

# **The Problem of Political Counsel in Medieval and Early Modern England and Scotland\***

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Counsel was a fundamental element of the conceptual basis, political framework and daily workings of the late medieval and early modern polity. The practical difficulties and moral burdens of government at every level of society meant rulers required assistance in fulfilling their duties. These were polities saturated in counsel. Advice was not confined to politics: it was exchanged between partners in businesses, it was passed down by experienced family members to their younger kin, and spiritual counsel was offered by brethren and pastors to congregations. Yet counsel was inherently political in the sense that the giving of it either reinforced or reconstituted power relations. Political actors at every level would have been familiar with councils: from privy councils to urban corporations, from parliaments to colonial councils, from provincial convocations to parish vestries. Councils could be elitist or popular, oligarchic or democratic, royal or religious. In them members of the polity acted as subjects and citizens, simultaneously participating in, influencing and serving their ruler and commonwealth. Whether formally embodied in institutional councils or verbally exchanged in informal dialogues, counsel was a ubiquitous and inescapable element of life.

This book probes the workings of political counsel in Scotland and England between the Wars of Independence and the parliamentary Union of 1707. These four centuries saw growth in both the remit and the frequency of institutional councils and an expansion of both

numbers and types of counsellors within and beyond formal institutional bodies which resulted in a widening pool of subjects acting as advisers. They constitute an era especially attuned to questions relating to the common good, commonweal and community which stimulated attention to counsel. And they witnessed both contact and divergence between the English and Scottish polities, through cross-border intervention, warfare and dynastic and incorporating unions. Even at their most different, late medieval and early modern Scotland and England experienced cognate intellectual, political and religious changes, responses to which were shaped by the advice rulers received and which themselves influenced developments in counsel.

Within this framework, this book analyses expectations of counsel as a means to good rule, examines how it functioned at a variety of social and geographical levels and traces its development over time, considering both long-term continuities and contingent evolution in specific circumstances. While aware of the theoretical literature on counsel as a means to ensure good rule, many contributors dissect the values and assumptions within social and political practice which are not necessarily enunciated in formal treatises, and they embed these accounts in discussions of conciliar practice. Many argue for the importance of shifting our attention from councils (i.e. formal institutional bodies) to counsel in its broader sense of advice provided through dialogue, debate and discussion outwith institutional settings. A *council* was the institution or body in which *counsel* (consultation or advice) might be given. But counsel, and the political contact which it fostered, was not confined to councils.<sup>1</sup>

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<sup>1</sup> For more on this distinction, see section II of this introduction.

Moving from the more restricted institutional settings for advice termed councils to the more expansive, albeit more nebulous, concept and practice of counsel highlights two challenges which partly explain the surprising paucity of sustained attention to advice-giving. One is the practical problem of source material. Problematic and patchy as this is for institutional councils, the challenge is exacerbated when trying to trace informally exchanged counsel. The second problem is one rooted in counsel itself. Because almost nobody denied the need for good counsel, calls for it can appear commonplace, too mundane to make detailed analysis rewarding. Although counsel was 'so fundamental' that it would be 'perilous in the extreme' to neglect it, it was 'jejune', 'conventional to the point of banality'.<sup>2</sup> Counsel might be a symptom as much as a cause of bad rule, but this was something which could only be admitted in the direst circumstances. This makes the constant recourse to counsel seem like a utopian search for a non-existent solution. Nevertheless, as this volume will show, discussion of counsel was not merely unthinking reiteration of moral commonplaces by those too intellectually unadventurous or politically timeserving to dream up resistance theory. It was a serious endeavour to get politics back on track, but one which was far from 'jejune' because of the tensions and ambiguities within counsel. This volume asks what purpose an invocation of counsel served and why, if everyone believed in good counsel, the practice of it proved so elusive and divisive.

