal under Edward.³⁴ Such landholding was a visual and the most prominent way for persons to reflect a close and personal relationship. The witan, which elected the kings of Anglo-Saxon England, selected Harold as well as Edgar the Ætheling, both held lands in England and had a close family relationship with the king. Without land and tenants in England, William lacked standing and support through which to support his claim to the throne. Harold and Stephen's ascension to the throne was predicated by their vast amount of land and wealth in addition to their relation to the king. No surviving charter, grant or donation of Edward's mentions William, thus there was no evidence of a personal relationship. This need for association is repeated with Edward the Ætheling, as well as Arthur of Brittany and Empress Matilda; it was not enough to name them heir, they had to have a presence at court. Even more glaring is William's absence at the consecration of Westminster Abbey.

It is inconceivable that the designated heir, who received oath from all the magnates in 1051 and from the leading rival to the throne in 1064, would not attend the king's big event in 1065. Edward started the remodeling of the abbey in the 1040s and was set to consecrate the abbey in the late 1060s. The king's Norman sympathies can be seen again in the architecture as it is in the Romanesque style, much favored on the continent during the time.³⁵ The remodeling of the church was one of the reasons for Edward's canonization. He received his halo in 1161 not due to martyrdom but due to the holiness of his life. Edward's epithet of "Confessor" is short for "confessor of the

³⁴ Barlow, *Edward the Confessor*, 138.

³⁵ *Ibid.*

faith” and a type of saint.³⁶ Fittingly, after the consecration of his crowning achievement, Edward succumbed to his illness and died in early 1066, throwing England into a war for succession.

2.4 Heir of Silence

Although William followed Norman tradition and designated his eldest son Robert as heir to the duchy prior to his leaving for war in 1066, there seemed to be no inclination of William to do the same for the English throne. There was not another oath when designating an heir until Henry I in 1115. Many scholars examine the lack of designation of Robert but tend to ignore the absence for William II, Henry I, Richard I, and John. This study maintains that lack of oaths for heirs proves to be as important in understanding the evolution of the designation of heirs as the reception of oaths.

2.4.1 Conqueror's Sons

Robert, known to historians as Curthose, never obtained fealty from the English magnates as heir to the throne of England. There are many thoughts on the reason for the lack of an oath; no prevailing answer has emerged. Scholars argue revenge, lack of tradition and a desire to disinherit as possible reasons for the lack of designation of Robert.³⁷ In the twenty years since his coronation, William succeeded in securing the

³⁶ Camillo Beccari, "Confessor," <http://www.newadvent.org/cathen/04215a.htm> (accessed 02/17, 2013).

³⁷ John S. Beckerman, "Succession in Normandy, 1087, and in England, 1066: The Role of Testamentary Custom," *Speculum* 47, no. 2 (Apr., 1972), pp. 258-260.; R. H. C. Davis, "William of Jumièges, Robert Curthose and the Norman Succession," *The English Historical Review* 95, no. 376 (Jul., 1980), pp. 597-606.; Barbara English, "William the Conqueror and the Anglo-Norman Succession," *Historical Research* 64, no. 155 (1991), 221-236.; Emily Tabuteau, "The Role of Law in the Succession of Normandy and England, 1087," *The Hasten Society Journal* 3 (1991), 141-149.

throne and establishing his right leaving plenty of time to designate his eldest son had the Conqueror desired to do so.

Robert rebelled against his father twice. The first rebellion was in 1077 that lasted three years. He then pursued another revolt following the death of his mother in 1083 lasting until his father's death. These rebellions could have destroyed any inclination by William of recognizing his son as heir. Chroniclers relay that on his deathbed, it was William's desire to completely disinherit his eldest son. Attendants of the king immediately remind the Conqueror that according to laws of Normandy, a gift of land could not be taken back, so Robert retained Normandy.³⁸ Robert's disinheritation is no longer a controversial event due to the work of recent scholars. New scholarship on inheritance shows that the eldest son automatically inherited the land that his father inherited from his father. However, he did not inherit the land that the father acquired during his lifetime. New acquisitions were the father's to dispose of at his discretion, usually going to younger sons.³⁹ An augmentation of this concept can be seen later in medieval history, when the second son usually became associated with the maternal inheritance, as seen with Richard I.

Barbara English's argument that prior to his death William had made no decision as to the succession to the English throne has merit.⁴⁰ The Conqueror had to question leaving his war prize, England, to a rebellious son but conversely William I had to know that denying an eldest son a kingdom for a younger son would undoubtedly cause war.

³⁸ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 92.

³⁹ Tabuteau, *The Role of Law in the Succession of Normandy and England, 1087*, 141-149

⁴⁰ English, *William the Conqueror and the Anglo-Norman Succession*, 222.

Perhaps in the end, he did just as he proclaimed on his deathbed and left it in the hands of God.⁴¹ William, by providing his second son with the power to obtain the throne but not appointing him as heir, probably reasoned that a fight would ensue and trusted that the next king of England would be by God's will.

William's second son did ascend to the throne as William II, dubbed Rufus by historians due to his fiery temper as well as his reddish hair and/or complexion. Just as the Conqueror was sure to anticipate, the Norman realm divided between those who supported Robert and those in William II's court. Eventually Rufus secured his succession, but his bachelorhood and lack of sons left the question of succession in doubt. But for a brief period of peace between Robert and Rufus where they were named each other's heir, there was not a recognized heir to the throne. Frank Barlow argues that Henry, William I's youngest son, was the generally accepted heir of William II by 1100.⁴² However, there are problems with this argument. Contemporaries write of Henry's difficulty when attempting to get the keys to the treasury following the death of William II. The holder of the key argued that it was not Henry's but Robert's right to succeed.⁴³ It seems that due to undefined rules of succession, a general acceptance in society as heir to the throne was no guarantee of inheritance. As such, the ascensions to the throne of Henry I and William II read more like usurpations and less like successions by right of inheritance.

⁴¹ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 92-94.

⁴² Frank Barlow, *William Rufus* (Berkeley: University of California Press, 1983), 416.

⁴³ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 290.

2.4.2 Richard I

Richard I ascended to the throne of England by right of inheritance in 1189 following the death of his father, Henry II. The third son of Henry II and his wife Eleanor of Aquitaine, he survived both his older brothers, William and Henry, to become heir to the throne. However, his father never acknowledged him as heir. Henry did not recognize his first and second sons, even going as far as having his second and eldest surviving son, Henry, co-crowned with him. As with the reign of William I, too many sons created problems and eventually all of Henry II's sons rebelled against their father and overlord. As such, following the death of young Henry in 1183, the king refused to recognize Richard, now his eldest surviving son, as heir.

Richard was concerned about the lack of acknowledgement from his father and demanded recognition. Gerald of Wales states that Richard feared for his disinheritance in favor of his father's beloved and younger brother John.⁴⁴ Richard enlisted the help of his lord and oft opponent of his father, Philippe II Augustus, King of France, in his quest to be named heir. During negotiations between Richard, Henry and Philippe in 1189, Henry agreed to recognize Richard in exchange for Aquitaine and Alais, sister of Philippe, being given to his younger son, John. Both Richard and Philippe refused.⁴⁵ Richard as second son held Aquitaine and now Henry was expecting John, as the second son, to enjoy all the titles and lands that Richard held as a second son. If Richard feared for his inheritance, it clearly shows that primogeniture was still not customary and that the king and his sons

⁴⁴ Joseph Stevenson, ed., *Giraldus Cambrensis: Concerning the Instruction of Princes*, trans. Joseph Stevenson, Vol. V (London: Seeleys, 1858a), 291.

⁴⁵ *Ibid.*

still considered succession to be at the discretion of the king. By refusing to acknowledge Richard, Henry left the question of succession open and could have hoped to have a natural change in succession. It is possible that succession could alter with the death of Richard, a distinct possibility given Richard's passion for war and fight, or with a deathbed appointment of John, as seen with William I. Neither happened; Henry II died in 1189 and Richard succeeded to the throne of England without incident.

2.4.4 John

John, known as John Lackland, was the fifth and youngest son of Henry II and Eleanor of Aquitaine; his brothers, William, Henry and Geoffrey had predeceased their father. John was considerably younger than his brothers; he was born in 1166 around ten years after the birth of Richard. Historians believe that John was the favorite son of his father right up until his death, when Henry became aware of John's participation in the rebellion against him in 1189.⁴⁶ John held a curious position in English history and spent the majority of his life on the fringes of succession.

Richard I, like William II, was more interested in war than producing an heir to the throne. After less than a year, Richard left England, after milking it of wealth to fund his campaigns, and headed to Jerusalem on crusade. He hastily set up provisions for the governance of the realm, showing little care of the welfare of England or its citizens. As such, Richard did not appoint an heir as he left England and headed off on perilous journey across Europe.⁴⁷ He was in his mid-thirties when he married- old by the standards of the day. He spent little time with his wife, Berengaria of Navarre, and, not

⁴⁶ W. L. Warren, *Henry II* (Berkeley: University of California Press, 1973), 586.

⁴⁷ John Gillingham, *Richard I* (New Haven: Yale University Press, 2002), 125.

surprisingly, never produced an heir; given his lack of relationship with women, many historians speculate as to his sexual preference. Richard did briefly appoint his young nephew, Arthur, Duke of Brittany, as heir in a peace treaty early his reign, but nothing ever became of this as Richard abandoned his desire for Arthur's succession when he was unable to obtain custody of the young duke. Richard kept England and his brother questioning his intentions for succession until his deathbed.⁴⁸

During his long absence, John took advantage of the silence on the question of succession. Although he did not proclaim the position himself, he did not forbid others from calling him the heir of Richard.⁴⁹ Richard of Devizes, a supporter of Richard, sounds indignant at the temerity of John in allowing himself to be called heir. Devizes, obviously a pro-Richard chronicler, lacks a basis for his anger. Without a direct heir and no stipulation for succession, John could realistically claim such a title; however, to claim the title without the support of the king was not beneficial in his attempt to be publically acknowledged as heir. Nevertheless, John could be assured of the support of his mother, Queen Eleanor, over that of his rival Arthur of Brittany, son of Geoffrey (Henry II and Eleanor's fourth son). In addition, the absence of a direct or appointed heir meant, as seen with Henry II, that obtaining the keys to the treasury could gain the crown regardless of one's right. John was able to secure an oath as the heir to the crown during his power struggle with the chancellor William Longchamp.⁵⁰ This came to naught as Richard returned reminding John that he was nothing but the brother of the king and the king

⁴⁸ Ibid.

⁴⁹ Joseph Stevenson, ed., *Richard of Devizes, on the Acts of Richard the First*, trans. Joseph Stevenson, Vol. V (London: Seeleys, 1858b), 261.

⁵⁰ Ibid.

alone determined succession.⁵¹ John had to wait until Richard's deathbed testament to be named heir.

2.5 Designated by war

There is an anomaly in the Middle Ages, whereby heirs are designated by treaties. Treaties are formal agreements, usually written, that detail obligations for each party; usually treaties are between different leaders or governments. In the Middle Ages, treaties were the result of peace negotiations. Even though treaties were normally written down, an oath was involved whereby each party swore to uphold the conditions as set forth in the document. However, the treaty, just like the oath, was fragile and with the important exception of the Treaty of Winchester, the medieval treaties designating heirs to the English throne were invalidated or broken.

2.5.1 Conqueror's Sons

Following the ascension of William Rufus, his older brother, Robert Curthose with the support of the Norman magnates planned an invasion to gain the throne. Rufus, with the help of the English magnates, invaded Normandy in 1091 to secure his place on the throne. Before scrimmages transformed into war; however, Robert and William came to terms. Exactly where the treaty was drawn up is unknown; it has been narrowed down to either Caen or Rouen. Twelve men of Robert and twelve vassals of William swore to the covenants contained therein. Each king relinquished to the other the lands that held on the opposite side of the channel prior to the start of hostilities. A distinguishing point of the treaty was that each brother recognized the other as heir should he die without a

⁵¹ Gillingham, *Richard I*, 285.

legitimate heir.⁵² This effectively disinherited their younger brother Henry from succession to either Normandy or England. The peace between William and Robert lasted less than a year when Robert revoked the treat due to William's refusal to maintain its terms.

Following the death of William II, a similar situation occurred between Robert and Henry. Robert was on crusade when Rufus died in a hunting accident in 1100 and Henry ascended to the throne as Henry I. Upon his return, Robert was indignant, and invaded England; only after a disastrous showing did the two brothers come to terms in Alton in 1101. Twelve men from both sides swore to uphold the covenants that established peace, in the treaty written down in Winchester. As with the treaty between Rufus and Robert, land reverted to the owner as it was prior to invasion and each brother recognized the other as heir.⁵³ The treaty lasted for a short while and eventually Henry would usurp his brother's power by imprisoning his brother for life and taking control of the duchy.⁵⁴

At the time of these treaties, there was every reason to believe that each of the brothers would produce legitimate heirs. William and Robert were young, if unmarried. By the time of Winchester in 1101, Robert was married for a little less than a year and Henry's wife, Matilda, was pregnant. Knowing this, the reciprocal recognition as heirs is interesting. After the death of William II, there is no mention in contemporary sources of Robert's right to the throne in regards to the treaty. Nor was there any mention of the

⁵² Swanton, *The Anglo-Saxon Chronicle*, 226.

⁵³ *Ibid.*

⁵⁴ C. Warren Hollister, "The Anglo-Norman Civil War: 1101," *The English Historical Review* 88, no. 347 (Apr., 1973), 315-334.

treaty by the Norman magnates after the death of Henry's only son and heir. The peace treaties that designated heirs for the Conqueror's sons were a means to an end with no intent for either side to uphold the terms.

2.5.2 *Richard and Tancred*

On Richard's journey to the holy land on crusade word reached him that his sister, Joan, was held hostage in Sicily. Joan's husband, William II King of Sicily died childless in 1189, after which, a nobleman named Tancred seized William's empty throne. Richard went to Sicily to demand the dowry of his sister and to demand that Tancred fulfill the financial backing that William had pledged in support of Richard's crusade.⁵⁵ Noticeably absent is the demand for his sister's person. Tancred refused and Richard and his companion Philippe II of France laid siege to Messina. Tancred and Richard came to terms shortly thereafter. Those in the retinue of Richard and Tancred's men at court witnessed the treaty and swore to uphold the stipulations. Richard recognized Tancred as King of Sicily and in return, Tancred gave Richard money for his crusade and released his sister. The binding agreement also involved a contract for marriage between Richard's nephew, Arthur, duke of Brittany, and a daughter of Tancred. In the contract, Arthur is mentioned as Richard's heir, should he have no direct legitimate heir.⁵⁶

Why would Richard name Arthur his heir in a treaty but not declare his intentions prior to leaving England? Richard's betrothing of his nephew to a daughter of Tancred would mean less than if she were to marry the heir to the throne. Given that Richard was

⁵⁵ Stevenson, *Richard of Devizes, on the Acts of Richard the First*, 256.

⁵⁶ Henry Riley, ed., *The Annals of Roger De Hoveden*, Vol. 2 (London: H.G. Bohn, 1853), 164.

not only childless but also still a bachelor, the question of heirs remained uncertain, and Richard had no other available family members. That is not to say that Richard did not view Arthur as his heir or that he did not intend to designate Arthur as such eventually. In 1196, Richard attempt to gain custody of his young nephew was thwarted by Arthur's mother, Constance, the Bretons and the King of France. This bid for custody was assuredly an attempt to maintain access and groom young Arthur to be king. As already established in this study, without a personal relationship with the king hope for succession dwindled. At the time, the recognition of Arthur as heir made good diplomatic sense but that did not mean that the terms were permanent. Tancred died in 1194 and his family was unable to maintain their hold on the throne of Sicily, effectively nullifying the treaty.⁵⁷

2.5.3 Stephen and Henry

Following the death of Henry I in 1135, his nephew, Stephen, ascended the throne despite oaths designating Henry's daughter, Matilda. Stephen and Matilda each raised forces and threw England into a civil war. Stephen was able to secure his throne and eventually, Matilda was no longer able to gain support in England. Even after fleeing to the continent, she never relinquished her claim to the throne. By the late 1140s, Matilda's son, Henry of Anjou was actively seeking to obtain the throne of

⁵⁷ "Tancred." Encyclopædia Britannica Online, <http://www.britannica.com/EBchecked/topic/582215/Tancred> (accessed 04/24, 2013).

