Introduction

The title of this book may risk seeming slightly old-fashioned at the beginning of the twenty-first century. In particular, to focus on the relationship between crown and parliament might be thought to have connotations of the 'Whig' interpretation, which saw English history as a long progression towards the modern constitutional monarchy. In Whig eyes, English history involved a prolonged series of conflicts between royal ambitions and popular liberties, stoutly defended by parliament. Gradually the tyrannical ambitions of various monarchs were thwarted and the forces of liberty and democracy triumphed. The monarchy became progressively more and more limited in its powers.

Within this interpretation, no period possessed more decisive importance than the late sixteenth and seventeenth centuries. The Stuart period saw two revolutions, the first extremely bloody, the second largely peaceful; one monarch was tried and publicly executed, another in effect deposed. To many historians this seemed the decisive stage at which royal ambitions to emulate continental absolutism were frustrated. In many Whig accounts this was a crucial watershed in English history. Elizabeth's difficulties with her parliaments were seen as a kind of preface to the conflicts of the following century, while the period from the early eighteenth century onwards was viewed as a journey down a path whose basic direction had already been set by the 1690s.

However, over the past two decades much of this interpretation has been vigorously challenged. The 'revisionist' historians, such as Geoffrey Elton, Conrad Russell and John Morrill, have argued that conflict was not inherent in the late Tudor or early Stuart state and suggested that this was in many ways a stable polity. They believe that it is anachronistic to read the English Civil Wars of the 1640s back into earlier decades, and that the Whig interpretation rests on an assumption that perceives events as moving towards a predetermined goal. Instead, they argue that we need to reconstruct the past on its own terms, to retrieve its political culture as authentically as possible, and not to ascribe significance to those features of the past that appear to prefigure our own world.

It is, nevertheless, possible to achieve a balance between these different views, one which fully acknowledges the important insights of 'revisionism' without losing sight of the fact that the late Tudor and Stuart periods were of immense significance in England's political, constitutional and religious history. After all, throughout these years political stability depended crucially on the way in which the monarch interacted with the privy council, the court and parliament; on the relationship between royal powers and the rule of law; and on the monarch's

management of the church. These relationships and dynamics lay at the heart of the English polity and are vital in explaining both why it collapsed in the mid-seventeenth century, and how it was later reconstructed.

These relationships were not static, and these years saw changes of fundamental significance in them. In 1558, the queen could summon and dissolve parliament at will, could follow her own religious preferences and still remain queen whatever she chose, could raise taxation on royal authority without consulting parliament, could suspend parliamentary statutes, and could dismiss judges whenever she wished. By the 1700s much of this picture had changed. Parliament was now a permanent part of government; rather than meeting intermittently it had to meet at least every three years, and in practice it henceforth met every year. Parliament subsidised royal government with annual grants (the 'civil list'), and the monarch could no longer raise any money by their own authority. Parliament monitored the government's financial conduct, and ensured that its grants were used in the ways it intended. The monarch had to uphold statutes and could no longer suspend their operation. Judges had tenure for as long as they did good work, and could not be dismissed at the monarch's whim. The monarch was no longer free to choose their own religion; they had to be a communicant member of the Church of England – those who were not were debarred from the throne. In these and other important respects, constitutional safeguards had been developed to regulate royal action and guard against the idiosyncrasies of an individual monarch's personality.

This book traces how these changes came about. It examines the limits that were placed on royal powers, and the reasons why this was done. It looks at the role that the personalities of particular monarchs played in bringing about these developments. It takes the theme of the changing nature of royal powers and the limits upon them as a way of charting a path through the complex and turbulent events from the accession of Elizabeth I to that of William and Mary.

The first chapter analyses the position when Elizabeth came to the throne in 1558; while the final chapter adopts the same approach for 1689, when William and Mary were proclaimed king and queen, and the years immediately afterwards. These two chapters thus provide snapshots of the English polity at the beginning and end of the period. In between, the four central chapters examine the events that led from the first position to the second. These chapters consider in turn the periods 1558–1603, 1603–25, 1625–60 and 1660–88. At the end, there is a chart of key dates and also a bibliography suggesting ideas for further reading on this subject.

We hope that the significance of the period, and the changes that occurred during it, will emerge very clearly in the pages that follow, without returning to a 'Whiggish' interpretation or implying that this was the only way in which things could have developed. Indeed, one of the central themes of the book is the role of the contingent and the crucial importance of individual personalities in the unfolding of events. In a sense, this book charts a fascinating journey, the destination of which was unknown to those at the time, but which turned out to be very different from the starting-point.