This introduction examines both the problems medieval and early modern political actors faced in navigating the politics of counsel and the difficulties of studying their ways of negotiating advice. It first outlines the different approaches scholars of counsel as a fluid practice and discourse and those of institutional councils have adopted, before highlighting the importance of moving from councils to counsel, considering the problems of evidence

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<sup>2</sup> R. A. Mason, *Kingship and the Commonwealth* (East Linton, Tuckwell Press, 1998), pp. 12, 16.

involved in studying each. It then sketches the general framework of good rule and counsel's central place therein, a set of assumptions which remained fairly constant across medieval and early modern England and Scotland. Turning from continuity to contingency, points of conciliar change are then discussed. The fifth section outlines the various functions of counsel, considering both the positive roles that it played in supporting rule and lubricating political relationships, and the no less important, if somewhat less benign, uses of it to manipulate and manage government. Finally, the sixth section sketches the different groups of people who gave advice and the political languages which they used to legitimate their roles as counsellors. This lays bare both the problems which scholars of political counsel face, and those which counsel posed for its medieval and early modern practitioners.

## I

Three approaches have characterised previous studies of fluid counsel and formal councils. The first, and longest established, is the institutional history of the royal council, focused on its emergence, its evolution into the privy council and its incorporation and divestment of judicial functions.<sup>3</sup> As a form of administrative history, this often involved assumptions that

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<sup>3</sup> J. F. Baldwin, *The King's Council in England during the Middle Ages* (Oxford, Clarendon, 1913); E. R. Turner, *The Privy Council of England in the Seventeenth and Eighteenth Centuries, 1603-1784*, 2 vols (Baltimore, John Hopkins Press, 1927-8); G. R. Elton, *The Tudor Revolution in Government* (Cambridge, Cambridge University Press, 1953); cf. J. Guy, *Politics, Law, and Counsel in Tudor and Early Stuart England* (Aldershot, Ashgate, 2000); J. Guy, 'Wolsey, the Council, and the Council Courts', *English Historical Review*, 91 (1976), 481-505; C. Coleman and D. Starkey (eds), *Revolution Reassessed* (Oxford, Clarendon, 1986); D. E. Hoak, *The King's Council in the Reign of Edward VI* (Cambridge, Cambridge

more formal processes of record keeping and committees equated to progress towards modern efficient government. One subset of this institutional history has been prosopographical analysis of who sat in councils. These types of approaches have been particularly popular as they involve study of a defined body of source material appropriate for doctoral work.<sup>4</sup> Studies of changes in councils and who populated them are a vital bedrock of understanding how such institutional councils fitted into wider political structures. Nevertheless, the turn in recent years towards a broader conception of political and constitutional history, in which principles, cultural values and social networks are considered vital adjuncts to policy making, has encouraged a move away from institutional studies.<sup>5</sup>

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University Press, 1976); J. Goodare, *The Government of Scotland, 1560-1625* (Oxford, Oxford University Press, 2004); A. M. Godfrey, *Civil Justice in Renaissance Scotland: The Origins of a Central Court* (Leiden, Brill, 2009); A. M. Godfrey, 'The Assumption of Jurisdiction: Parliament, the King's Council and the College of Justice in Sixteenth-Century Scotland', *Journal of Legal History*, 22.3 (2001), 21-36.

<sup>4</sup> A. R. Borthwick, 'The King, Council, and Councillors in Scotland, c.1430-1460', Ph.D. thesis (Edinburgh, 1989); T. M. Chalmers, 'The King's Council, Patronage, and the Government of Scotland, 1460-1513', Ph.D. thesis (Aberdeen, 1982); elements of W. K. Emond, 'The Minority of King James V, 1513-1528', Ph.D. thesis (St Andrews, 1989); W. Taylor, 'The Scottish Privy Council, 1603-1625: Its Composition and its Work', Ph.D. thesis (Edinburgh, 1950); L. Ford, 'Conciliar Politics and Administration in the Reign of Henry VII', Ph.D. thesis (St Andrews, 2001).

<sup>5</sup> S. Alford, 'Politics and Political History in the Tudor Century', *Historical Journal*, 42 (1999), 535-48; N. Mears, 'Court, Courtiers, and Culture in Tudor England', *Historical Journal*, 46 (2003), 703-22; J. Watts, 'Ideas, Principles, and Politics', in A. J. Pollard (ed.), *The Wars of the Roses* (Houndmills, Macmillan, 1995).