England, which he sought on the grounds of rightful inheritance.⁵⁸ Stephen and Henry were at an impasse and came to terms, drawing up a treaty late in 1153.

The document called the treaty of Winchester, also known as the treaty of Wallingford, ended the protracted war for inheritance.⁵⁹ In the treaty, Stephen was declared king for life and Henry became the heir to the kingdom. Contemporaries label the action as “adoption”; however, the treaty does not use this wording.⁶⁰ Perhaps this concept of adoption, was the only way to reconcile the disinheritance of a son of a king and the designation of a distant relative in his place. The chroniclers state that Henry was to ascend to the throne by right of inheritance. However, it is does not statue who he was inheriting from: Stephen, Matilda or even perhaps Henry I. The ambiguity of the wording seems deliberate allowing the participants to maintain their claims without diminishing the claims of the other. So binding was this agreement that between the death of King Stephen and Henry’s return to England six weeks later, there was no attempt by anyone to gain the empty throne.⁶¹

The use of treaties to recognize an heir was a common practice among the Norman and Angevin kings of England. They were fleeting designations and with little intent by the kings on its covenants being fulfilled. The kings used the fragility of the

⁵⁸ George Garnett, *Conquered England: Kingship, Succession, and Tenure, 1066-1166* (New York: Oxford University Press, 2007), 228.

⁵⁹ The term treaty for the settlement between Stephen and Henry has undergone examination by J C Holt. He argues that it is not a treaty but a charter. The term treaty will be used to maintain cohesion throughout this study. J. C. Holt, "Treaty of Winchester, 1153," in *Colonial England, 1066-1215* (London, 1974), 271-290.

⁶⁰ Robert Palmer, "Origins of Common Law," Fordham University Press, <http://vi.uh.edu/pages/bob/elhone/seisin.html> (accessed 2/17, 2013).

⁶¹ Diana Greenway, ed., *Henry of Huntingdon: The History of the English People 1100-1154*, trans. Diana Greenway (New York: Oxford University Press, 2002), 95.

treaties to their advantage. Stephen and Henry could have had the same intent but the short length between the signing of the treaty and the death of Stephen did not leave sufficient time to break the treaty's covenants. These treaties show that until the death of a sovereign that succession was uncertain, even with a designated heir.

2.6 Crises creates Evolution

In examining the use of the oath to designate a royal heir, a general pattern emerges. As the fragility of the oath became more of a hindrance than a help, sovereigns attempted to strengthen the oath. The method of using an oath to secure succession, transforms from a single oath to several oaths to the establishment of hereditary right. The three Henrys' desire to secure the throne for themselves and their descendants force the oath to evolve to the point of elimination.

2.6.1 Henry I

Henry I fought to maintain his seat on throne from his older brother, Robert Curthose. Unlike his brother and predecessor William II, Henry married and produced not just a son but also a daughter. The decision to marry soon after ascension appears to be a deliberate political move to differentiate himself from his predecessor.⁶² His daughter, Matilda, was born shortly after the Treaty of Winchester in 1101 and his son, William, in 1103. Henry used the oath to appoint William as his heir but also his daughter after the former's death.

Henry's son, William, is known among historians as William Adelin to differentiate him from the other Williams of the time period. The term Adelin is the

⁶² C. Warren Hollister, *Henry I* (New Haven: Yale University Press, 2001), 132.

Germanic translation of the Anglo-Saxon term “Ætheling” meaning “prince of royal blood”.⁶³ Adelin was the son of Henry I and his wife, Matilda of Scotland. Matilda as a descendant of the Anglo-Saxon royalty and Henry’s descent from the Conqueror made Adelin the true heir to the throne of England as well as the duchy of Normandy.

Adelin was recognized as heir to Normandy in 1115 and received the oath of fealty from the Norman magnates.⁶⁴ Henry had been the Duke of Normandy since 1106 when Henry defeated and imprisoned Robert Curthose. Adelin’s appointment in 1115 was not arbitrary; Henry needed Adelin to his heir so that his son could then perform homage to the King of France for duchy of Normandy. The act of homage created a hierarchy whereas the swearer subordinated himself to the receiver. Henry would not allow his status or prestige as king to be questioned or tarnished by allowing the King of France to be seen as superior. His young son would be able to perform homage without blemishing his good name or status. Upon his return from Normandy, Adelin received the oath of fealty for England in 1116.⁶⁵ Henry’s request that Adelin receive oaths in Normandy and England placed the young man to inherit England and Normandy as a unified kingdom, unlike any previous member of the Norman royal family.

During another trip back from the continent, such hopes for a unified kingdom were dashed. In 1120, the ship containing Adelin, his half-brother and half-sister, along with several other sons of the leading magnates, ran aground. The drunken and

⁶³ J. F. A. Mason, "William (1103-1120)," Oxford Dictionary of National Biography, Oxford University Press, <http://libproxy.uta.edu:2422/view/article/29453> (accessed 02/24, 2013).; Michael Lapidge, *The Blackwell Encyclopaedia of Anglo-Saxon England* (Malden, Mass.: Blackwell, 2001), 65.

⁶⁴ Swanton, *The Anglo-Saxon Chronicle*, 246.

⁶⁵ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 302.; Darlington and McGurk, *The Chronicle of John of Worcester*, 2:139.

debauched passengers ended up in the water, where Adelin, his brother and sister, and a handful of the future lords of England drowned.⁶⁶ King Henry was distraught at losing his children and England mourned the loss of its only heir. Despite his numerous offspring, Henry had no other legitimate sons, leaving only a legitimate daughter. Immediately, the question of succession arose.

Matilda was his only surviving legitimate child and Henry scrambled to secure the succession for her and his descendants. At the time of Adelin's death, Matilda was living with her husband, Emperor Henry V, in the Holy Roman Empire. Matilda did not return to realm of her father until 1125 following the death of her husband in 1124. Although there is no mention by contemporaries of Matilda as heir prior to 1125, Karl Layser argues that Matilda certainly played a part in Henry's succession plans as early as 1122.⁶⁷ Given Henry's circumstances and options, Layser's argument has merit. Following her return, Henry presented Matilda to his magnates as his heir and she received their oaths of fealty.

At the Christmas council of 1126 in Northampton, Matilda received the oath of fealty as heir. The first to swear was none other than her uncle, King David of Scotland.⁶⁸ Those present swore to defend Matilda's right to the crown against all, excepting any legitimate sons born to King Henry.⁶⁹ Matilda received another oath in 1131 in Normandy following reconciliation with her second husband, Geoffrey of Anjou.

⁶⁶ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 304.

⁶⁷ Karl Layser, "Anglo-Norman Succession 1120-1125," *Anglo-Norman Studies....Proceedings of the Battle Conference* 13 (1990/1991), 225-241.

⁶⁸ Swanton, *The Anglo-Saxon Chronicle*, 256.

⁶⁹ Darlington and McGurk, *The Chronicle of John of Worcester*, 2:176.

This oath renewed the previous oath for those who had taken it previously and established the oath for those barons who previously had not sworn.⁷⁰ John of Worcester mentions an oath in Easter of 1128 but studies on the itinerary of Henry I argue this was impossible since he was not in Normandy during this year.⁷¹ It is unclear if Worcester mistook the oath of 1128 for the original oath of Christmas 1126 or a subsequent oath. The chronicle of Roger de Hoveden mentions another questionable oath. He states that in 1135 Matilda and her young son, Henry of Anjou, received an oath naming Henry king after the death of Henry I.⁷² Scholars believe this last oath to be a fabrication made by a much later writer, possibly, in support of Henry of Anjou's claim to the throne.⁷³

William Adelin received two oaths, one in 1115 from Norman magnates and the other in 1116 from the English barons. Matilda received two, possibly three oaths. It would be reasonable to assume that like the first oath taken, Matilda I received fealty as heir for both England and Normandy. Even with the change of heir, Henry still desired his descendants to rule over England and Normandy as a united kingdom. If this is correct, then why did Matilda require the additional oaths? One possible answer is the passage of time. As Malmesbury argued, the 1131 oath renewed the earlier oath for some and created new bonds with the oath for others. Another reason would undoubtedly be that as the circumstances changed there was a need to renew the oath. By 1131, Matilda was married and re-united with her husband. Henry went to Normandy prior to Matilda's

⁷⁰ Joseph Stevenson, ed., *William of Malmesbury: The History of the Kings of England and of His Own Times*, trans. Joseph Stevenson, Vol. VI (London: Seeleys, 1853), 487.

⁷¹ Darlington and McGurk, *The Chronicle of John of Worcester*, 1:ix.

⁷² Riley, *The Annals of Roger De Hoveden*, 224.

⁷³ Marjorie Chibnall, *The Empress Matilda: Queen Consort, Queen Mother, and Lady of the English* (Cambridge, Mass.: Blackwell, 1992), 61.

reconciliation with Geoffrey; it is possible that Henry reminded Matilda that a husband was required to beget heirs and that without heirs Henry would need to make other arrangements for succession. The last possibility was that Henry worried that the magnates would not support an heiress, so he kept requiring oaths to legitimize the claim. There already had been uprisings in Normandy in support of his nephew, William, the son of Robert Curthose, prior to Adelin's death. Henry hastily married following the *White Ship* disaster in an effort to beget a son. This marriage coupled with an additional caveat regarding a male heir lends credence to the idea that maybe Henry, himself, questioned the legitimacy of Matilda as heir but had no choice if he wished his descendants to remain the kings of England and dukes of Normandy. Even the *Gesta Stephani* argues that Henry believed that the oath of 1126 would not be kept by Henry's magnates.⁷⁴ If this is true, then Henry would have desired to provide all the support for Matilda's claim to the throne that he could obtain since there would undoubtedly be a struggle for the throne.

Henry never entertained any other claimants publicly. Scholars have examined the potential of Robert, Duke of Gloucester and Stephen of Blois as heirs.⁷⁵ They conclude that Henry never considered Gloucester, even though he was the son of Henry and a power magnate in England because his illegitimacy removed him from the right of succession. Since Anglo-Saxon times, there has been a ban on illegitimate children ascending to the throne. In an attempt to secure Stephen's right to the throne, an argument circulated that Matilda was illegitimate due to the circumstances surrounding

⁷⁴ K. R. Potter, ed., *Gesta Stephani*, trans. K. R. Potter (New York: Oxford University Press, 1976), 11.

⁷⁵ Layser, *Anglo-Norman Succession 1120-1125*, 240.

the marriage of Henry and his wife Matilda. It is argued that she was a nun when he forced her to marry him.⁷⁶ A vow as a nun would negate any ability to marry a layman as she was already married to God. Henry was heavily involved in the life of Stephen; he helped to negotiate Stephen's marriage to the heiress of Boulogne and making him a principal at the king's court. Nevertheless, there is no evidence to suggest that at any point was Stephen a part of Henry's succession plans. But as Layser suggest, this does not preclude the possibility that Stephen could have been a backup in the event that Matilda's became ineligible.⁷⁷

Contemporaries entertained the idea of the designation of Henry's nephew, William of Normandy, almost immediately after the death of his son, Adelin.⁷⁸ Known as William Clito to historians, he was the only son of Henry's older brother, Robert.⁷⁹ Following the capture and imprisonment of Robert, Henry sent Clito to foster in the household of Helias of Saint-Saens. Ordericus Vitalis states that Henry intended to make Clito the equal to Adelin.⁸⁰ Modern scholars tend to believe that such maneuvers were undertaken by Henry to control Clito and regulate his claim to the duchy.⁸¹ Just prior to the *White Ship* disaster, a rebellion led by Norman magnates in the name of Clito occurred in an effort to place the young man on the ducal seat. Henry became increasingly nervous at the growing popularity of the young Clito in Normandy, England and the continent. This is further evidenced by Henry's interference with Clito's

⁷⁶ Hollister, *Henry I*, 128.

⁷⁷ Layser, *Anglo-Norman Succession 1120-1125*, 225-241

⁷⁸ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 328.

⁷⁹ C. Warren Hollister, "William (1102–1128)," *Oxford Dictionary of National Biography*, Oxford University Press, <http://libproxy.uta.edu:2422/view/article/58402> (accessed 02/24, 2013).

⁸⁰ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 289.

⁸¹ Layser, *Anglo-Norman Succession 1120-1125*, 226.

marriage. Soon after the death of William Adelin, Clito married the daughter of the Fulques (also spelled Fulk), Duke of Anjou; Fulques' older daughter was the widow of young William Adelin. Henry asked the Pope to investigate and had the marriage annulled based on the closeness of blood relationship.⁸² Any threat from Clito and his supporters in Normandy vanished when the young man died during a fight to maintain his lordship of Flanders in 1128.⁸³

After the death of Henry I, Matilda did not ascend the throne rather his nephew, Stephen of Blois, was able to secure his election as king. Matilda's lack of support in England and Normandy allowed for little resistance against Stephen election. Unlike William Adelin, Matilda was never associated with the rule of Normandy. The lack of association with the government of Normandy caused tension between Matilda, her husband Geoffrey and King Henry. Perhaps if Henry had arranged for Matilda and Geoffrey to establish a power base in Normandy then Matilda and Geoffrey would have had more baronial support then Stephen would never have been crowned king.

2.6.2 Henry II

After years of struggle, Henry I's vision of succession became a reality but not in the way he intended. His grandson would become king but not as an heir of him or his daughter, Matilda, but succeeding his nephew, Stephen. The English magnates and the London populace elected Stephen as king because of his family ties to the king and also his wealth and character. Stephen justified his claiming of the throne with the argument

⁸² William Clito married the daughter of Fulk, duke of Anjou. Fulk was also the father of widow of William Adelin and Geoffrey, husband to Matilda.

⁸³ Hollister, *William (1102–1128)*

that he was forced to take the oath by Henry. According to English common law, an oath taken under duress was invalid.⁸⁴ This argument may not have been accepted by all contemporaries, as Stephen's right to the throne was questioned when he petitioned the Pope to have his son and heir, Eustace, co-crowned. The 1153 invasion by young Henry of Anjou had both the armies of Henry and Stephen at a stale mate, requiring a compromise. The Treaty of Winchester settled the question of the right to the throne whereby Stephen retained the throne until his death and Henry would succeed by right of inheritance as Henry II.

Henry's status as heir was murky for much of his young life. Obviously the heir of Stephen, but was he officially the heir of Matilda or Henry I. Matilda maintained her right to the throne and labeled Henry her heir in many of her charters.⁸⁵ Roger de Hovden and Robert of Torigni saw Matilda's sons as the true heirs to the kingdom and her only the protector of that right.⁸⁶ The role of the grandsons of Henry I needs consideration if Layser's argument about the role Matilda was to play prior to the death of her husband, has any merit. Given Henry I's obvious preference for males rather than females, succession could have defaulted to young Henry without incident had he reached maturity prior to the death of his grandfather.

Henry of Anjou's struggle to obtain the throne caused a shift in inheritance itself as well as for the royal heir. The existence of a trans-channel realm allowed for multiple concerns about inheritance. The civil wars of Stephen/Matilda and Stephen/Henry

⁸⁴ Potter, *Gesta Stephani*, 13.

⁸⁵ Garnett, *Conquered England: Kingship, Succession, and Tenure, 1066-1166*, 228.

⁸⁶ Riley, *The Annals of Roger De Hoveden*, 224; Van Houts, *The Gesta Normannorum Ducum of William of Jumièges, Orderic Vitalis, and Robert of Torigni*, 241.

further increased the confusion. The granting and re-granting of land during the civil war as one side gained the upper hand, left many in doubt of who actually owned the land after the peace settlement. Henry created the law of mort d'ancestor, which allowed the court to hear questions of problems regarding inheritance. Mort d'ancestor strengthened the position of heirs in England and helped to create a system of inheritance.⁸⁷ Henry's problems with succession along with the consequences of the protracted civil war pushed the king to develop the legal means to secure the inheritance for Englishmen and his sons.

Due to his problems with succession, Henry had his two eldest sons, William and Henry, designated as heirs to the kingdom early. According to Robert de Monte, in 1155 Henry had his barons swear to fealty to his heir, two-year-old William and in the case of his death, his infant brother Henry.⁸⁸ Childhood mortality was high in the middle ages but even knowing that, the additional caveat regarding the death of the eldest son is problematic. It is too fortuitous that Henry had both sons designated and that the eldest son was to die shortly thereafter. The swearing to both sons undoubtedly would have left the validity of the oath open for debate. It is more plausible that the oath to both sons was a later fabrication in support of young Henry.