1 The position in 1558

The monarchy: nature and powers

England in 1558 was a personal monarchy. The monarch was seen as the apex of the social order and of the political system. Government was royal government, conducted in the monarch's name, and all public offices in both central and local government were held on commissions from the monarch. The courts of law were likewise the monarch's courts, exercising justice on behalf of the monarch. The monarch was the embodiment of the body politic, and the monarch's personality necessarily had an immense influence on political priorities and decisions. As David Loades has written, 'the monarch was the keystone in the arch of government: the shaper of policy and the maker of decisions'.[1]

The powers that the monarch wielded were very extensive but not unlimited, and were known collectively as the royal 'prerogative'. These powers were usually divided into two branches, the ordinary and the absolute. The ordinary prerogative powers were 'defined in the law of the realm', and included powers such as the right to appoint to public office, to dispense justice and to regulate trade. These powers were determined and limited by the law. The absolute prerogative powers were not so defined, and applied to emergency situations such as the making of peace and war, or the taking of necessary action to preserve national security. These were discretionary powers that ran alongside the law; they were not constrained by it, but equally they could not contravene it. This enabled contemporaries to describe royal powers – in terms which to modern ears sound like a contradiction in terms – as 'absolute and legally limited'. The main problem with this concept was that the boundary between the absolute and ordinary prerogatives was not clearly defined, and political stability depended to a crucial extent on monarchs establishing an effective working relationship with their leading subjects. In practice, this was not always easy to achieve in a system that depended so much upon the interaction of individual personalities.

The public image and iconography of the monarch were carefully cultivated to reinforce the perception of the monarch as God's chosen ruler. In an age before film or television, the mass of the population became familiar with the monarch's image primarily through coins, medallions or engravings. For a more elite audience, portraiture provided a means of propagating the likeness of the monarch and one that directly reflected the political culture of the period.

The 'Rainbow Portrait' of Elizabeth I, from the original at Hatfield House, drawn by William Derby and engraved by T. A. Dean *c.*1825.

One notable example of the latter is the 'Rainbow Portrait' at Hatfield House in which Elizabeth's costume is depicted as covered with eyes and ears to symbolise her knowledge, insight and all-embracing awareness of her kingdom. She holds a rainbow as a symbol of peace. In this, as in many other portraits of the queen, the monarch's power and wisdom as well as her role as God's lieutenant on earth are powerfully affirmed.

The queen's court reinforced the symbolism of monarchy by providing a splendid setting in which the monarch lived from day to day. In a sense, the court did not have a fixed location but followed the monarch wherever she went. Elizabeth was famous for her regular summer progresses, when she and her courtiers travelled round selected parts of her kingdom, staying with particular subjects who were both deeply flattered and often secretly appalled at the expense that was involved. But the court was not only a lavish setting for the monarch; it also fulfilled a vital political function as a point of contact between the monarch and some of her leading subjects. Those who held senior court

offices, or who visited court regularly, often had direct personal access to the queen that could give them a degree of political influence denied to those away from court (as the earl of Essex was to discover, to his cost, in the 1590s). The court was a vital channel through which the monarch could be informed of developments in the realm at large, and kept abreast of changing currents of opinion within the political elite. Until the 1590s, Elizabeth proved remarkably adept at balancing different groups and individuals, and generally avoided leaving people feeling marginalised.[2]

Part of that success lay in Elizabeth's realisation that royal government depended to a crucial extent on the co-operation of the political elite. At both national and local levels, the crown relied on members of the nobility and gentry to implement policy and to conduct administration; without their active support, the Tudor state entirely lacked the bureaucratic machinery to enforce its will. Elizabeth soon learned the vital lesson that although the crown wielded very extensive powers, and was surrounded with all the trappings and symbolism of authority, its powers were actually greatest when exercised in collaboration with the political elite. As the following sections will show, that was a central feature of Tudor government that monarchs ignored at their peril. This was the profound truth which Henry VIII acknowledged when he told members of parliament in 1542: 'We at no time stand so highly in our estate royal as in the time of Parliament, wherein we as head and you as members are conjoined and knit together into one body politic.'[3] The full force of this remark becomes clear when we turn to examine the role of parliament and its relationship with the crown in this period.