Those taking the second approach, that of intellectual history, have, by contrast, considered the discourse of counsel but sidelined bodies called councils. This is appropriate, for the thinkers in question rarely spoke of institutional specifics. They might be said to have seen counsel as a language, not a programme. The textual approach of intellectual historians sits alongside that of literary scholars (or historians studying literature), though these are particularly concerned with the question of topicality.<sup>6</sup> Analysing expectations of good rule described in the mirrors for princes so popular in late medieval and early modern Europe, these scholars recognise that counsel was considered a vital way of ensuring princes did not become tyrants. Greatest consideration has been given to the transalpine humanists who devoted attention to counsel. Book I of More's *Utopia* is the most famous example, but other Henrician writers are well known.<sup>7</sup> The importance of ideas of counsel has also been stressed

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<sup>6</sup> S. Mapstone, 'The Advice to Princes Tradition in Scottish Literature', Ph.D. thesis (Oxford, 1986); R. J. Lyall, 'Politics and Poetry in Fifteenth and Sixteenth Century Scotland', *Scottish Literary Journal*, 3.2 (1976), 5-29; J. M. Ferster, *Fictions of Advice* (Philadelphia, University of Pennsylvania Press, 1996); G. Walker, *Writing under Tyranny* (Oxford, Oxford University Press, 2005); A. B. Worden, *The Sound of Virtue* (New Haven, Yale University Press, 1996); D. Colclough, *Freedom of Speech in Early Stuart England* (Cambridge, Cambridge University Press, 2005).

<sup>7</sup> F. W. Conrad, 'The Problem of Counsel Reconsidered: The Case of Sir Thomas Elyot', in P. A. Fideler and T. F. Mayer (eds), *Political Thought and the Tudor Commonwealth* (London, Routledge, 1992); J. M. Headley, 'The Problem of Counsel Revisited Once More: Budé's *De Asse* (1515) and *Utopia I* (1516) in Defining a Political Moment', in C. S. Celenza and K. Gouwens (eds), *Humanism and Creativity in the Renaissance* (Leiden, Brill, 2006); J. H. Hexter, 'Sir Thomas More and the Problem of Counsel', in M. J. Moore (ed.), *Quincentennial Essays on St Thomas More* (Boone, NC, Albion, 1978); S. E. Lehmborg,

for fifteenth- and sixteenth-century Scotland, particularly a tradition of baronial conciliarism which sat alongside pride in Scotland's uninterrupted line of monarchy.<sup>8</sup> Yet counsel has often seemed to be the poor relation in intellectual history compared with more excitingly radical theories of resistance or sovereign absolutism.

The third approach is one which effectively combines attention to specific bodies (councils) and the broader idea of counsel to consider the practice and ramifications of advice in the reign of a particular ruler. While counsel and councils may appear in discussion of any reign, they are brought to the foreground when a ruler was flawed by political ineptitude, age, gender or mental illness, generating discussions of whether good counsel (better advice) or a council (an institutional body) could replace sovereign authority. Especially prominent examples are James III<sup>9</sup> and Charles I<sup>10</sup> (for ineptitude); Edward VI<sup>11</sup> (minority); Henry VI<sup>12</sup>

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‘English Humanists, the Reformation, and the Problem of Counsel’, *Archiv für*

*Reformationsgeschichte*, 52 (1961), 74-91; T. F. Mayer, *Thomas Starkey and the*

*Commonweal: Humanist Politics and Religion in the Reign of Henry VIII* (Cambridge,

Cambridge University Press, 1989). See also, most recently, J. Paul, ‘Counsel and Command

in Anglophone Political Thought’, Ph.D. thesis (Queen Mary, University of London, 2013).

<sup>8</sup> Mason, *Kingship*; R. A. Mason, ‘Renaissance Monarchy? Stewart Kingship (1469-1542)’,

in M. Brown and R. Tanner (eds), *Scottish Kingship, 1306-1542* (Edinburgh, John Donald,

2008); R. A. Mason, ‘Beyond the Declaration of Arbroath: Kingship, Counsel and Consent in

Late Medieval and Early Modern Scotland’, in S. Boardman and J. Goodare (eds), *Kings,*

*Lords and Men in Scotland and Britain, 1300-1625* (Edinburgh, Edinburgh University Press,

2014).