Nevertheless, Henry was not content to merely have his son designated by oath of fealty. In 1170, the Henry II had his oldest surviving son, Henry, co-crowned as king of England.⁸⁹ It was a curious move, if the intent was to secure succession for his son.

⁸⁷ John Hudson, *The Formation of the English Common Law: Laws and Society in England from the Norman Conquest to Magna Carta* (New York: Longman, 1996), 215.

⁸⁸ Joseph Stevenson, ed., *Robert De Monte, the Chronicle of Robert De Monte*, trans. Joseph Stevenson, Vol. VI (London: Seeleys, 1852), 675-813.

⁸⁹ Darlington and McGurk, *The Chronicle of John of Worcester*, 289.

The likelihood of interference in the ascension of young Henry, if Henry II should die, was slim, as he was direct descendant from the king and male. Although, the strategy could have been employed to ensure no battle ensued between his sons, as seen with William I. The unique association of young Henry caused strife between father and son, as the king retained all the power and the junior king was only a figurehead, which ended only with the death of the younger Henry in 1183.⁹⁰ King Henry never co-crowned his next surviving son, Richard; in fact, he refused to acknowledge him as heir in any capacity.

2.6.3 Henry III

Henry III was the son, heir and successor of John and ascended the throne while still a minor. Henry inherited not only his father's throne but also John's baronial discontent. Henry III had his son Edward receive several oaths from the barons of England. He received one oath shortly after his birth and then two prior to the baronial revolt of 1264. As with Henry I, the multiple oaths seem to be used to secure the inheritance of a child during a time of questionable loyalty to the heir. Born in 1239, Edward received his first oath prior to his first birthday.⁹¹ During the uprisings of the barons, Edward was to receive two more. In 1261 on the feast of St. Valentine's and again in 1263 at a meeting at St. Paul's Cross, all persons over twelve years of age swore fealty to the king and his heir. At the oath in 1263, Henry demanded the aldermen locate

⁹⁰ Elizabeth Hallam, "Henry (1155-1183)," Oxford Dictionary of National Biography, Oxford University Press, <http://www.oxforddnb.com.ezproxy.uta.edu/view/article/12957> (accessed 02/24, 2013).

⁹¹ J. A. Giles, ed., *Matthew Paris, English History from the Year 1235 to 1273* (London: Bohn, Henry G, 1852), 260.

those men unable to attend and obtain their oaths.⁹² Clearly, there is a level of desperation in the oaths, as the king tried to hold onto his throne and secure any future inheritance for his son. There was no evidence of an oath after the quelling of the barons in 1265. However, maybe there was no need for an oath. Following the death of Henry III, Edward ascended to the throne with no struggle despite being in Sicily at the time and returning to England 2 years after his father's death. No brother attempted to usurp the throne from Edward and there was no a question of who would succeed. Edward I was the first king to ascend to the throne by hereditary right.⁹³

2.7 Conclusion

The oath was an important aspect of feudal government and social relations in the middle ages. It bound people together using religion, and the presence of witnesses attempted to hold them to their verbal oaths. However, religion and witnesses did not do much to strengthen the fragile oaths that heirs received to secure their inheritance. From William I to Edward I, the oath obtained by royal heirs transformed until it became obsolete. From a single oath, then to several oaths, and going to extremes to designate their sons, the Henrys of the middle ages changed the understanding and method of the designation of the royal heir. Henry I, Henry II and Henry III manipulated the unstructured rules of the inheritance to maintain and strengthen their power over the throne. With the legal developments begun by Henry I, the law of primogeniture was firmly established as the mode of inheritance for all tenures, including the crown, by the

⁹² Douglas and Rothwell, *English Historical Documents, 1189-1327*, 162-167.

⁹³ F. M. Powicke, *King Henry III and the Lord Edward: The Community of the Realm in the Thirteenth Century* (Oxford: Clarendon Press, 1966), 589.

thirteenth century.⁹⁴ The sons of Edward I did not require an oath because the question of hereditary right was solved during the ascension of Edward; however, the line of succession was still not solidified and for many royals the question of the right to succeed remained unanswered.

⁹⁴ Simpson, *A History of the Land Law*, 51.

Chapter 3

Bequeathed a Kingdom

All kings and queens of England and Great Britain wrote wills and testaments and bequeathed their property like any other civilian. The meaning of the terms “will” and “testament” varies depending on the time and place.⁹⁵ A testament is the listing of possessions and the will is the actual disposal of said property. By their wills and testament, sovereigns gifted money, land and property to their children and religious institutions. There were a few instances, however, where the dying sovereign used the will or testament to determine heirs and delineate succession. After the solidifying of inheritance with primogeniture, sovereigns need to find another way to distribute their power. This study details the progression from the deathbed testament of medieval monarchs to the development of the entail and the written will of the high Middle Ages and early modern era.

3.1 Scholarship

3.1.1 Scholarship on Deathbed Bequeaths

The majority of scholarship on wills and testaments focuses on the development and legality of the will in history. Michael Sheehan’s book on the will in medieval England is the leading authority on the history of the will in England.⁹⁶ It examines the development and evolution of the will focusing on the civilians rather than the sovereigns

⁹⁵ Michael M. Sheehan, *The Will in Medieval England, from the Conversion of the Anglo-Saxons to the End of the Thirteenth Century* (Toronto: Pontifical Institute of Mediaeval Studies, 1963), 19.

⁹⁶ *Ibid.*

of England. The book emphasizes the structure of the will and the role the legal system played in the execution of the will and testament.

3.1.2 Scholarship on Sovereign's deathbed

Scholarship on the wills and testaments of sovereigns is not extensive. However, with the recent trend of ceremony and pageantry, scholarship has begun on the funeral and burial of royalty. Nevertheless, deathbed testaments receive little attention from historians as a whole, although the article by H. E. John Cowdrey on death bed testaments concludes that some deathbed descriptions might have been adapted by later scribed to justify circumstances.⁹⁷ Any attention to will and testaments of monarchs is a part of larger debates usually in connection with the Conqueror. The entail is not much studied but the scholarship it does receive is by legal historians. Michael Bennett's article has sparked interest in the entail and its meaning for the question of succession that existed from the death of Prince Edward through to the ascension of Edward IV.⁹⁸ The collection of royal wills edited and compiled by John Nichols is the premier source of the wills of sovereigns through to Henry VII, though, it is only a compilation, which does not analyze or examine the documents.⁹⁹ Of course, scholars have examined the individual wills of sovereigns. Nevertheless, there is an absence in research as to the designation of an heir or heirs by the use of a will or testament.

⁹⁷ H. E. John Cowdrey, "Deathbed Testaments," in *Popes and Church Reform in the 11th Century* (Burlington, VT: Variorum, 2000), 724.

⁹⁸ Bennett, *Edward III's Entail and the Succession to the Crown, 1376-1471*, pp. 580-609

⁹⁹ John Nichols and Richard Gough, eds., *A Collection of all the Wills, Now Known to be Extant, of the Kings and Queens of England, Princes and Princesses of Wales, and Every Branch of the Blood Royal, from the Reign of William the Conqueror to that of Henry the Seventh* (New York: Kraus Reprint, 1969), 434.

3.2 Death Bed Appointments

Deathbed appointments did not mean the absence of a will. The written will did not become common until the later centuries of the middle ages due to the level of illiteracy throughout England and the continent.¹⁰⁰ On their deathbeds, the dying sought absolution and provided for their heirs in land, property and chattel. The often-studied deaths of St. Edward and William the Conqueror hold a place of importance among the discourse on the designation of heirs. These deathbed testaments of Edward the Confessor, William I and Richard I not only sought to give away their worldly possessions but also their divine right to the crown.

3.2.1 Edward the Confessor

Scholars have thoroughly studied the deathbed appointment of Harold Godwinson by Edward the Confessor in 1065. The majority of the debate focuses on the validity of the event and the legality of the appointment of an heir, if it occurred. These questions have existed since the death of St. Edward. It is unlikely that historians will ever be able to answer these questions if those with first-hand knowledge were unable to provide it.

In 1065, Edward who was around sixty years of age became sick. Around Christmas, he began to weaken but roused long enough to hold court and see the consecration of his newly restored Westminster Abbey. Though for days he lay delirious, he regained consciousness and clarity long enough to confess his sins and make

¹⁰⁰ Sheehan, *The Will in Medieval England, from the Conversion of the Anglo-Saxons to the End of the Thirteenth Century*, 144.

his last testament. It is during this moment of lucidity that he was said to “commend” his wife and the kingdom to Harold’s protection.¹⁰¹ This is according to the pro-Godwin source called of the *Vita Aedwardi Regis*. The Queen Edith, the wife of Edward and the sister of Harold, commissioned this book, so the account is suspect. Several other sources also mention the gift of the kingdom by Edward to Earl Harold. The Bayeux Tapestry also reflects the appointment and election of Harold, which suits the Norman justification of the invasion of 1066. Most scholars agree that the appointment occurred but they now question if the appointment was freely and lucidly given or coerced by Harold. The pro-Norman chronicler, William of Poitiers, does not discount the existence of the deathbed appointment. The Conqueror’s point of contention according to Poitiers was not the appointment of Harold but that Harold accepted the crown against the oath previously sworn to William as heir.¹⁰²

The *Gesta Guillelmi* of William of Poitiers states that the Harold argued with William on the battlefield that England was his by right of Edward from his deathbed.¹⁰³ William claimed the throne by right of the oath from Edward and the English magnates, including Harold. According to J. S. Beckerman, one of the causes of the Conquest was a difference of testamentary customs. In Normandy, once something is gifted cannot be re-gifted later without the consent of the prior receiver. However, in England, the deathbed testament trumps all previous gifts.¹⁰⁴ Some scholars have expressed that Beckerman’s argument is too simplistic since the customs of both Normandy and England were in

¹⁰¹ Barlow, *The Life of King Edward Who Rests at Westminster*, 123.

¹⁰² Barlow, *Edward the Confessor*, 252.

¹⁰³ Davis and Chibnall, *The Gesta Guillelmi of William of Poitiers*, 119.

¹⁰⁴ Beckerman, *Succession in Normandy, 1087, and in England, 1066: The Role of Testamentary Custom*, 258-260.

transition during the early eleventh century but the crux of Beckerman's argument has not been disputed.¹⁰⁵ If the deathbed appointment of Harold as heir did in fact occur, then both William and Harold had a just claim to the throne according to their own customs regarding inheritance.

Nevertheless, the deathbed appointment of Harold differs from the Anglo-Saxon custom of kingship. Traditionally, an ætheling became king due to election by the witan who usually chose the family member with the most land, wealth and court influence. Harold had the power and the family ties, but then he should have claimed ascension to the throne by election alone. William of Normandy's lack of any association with the English government prior to the death of Edward the Confessor did not allow for any support in the witan. Deathbed appointments do not appear in Norman succession history, either. Heirs were determined prior to death with the oath of fealty received from the leading magnates. Edward would have known both the customs for ascension of kings and dukes as well as the laws of inheritance of England and Normandy. It is difficult to believe that the king would break against both customs and use a deathbed appointment. Whether or not he used the oath to appoint William or used a deathbed testament to appoint Harold, it is clear that Edward failed to secure the ascension for any heir and thus threw England into the mists of a battle for the right of succession.

3.2.2 *William I*

William I did not repeat mistakes of his predecessor. After a battle in the French countryside, William fell ill, perhaps due to an injury after falling on his pommel.

¹⁰⁵ Baxter, *Edward the Confessor and the Succession Question*, 42.

Seeking succor, William prepared for death with confession and by providing his final testament. Despite seemingly desiring to do the opposite, on his deathbed William I confirmed his son Robert's position as heir of the duchy of Normandy. He did not appoint or confirm any inheritance of Robert to the English throne. Many chroniclers describe the argument by those present reminding the king that he could not disinherit his son from Normandy as it was already gifted. Contemporaries do describe William granting the kingdom to God and possibly, his second son, William Rufus.

The *Gesta Normannorum Ducum* claims that William gave the royal regalia of crown, sword and scepter to his second son William.¹⁰⁶ It does not say that with this regalia came the kingdom but the lack of clarification allows for the assumption. Scholars have further examined the gifting of the regalia to Rufus. The belief is now that the Conqueror's gift was not symbolic for the kingdom but rather his to distribute to the church of Saint-Etienne (Saint Stephen) at Caen in accordance with the deathbed testament of William.¹⁰⁷ That does not mean that by entrusting Rufus with symbols of sovereignty for the church, William was not implying that Rufus should also be entrusted with the kingdom. Ordericus Vitalis has William granting the kingdom of England "to the hands of the Creator".¹⁰⁸ This could have reflected William's assumption that the decision not to bequeath the kingdom to Robert would result in a civil war and that the outcome would be God's decision on who had the right to inherit the kingdom.

¹⁰⁶ Van Houts, *The Gesta Normannorum Ducum of William of Jumièges, Orderic Vitalis, and Robert of Torigni*, 187.

¹⁰⁷ Ibid.

¹⁰⁸ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 92.

There are little remarks amongst contemporaries as to the response to the ascension of William at the expense of Robert. While the Norman lords supported the claim of Robert to the throne, William was able to secure the election to the throne and the support of the English barons. There appears to be no record of surprise or question by those present at the last moment of the conqueror's life, with his disposal of the kingdom. It is likely that the account written later did not wish to express question of William's right to the throne. Cowdrey's research on the deathbed testament of William argues that the description of Ordericus Vitalis and the *De obitu Willelmi ducis Normannorum* are not eyewitness accounts. The *De obitu Willelmi* is copied from Einhard's Life of Charlemagne. Vitalis' description of the testament is tainted by his Anglo-Saxon heritage and his admiration of the reign of Henry I.¹⁰⁹ As with Edward's final moments, the stories of the death of Conqueror, leaves more questions than answers. All that is clear is that an heir was appointed on his deathbed; it was either William or God. Perhaps all that scholars can conclude is that the kingdom could be granted like land and that securing the throne secured one's right to claim it.

3.2.3 Richard I

Fittingly, Richard I met his end on the battlefield. During a siege in Limoges, Richard took a crossbow arrow to the arm. The wound became gangrenous following the visit from a surgeon. Seeing the end was near, Richard set his affairs in order by naming his successor and distributing his wealth. He required those present to swear fealty to

¹⁰⁹ Cowdrey, *Deathbed Testaments*, 720-722.

John and to distribute his lands to John along with three-fourths of his treasure, his jewels would go to his nephew Otto and the rest of his treasure to charity.¹¹⁰

Nothing was mentioned of his previous designation of his nephew Arthur. In fact, there were no mentions of Arthur any capacity by Richard on his deathbed. Perhaps Arthur fell out of favor with Richard when he was unable to secure his person. Richard's attempt to gain custody of the boy in 1196 was thwarted as the Bretons sent him to the court of Richard's rival the king of France, for sanctuary. His continued presence at the French king's court did not endear him to his uncle or the English.¹¹¹ There is perhaps another reason. Arthur simply had no chance of securing the throne against his uncle John.

John had already proven himself desirous of the English throne and had succeeded in obtaining a fleeting oath of fealty from the English barons during Richard's long absence. John was a married adult male in his thirties who had spent his life in and around the court of his father and brother. Arthur was a minor around twelve years old who had spent his brief life in hiding from his uncle at the court of the king of France. John laid claim to the throne and all continental properties of his brother and the Angevin dynasty. Arthur's right to the continental properties of Anjou, Maine and Brittany was asserted by the magnates of those territories. Arthur and John came to terms with the help of King Philippe of France and Arthur submitted himself to the protection of

¹¹⁰ Riley, *The Annals of Roger De Hoveden*, 2:453.

¹¹¹ Michael Jones, "Arthur Duke of Brittany (1187–1203)," Oxford Dictionary of National Biography, Oxford National Biography, <http://www.oxforddnb.com/view/article/704> (accessed 03/03, 2013).

Philippe and paid homage to John.¹¹² Arthur had no support in England and Richard would have known that the young man had little hope of maintaining any claim to the throne as long as John lived.

Arthur did have proponents in England and the continent who supported his right to the throne. However, with the undefined rules for primogeniture, there was no clear claim of right of inheritance between the son of an older brother and that of the uncle. Glanvill, the authority of English law in the twelfth century, did not know who had the greater right and held that each claimant had a right depending on certain conditions being met.¹¹³ John's ascension did not hold precedent for succession, as the grandson would eventually become the primary heir over that of his uncle. The law of primogeniture would solidify by the reign of Edward I.