The role of parliaments

The historiography of Tudor, and especially Elizabethan, parliaments was for a long time coloured by reading the Civil War between crown and parliament in the 1640s back into the previous century. Only over the past 20 years, through the work of 'revisionists' such as Michael Graves and Geoffrey Elton, has it been fully recognised that crown and parliament should not be seen as natural antagonists, already limbering up for the conflict of the mid-seventeenth century. Instead, it is important to remember that parliament was an instrument of royal government, not a counterweight to it. It existed to make the monarch's rule more effective, not less. Ever since its earliest origins in the thirteenth century, parliament had existed as an agency of the crown, and the monarch could summon, prorogue or dissolve it at will. The monarch could thus choose when, and for how long, parliament met.[4]

However, although monarchs controlled when parliament sat, the powers that they exercised jointly with parliament were greater than those which they wielded on their own. From the 1530s onwards it was universally recognised that acts of parliament (statutes) were the highest form of law in England. In order to be valid, statutes had to receive the assent of both houses of parliament (the Lords and the Commons) and of the monarch. There was no limit to the powers

of statutes, and no way of undoing them except by another statute. The crown could, however, suspend the operation of a statute temporarily, or dispense (exempt) particular individuals from the force of a statute. As a last resort, monarchs could also refuse to give their assent to bills that had passed both houses of parliament by using the royal veto.[5] But such powers were used very sparingly, and in practice the monarch's unilateral powers palled in comparison with those exercised in conjunction with parliament. Monarchs could issue proclamations on their own authority, but these could not touch life or limb or infringe common law rights of property. By contrast, statutes could enact a death sentence without a common law trial (by act of attainder). It was during the Reformation Parliament (1529–36) that the omnicompetence of statute was demonstrated more clearly than ever before. In these years statutes were used to enact measures as varied and momentous as the break with Rome, a fundamental refashioning of the nation's religious life, a redefining of the law of treason and a rearrangement of the line of succession. When working with their parliaments there was almost nothing that Tudor monarchs could not do. The queen acting alone was thus less powerful than the 'Queen-in-Parliament', and the latter possessed a range of powers and a freedom of action well beyond those of most continental rulers in this period.

As well as passing legislation, there were other functions that added to parliament's usefulness to the crown. From the fourteenth century onwards the Commons had established its right to assent to certain categories of taxation, of which the most significant were called the subsidy and the fifteenth and tenth. It was generally assumed that these formed part of the crown's 'extraordinary' revenues, only granted in times of 'evident and urgent' need, such as wartime or other national emergency. At other times, it was expected that the crown would live off its 'ordinary' revenues, which comprised principally income from crown lands, customs duties, feudal revenues (especially wardship and purveyance) and the profits of justice (mainly fines and fees from the law courts). The Commons could refuse the monarch's requests for 'extraordinary' supply, and this 'power of the purse' gave the house the potential to exert political leverage, demanding concessions as the price for granting revenue. Yet parliaments were relatively restrained in their use of this power. Elizabeth requested supply in all but one (1572) of her 13 parliamentary sessions, and each time these requests were granted. The only instance of any resistance in the Commons was in 1593 when the Lords seemed in danger of pre-empting the Commons' right to initiate taxation.[6] Grants of extraordinary revenue were among the facilities that made parliaments most directly useful to monarchs, and the latter would not have continued to call them as often as they did had they not anticipated a reasonable likelihood of gaining the supply they wanted. Indeed, the need for such a grant of taxation was often among the most immediate reasons why a monarch decided to summon parliament.

There were also other motives. Parliament acted as the monarch's 'Great Council', and this term was frequently used as a synonym for parliament throughout this period. Unlike the inner, privy council, which generally met

weekly, parliament met intermittently – only 13 times during Elizabeth's 45-year reign, lasting a total of around 145 weeks (approximately 34 months). Elizabeth liked to keep parliamentary sessions fairly short, and the average length of session during her reign was about 11 weeks.[7] Parliament was thus, in Conrad Russell's memorable phrase, 'an event and not an institution'.[8] However, parliament had the great advantage of bringing monarchs and their advisers into direct contact with leading members of the political elite: the nobility (lords temporal) and the bishops (lords spiritual) in the Lords, and the representatives of the counties and boroughs (who were predominantly gentry) in the Commons. This made parliament another invaluable point of contact between monarch and subjects. According to the writs summoning them to parliament, members were required to advise the monarch on 'urgent and arduous affairs', and such counsel was crucial in making those at the heart of government aware of trends and opinions in the nation at large.

Yet there was also the potential for tension and disagreement. What happened if parliament offered advice that the monarch had not asked for or did not wish to hear? Was parliament's role in advising the monarch a duty or a right? Were there certain matters on which parliament could not presume to advise? There were no agreed answers to these questions, and we shall see that they generated regular disputes between successive monarchs and their parliaments.