<sup>9</sup> N. Macdougall, *James III*, 2nd edn (Edinburgh, John Donald, 2009).

<sup>10</sup> Most directly, P. Donald, *An Uncounselled King: Charles I and the Scottish Troubles*

(Cambridge, Cambridge University Press, 1990).

(minority followed by mental instability) and Elizabeth I<sup>13</sup> (gender, although mainly stimulated by Patrick Collinson's suggestion of a monarchical republic in which there was ideological tension between queen and privy councillors). Because focused on specific reigns with 'abnormal' monarchical authority, this approach makes it harder to chart chronological patterns. A rare and important exception is John Guy's exploration of the two languages of 'humanist-classical' and 'feudal-baronial' counsel from 1460 to 1640. Guy importantly points to the status of counsel as both an 'inspirational myth' about good government and a 'socio-political matrix' involving nobles, councils and parliaments. Guy argues that counsel provided a 'common fund of language' on which all might draw, but one which was neither orderly nor neutral, creating an 'unceasing politics of discourse' until the tensions within it exploded in the 'adversarial politics' of Civil War.<sup>14</sup> While other scholars

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<sup>11</sup> S. Alford, *Kingship and Politics in the Reign of Edward VI* (Cambridge, Cambridge University Press, 2002); Hoak, *King's Council*.

<sup>12</sup> Watts, *Henry VI*.

<sup>13</sup> Most directly, P. Collinson, 'The Monarchical Republic of Queen Elizabeth', repr. in *Elizabethan Essays* (London, Hambledon, 1994); J. F. McDiarmid (ed.), *The Monarchical Republic of Early Modern England* (Aldershot, Ashgate, 2007); M. T. Crane, "'Video et taceo': Elizabeth I and the Rhetoric of Counsel", *Studies in English Literature, 1500-1900*, 28 (1988), 1-15; see Susan Doran's revisiting of this controversy in her essay in this volume.

<sup>14</sup> J. Guy, 'The Rhetoric of Counsel in Early Modern England', in D. Hoak (ed.), *Tudor Political Culture* (Cambridge, Cambridge University Press, 1995).

have sought to add further languages of counsel, particularly ecclesiastical ones,<sup>15</sup> Guy's chronological range and ability to consider counsel and councils is rarely matched.

All of these approaches continue to have value, and the perfect combination of them over time and space can only be achieved collectively. Individual contributors to this volume may lean towards one or other: Eliza Hartrich and Alan MacDonald discuss institutional councils, while Roger Mason examines ideas of counsel. Likewise, some contributors revisit longstanding controversies, as in Claire Hawes's account of James III, Susan Doran's of Elizabeth I, and Jacqueline Rose's of Civil War royalism, while others offer novel geographical perspectives, such as Alexander Haskell's account of the trans-Atlantic dimensions of counsel. Some, such as John Watts and Michael Brown, chart long-term developments; others, like Jeremy Catto, Richard Rex and Paulina Kewes, focus tightly on a single crucial decade. Collectively they offer a framework through which to map the ever-changing roles of counsel and councils, suggesting that counsel was a rather more complicated – and more interesting – phenomenon than is normally assumed. First, therefore, it is necessary to examine what 'counsel' meant.

## II

Counsel might be defined as the giving of advice, intended (at least ostensibly) for the benefit of the recipient rather than the giver. It was 'a decision, a deliberation, advice, plan, or opinion', a form of practical wisdom. Aquinas called it 'research of reason to perform any particular action', drawing on Aristotle's notion of *euboulia*, a process of deliberation on

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<sup>15</sup> A. N. McLaren, 'Delineating the Elizabethan Body Politic: Knox, Aylmer, and the Definition of Counsel, 1558-88', *History of Political Thought*, 17 (1996), 224-52; J. Rose, 'Kingship and Counsel in Early Modern England', *Historical Journal*, 54 (2011), 47-71.