3.3 Entails

Entails were a legal device, which allowed for the inheritance of property outside the structure of common law.¹¹⁴ They were more secure than deathbed testaments as they were usually made prior to illness and imminent death. The entails created by the kings of England define a line of succession rather than designating one specific successor. This attempted to eliminate the question of inheritance should the direct line of heirs cease. Edward I and Edward III both used entails to delineate succession in hopes of staving off any problems of succession following their deaths.

¹¹² Walter Ullmann, "Arthur's Homage to King John," *The English Historical Review* 94, no. 371 (Apr., 1979), 356-364.

¹¹³ Hall, *The Treatise on the Laws and Customs of the Realm of England Commonly Called Glanvill*, 77-78.

¹¹⁴ Eileen Spring, *Law, Land & Family: Aristocratic Inheritance in England, 1300 to 1800* (Chapel Hill, NC: University of North Carolina Press, 1993), 28.

3.3.1 *Edward I*

Edward was the father to at least sixteen legitimate children, only a handful of whom survived their father. In 1290, Edward gathered his family in Amesbury prior to the marriage of his daughter Joan. It was at this time that Edward outlined the line of succession to his future son-in-law, Robert de Clare, Earl of Gloucester. Should the king die the crown would devolve to his only living son, Edward; failing any heirs of his body, it would transfer to his eldest daughter Eleanor and her heirs, then Joan and her heirs, continuing down the line of daughters and heirs. Gloucester swore on the saints in the presence of fourteen witnesses to uphold Edward's entail.¹¹⁵

The loss of Edward's only surviving son, Alphonso, a few months after the birth of young Edward in 1284 would have left the king with a concern for succession. However, the question arises as to why Edward chose the time and place that he did. It is also possible that Edward anticipated no future sons with his wife. Eleanor of Castile neared fifty years of age in 1290 - beyond childbearing years for medieval women. Eleanor had been pregnant every other year since 1264, so the absence of a pregnancy for six years would presume the queen having reached menopause. Since Edward could not anticipate the death of Eleanor later in the year, thus allowing for another chance to produce sons, Edward had to make provisions for his living children.

In his article, "Legitimation, Designation and Succession to the Throne in Fourteenth Century England", Given-Wilson emphasizes the fact that Edward's entail was not proclaimed and that succession was decided as a family affair. Edward used

¹¹⁵ Given-Wilson, *Legitimation, Designation and Succession to the Throne in Fourteenth-Century England*, 99.

common law for inheritance as though the kingdom was his to dispose of.¹¹⁶ History has shown that the king could delineate succession as his wish as long as the heir was strong enough to secure the claim. Given-Wilson makes too much of Edward's lack of council in his determination of succession. William I, Henry I, Stephen and Richard I all disposed of the kingdom at their will, although, admittedly it was not during a time of a Parliamentary influence. In addition, it was common for those writing their wills to keep them secret to lessen the pressure to revoke.¹¹⁷ In 1290, the king was not dying, his son was alive and healthy, and although he prepared for the worst, he had every reason to hope that he and his son would enjoy a long life. Edward needed to be able to alter the line of succession as needed and therefore he would need to wait to proclaim his intentions for inheritance until time demanded it.

The fact that the entail was drawn up at the marriage of his second surviving daughter to a powerful English earl was significant. Edward's decision to proceed with this marriage knowing that his eldest daughter, Eleanor, had yet to marry, makes the entail much more vital. Eleanor's betrothal to Alfonso III of Aragon had yet to occur due to an interdict and injunction placed on the family of Alfonso by the Pope.¹¹⁸ Should Edward die prior to the Eleanor's marriage, it would be wise for Edward to ensure that the husband of a younger daughter did not call claim to the throne against the right of his eldest daughter. Gloucester was a wealthy, influential baron as well as power hungry and Edward would need to keep Gloucester reigned in.

¹¹⁶ Ibid.

¹¹⁷ Sheehan, *The Will in Medieval England, from the Conversion of the Anglo-Saxons to the End of the Thirteenth Century*

¹¹⁸ "Alfonso III." Encyclopaedia Britannica Online, <http://www.britannica.com/EBchecked/topic/14654/Alfonso-III> (accessed 04/29, 2013).

3.3.2 *Edward III*

Like his grandfather, Edward III also used the entail to ensure the succession along lines he desired. Following the death of his eldest son in 1376, Edward III fell ill and during this time wrote down his desires regarding succession. He named as his successor, his grandson, Richard, and failing any heirs of his body, Edward's second son, John of Gaunt and his heirs following down the line of sons.¹¹⁹ There is an obvious absence of any mention of his predeceased son Lionel, his daughter, Philippa, or her son, Roger Mortimer.

The establishment of succession along a male line begins to become popular at this time in the fourteenth century. Eileen Springs argues that this is due to the emergence of new titles, which inherited only in tail male.¹²⁰ Given that the king is granting titles in tail male only, it would only make sense that he would seek to secure the throne in the same line as well. Michael Bennett argues that the terms of Edward III's entail lends credence to the claim by Thomas Walsingham that John of Gaunt sought to secure succession to the throne along the male line only.¹²¹ Thus eliminating the claim of his older brother's daughter and her heirs and effectively ensured his inheritance to the throne. Scholars note, though, that Walsingham was exceedingly biased against John of Gaunt and therefore events might not be exactly as there were presented.¹²² The English throne has always enjoyed the preference of males but not to the exclusion of females as

¹¹⁹ Bennett, *Edward III's Entail and the Succession to the Crown, 1376-1471*, 583.

¹²⁰ Spring, *Law, Land & Family: Aristocratic Inheritance in England, 1300 to 1800*, 104.

¹²¹ Bennett, *Edward III's Entail and the Succession to the Crown, 1376-1471*, 586.

¹²² John Taylor, Wendy R. Childs and Leslie Watkiss, eds., *The St Albans Chronicle: The Chronica Majora of Thomas Walsingham* (New York: Clarendon Press, 2003), lxxiii.

would be seen when Henry IV tried to pass the same limitation through Parliament in 1406.¹²³ There is no record of Walsingham's claim in the rolls of Parliament and Bennett's argument does not hold up when considering the entail's lack of use to justify the claims of Lancaster in the reign of Richard II.

Like Edward I, Edward III did not seem to have let his entail be known to a large number of councilors, Parliament or England. Certainly, his sons would have been advised, the question arises as to why John of Gaunt did not provide it when requesting the nomination of his son Henry as heir when Richard II was travelling to Ireland for war. Nor was his entail mentioned when Henry IV needed to justify his ascension to the throne in 1399 after Richard II was dethroned. There are two answers to the question of why there is no mention of it at the time of the entail or soon after. The first is that following the death of Edward III, the succession at the time was seen as only determined by the king. Edward III was dead and Richard and his appointed heirs who would succeed not the heirs of Edward III.¹²⁴ Richard first associated himself with his cousin Roger Mortimer, who was disinherited by Edward's entail, then advanced the cause of Henry of Bolingbroke, and finally in his will stopped short of naming his uncle Edmund of Langley.¹²⁵ The second answer was that without the consent of Parliament, any attempts to secure succession were weak to the point of nullification.

¹²³ "Henry IV: March 1406: Part 1." Parliamentary Rolls of Medieval England, British History Online, <http://www.british-history.ac.uk> (accessed 03/03, 2013).

¹²⁴ Nigel Saul, *Richard II* (New Haven: Yale University Press, 1997), 446.

¹²⁵ Ian Mortimer, "Richard II and the Succession to the Crown," *History* 91, no. 303 (2006), 320-336.

3.4 Wills

Almost all kings had wills, but not all kings used the wills to determine succession. The majority of wills provided for the distribution of moveable goods and wealth to particular persons or charity as well as detailing arrangements for their funerals and internment. Henry VIII and his son Edward VI sought to distribute the power to the throne. The entails of Edward I and Edward III are much like the wills of the Tudor kings with one large difference; the use of the legal system to secure their covenants and force the manifestation of their desires for succession. This use of the law and government is the reason that previous attempts to determine the line of succession failed whereas Henry VIII's was mostly successful.

3.4.1 *Henry VIII*

As the obese monarch neared his end, he continued with the administration of the realm, seemingly in denial of his imminent death. His councilors were afraid to advise him of his impending death, due to fact that Henry thought any talk of his death was paramount to treason.¹²⁶ Henry's health had been failing for several years; he was covered in ulcers all over his body and had a leg wound several years old that refused to heal. He died in January 1547 of unknown causes, leaving his minor son as king and two illegitimate daughters in line to the throne.¹²⁷

¹²⁶ Lacey Baldwin Smith, "The Last Will and Testament of Henry VIII: A Question of Perspective," *Journal of British Studies* 2, no. 1 (Nov., 1962), 15.

¹²⁷ E. W. Ives, "Henry VIII (1491–1547)," *Oxford Dictionary of National Biography*, Oxford University Press, <http://libproxy.uta.edu:2422/view/article/12955> (accessed 03/04, 2013).

This will outlined the succession to the crown as consisting of his son Edward, his daughter Mary and then his daughter Elizabeth. Failing any children by his offspring, then the line of succession would devolve to the children of his second sister, Mary: the ladies Frances and Eleanor. There was a further caveat on the possible ascension of Mary and Elizabeth; each was allowed to succeed and maintain the throne only if her marriage was consented to by Edward or council.¹²⁸

Henry VIII's will has received a significant amount of attention from contemporaries as well as modern historians. The majority of the intrigue focuses on the signature. The question is whether the signature is from Henry's own hand or if a stamp was used when the king became incapacitated. If the signature was not done by the king's hand then the will would be invalidated, which is important as it would affect the line of succession to the throne. Modern historians commonly accepted that Henry did in fact sign the will not using a stamp.¹²⁹ The disinheritance of his eldest sister also receives a good amount of scholastic attention. Henry never discussed his decision to exclude his sister Margaret but many historians believe it was to prevent the union of the Scottish and English crowns. Perhaps the choice was a matter of preference, for his childhood friend, Charles Brandon, Duke of Suffolk, was the husband of his sister Mary.

The problems with Henry VIII and his wives had a curious effect on the question of succession. Henry's quest for his son had left two wives in its wake by 1536 and no legitimate heir either male or female. After the divorce of his first wife Katherine of

¹²⁸ Charles Harold Williams and David Charles Douglas, eds., *English Historical Documents, 1485-1558*, Vol. V (New York: Oxford University Press, 1967), 445-466.

¹²⁹ Mortimer Levine, "The Last Will and Testament of Henry VIII: A Reappraisal Appraised," *Historian* 26, no. 4 (1964), 484.

Aragon and the beheading of his second wife Anne Boleyn, Henry had the surviving children declared illegitimate via Parliamentary statutes that became known as the First and Second Act of Succession. These children, both daughters, Mary and Elizabeth, became barred from succession upon their declaration as bastards. With no direct heirs and no collateral heirs (brothers or uncles), the question of succession loomed. However, the Second Act of Succession, which declared his second daughter, Elizabeth, illegitimate, also allowed Henry to designate his successor by his will or letters patent.¹³⁰ Although Henry was of a relatively young age in 1536 and newly married to an undisputedly lawful queen, Jane Seymour, and there was every reason to believe that heirs were in the future, Henry seemed to want to make sure there were no factions supporting Mary or Elizabeth to succeed to the throne above any other potential heirs.

Given the amount of scholarship focusing on the will of Henry VIII, it is curious that the academic research focuses on legitimacy rather than the power the will held to affect the crown of England. The fact that Henry could appoint his successor via his will to ensure the security of the realm means that the heir was a mystery until the death of the sovereign. Elizabeth made the same argument as to why she would not name a successor, maintaining that it would too early move councilors from her aid to that of her successor.¹³¹ It would be inconceivable that such a big decision could be kept secretive if there were any doubt of whom the successor would be. Would Parliament take the

¹³⁰ Danby Pickering, ed., *The Statutes at Large from the First Year of King Richard III to the Thirty-First Year of King Henry VIII.*, Vol. II (London: Joseph Bentham, 1763), 426.

¹³¹ Mortimer Levine, *The Early Elizabethan Succession Question, 1558-1568* (Stanford: Stanford University Press, 1966), 177.

chance that the king would nominate the Duke of Suffolk as heir? The Act of Succession of 1536 was obviously written with understanding of who was the potential heir.

The Second Act of Succession states that in the absence of any heir, male or female, “lawfully begotten”, Henry has the power to nominate his heir.¹³² Many scholars think that this is Henry and Parliament’s way of allowing for the possibility of the inheritance of his illegitimate son, Henry FitzRoy. FitzRoy was the illegitimate son of Henry VIII and his mistress Elizabeth Blount. At the age of twelve, FitzRoy took his place in Parliament as the duke of Richmond and Surrey. He was an athletic, intelligent and popular seventeen-year-old in June of 1536.¹³³ The premature death of the young duke in July 1536 ended any thoughts about his potential succession to the throne and then the birth of Edward at the end of 1537 made the question moot.

Henry VIII’s will was able to establish a line of succession, which differed from the law of inheritance and customs of succession to the throne. The secondary and tertiary heirs, his daughters, were, according to Parliament, illegitimate. Illegitimate children were barred from inheriting the throne. This was the justification for the ascension of Richard III as well as the reasoning by Charles II as not appointing his son Monmouth as his successor.¹³⁴ That being said, the between the lines reading of the statute that allowed for the possible inheritance by Henry’s illegitimate children might

¹³² Pickering, *The Statutes at Large from the First Year of King Richard III to the Thirty-First Year of King Henry VIII.*, 426.

¹³³ Beverley Murphy, "Fitzroy, Henry, Duke of Richmond and Somerset (1519–1536)," Oxford Dictionary of National Biography, Oxford University Press, <http://libproxy.uta.edu:2422/view/article/9635> (accessed 03/05, 2013).

¹³⁴ "Richard III - January 1484." Parliament Rolls of Medieval England, British History Online, <http://www.british-history.ac.uk/report.aspx?compid=116561> (accessed 3/12, 2013).; Ronald Hutton, *Charles the Second, King of England, Scotland, and Ireland* (Oxford: Clarendon Press, 1989), 377.

have been meant for his bastardized daughters and not his truly illegitimate son. Each daughter was able to ascend to the throne with little question as to the right to do so. The obvious exception was Edward's attempt to subvert succession from his bastard sisters to that of his cousin Jane.

3.4.2. Edward VI

Edward thought himself every bit the powerful overlord that his father was. Although still a minor, he was swiftly finding himself and his philosophy of kingship amongst the councilors and politicians at court. Edward was on the path to be a powerful and authoritative king. Highly educated like his father, Edward believed in his divine right and the true faith, Anglicanism.¹³⁵ These two beliefs manifested in Edward's attempt to divert succession away from his bastard sisters, especially his devoutly Catholic sister, Mary.

Traditionally, Edward has been identified as a sickly weak child king. However, recent scholarship has appraised the king as a boy of sporadic ill health who enjoyed the hunting and martial sports. His death in 1533, like that of his half-brother Henry FitzRoy, is attributed to tuberculosis. The question of his agency in the later years of his reign has been examined recently by scholars who conclude that Edward had more of a voice in court than previous scholars attributed to the young sovereign. Scholars at one time believed that Edward's will was entirely Northumberland's conception or at least done at his behest, since the heir appointed was none other than his new daughter-in-law, and cousin of the king, Jane Grey. Edward's will, called his devise, had input from the

¹³⁵ Kevin Sharpe, *Selling the Tudor Monarchy: Authority and Image in Sixteenth-Century England* (New Haven, Conn.: Yale University Press, 2009), 196.

Protector, Duke of Northumberland, but that the original drafts definitely seemed to express Edward's own proclivities and politics.¹³⁶

The devise apparently underwent several drafts. Originally, it designated the male heirs of Lady Frances and her children as heirs to the throne. Mindful of the seriousness of his illness, Edward with the help of Northumberland changed the appointment as it became increasingly important to establish inheritance for today rather than wait for a future heir. The final device named his Protestant cousin Jane as heir then her male heirs followed by the male heirs, of her sisters and devolving onto the female heirs following again the line of sisters starting again with Jane.¹³⁷ Edward, like his father, preferred males as the heirs and wanted to secure inheritance for male offspring rather than females.