Another key function of parliaments was to exercise justice on the monarch's behalf. Contemporaries often referred to the 'High Court of Parliament', and this was a further way in which parliament operated as an agency of royal government. The House of Lords acted as a court of appeal, a function that fell into disuse during the sixteenth century but was dramatically revived from 1621 onwards. It could hear cases referred to it from one of the central law courts. The Commons could not act independently as a court of law in the same way, but the two houses could work together, for example in the process known as impeachment – in which the Commons acted as prosecutors and the Lords as judge and jurors. Such trials followed common law principles concerning the hearing of witnesses under oath. Impeachment had not been used since 1459 but was revived in 1621 and thereafter was regularly used until the early nineteenth century to punish unpopular royal advisers. This had the potential to cause conflict between the monarch and parliament if the former wished to protect an adviser whom the latter wished to impeach.

In order to fulfil these diverse functions as effectively as possible, parliament enjoyed various privileges and liberties. Members of the House of Lords had various privileges by virtue of their status as peers; these included freedom from arrest or legal suits while parliament was sitting, the right to sit in the Lords, and the right – if unavoidably absent – to appoint another peer as a proxy to vote on the peer's behalf. The House of Commons, on the other hand, had to petition the monarch to grant its privileges at the beginning of each new parliamentary session. The speaker (a crown nominee) would request that the monarch grant the house its four ancient liberties, and although this was largely a formality by the later sixteenth century it could not yet be taken completely for granted.

These liberties were fourfold: the right of access to the Lords and to the monarch, the right to correct calumnies of the house, liberty of speech and freedom from arrest or legal suits while parliament was sitting. The Commons jealously guarded these privileges and was extremely sensitive to any perceived encroachment on them. As we shall see, this was consistently a touchy area between monarchs and their parliaments throughout this period.

Equally, because so much has been made in the older literature of moments of conflict between crown and parliament, it needs stressing that parliament was an institution of royal government, not in any way a rival to it. The two houses were not divided, as today, into the government benches and those of the opposition. There was not an opposition in the modern sense; all members were there to serve and advise the monarch, and such groupings as did exist were generally fluid and transient in nature. Disagreements occurred over how best to advise the monarch, and above all over what to do if the monarch refused to listen to parliamentary advice. But this was all part of the workings of the monarch's 'Great Council' rather than a symptom of resistance to the crown. Very often, parliamentary criticism of royal policies reflected the spilling over of debates within the court and privy council into the Lords and Commons. Parliament in the mid-sixteenth century thus needs to be seen not so much as a limitation on the crown's powers as a part of an organic, interlocking system of government – what contemporaries called the 'body politic'. The monarch was the centre or head of the political system, and the conciliar institutions spread outwards from it in concentric circles. Parliament formed the outermost circle, and within it lay the inner circle, the privy council.

The privy council and royal advisers

The body known as the privy council had emerged in 1540 as part of Thomas Cromwell's reforms, and grew out of the large and relatively informal medieval king's council which had survived into the early Tudor period. The members of the privy council were personally selected by the monarch; nobody sat *ex officio* or as of right, although the membership normally included the two secretaries of state and such senior officers as the lord chancellor and the lord treasurer. The size and composition of the council lay very much within the monarch's discretion, and this complete freedom of appointment was not challenged until the 1640s. Like Henry VIII and Edward VI, but unlike Mary, Elizabeth preferred to keep her council small in number; it never had more than 20 members, and sometimes as few as 11.[9] This made for efficient government, which was essential given the immense range and volume of business that the council handled. Essentially, the council was the chief instrument of executive government. It met at least once a week (often more regularly), and the matters it discussed and the letters and orders it issued covered all aspects of government throughout the realm.[10]

If administration of every kind of state business was one of the council's key roles, a second lay in advising the monarch. As with the 'Great Council' of

parliament, the ways in which the privy council counselled the monarch were not precisely defined; much depended on personal relationships and there was scope for considerable disagreement and tension. Many privy councillors felt that they had a duty to offer the queen advice, even if it was unpalatable to her. In 1566, when Elizabeth faced concerted pressure from her councillors to marry, the earl of Pembroke told her that they were 'only doing what was fitting for the good of the country, and advising her what was best for her, and if she did not think fit to adopt the advice, it was still their duty to offer it'.[11] In general, most Elizabethan privy councillors held the view that it was their duty to give the queen advice completely openly and honestly and then, once she had reached a decision, to implement her wishes, regardless of their private views. As the longest serving of Elizabeth's councillors, William Cecil, Lord Burghley, put it:

> As long as I may be allowed to give advice, I will not change my opinion by affirming the contrary, for that were to offend God, to whom I am sworn first; but as a servant I will obey her Majesty's commandment . . . [After] I have performed my duty as a counsellor, [I] shall in my heart wish her commandments such good success as I am sure she intends.[12]

Such loyal sentiments nevertheless left considerable scope in practice for manipulating the queen, for example by carefully selecting the information brought before her or by presenting arguments with a particular slant. Elizabeth of course realised that this went on, and once remarked that her councillors 'dealt with me like physicians who, ministering a drug, make it more acceptable by giving it a good aromatical savour, or when they give pills do gild them all over'.[13]

It was not easy for a monarch to guard against such manipulation, but one of the most effective ways was to ensure that as wide a range of viewpoints as possible was represented within the council. This was exactly what was needed to make it work efficiently as a conciliar body, and the Elizabethan council generally contained a variety of opinion that was remarkable in so small a body. Those figures who took a strongly Protestant line and urged military action against Spain, such as the earl of Leicester and Sir Francis Walsingham, were balanced by other more pragmatic and cautious figures – including Burghley, the earl of Sussex and Sir Christopher Hatton. The queen thus kept in touch with at least some of the different strands of opinion in the nation at large. Such a wide variety of views also enabled her to play her councillors off against each other. Very often, she preferred to conduct business informally, with small groups of councillors, outside the full council meetings. It was open to monarchs to receive advice from whoever they chose, including prominent individuals who were not actually members of the privy council; both Leicester and Essex, for example, enjoyed the queen's confidence for several years before being appointed to the council.

The third and final aspect of the council's functions was that, like parliament, it exercised a judicial role. The privy councillors, together with the two chief justices (of the Courts of King's Bench and Common Pleas), could sit as a law

court known as the Court of Star Chamber. This court was presided over by the lord chancellor and usually met twice a week during the law terms. By the later sixteenth century it had established itself as a highly efficient court, very popular among litigants for its speed and perceived fairness of jurisdiction. The later dark connotations that surrounded its name and led to its abolition in 1641 stemmed from events during the 1630s and should not be allowed to cloud the positive impact of the court in earlier decades.

All in all, the privy council at its best could work as a highly versatile and effective institution. It stood at the very heart of government. As with parliament, it existed to inform and guide royal action rather than to restrict it; equally, again like parliament, the potential for friction existed if the monarch resented the advice that was offered or refused to accept it. As we shall see in the next chapter, in Elizabeth's reign this was especially true of issues such as whether the queen should marry, the succession, and the handling of the Catholic threat. On such matters the queen's characteristic reluctance to act drove some of her councillors to desperation, and disputes within court and council spilled over into parliament. But such tensions took place within a context of profound loyalty to the crown and stemmed from fears that the queen was acting irresponsibly and neglecting the nation's best interests, rather than from a wish to limit her powers as such. Much of the stability of the council rested on its capacity to represent a range of views among its members, and to avoid leaving prominent individuals feeling marginalised. For the greater part of her reign Elizabeth achieved this, and it was only in her final years that the balance became seriously upset, leading to the earl of Essex's abortive coup in 1601.

Law courts and the rule of law

We saw above that in mid-sixteenth-century England royal powers were regarded as both 'absolute' and 'legally limited'. One consequence of this idea was a similar paradox in the perceived relationship between the monarch and the rule of law. On the one hand, the monarch was conventionally regarded as the creator of the laws of England, and in the Coronation Oath they swore to 'confirm to the people of England the laws and customs granted by the Kings of England'. On the other hand, since the Middle Ages there had developed within England an important constitutional tradition that asserted that monarchs had to abide by the rule of law as much as their subjects and could not act arbitrarily. In the thirteenth century, the judge Henry de Bracton had formulated the maxim *debet rex esse sub lege* ('the king must be within the law'). This principle was further reinforced in the later fifteenth century by Chief Justice Sir John Fortescue, who described the English polity as *dominium politicum et regale*, meaning a form of government that was both 'political' and 'royal'. Within this, there were certain royal discretionary powers that were not defined by law, but that had to be exercised in ways which did not actually infringe the laws.

In theory this was a perfectly coherent doctrine. It was argued that the common law existed for the good of the commonwealth, and royal powers could