right principles to good ends.<sup>16</sup> The ‘spurious’ simplicity of counsel<sup>17</sup> is exposed by the difficulty of identifying whether the subject of discussion is a defined group of people, meeting in a particular institutional setting – a council – or the giving of advice in oral or written form, at a particular moment or over a sustained period, outside an institutional space – counsel. This problem is exacerbated as soon as one turns to the source material, in which can be found *consail*, *consaill planer*, *consaile privé*, *councell*, *counsail*, *conseil*, *concilium*, *consilium*; full, whole and general councils; secret and privy, special and continual councils. For participants, we have *consiliaris*, *consiliarius* or *consiliator*; for what they did, *consiliamen* and *consiliatio*; for where they met, *conciliabilum*. Although in earlier centuries there may have been a distinction between *concilium* and *consilium*, by the late Middle Ages this had vanished. In 1388 Robert II accepted the appointment of his son as guardian of Scotland ‘per consilio in suo consilio’.<sup>18</sup> It is certainly possible at times to distinguish when ‘councell’ or ‘counsail’ refers to a body or to a dialogue, but it can be ambiguous. In 1547

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<sup>16</sup> J. Quillet, ‘Community, Counsel, and Representation’, in J. H. Burns (ed.), *The Cambridge History of Medieval Political Thought, c.350-c.1450* (Cambridge, Cambridge University Press, 1988), pp. 545-6.

<sup>17</sup> J. Watts, ‘The Counsels of King Henry VI, c.1435-1445’, *English Historical Review*, 106 (1991), 279-98, at 281.

<sup>18</sup> R. E. Latham and D. R. Howlett, *Dictionary of Medieval Latin from British Sources*, vol. I (A-L) (Oxford, Oxford University Press for the British Academy, 1975), pp. 419-20, 451-2.

For the distinction, see J. Hudson, ‘Henry I and Counsel’, in J. R. Maddicott and D. M. Palliser (eds), *The Medieval State* (London, Hambledon, 2000), esp. pp. 110-11, but cf. Latham and Howlett, *Dictionary*, on *concilium* being ‘sometimes hardly possible to distinguish’ from *consilium*; Watts, ‘Counsels’, 279, n. 2; Quillet, ‘Community’, p. 547. For 1388, see Michael Brown’s chapter in this volume, p. 00.

the boy king Edward VI named 26 men ‘to be our Counsaillour or Counsaillours or of our Counsaile’ from whom his regent might ‘chose’ some to ‘name, appoincte, use and sweare of Privey Counsaill and to be our Privey Counsaillour’.<sup>19</sup> The vital significance of the notion, however, is shown by the variety of words related to it: adjectives as well as nouns and verbs. We have ‘counselful’ and ‘counselless’, ‘counselable’ (of a person or a thing) and ‘uncounselable’, ‘consiliosus’ and ‘consiliose’ (prudent and prudently), ‘consiliativus’ (deliberative) along with an earlier ‘consiliabilis’ (able to be deliberated); and ‘counsaly gaderit’.<sup>20</sup> Even defining counsel as advice may require caution: on a handful of occasions people insisted that they were giving ‘advice’ not ‘counsel’. ‘Counselling’ the ruler was a moral duty, ‘stirring’ or ‘moving’ them a sign of undue influence.<sup>21</sup> Counsel and its cognate terms also naturally populated non-political linguistic worlds. Medieval inquisitors read *consilia*, physicians provided *consilia* for individual patients, lawyers counselled their clients and an effective confessor should have been capable of providing counsel. While this volume focuses on the macropolitics of counsel, its conclusions partly echo those of these other forms of counsel, for they likewise engage with the difficulty of defining boundaries between counsel and other genres of writing, forms of discourse, or professional practices. In many of these spheres, too, tension could arise between those officially empowered by an

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<sup>19</sup> Qu. in Hoak, *King’s Council*, p. 39.

<sup>20</sup> Oxford English Dictionary; Dictionary of the Scottish Language; Latham and Howlett, *Dictionary*, pp. 451-2; for the last, *Extracts from the Records of the Burgh of Edinburgh*, ed. J. D. Marwick, 4 vols (Edinburgh, Scottish Burgh Records Society, 1869-1892), I, 80, for which reference I am grateful to Claire Hawes.