Although, Jane Grey was declared queen of England on the death of Edward, many contemporaries believe it was done so illegally and she was quickly replaced by Mary, after being queen for a mere nine days. Edward was advised when signing the device that it was in fact unlawful due to the acts of Parliament regarding succession assented to by Henry VIII. Edward demanded that his councilors and Parliament be summoned to enact his plan for succession; however, he died before they could do so.¹³⁸ This means that succession was still determined by the sovereign but that the monarch now had to do so with the assent of Parliament if the ruler had any hope of securing the ascension of the heir. The king had to share his power with Parliament.

¹³⁶ Dale Hoak, "Edward VI (1537–1553)," Oxford Dictionary of National Biography, Oxford University Press, <http://libproxy.uta.edu:2422/view/article/8522> (accessed 03/05, 2013).

¹³⁷ Williams and Douglas, *English Historical Documents, 1485-1558*, 445-466.

¹³⁸ Hoak, *Edward VI (1537–1553)*

3.5 Conclusion

In examining the designation of heirs following the death of the sovereign a progression is evident. The bequest of the kingdom on the deathbed caused doubts and ultimately led to war. The entails of Edward I and Edward II were made at a time when there was an insecure or questionable line for inheritance. Edward I had to reconcile the lack of future sons and to contend with an ambitious son-in-law. Edward III had to deal with a question regarding the line of succession following the early death of two sons. The entail allowed the monarch to establish a line of succession prior to death, although, neither of the Edwards made known their desires for succession and were unable to secure the desires found in their entails. The anomaly of the Tudor wills proves specifically enlightening. Henry was granted the ability to name an heir or heirs through the use of letters patent or his will. This gave him incredible power to dispose of the kingdom outside the customs of inheritance and primogeniture. The attempt by his son to do the same failed, due to the young king's inability to secure Parliamentary approval. Upon examination, it is clear that by the thirteenth century kings were desirous to delineate a line of succession and not just one successor to ensure the dynastic continuance and stability of the realm. By the sixteenth century, succession had become not the will of the sovereign alone but also that of Parliament.

Chapter 4

Entitled To Be King

In the differing methods of the designating of heirs, none is more prominent and well known than the use of a title. A title is a label, such as duke, earl, or lord, given to a man usually accompanied with land it provided wealth and often a place in the king's council or government. A title places the holder in a special position within society and in the government, as such the title giver, the king, used that ability to provide wealth and status to maintain their power over the throne and government. Heirs obtained titles to signify their elite place in society and provide wealth and power. Many only think of the title of the Prince of Wales when examining the titles of heirs in English history. However, the title of Duke of Normandy and the existence of a junior king have also played a part in the evolution of the designation of heir.

4.1 Scholarship

4.1.1 Scholarship on Nobility

Scholarship on titles is not vast but varied. Nobility and the aristocracy have been studied by a variety of scholastic disciplines. Legal, social, women, and military scholars have researched and examined their purpose, transformation and role throughout all English history. Lawrence Stone is an authority on family and the aristocracy during the late medieval and early modern period. He covers the rise and fall of the power of the

aristocracy within England and Great Britain.¹³⁹ Recent trends have narrowed the thoroughly researched but overarching scope of previous scholars to focus on particular events or persons.¹⁴⁰ However, the concept of nobility surrounds but cannot wholly be applied to the understanding of royals and their position and role within the aristocracy and England as a whole.

4.1.2 Scholarship on Royal Titles

Scholars have studied the dukes of Normandy as a political entity; but the position receives little other scholarship. The exception is the role the duchy played in politics during the Anglo-Norman regnum. John Le Patourel's, "The Norman Succession, 996-1135" is the authority on the subject.¹⁴¹ Of course, a majority of the scholarship found is in connection with the sons of William the Conqueror. Scholarship is lacking on duchy following the Conquest, as many studies tend to incorporate Normandy into the discussion of the Anglo-Norman kingdom. Normandy was not lost until the reign of King John and meant so much more to the kings that than a continental territory.

Joint kingship began in England with the Anglo-Saxons. Recent trends in scholarship on the Anglo-Saxon joint kingship revises the existing but outdated studies.

¹³⁹ Lawrence Stone, *The Crisis of the Aristocracy, 1558-1641* (Oxford: Clarendon Press, 1965), 841.; Lawrence Stone, *The Family, Sex and Marriage in England, 1500-1800* (New York: Harper & Row, 1977), 800.

¹⁴⁰ David Cannadine, *The Decline and Fall of the British Aristocracy* (New Haven, Conn.: Yale University Press, 1990), 813.; David Crouch, *The English Aristocracy: 1070-1272: A Social Transformation* (New Haven: Yale University Press, 2011), 348.; Chris Given-Wilson, *The English Nobility in the Late Middle Ages: The Fourteenth-Century Political Community* (New York: Routledge, 1987), 222.

¹⁴¹ John Le Patourel, "The Norman Succession, 996-1135," *The English Historical Review* 86, no. 339 (Apr., 1971), pp. 225-250.

Nevertheless, the co-crowning of Henry II's young son Henry as an anomaly in English history, the event itself receives surprisingly little scholarship. Even W. L. Warren, the premier scholar on Henry II, has no scholastic work on the young prince. Anne Heslin's study specifically focuses on the ceremony as it relates to the Papal grants prior to and after the coronation.¹⁴² The creation of the junior king in England is mentioned in the research of co-crowning and association on the continent. But the uniqueness of the situation is lost in these overarching studies such as in that of Andrew Lewis in his article, "Anticipatory Association of the Heir in Early Capetian France".¹⁴³

The title of Prince of Wales accounts for a majority of the scholarship on heirs in English history. However, the majority of the studies are biographical in nature, ignoring the meaning of the title and making assumptions based on current understandings. Any scholarship outside the biographical focuses on an event of a particular prince rather than the title. David Loades' *Princes of Wales: Royal Heirs in Waiting* reaches beyond the biography and examines the nature of the title with respect to the government of Wales.¹⁴⁴ Nevertheless, he falls short in his examination of the title as a method of determining the heir.

4.2 Duke of Normandy

The duchy of Normandy held an important place in Anglo-Norman England. The connection between Normandy and the Isle began during Anglo-Saxon times and continued until 1204 when the king of France obtained the duchy from King John.

¹⁴² Heslin, *The Coronation of the Young King in 1170*, 165-178

¹⁴³ Andrew W. Lewis, "Anticipatory Association of the Heir in Early Capetian France," *The American Historical Review* 83, no. 4 (Oct., 1978), pp. 906-927.

¹⁴⁴ Loades, *Princes of Wales: Royal Heirs in Waiting*

Scholars have long recognized its place in the political designs of the Anglo-Norman kings and Henry II. However, the importance to the heir of the kingdom has long been ignored. Normandy was support for claimants to the throne and as a territory for a sovereign's son to gain power in the realm.

4.2.1 Association and Support

Since the Conquest of 1066, Normandy has been a base of military and political support for claimants wishing to assert their right to the throne of England. Robert Curthose attempted to take the throne from his brother Henry in 1100. Norman magnates provided the financial and military backing for which Robert to invade England. Henry II, as duke of Normandy, had the same support of his magnates during his invasions of England during the reign of Stephen. William Clito's right to the ducal seat was the purpose of many rising of Norman magnates between 1119 until his death in 1128. Clito, as an Anglo-Norman prince and son of the eldest son of the Conqueror, not only had designs on the duchy but also the throne.¹⁴⁵ Once again proving that right to the duchy conveyed a right to the throne as well.

An argument for the loss of Matilda's claim to the throne can be the lack of a connection with the magnates of Normandy. Geoffrey of Anjou and Matilda fought with Henry I during the waning years of his life in an attempt to gain more of an association with the duchy.¹⁴⁶ Henry was hesitant and gave neither Matilda nor Geoffrey any power in Normandy; his reasons for not doing so will remain unknown. It was not due to a concern for his power, as he had no problem with associating his son William Adelin

¹⁴⁵ Hollister, *William (1102–1128)*

¹⁴⁶ Chibnall, *The Ecclesiastical History of Orderic Vitalis*, 311.

with the governance of Normandy. Perhaps he did not desire to give it to his son or daughter but hoped to give it a male heir, his grandson, once he reached a particular age. Geoffrey's ability to secure the duchy in the name of his wife and son provided Matilda and eventually Henry with power base for which to invade England. Their rival, Stephen, obviously saw the power of the position, as fought against Geoffrey in an attempt to install himself or his son into the ducal seat. This would not only provide his heir the prominent position of duke of Normandy but also eliminate the support of the Norman elite for the current duke Henry of Anjou. Normandy was not only to be a base for military coups but also to sustain the heir and was, by tradition, a title necessary to obtain the throne.

4.2.2 Pre-cursor to the throne

William Adelin's oath as heir in 1115 was the first heir to be associated with Normandy since his uncle Robert in 1066. However, association did not indicate that the heir was ruler in his own right. Michael Strickland's article on the developing years of young Henry's life show the prince unable to support his family and his growing retinue despite his association with the duchy and other territories.¹⁴⁷ Association only meant that the heir was vice regent or *de facto* ruler during the absence of the king or acted as proxy for him during certain occasions. Adelin's association served the king's purpose of obtaining the duchy, as vassal of the king of France, without compromising the prestige of his position as the king of England. Henry II would have his son associated with

¹⁴⁷ MJ Strickland, "On the Instruction of a Prince: The Upbringing of Henry, the Young King," in *Henry II: New Interpretations*, eds. Christopher Harper-Bill and Nicholas Vincent (Rochester, NY: Boydell Press, 2007), 197.

Normandy to perform the same act of homage. Henry II not only had his son associated but used Normandy in his grand political scheme.

Henry II divided the territories of his realm amongst his children in 1170. Normandy was to go to his eldest son Henry, his second son Richard would obtain Aquitaine, inheriting from his mother, and lastly Geoffrey would control Brittany for his wife who was heiress. Geoffrey would hold Brittany as vassal of his older brother Henry.¹⁴⁸ Scholars tend to believe that Henry intended to separate his kingdom. However, the fact the Geoffrey only held Brittany as a vassal of his brother means that he could not alienate it from his brother and thus the kingdom. Aquitaine was not Henry's by right of acquisition and knowing the formidable woman that his wife was, Henry probably did not have the ability to incorporate the territory into the kingdom permanently. Both Richard and John became dukes of Normandy prior to their coronations as king. Although both situations can be contributed to circumstances surrounding the time of death of the predecessor, it is not unfeasible that they believed that by being invested as duke of Normandy they secured their claim to the English throne.

4.3 Junior King

Not many scholars focus on associating heirs with the throne in England. There is a lot of scholarship on the subject regarding Capetian France. Nevertheless, Henry II's decision to have his eldest son co-crowned with him receives little scholarship. Association became a trend among leaders around this time. Henry's desires to be a

¹⁴⁸ Warren, *Henry II*, 109.

political powerhouse and his French upbringing undoubtedly played a role in his decision to associate his son with the crown. However, by creating his son king, Henry created troubles that would haunt him throughout his reign.

4.3.1 Continental Trend

Although most often linked with the Capetians of France, association of an heir with their father's rule was common throughout northwestern Europe. The rules for succession and inheritance were unsolidified during the middle ages and the power created right. The association attempted to provide a smooth transition between incumbent lord and heir. Geoffrey of Anjou was associated with his father Fulk prior to his marriage to Matilda.¹⁴⁹ As described earlier in this study, since the establishment of the duchy in the late tenth century, the Norman dukes co-rule with their heirs. Henry II was the son of Geoffrey, Duke of Normandy and grew up at the French court. Henry's French-bred proclivities obviously manifested themselves in his desire to elevate his son to king during his lifetime. King Stephen who grew up in the shadow of the French court also attempted to have his son associated. However, the Pope refused to sanction the event, as there was the ominous question as the purity of his soul following his breaking the oath of fealty.¹⁵⁰ Aside from his learned customs, Henry's decision to associate his son fit into his grand political agenda.

¹⁴⁹ Lewis, *Anticipatory Association of the Heir in Early Capetian France*, pp. 906-927

¹⁵⁰ Greenway, *Henry of Huntingdon: The History of the English People 1100-1154*, 88.

4.3.2 Political and Diplomatic Strategy

The enthronement of his son was definitely a part of Henry II's political strategy. Henry took any attempt to maintain his power and prestige especially in relation to his rival, Louis VII of France. If the king of France could co-crown his son then so would Henry. It can be no coincidence that both Louis and Henry associated their sons when their heirs reached an age of maturity around fourteen. Louis was also the father of young Henry's wife and the liege lord over the duchy of Normandy. Henry had to maintain his power and his son separate from that of the French court. But the coronation also served another purpose, political vendetta.

In year 1170, the archbishop of Canterbury, Thomas of Becket, entered his seventh year of rebellion against the governance and religious stance of Henry II. Becket lived at the court of England's rival, Louis VII of France. Despite having reached a reconciliation with Becket, Henry thought to add one more insult and hurried through with the ceremony before the archbishop could arrive back in England from the continent. Henry's co-crowning of his son in November was as a slap in the face for both the rebellious Becket and his provider of sanctuary, Louis. The ceremony was performed by the archbishop of Canterbury's rival for power in England, the archbishop of York. The decision to have young Henry crowned without his wife, the daughter of the king of France, was a deliberate insult.¹⁵¹ Becket would later call the coronation of young Henry a curse rather than a blessing; he could not have been more correct.¹⁵²

¹⁵¹ Riley, *The Annals of Roger De Hoveden*, 325-326.

¹⁵² Frank Barlow, *Thomas Becket* (Berkeley: University of California Press, 1990), 209.

4.3.3 Disastrous results

Following the coronation ceremony, Henry had to placate the Pope, the king and the archbishop. Henry soothed the Pope by making peace with Becket and the king of France. Louis was appeased by Henry's decision to have the young king and his wife Margaret crowned with her husband in another ceremony.¹⁵³ Becket was a little more difficult. A strong willed man he sought reparations by recognition of the archbishopric of Canterbury over that of York and a free hand to deal with the clergy who performed the coronation ceremony. Upon his return, he immediately set about excommunicating those involved and forcing his recognition as highest prelate in England. His uppity way led to the exacerbated utterance of the king leading to Becket's assassination.¹⁵⁴

The trouble with the Pope, king and Becket was immediate; the trouble with his son would come later. Much like his association with Normandy, young Henry had no power despite his title as junior king. Roger de Hoveden tells us that young Henry was in charge of England while Henry soothed the tempers on the continent.¹⁵⁵ However, the real power lay in the hands of the chancellor and the young king was only a figurehead.¹⁵⁶ Young Henry was hungry for his own power and to that end rebelled against his father.¹⁵⁷ He at times warred with his brothers but more often, they joined ranks against their king. His death due to dysentery in 1184 destroyed any hopes of his ushering in a new era as

¹⁵³ Riley, *The Annals of Roger De Hoveden*, 326.

¹⁵⁴ Warren, *Henry II*, 46-47.

¹⁵⁵ Riley, *The Annals of Roger De Hoveden*, 253.

¹⁵⁶ Strickland, *On the Instruction of a Prince: The Upbringing of Henry, the Young King*, 209.

¹⁵⁷ Thomas M. Jones, "The Generation Gap of 1173-74: The War between the Two Henrys," *Albion: A Quarterly Journal Concerned with British Studies* 5, no. 1, Violence and Social Control (Spring, 1973), 24-40.

many chroniclers hoped he would do.¹⁵⁸ The rebellions by Henry's sons may also have destroyed any inclination Henry might have had in associating another son with this reign. In fact, Henry refused to recognize Richard as heir and died without doing so.

4.4 Prince of Wales

The title of Prince of Wales is the most prominent method found for designating the heir to the crown. Scholars tend to generalize or assume concepts about the title; taking for granted the title traditionally belonging to the sovereign's eldest son and therefore heir apparent. These assumptions diminish the power of the title and position and its role in the formation of succession laws. At its formation in 1301, it was a means to an end for Edward I and held no more importance than a propaganda stunt. Edward III used the position to elevate his eldest son and heir above those at court including his younger brothers. During the War of the Roses, the use of the title was able to provide a dynastic legitimacy and continuance necessary to secure the throne. With the establishment of Parliamentary statutes defining succession, the title held little meaning other than that of tradition.

4.4.1 *Edward I*

Edward did not create his son Edward, Prince of Wales, because he was his eldest son. Although, as Michael Prestwich contends, it is unlikely that he would have created Edward Prince of Wales if he had a surviving older son.¹⁵⁹ The creation of Edward as Prince of Wales at Parliament in Lincoln in 1301 was purely political.

¹⁵⁸ Hallam, *Henry (1155-1183)*

¹⁵⁹ Prestwich, *Edward I*, 287.

Scholars have rejected the story of Edward promising the Welsh to appoint a prince who spoke not a word of English as a myth circulated by later scholars. However, authorities of Edward and of the Princes of Wales agree that the title was created to personify the subjugation of Wales.¹⁶⁰ Although the patent granting the land states that, the lands were to remain in the hands of his son and his heirs there is no mention of the title.¹⁶¹ Scholars unduly concern themselves with the Edward II's lack of designation of his young son as heir. He had no political reason to do so nor was there an established tradition.

Edward used the opportunity to entitle his son not only to portray his conquest of Wales but also as a part of domestic political strategy. The Parliament of 1301 allowed Edward to enlist the financial support of his barons for an invasion into Scotland. Recent fights with the barons in regards to taxation had left Edward with a severe lack of funds, which came especially frustrating as the king desired to campaign north against the Scots. The ceremony created an opportunity for the barons to be involved the pageantry of the court.¹⁶² Edward often used his son as the face of the monarchy. The knighting of young Edward in 1306 and the mass knighting of several sons of nobles was another example of Edward I's use of political propaganda in order to manipulate his barons towards his desires.¹⁶³ The political theatre of Edward's investiture soothed the tension at court and allowed him to start planning his next Scottish campaign.

¹⁶⁰ Subjugation is a loaded word, as would rise in rebellion several more times. Loades, *Princes of Wales: Royal Heirs in Waiting*, 9.

¹⁶¹ Great Britain Public Record Office, ed., *Calendar of the Charter Rolls, Edward I-Edward II, 1300-1326*, Vol. III (London: Majesty's Stationary Office, 1908), 6.

¹⁶² Maddicott, *The Origins of the English Parliament, 924-1327*, 280.

¹⁶³ Prestwich, *Edward I*, 455.

4.4.2 Edward III

Edward also created his son Prince of Wales due to his court. However, it was to maintain the hierarchy established. Edward III's reign saw an increase in the creation of titles as whole. Unlike his father, Edward III was able to raise these new men to titles without alienating the current members of the peerage. A reason for this is those whom he chose to elevate. The majority of the titles were to signify the special place the royal family had amongst the ranks of the nobility. His creation of his son as duke in 1137 was the first use of that title in English history.¹⁶⁴ Edward II's attempt to establish the title of marquis was met with distrust, due to the holder and possibly the obvious French connection. Edward would eventually designate all his sons as dukes of the realm; he had by then elevated the senior son to the principality of Wales and Aquitaine. This division is something previously seen with Henry II, fathers with an abundance of land giving their sons the opportunity to be their own men. Like with the sons of Henry II, the titles of the heir delineated a special position for his heir in the government as well as the family. However, there was the added consequence of creating a subset within the realm of those being of royal blood and inline to the throne, such as seen with the title of the Anglo-Saxon title of ætheling or the use of the Confessor's coat of arms of during the Tudor dynasty.

¹⁶⁴ Given-Wilson, *The English Nobility in the Late Middle Ages: The Fourteenth-Century Political Community*, 222.

The charter, which entitled Edward as the Prince of Wales, does label him as the king's eldest son; it does not mention him as heir or heir apparent.¹⁶⁵ The title held by the prince was not his to hold because he was heir apparent. It was to differentiate him from his younger brothers. When the Prince of Wales died in 1376, the commons demanded for his son Richard to receive his father's titles by right of inheritance, recognition as heir apparent to the throne and his named Prince of Wales.¹⁶⁶ The fact that the commons demanded his recognition as heir apparent and his title of Prince of Wales in two separate requests signifies that they were considered separate identities.

4.4.3 Legitimacy and Dynastic Stability

The heir was the personification of the continued grace of god for the royal family and political stability for England. Henry IV had Parliament legitimize his usurpation of the throne from Richard II. Not only did Parliament legitimize his enthronement, but also entitled his son as Prince of Wales, Duke of Cornwall and Earl of Chester. After his request to entitle his son, he asked the ministers if they would consent to accept the prince of rightful heir.¹⁶⁷ By creating his son rightful heir, Henry attempted to ensure the inability for any other claimants to press their claims. As seen with Richard II, the title did not necessitate that the Prince was the heir to the throne.

James I's installation of his son, Henry Frederick, as Prince of Wales was another attempt by a sovereign to use the establishment of the title on an heir to legitimize their

¹⁶⁵ Great Britain Public Record Office, ed., *Calendar of the Charter Rolls, 15 Edward III - 5 Henry V*, Vol. V (Nendeln, Liechtenstein: Kraus, 1972a), 127.

¹⁶⁶ "Edward III - April 1376." Parliament Rolls of Medieval England, British History Online, <http://www.british-history.ac.uk/report.aspx?compid=116474> (accessed 3/10, 2013).

¹⁶⁷ "Henry IV - October 1399: Part 1." Parliament Rolls of Medieval England, British History Online, <http://www.british-history.ac.uk/report.aspx?compid=116506> (accessed 03/12, 2013).

claim to the throne. James' ascension was not a political coup like that of Henry IV so he did not have to ensure the claim to the throne as quickly as Henry. However, the Stuarts were a foreign family and there were other claimants to the throne. By being able to create a Prince of Wales, James Stuart was able to differentiate himself from the Tudor and to soothe the political unease due to succession questions. James wished to promote his family and his political strategy and used court pageantry to this end, much like Edward I. The king believed that by infusing his son with the elements of Scottish and English custom, that he could gain support of the English ministers in his attempt to unite the kingdoms of Scotland and England into Great Britain.¹⁶⁸ However, by the installation of Henry Frederick in 1610, the title of Prince of Wales had enmeshed with the concept of heir apparent.

4.4.4 Prince of Wales meets Heir Apparent

In 1460, Richard Duke of York marched into Parliament and laid claim to the throne of England. His claim of inheritances was via the second son of Edward III, Lionel of Antwerp, who predeceased the king and whose line devolved through a female. The current king, Henry VI was the descendant of the third son, John of Gaunt. After a debate, the lords decided that Richard had the right to the throne. Parliament decreed that Henry VI would retain a life estate to the throne and upon his death or abdication, Richard would ascend to the throne by rightful inheritance. As a part of his new position as heir apparent to the throne, he was created the Duke of Cornwall, Earl of Chester and Prince of Wales. These titles were previously held by Henry VI's son, Edward.

¹⁶⁸ Pauline Croft, "The Parliamentary Installation of Henry, Prince of Wales," *Historical Research* 65, no. 157 (1992), 177-193.

was able to maintain the right to the titles that descended from his grandfather, John of Gaunt.¹⁶⁹ Before Richard could be invested, the king dismissed Parliament and thus began the War of the Roses.¹⁷⁰

The creation of Richard of York as Prince of Wales signifies that Parliament believed that as heir apparent the principality was rightfully his. The repeated creation of the eldest son as Prince of Wales by Parliament created a tradition that permanently linked the title with right to succeed to the throne of England. After the installment of Richard as Prince of Wales, there is no other occasion where the designation of heir apparent and the investiture of the Prince of Wales were described as separate concepts.

4.4.5 Tradition

During the late middle ages, the title of Prince of Wales legitimized the sovereign's claim on the throne and symbolized dynastic continuity. Edward IV and Richard III both designated their sons Prince of Wales within weeks of their ascension. However, Henry VII did not invest his eldest son Arthur to legitimize his reign, he did so "according to precedents" of king's eldest of sons.¹⁷¹ This did not mean that the heir had to be entitled as the Prince of Wales in order to succeed or to be acknowledged as heir. Henry VIII for all his struggles to produce a male heir did not entitle his son as Prince of Wales, neither did Charles I. However, portraiture does show that both had the inclination to do so. The future Charles II is painted beside a helmet plumed with three

¹⁶⁹ "Henry VI - October 1460." Parliament Rolls of Medieval England, British History Online, <http://www.british-history.ac.uk/report.aspx?compid=116550> (accessed 3/11, 2013).

¹⁷⁰ Sir Nicholas Harris and Edward Tyrrell, eds., *A Chronicle of London: From 1089 to 1483* (London: Longman, Rees, Orme, Brown and Green, 1827), 137.

¹⁷¹ Great Britain Public Record Office, *Calendar of the Charter Rolls, 5 Henry VI - 8 Henry VIII*, Vol. VI (Nendeln, Liechtenstein: Kraus, 1972b), 402.

ostrich feathers, the insignia of the Prince of Wales since the creation of the Edward, the Black Prince in 1330.



Figure 1: Charles around 1638

Edward Tudor had several portraits done during his brief life. Many of him as a young prince are painted with him sporting white plumage similar to the Prince of Wales' feather.



Figure 2: Edward VI 1546

Henry VIII was planning for the investiture of Edward on his deathbed but he died before any formal declaration.¹⁷² The letters from Charles I to his son during the English Civil War addresses him as the Prince of Wales.¹⁷³ Their lack of entitlement has caused confusion among scholars for years. However, it is easy to conclude that neither king felt the need to create the title right away. Both kings believed that they would continue to reign for many more years. Given that both Henry VIII and Charles I obtained the title of Prince of Wales on the death of their older brother and during negotiations for their eventual marriage, perhaps they thought to continue the tradition with their own sons, investing them with the title when they reached the age of maturity.

4.4.6 Ceremony

The ceremony of investment of the Prince of Wales is not well documented. Conceivably, it would be akin to the investment of any peerage title. We know little of the ceremony, which invested the first Prince of Wales. But we do know that the second was invest with a coronet a ring and a silver rod.¹⁷⁴ By the time of the Parliamentary ceremony that invested the future Henry V as Prince of Wales, the ring and the staff were gold.¹⁷⁵ James I ordered a committee to research the previous creations and they also obtained examples from continental kingdoms. Needing the investiture to symbolize the magnificence of the Stuart dynasty, James went beyond the coronet, ring and staff to

¹⁷² Loades, *Princes of Wales: Royal Heirs in Waiting*, 13.

¹⁷³ Ibid.

¹⁷⁴ Richard W. Barber, *Edward, Prince of Wales and Aquitaine: A Biography of the Black Prince* (New York: Scribner, 1978), 41.

¹⁷⁵ Loades, *Princes of Wales: Royal Heirs in Waiting*, 225.

create an elaborate ceremony, with trumpets, water entrances and line of finely clothed attendants.¹⁷⁶ This resurgence of ceremony was adopted for the investiture of the future Edward VII and the current Prince of Wales, Charles.¹⁷⁷

4.4.7 Heir Apparent vs. Heir Presumptive

Succession and tradition being defined, there is no longer a question as to who is heir to the throne. The only time of questionable placement is if the current sovereign only has female heirs. The crown is inherited by the laws of primogeniture, which places the right of a son over that of any daughter, even an older sister.¹⁷⁸ The title of Prince of Wales is traditionally only given to the eldest son of the sovereign, the heir apparent. Any females or collateral heirs are the heir presumptive. There comes a point when the heir presumptive in all but title becomes the heir apparent, such as the final years of the reign of Charles II, of Queen Anne after the death of her husband or the final years of William IV's reign. Never was it considered that their successors be created Prince of Wales even though the likely hood of any heir being produced was infinitesimal. But given the political climate of Charles and Anne and the role of women in the reign of William, it did not lend itself to the ability to successfully challenge tradition. The question was raised during the reign of George VI in anticipation of Elizabeth's twenty-first birthday. Almost since her father's ascension, England anticipated the eventual enthronement of the princess. Therefore, when Elizabeth reached twenty-one, she was

¹⁷⁶ Croft, *The Parliamentary Installation of Henry, Prince of Wales*, 177-193; Elizabeth Read Foster, ed., *Proceedings in Parliament, 1610* (New Haven: Yale University Press, 1966), 95-98.

¹⁷⁷ Loades, *Princes of Wales: Royal Heirs in Waiting*, 225.

¹⁷⁸ Hall, *The Treatise on the Laws and Customs of the Realm of England Commonly Called Glanvill*, 75-78.

created a Lady of the Garter but many called for her elevation to the title of Princess of Wales. The king rejected the idea unable to reconcile the position that her husband would assume.¹⁷⁹ The title of Prince of Wales held such a history and position within society and government, how could the king bestow such power on man outside the royal family.

4.5 Conclusion

Titles were a visual way for the sovereign to promote his heir above all others in the kingdom. The duchy of Normandy provided financial, martial and political support during the early medieval period. Henry, unwilling to stake his family's inheritance on the fragility of the oath, used the association of his son with the throne to solve succession issues and as maneuver for political revenge. Nevertheless, the title of Prince of Wales is by far the most significant title for the designation of heir in English history. However, scholars tend to generalize or assume as to its meaning. The title of Prince of Wales returned full circle. From political pageantry, social strata, legitimacy and then back to pageantry; its role is now one of tradition and theater. With the anticipated passing of the Succession to the Crown bill and the pregnancy of the duchess of Cambridge, the title of heir apparent could undergo another change. The problem of George VI may once again be address of what to call the husband of a Windsor Princess of Wales.

¹⁷⁹ Ben Pimlott, *The Queen: Elizabeth II and the Monarchy* (London: Harper Collins, 2002), 71-72.

Chapter 5

Heir By Parliament

Parliament has a special place in the history of England. It is a point of pride for the English that they developed a representative government far before any other European nation. The level of representation and role of Parliament has changed throughout English history. The evolution of Parliament corresponds with the designation of heir. Parliament was involved in the designation of heirs since Henry I but its role transformed as the legislature gained more power. In the early middle ages, Parliament assented to the king's wishes but the rebellious reigns of John, Henry III and Edward II created a more powerful Parliament. The use of Parliament by late medieval kings to legitimize their right to the crown, established fledgling power for Parliament over succession. The Tudors were master manipulators of Parliament; however, by the time of their ascension, Parliament was no longer a tool for kingship but a powerful government institution. After the establishment of the Stuart dynasty, Parliament's role in succession and the designation of the heir to the crown was well established.

5.1 Scholarship

5.1.1 Scholarship on Parliament

As with any political body or government, the scholarship of the English Parliament is vast and varied. There are studies examining its growth and evolution as a

whole.¹⁸⁰ Additional studies focus on specific Parliamentary secessions, the relationship of particular monarchs and Parliament, and the Parliamentary power during a specific dynasty.¹⁸¹

5.1.2 Scholarship on the heir in Parliament

Scholars have not completely ignored the role that Parliament played in the designation of heirs. The scholarship focuses usually on the crises of the War of the Roses or the Tudor and Stuart succession problems. Chris Given-Wilson and Pauline Croft have examined an aspect of designation within the confines of Parliament.¹⁸² However, these studies focus on the bigger picture of right of the claim and not the event of appointment itself.

5.2 Assent

During the middle ages, every lord had a council and as the lord of lords, the king was no different. This council would evolve into England's Parliament. During the Norman and Angevin dynasties, the council lacked power and was nothing but an instrument for the king's governance. Parliament's role was to assent and support the desires of the king; this included any designation of heirs. By the end of Edward III's reign, though, Parliament was no longer a passive entity in English politics.¹⁸³

¹⁸⁰ John Smith Roskell, Richard Garfield Davies and Jeffrey Howard Denton, *The English Parliament in the Middle Ages* (Philadelphia: University of Pennsylvania Press, 1981).; Maddicott, *The Origins of the English Parliament, 924-1327*

¹⁸¹ Sharpe, *Selling the Tudor Monarchy: Authority and Image in Sixteenth-Century England*, 588; Foster, *Proceedings in Parliament, 1610*; T. E. Hartley, *Proceedings in the Parliaments of Elizabeth I*, Vol. I (Leicester: Leicester University Press, 1981).

¹⁸² Given-Wilson, *Legitimation, Designation and Succession to the Throne in Fourteenth-Century England*, 89; Croft, *The Parliamentary Installation of Henry, Prince of Wales, 177-193*

¹⁸³ Roskell, Davies and Denton, *The English Parliament in the Middle Ages*, 29.