<sup>21</sup> *PROME*, VI, 312; J. Watts, *Henry VI and the Politics of Kingship* (Cambridge, 1996), p. 62.

institutional position or by holding legal (including ecclesiastical) authority to counsel, and those whose character and abilities made them most adept at so doing.<sup>22</sup>

The distinction between institutional councils and wider counsel, so important to the history of *political* advice, has been especially strongly emphasised by scholars of late medieval England. A council sometimes existed: indeed, there was an eruption of institutional councils between 1370 and 1413. Initially imposed on Richard II due to his youth, then to reform household finance and management of war, these were temporary bodies which acquired a degree of institutional permanence.<sup>23</sup> Over time, they tended to become more administrative and less advisory bodies. Gwilym Dodd suggests that a position on the council was a sign of a *lack* of political influence, for power came from the informal access to the king which created opportunities to provide advice.<sup>24</sup> John Watts has mounted the strongest argument for the irregularity of a royal council. While the king was supposed to hear advice, this meant he should ‘take counsel, not ... have a council’. Advice was supposed to flow to the king through a variety of channels and routes of access. An institutional council only worked if it monopolised counsel, which automatically resulted in accroachment (invasion) of royal authority. Government by a council which was anything

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<sup>22</sup> R. Parmeggiani, *I Consilia Procedurali per l’Inquisizione Medievale* (Bologna, Bononia University Press, 2011); J. Agrimi and C. Crisciani, *Les “Consilia” Médicaux*, trans. C. Viola, *Typologie des sources du moyen âge occidental* (Turnhout, Brepols, 1994); Latham and Howlett, *Dictionary*, p. 452, ‘consilium’ (2); A. Murray, *Conscience and Authority in the Medieval Church* (Oxford, 2015), ch. 11.

<sup>23</sup> W. M. Ormrod, ‘Government by Commission: The Continual Council of 1386 and English Royal Administration’, *Peritia*, 10 (1996), 303-21.

<sup>24</sup> G. Dodd, ‘Henry IV’s Council, 1399-1405’, in G. Dodd and D. Biggs (eds), *Henry IV: The Establishment of the Regime* (Woodbridge, Boydell, 2003), p. 104.

more than an administrative aid, Watts concludes, was ‘time-consuming, unrewarding, artificial, offensive to the claims of monarchy, and possibly even a liability in foreign policy’, ‘wholly inimical’ to kingship.<sup>25</sup>

It is hard to deny, however, that the existence of an institutional council was normal at other levels within the polity. Even if we should think of magnates hearing counsel rather than having a body called a council,<sup>26</sup> in urban government an institutional council was necessary. Councils posed a problem for sovereign authority, but they functioned much more naturally with the rule of the few, perhaps because urban councils had a greater authority relative to their temporarily incumbent mayor’s circumscribed power than royal councils did compared to their sacred sovereign. It was also normal for sixteenth- and seventeenth-century monarchs to have a certain specified group of men who acted as a council. Even then, it might be beneficial to separate the administrative from the advisory functions of these bodies. They were often concerned with routine and daily governance more than with the formation of policy. Councillors could also be counsellors, but they might give advice at the court and in the chamber, outside set meetings; counsel might also come on an *ad hoc* basis from ambassadors, preachers, financiers and courtiers.<sup>27</sup>

The difficulty of tracing counsel, even when provided by councils, partly explains lack of attention to the phenomenon. While ubiquitous, counsel is strikingly archivally elusive. Studies of councils have often commented on the flaws and the gaps in the records,

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<sup>25</sup> Watts, *Kingship*, esp. p. 20, n. 32, pp. 78-9, 83-4, 127; Watts, ‘Counsels’, 281 and *passim*, although cf. his chapter in this volume.

<sup>26</sup> N. Ramsay, ‘Retained Legal Counsel, c.1275-c.1475’, *Transactions of the Royal Historical Society*, 5th ser., 35 (1985), 95-112, at 106-7.