5.2.1 Royal Prerogative

Henry I did not discuss his intent to designate either his son or his daughter as heir with his council. It was his right as king to handover the kingdom unto the heirs of his body as he so chose. The lords could rebel and protest against a decision but dissention was treason and came at a price of one's lands and life. Henry's decision for Matilda to succeed him was controversial but no source references a council meeting or any question as to the designation. Stephen's election as king following the death of his uncle Henry despite the oath sworn to Matilda by those involved proves that the choice was not popular.¹⁸⁴ Henry "compelled" Stephen and his other magnates to swear the oath of fealty to Matilda as heir to the kingdom. This forced oath, says Stephen's chroniclers, negates the oaths, absolves him of all ties of fealty, and provides him with the right to ascend to the throne by election.¹⁸⁵ The kings of medieval England repeat this pattern of demanding assent rather than requesting counsel. There are no sources describing the counsel to sovereigns prior to the Treaty of Winchester or the co-crowning of young Henry during the reign of Henry II. The king chose who and how he designated his heirs.

5.2.2 Illusory limitations

By the reign of Edward I, Parliament had gained more power thanks in part to baronial revolts during the reigns of John and Henry III. This did not mean that Parliament held much more power than the king was willing to give. It is during the reign of Edward I that English constitutional historians indicate the beginning of council

¹⁸⁴ Paul Halsall, "William of Newburgh: Book One," Fordham University, <http://www.fordham.edu/halsall/basis/williamofnewburgh-one.asp#4> (accessed 3/10, 2013).

¹⁸⁵ Potter, *Gesta Stephani*, 11.

meetings referred to as “Parliament”. Edward I used the theater of Parliament as an instrument of kingship in order to gain his desires.¹⁸⁶ As an instrument of the king’s desire, Parliament did not hold any power in the designation of the royal heir. Edward I did not consult his lords at the creation of his son as Prince of Wales in 1301. This new title and position altered the position of heir in society and government. Edward also did not consult his councilors with respect to succession in 1290 when drafting his entail. Undoubtedly, Edward I saw England as his land and as lord of the land, his to manage and dispose of at will, as any of his lords would expect. Edward III did not enjoy the seemingly absolute power that his grandfather maintained. Edward had to work within the framework of Parliament but he still maintained power superior to theirs.

5.3 Transition

Due to disputes in the right to the crown, Parliament was able to gain power.¹⁸⁷ As usurpers or those of questionable right, they sought Parliament’s approval to legitimize their claim to the throne. Edward III’s descendants were principal in the development of Parliament’s role in designating the heir and thus those with the right to throne. John of Gaunt and Richard II attempted to use Parliament to secure the inheritance for those they believed to be the true heirs to the throne. The king’s right to choose a successor could have strengthened even further had it not been for Henry IV’s use of Parliament to justify his ascension to the throne. During the beginning of the War of the Roses, Parliament was the political entity used to legitimize the claimant’s right to the throne and consequently increased its power over the crown.

¹⁸⁶ Maddicott, *The Origins of the English Parliament, 924-1327*, 280.

¹⁸⁷ *Ibid.*

5.3.1 Precedent

John of Gaunt, Duke of Lancaster, was the third son of Edward III. Scholars have given him a reputation of the greedy power hungry uncle looking to manipulate his young nephew.¹⁸⁸ Upon examination, Gaunt does not seem intent on dethroning his nephew at any place in records but seeks to maintain power and to ensure the dynastic security of his own sons. Michael Bennett and Ian Mortimer's scholarly work has reimagined the actions of Gaunt from a personal quest from the throne to one of a son pursuing the interests of his father and his father's entail.¹⁸⁹

Thomas Walsingham's chronicle is the only contemporary source to describe the events of the Good Parliament of 1376. Presided over by the Duke of Lancaster, due to the severe illness of the Prince of Wales and the king's reaction to the impending loss of a son, the houses took advantage of their absence to deal with personal grievances. It is during this Parliament that Walsingham tells of John of Gaunt's request to delineate succession to the throne in tail male only.¹⁹⁰ This effectively disinherited young Roger Mortimer, great-grandson of Edward III, through his second son's only child, Philippa. Many scholars completely dismiss this account as a fabrication by a biased author. Michael Bennett argues that the entail of Edward III lends credence to the possibility of this event occurring.¹⁹¹ However, more important than the request for limiting the line of

¹⁸⁸ Simon Walker, "John, Duke of Aquitaine and Duke of Lancaster, Styled King of Castile and León (1340–1399)," Oxford Dictionary of National Biography, Oxford University Press, <http://www.oxforddnb.com.ezproxy.uta.edu/view/article/14843> (accessed 04/30, 2013).

¹⁸⁹ Bennett, *Edward III's Entail and the Succession to the Crown, 1376-1471*, pp. 580-609; Mortimer, *Richard II and the Succession to the Crown*, 320-336

¹⁹⁰ Taylor, Childs and Watkiss, *The St Albans Chronicle: The Chronica Majora of Thomas Walsingham*, 39-41.

¹⁹¹ Bennett, *Edward III's Entail and the Succession to the Crown, 1376-1471*, 607

succession is the belief that succession could be limited by Parliamentary approval. All previous questions of succession or heirs had been the king's alone to determine. If this event did occur then it set a precedent that Parliament had right to determine, limit or approve of succession.

5.3.2. *Parliament's Heirs*

Parliament's right to influence succession was further precipitated by the designations of single successors. Following the death of the Prince of Wales in 1376, the House of Commons demanded that the rights of his young son, Richard, be recognized and for him to inherit prince's titles as well as be acknowledged heir. Their request was to counter any attempts by John of Gaunt to gain the throne following the death of the king. Upon Richard of Bordeaux's entrance and presentation in Parliament, they honored him as the true "heir apparent" to the English crown.¹⁹² This power to demand the presence of the boy and demand to acknowledge his status as heir has no previous legal standing. How then did Parliament obtain such powers? The absence of the king and the Duke of Lancaster from Parliament, due to the death of the Prince of Wales, eliminated any opposition to the demands. The king's supporters in Parliament wanted the commons happy in order to foster the passing of pending taxation reform hung up by the commons refusal to consent.¹⁹³

Following in the footsteps of Parliament of 1376, both Gaunt and Richard II used Parliament to secure the designation of the heir to the crown. According to the chronicler of the *Eulogium Historiarum* Gaunt demanded that his son be recognized as heir to the

¹⁹² "Edward III - April 1376."

¹⁹³ Roskell, Davies and Denton, *The English Parliament in the Middle Ages*, 58-59.

throne prior to Richard leaving on campaign in Ireland in 1394. The chronicler described that Gaunt claimed the right through Edmund “crouchback” who Gaunt argues had been the older brother of Edward I but who was eliminated from succession due to an infirmity.¹⁹⁴ Ian Mortimer argues that this is a later legend developed by Adam of Usk to justify the claim of Henry IV to the throne. Mortimer later goes on to claim that this is just an example of those not privy to the entail of Edward III trying to understand the rights to the throne.¹⁹⁵ Mortimer’s claim merit as the outrageous claim gives Gaunt the right to claim the crown not have his son recognized as heir to the throne, such a claim would be paramount to treason. Richard chose not to appoint any heir presumptive to be keeper of the realm while on his war in Ireland but left his uncle Edmund in charge. The question as to the heir of the childless king remained unanswered.

Richard is said to have appointed as heirs both of his cousins - Roger Mortimer and Henry of Bolingbroke. Richard nominated Roger in Parliament around 1385. Ian Mortimer believes that this proclamation could have occurred, though, this is difficult to understand given later events.¹⁹⁶ If Roger Mortimer had in fact been named successor and heir, John of Gaunt would have no reason to request his son’s appointment. The existence and acknowledgement of one successor would negate the reason to designate another heir if the first was still alive. Certainly, by the early 1390s, Henry was a forerunner in the quest to be named heir but there is no source acknowledging his

¹⁹⁴ "Richard II - January 1394." Parliament Rolls of Medieval England, British History Online, <http://www.british-history.ac.uk/report.aspx?compid=116499> (accessed 3/10, 2013).

¹⁹⁵ Mortimer, *Richard II and the Succession to the Crown*, 229-230.

¹⁹⁶ Bennett, *Edward III's Entail and the Succession to the Crown, 1376-1471*, 585.

status.¹⁹⁷ A bigger problem is the acknowledgement of the status of heir of two different persons. This undoubtedly would create problems for succession in the future. It seems more likely that the king adopted the policy of denial by appointing no heir to the throne.

5.3.3 Legitimization

Henry IV ascended to the throne of England after the forced abdication of his cousin, Richard II. Henry used Parliament to legitimize his claim of the throne based on the descent from Henry III.¹⁹⁸ His justification of his hereditary right is curious. Ian Mortimer's argument that Henry's invasion of London during Richard's absence signaled that Henry believed that he was rightful heir to the throne.¹⁹⁹ Given his need to justify his ascension, evidently, Henry himself did not think that he was rightful heir to the throne. This is proof that Henry did not know or could not provide a copy of the entail of Edward III. Without the entail, Henry's right to the crown was at least questionable due to the existence of descendants of Lionel of Antwerp, second son of Edward III. The entail undoubtedly would have staved off any supporters of other claimants to the crown that were to plague the first part of his reign.

Henry not only used Parliament to establish his legitimate right to the throne but also to establish a dynastic line and ensure the inheritance of his son. In the same Parliament where Henry IV legitimized his right to the throne, he also secured the inheritance for his son, Henry. Parliament had the future Henry V named Earl of Chester and Duke of Cornwall and Aquitaine as well as Prince of Wales. In a separate request

¹⁹⁷ Mortimer, *Richard II and the Succession to the Crown*, 333.

¹⁹⁸ "Henry IV - October 1399: Part 1."

¹⁹⁹ Mortimer, *Richard II and the Succession to the Crown*, 336.

but in conjunction with these titles, Parliament recognized the young prince as heir apparent.²⁰⁰ This acknowledgement was Henry's attempt to make sure his son has a claim to the throne in spite of his questionable inheritance. Parliament in effect was securing the dynastic hold of Henry's line of descendants by legitimizing Henry IV and recognizing the right of his son to the throne.

Edward IV repeated this pattern in his usurpation of Henry VI and subsequent use of Parliament to legitimize his claim and that of his heirs to the throne. The Parliament rolls show that his lineage was read from Henry III to the present, thus, acknowledging the right of the throne of Richard II and describing Henry IV and his descendants as usurpers. Edward's claim descended through his father, Richard Duke of York.²⁰¹ Edward did not have an heir through which to help secure the crown but he himself was an heir to a claimant to the throne recognized by Parliament, thereby solidifying his right to the throne.

In 1460, Richard of York had Parliament review his claim to the throne. Richard claimed the throne through his mother who was a descendant of Philippa, granddaughter of Edward III. Eventually, Parliament found that Richard's claim to the throne was better than that of Henry VI. Much like the settlement of the dispute right to throne by Stephen and Henry II, Henry VI retained a life estate in the throne but should he die or abdicate, the throne would pass to Richard and his heirs. Richard was subsequently named the Earl

²⁰⁰ "Henry IV - October 1399: Part 1."

²⁰¹ "Edward IV - November 1461." Parliament Rolls of Medieval England, British History Online, <http://www.british-history.ac.uk/report.aspx?compid=116551> (accessed 3/11, 2013).

of Chester, Duke of Cornwall and Prince of Wales, as the heir apparent to the throne.²⁰²

The king dissolved Parliament obviously upset at the disinheritance of his family.

Although, Parliament had the power to legitimize a claim to the throne, it could not enforce the claim. This power would change as Parliament faced off with the powerful monarchs of the Tudor dynasty.

5.4 Power Stale-mate

Henry VII, Henry VIII and Elizabeth I were master manipulators of Parliament. As for the middle Tudors, Edward VI was too young and Mary too preoccupied with religious issues and producing an heir to strategize effectively with its ministers for their owner benefit. The appointment of heirs during the Tudor dynasty was troublesome to say the least. Henry VIII and Elizabeth's manipulation of Parliament regarding the designation of heirs had heavy consequences for their successors. The succession controversies of the Tudor monarchs gave Parliament power beyond that of the sovereign.

5.4.1 Henry VIII

Henry VIII changed the status of heirs in England. Not since William I had a child been disinherited by his parental monarch. Following his decision that his first marriage was never valid, Henry passed his first legislation regarding succession in 1534. The First Act of Succession removed his only surviving legitimate child, Mary, from succession and named any heirs of his current wife, Anne Boleyn as true heirs to the

²⁰² "Henry VI - October 1460."

throne.²⁰³ This was not the first time that a sovereign attempted to alter succession; it is the first time that the sovereign was able to use statutes to achieve his desires. In English Parliamentary law, once an act passed the only way to change the law was to pass another law repealing or amending the previous legislation. Henry issues with wives and children forced him to pass two more laws modifying succession. His Second Succession Act of 1536 removed his daughter from succession and gave him the power to name his heir by letters patent or will.²⁰⁴ His last statute, Third Act of Succession of 1543, created a line of succession from his son Edward and his heirs on to his eldest daughter Mary and then finally his second daughter, Elizabeth.²⁰⁵

Henry was able not only to disinherit his own children at will but also to subvert 500 years of English history and have two illegitimate daughters succeed him to the throne. These acts of succession ensured that the sovereign no longer was able to designate his heir nor to delineate succession; Henry VIII did that for them. Although Henry had enough power to alter succession as he saw fit, his son did not. Edward's attempt to disinherit his sisters failed. Queen Jane might have had a reasonable chance of keeping the throne and her head had Edward used Parliament to alter his father's final act of succession. Mary made no attempt to alter succession and waited until ten days before her death to nominate her sister, Elizabeth, as successor.

²⁰³ Pickering, *The Statutes at Large from the First Year of King Richard III to the Thirty-First Year of King Henry VIII.*, 305-312

²⁰⁴ Ibid.

²⁰⁵ John Raithby, ed., *The Statutes at Large of England and of Great Britain: From Magna Carta to the Union of the Kingdoms of Great Britain and Ireland*, Vol. III (London: G. Eyre and A. Strahan, 1811), 429-430.

5.4.2 Elizabeth I

Elizabeth's lack of an heir is renowned in English history. What many ignore about the question of succession for Elizabeth is that Parliament repeatedly demanded answers. Parliament, as a body politic subject to the will of the sovereign, gained enough power and initiative to force the queen to listen to their requests for settlement of succession. Henry VIII's will outlined succession to devolve from Elizabeth to the heirs of his second sister, Mary. However, there were questions of eligibility for many of the heirs claiming the throne as descendants of Mary. Nevertheless, a faction in Parliament supported the cause of the Stuarts of Scotland who were dispossessed by the will of Henry VIII especially after the elimination of the Catholic Queen of Scots.

Shortly after her ascension, Parliament sought to have the queen marry with the hope of producing an heir to the throne. With the skill of an expert manipulator, Elizabeth staved off the question of her marriage with assurances that she would consider the matter. Repeatedly, ministers pleaded for her to marry or nominate a successor to secure the kingdom. Many feared a fight for the throne if the Queen were to die but seemed to fear more the inheritance of a Catholic sovereign notably, Mary Stuart Queen of Scotland.²⁰⁶ Even after Elizabeth forbade Parliament from bringing up the question of succession, Mr. Peter Wentworth and Sir Henry Bromley risked imprisonment to demand a solution.²⁰⁷ The Queen was able to leave the question of succession unanswered and to this day, there is no agreement on if she ever appointed a successor.

²⁰⁶ Levine, *The Early Elizabethan Succession Question, 1558-1568*, 245

²⁰⁷ "Proceedings in the Commons, 1593 - February 19th - April 9th." British History Online, <http://www.british-history.ac.uk/report.aspx?compid=43547> (accessed 3/23, 2013).

5.5 Parliament Giveth and Taketh Away

Parliament gained a lot of confidence in its power during the Elizabethan succession debates. The ascension of James against all the customs that made him ineligible shows the amount of influence that Parliament obtained in the ruling of the government during the Tudor dynasty. During the reigns of the Stuarts, the king and Parliament faced off to determine who held the upper hand in English politics. James I and Charles II were able to balance Parliament and self-rule, but the inability of Charles I and James II to work with Parliament cost them their thrones. The result of the Stuart dynasty was the first and last Parliamentary deposition and the establishment of not only the modern English constitution but also rules for succession.

5.5.1 Giveth

James IV of Scotland ascended to the throne of England as James I in 1603. Contemporaries describe his appointment on the deathbed of Elizabeth; the existence of this nomination is debated among modern historians. Deathbed appointment or not, James was the choice of Robert Cecil, which amounted to Parliamentary approval. James was in contact with Lord Burghley, Robert's father and predecessor, in his attempt to be named successor and continued to correspond regularly with Robert. James, of course, believed that his succession was due to him by right of inheritance, but as argued already in this study, succession remained unsecured until the monarch had the keys to the treasury.

Charles II, James I's grandson, also enjoyed a Parliamentary approved enthronement. Parliament forced Charles I from his throne during the English Civil War

forcing his family including his heir, Charles, to flee England. Following the beheading of his father, Charles took on the title of Charles II even though he was unable to sit on the throne. After the death of Protector Cromwell, Parliament judging Cromwell's son, Richard, ill equipped to handle the government, therefore, they looked to Charles to reign. Parliament proclaimed Charles King of England, Scotland, France and Ireland and Defender of the Faith on May 8, 1660. Interestingly, Parliament proclaimed Charles king based on the hereditary right from his father and that he had been as such since his father's death.²⁰⁸ There was mention of neither the Protectorate nor Cromwell and the only right Parliament asserted was that of its obligation to announce the ascension of the sovereign. Parliament's refusal to garnish any power from the ascension of Charles II is interesting and probably signifies its happiness to have England restored to the peace prior to the Protectorate.

5.5.4 Taketh

James II was unable to retain the throne that his brother obtained in 1660. His battle with Parliament in order to maintain his status as heir and eventual succession had nowhere to lead but to dethronement. James' hostilities with Parliament began with the acceptance that Charles II would have no children by his wife and the sovereign's refusal to rectify the situation through divorce and remarriage. Parliament attempted to have the Exclusion Bill passed into law in 1681 but Charles dissolved Parliament and enjoyed a period of self-rule. Charles was willing neither exclude his brother from succession nor nominate his illegitimate son or another heir else in his place. He above all people knew

²⁰⁸ Andrew Browning, *English Historical Documents, 1660-1714*, Vol. 6 (London: Routledge, 1998), 58-59.

the repercussion of disinheritance and allowed for his brother ascension and ruin. Ronald Hutton posits that the reason that Charles did not accept the Exclusion Bill held less to do with personal loyalty to his brother but to the divine right of the monarchy. Charles saw the exclusion of James as the first step in limiting the power of the monarchy.²⁰⁹

The Exclusion Bill declared the Duke of York incapable of inheriting the throne and even his entrance into the county was high treason. James and any who aided in his attempt to gain the throne or enter the territories of the realm were pardonable only by an act of Parliament. The bill made sure to not eliminate the option the children of James from inheriting the throne.²¹⁰ Debates show that it was neither James nor the monarchy that had Parliament scared but the succession of a Catholic monarch.

The obvious love of the monarchy was prevalent in the debates about the Exclusion Bill. Parliament did not seek to begin another protectorate or to establish any limitations on the monarchy. Parliamentary ministers even worried during the debates about the proposed legislation that the wording might cause the children of the duke to be excluded from succession.²¹¹ This worry proves that Parliament was hopeful of the eventual succession of James' Protestant daughter Mary and her husband William, Prince of Orange. By Charles not calling a Parliament in the final years of his reign, he ensured the succession of his brother James.

²⁰⁹ Hutton, *Charles the Second, King of England, Scotland, and Ireland*, 402-403.

²¹⁰ Browning, *English Historical Documents, 1660-1714*, 113-114.

²¹¹ "The Fourth Parliament of Charles II - First Session." *The History and Proceedings of the House of Commons: Volume 1*, British History Online, <http://www.british-history.ac.uk/report.aspx?compid=37637> (accessed 3/16, 2013).

5.6. Control

Parliament's role in the dethroning of James and in the inviting the coup d'état of William and Mary of Orange cemented Parliament's power over the throne's inheritance. Parliamentary statutes in the late seventeenth and eighteenth centuries, such as the Bill of Rights, the Act of Union and the Royal Marriages Act delineated and limited the line of succession. Into the twenty-first century, these acts remain the relevant laws regulating succession to the throne.

5.6.1 Bill of Rights

Even after the tension of the final years of Charles II's reign, James II inherited the throne from his brother in 1685 without much difficulty or hostility. The tension between the Protestant elite and James and his Catholic supporters grew ever thicker but revolution initially was not considered. The situation grew more complex, though, with the king's announcement of the pregnancy of the queen in late 1687. Still, she had suffered several miscarriages, so there was no reason for immediate concern among the Protestant members of House of Commons. The delivery of healthy baby boy in 1688 changed James' and Parliament's perspectives in short order. James saw the birth of his son as divine providence due to his Catholic reforms and Parliament saw it as the reason to necessitate the usurpation of James.²¹² Parliament's solution was to invite the husband of James' Protestant daughter Mary to invade England and take the throne by force.

²¹² W. A. Speck, "James II and VII (1633–1701)," Oxford Dictionary of National Biography, Oxford University Press, <http://www.oxforddnb.com.ezproxy.uta.edu/view/article/14593> (accessed 03/29, 2013).

Following the forced abdication of James II, Parliament met to establish the new government. Since Parliament still met at the will of the sovereign, Parliament had to engineer a meeting establishing the right of Mary to the throne. After addressing the grievances of James' reign, Parliament resolved to establish England as a Protestant kingdom. This allowed for the legal inheritance of Mary. The law of primogeniture, however, recognized the right of the infant son, James, over the right of James II's adult daughter. In order to bar James' son and heir to the crown from succeeding, Parliament not only banned Catholics from the throne but also barred anyone in line to the throne from marrying a prince or princess who took communion from the see of Rome. This was an obvious nod to the wife and mother of James II; English Protestants painted these women as Catholics who had corrupted the religious establishment of England. Parliament outlined succession from William and Mary and through to the survivor of them. After the death of both William and Mary, the crown would devolve to the heirs of Mary's body, then to James' second daughter, Anne and her heirs, and finally through any heirs of William by any subsequent wife.²¹³

Again, a statute passed by Parliament delineated succession. Unlike the Parliamentary statutes of Henry VIII, the sovereign was not the one determining succession, although, William probably had some input. In a single action, Parliament engineered the dethroning of a king, disinherited a legitimate male heir for his older half-sister, and limited succession to the crown. As a result of the Bill of Rights of 1689, all heirs would be determined by Parliament and the rules of primogeniture, regardless of the

²¹³ "Bill of Rights." Great Britain, <http://www.legislation.gov.uk/aep/WillandMar/1/1/contents> (accessed 3/15, 2013).

desires of the sovereign. Anne's lack of an heir forced Parliament again to determine succession to the throne.

5.6.2 Act of Union 1701

To add insult to injury, following the death of her only and beloved son, Anne had her successor appointed for her by the Parliament of her brother in law and sovereign William III. The Act of Union settled succession among Protestant Stuart relations through the daughter of James I, Elizabeth, known as the Queen of Bohemia. The descendants of this daughter were the nearest relative of the English Stuarts who maintained a Protestant religion. Sofia, Electress of Hanover, became heir presumptive of Anne prior to her consecration.²¹⁴

Parliament's determination to maintain a Protestant crown required that succession be secured without a doubt. As the act stated, Parliament had "to obviate all doubts and contentions in the same by reason of any pretended titles to the crown" and "maintain a certainty in succession".²¹⁵ The existence of Catholic heirs from the former James II always allowed for the possibility of a coup. James Francis Edward, son of James II, was alive and enjoyed the support of France, the Pope and Catholic monarchs throughout Europe in his desire to gain the throne of England.²¹⁶ William III was old and had not remarried after the death of his joint sovereign and the real heir to the throne,

²¹⁴ Elizabeth, Queen of Bohemia died in 1662. By default succession settled on her youngest daughter due to the elimination of children embracing Catholicism and premature deaths and lack of heirs

²¹⁵ "Act of Settlement 1701." Great Britain, <http://www.legislation.gov.uk/aep/Will3/12-13/2/contents> (accessed 3/16, 2013).

²¹⁶ Edward Gregg, "James Francis Edward (1688–1766)," Oxford Dictionary of National Biography, Oxford University Press, <http://www.oxforddnb.com.ezproxy.uta.edu/view/article/14594> (accessed 04/30, 2013).

Mary. His sister-in-law and heir, Anne had several miscarriages and stillborn pregnancies, leaving England little hope of an heir. Anne made little secret that the Hanovers were not her choice of heirs. In a letter to her cousin and heir, the dowager Electress of Hanover, her distain is evident as she acknowledges the Electress' right of succession to "my kingdom... [that] has always been declared to belong to you and your family".²¹⁷ Even had Anne determined her own successor there would have been only these descendants as potential heirs, according to the statues of England.

5.6.3 Marriage Act of 1772

The Royal Marriages Act of 1772 is last in the line of Parliamentary statutes regulating succession to the throne. Following the discovery of the clandestine marriage of his brother to a commoner, George III used Parliament to control the potential heirs and successors to the throne. The Act required that all descendants of George II, except princesses marrying into foreign realms, had to obtain consent of the sovereign. Without the consent of the sovereign, the marriage would be null and void. The prince or princess could still marry his or her intended as long as both houses of Parliament did not object.

Although it does not directly designate or eliminate heirs, the marriage act has repercussions for heirs. Should the marriage not be recognized or declared null and void, all children would be considered illegitimate and thereby barred from succession. It is interesting that Parliament could reverse the consent of the king should it desire to do so. Even more interesting is that the act does not mention if Parliament should become

²¹⁷ Beatrice Curtis Brown, ed., *The Letters and Diplomatic Instructions of Queen Anne* (London: Cassell, 1968), 413.

involved if the children of such a marriage maintain their position in the line of succession.

5.7 Conclusion

The evolution of the power of Parliament can be seen in the designation of heirs. As if found its own voice within English government in the late medieval era, Parliament began to intervene in the process of succession with its use of the power to assent to those who sit on the throne. Then as sovereigns began to use Parliament to control legitimization of the throne, Parliament began to lever to control the succession. By the time of the War of the Roses, Parliament became the power behind of the throne. With the major constitutional struggles of the seventeenth century, Parliamentary legislation eventually eliminated the need to designate an heir. Succession became controlled by Parliamentary statute, which could not be overruled by anything other than another statute. Anne's threat to her Hanoverian successor, saying that entry into her realms could be "dangerous to succession" was an empty threat because she would need Parliament's approval to alter the line of succession. It would be unlikely that Parliament would have consented to the alteration of the line of succession. The recent Succession Bill of 2012, which is set to receive its final reading in April 2013, will be the first piece of legislation to alter any statutes regarding succession to the throne since the eighteenth century.

Chapter 6

Conclusion

The royal heir is the subject of little scholarship independent from biographies. The existence of a direct male heir, most of the time, has provided for the smooth transition from sovereign to heir. However, English history is also filled with instances where there has been the lack of a direct heir resulting in questionable successions, often leading to war. Until 1701, the absence of written rules regarding succession meant that the designation of an heir is an important part in the maintenance of the dynasty. The methods used to designate heirs facilitated the establishment of laws of succession thereby eliminating the need to recognize an heir, rather direct or indirect. However, this does not mean that the modern heir to the English throne is without purpose. The heir remains the personification of political stability and dynastic continuance

6.1 Power

The role of the heir in the English government is one of power. The existence of a direct male heir was believed to ensure the political stability of the kingdom; however, this was not always the case, such as with the ascensions of Richard II and Edward IV. This study finds that as the sovereigns fight to secure their right and the right of their descendants to the throne more they weaken the power of the crown. The designation of the heir evolved from the idea that the sovereign was the person who could name his successor to the established line of succession as set forth by Parliamentary statute. This parliamentary statute was so absolute that it remains unchanged, presumably until this year.

6.2 Association

Association with the sovereign is key to acknowledging the heir's right and ability to succeed. Victoria's refusal to give her son, Edward, a role in the government, as Prince of Wales, created doubts for the English government and people in their confidence in his ability to reign. Charles, the incumbent Prince of Wales, also fends off those who question his right to succession. Rumors abound about the possibility of Charles being passed up or being forced to relinquish his claim to the throne in favor of his immensely popular son, William, Duke of Cambridge.

The lack of direct relationship between the sovereign and potential heir necessitated the creation of false associations. From the Edward the Confessor through to the eighteenth century, heirs without close blood ties requested or needed land, titles or name association to ensure their succession to the throne. William I, Matilda and Arthur all suffered from the lack of personal relationship with the sovereign and had to fight for their right to the throne unlike Harold, Stephen or John. The latter were able to gain the throne due to their place in English society. This would continue even after the rules of primogeniture were established, as James I sought to obtain land and title from Elizabeth during his quest for designation.²¹⁸ Even following Parliamentary statutes delineating succession, the Hanovers sought to gain a place in England prior to their inheritance much to the chagrin of Queen Anne. The future George II was created a Knight of the

²¹⁸ "Cecil Papers - July 1587." Calendar of the Cecil Papers in Hatfield House, Volume 3, British History Online, <http://www.british-history.ac.uk/report.aspx?compid=111504> (accessed 3/13, 2013).

Garter and attempted to take his seat in Parliament as Duke of Gloucester.²¹⁹ By the time of the ascension of George I, Parliament ensured the inheritance of his family. The Hanovers were foreign and knew little of the Parliament personalities. Their residence in the country would have made the transition easier but Anne feared, like Elizabeth, the transference from her majesty to that of the heir.

6.3 Power Struggle

Regardless of whether the heir was the eldest son, a daughter or a distant relative, the relationship between the English sovereign and the heir has been tumultuous. Heirs spend the majority of their lives waiting for their sole purpose in life – a wait that ends only with the death of their royal parent. In the middle ages, heirs fought to gain power independent of their sovereign fathers. Such contention, though, was clearly evident with the relationship between the sovereign and heir during the reign of Henry II and the Hanover dynasty. Henry II was embroiled in a full rebellion by all of his sons. Georges I, II and III fought against the rising disregard for the position of sovereign by their eldest son and heir. This power struggle continues through to today as each generation of sovereign and heir experience conflict over the politics and tradition of the monarch and the thoughts and ideas of the heir.

The relationship between the sovereign and heir historically has been more antagonistic when the sovereign is female. The ascension of a female sovereign occurs only when her father or predecessor fails to produce a son; she is queen less by right and more by lack of options. Her primary goal has often been defined as not to rule the

²¹⁹ Brown, *The Letters and Diplomatic Instructions of Queen Anne*, 413.

country but to produce male offspring who will eventually reign. Prior to reign of Queen Victoria, female sovereigns fought to maintain their claim to the throne in their own right and worried that the existence of a male heir would shift power from them to the future king. Victoria and Elizabeth II did not worry about their claim to the throne, but as females have to maintain a fine line between female and sovereign.

6.4 Traditionally defined

A recurring theme in the designation of the royal heir is tradition. The oath evolved into a tradition of hereditary right. The tradition of waiting until the deathbed to designate an heir did not evolve as Parliament diverted its creation through the use of legislation thanks to the succession-obsessed sovereigns of the Tudor dynasty. By establishing legislation delineating a line of succession, the successor to the throne is no longer in question. The designation of heirs remains only pageantry, as the heir is limited to being the symbol of England's history and hope for the future. The investitures of Edward in 1910 and Charles in 1969 as Prince of Wales were designed as traditional ceremony evoking Welsh history and the English connection to Wales.²²⁰ Those twentieth century investitures were a mixture between a coronation ceremony and the investiture of Henry Frederick in 1610, that itself was modeled after the ceremonies of investiture of continental heir-apparents.

6.5 Future

The announcement by the Duke and Duchess of Cambridge in late 2012 regarding their pregnancy caused policy makers and the royal family to rush in order to

²²⁰ Loades, *Princes of Wales: Royal Heirs in Waiting*, 242.

alter the laws of succession. The throne would no longer follow a strict rule of primogeniture; instead, the eldest child would inherit regardless of sex. In an age of toleration, the bill will no longer ban Catholics from inheriting nor would there be any exclusion based on marriage to a Catholic. Finally, the Royal Marriage Act of 1776 would only apply to the first six in line to the throne and the marriages would not be null instead only possibly barring the descendant from inheriting the throne.²²¹ With the changing times, even the traditional and fairy-tale like monarchy must conform to modern standards of society.

²²¹ *Succession to the Crown Bill*

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