<sup>27</sup> N. Mears, *Queenship and Political Discourse in the Elizabethan Realms* (Cambridge, Cambridge University Press, 2005).

especially in periods of institutional change, when record keeping lags behind practice. For councils, scholars can at least try to identify institutionally generated records: a minute book, lists of attendees, correspondence coming in and orders issued out. These are often patchy, with runs missing through later fires or floods, or with a summary of an order rather than the full details.<sup>28</sup> We should be wary of archival change as a sign of institutional change: the exigencies of a new clerk, or a new record book, cannot always reliably denote a change of practice, although it may signal something about a change in self-awareness. Nor does institutional continuity necessarily imply continuity of counsel; over time, advisory bodies could fall into desuetude. Institutional records, where they exist, can assist prosopographical analysis of membership of councils. But we cannot always be certain who counselled the king – which men actually advised him. Endorsements of petitions or witness lists can help to identify counsellors around the king, but a ruler who enjoyed his subjects' confidence might not need other individuals to sign off a grant.<sup>29</sup> Nevertheless, it would not be impossible to imagine how record keeping might begin as a means to maintain accountability for a decision in an abnormal situation, and end up becoming a habit. Again, caution is needed. A signed order conveys the impression of a carefully considered action, solemnly endorsed at a certain moment. It might appear that 85 people collectively signed the letter urging Clement VII to grant Henry VIII's divorce in summer 1530 yet, as Richard Rex shows, this was a gradual process of forcing assent. Protector Somerset's council signed

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<sup>28</sup> D. J. Crankshaw, 'The Tudor Privy Council, c.1540–1603', *State Papers Online, 1509–1714*, Cengage Learning EMEA Ltd, 2009; Hoak, *King's Council*.

<sup>29</sup> Dodd, 'Councils', p. 98; Watts, 'Counsels', 286-7; see also Brown's chapter in this volume.

orders in batches, as a formality.<sup>30</sup> Secretaries periodically scurried round the court collecting signatures to orders.

Moving from councils to counsel poses even greater problems of evidence. Council minutes record decisions, not discussions. The danger of doing more was brought to the fore in 1641 when Secretary Vane's notes about Strafford's plans to raise an Irish army against Charles I's opponents were used to convict the earl of treason. One memoirist was appalled that Vane had kept such a record since his task was 'not to have taken notes of discourses, but results of Council'.<sup>31</sup> Other contemporary comment in letters, or ambassadorial dispatches (when extant), may hint at the origins of a decision – but some of these contemporary witnesses can be seriously misleading.<sup>32</sup> By the seventeenth century there are more diaries and memoirs, but these pose questions not just of accurate reportage, but also recollection and hindsight. Records may tell us of councils rare and unusual rather than frequent and common. A chronicler might note a parliament or great council; he would not bother to state that the king had been talking to his leading subjects at court: that was a natural, normal, daily occurrence, too mundane to write down. Counsel brings to the fore all the problems associated with a textual record of an oral event – a speech, a sermon, a whisper.

We therefore know more about the theory of counsel and the institutional structures of councils than about the functioning of counsel in practice. Its rules were unspoken, its verbal functioning frequently irrecoverable. Explicit discussion of either of these might be a sign of a problem or unusual situation. Nevertheless, putting together (as this volume collectively does) the theory of counsel, literary and dramatic portrayals of counsel and counsellors, the

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<sup>30</sup> See Rex's chapter in this volume, p. 000; Hoak, *King's Council*, pp. 101-2.

<sup>31</sup> Philip Warwick, *Memoires of the Reign of King Charles I* (London, 1701), p. 142.

<sup>32</sup> See, for example, A. Weikel, 'The Marian Council Revisited', in J. Loach and R. Tittler (eds), *The Mid-Tudor Polity, c.1540-1560* (Basingstoke, Macmillan, 1980).

oaths councillors took, complaints about counsel going wrong and reports of the activities of councils and political decision making, does bring rewarding results. In particular, the broad comparative sweep of this volume helps scholars identify which elements of counsel were ‘typical’ and ‘normal’, held to be necessary across time and space, and which particular instantiations of it were doing or saying something unusual.

### III

From the late thirteenth to the late seventeenth century there was a continuous intellectual framework within which the argument for good counsel operated. This framework derived its strength from the joint influence of arguments drawn from classical philosophy, the Fathers and the Bible. Government was a means to order and security, a natural outcome of human sociability and a necessity due to postlapsarian man’s flaws. This government might be carried out by one, few or many people. Yet even those advocating a monarchist line emphasised the need for assistance and cooperation, for monarchs to consult and take counsel. This insistence on the need to shore up human fallibility is too easily seen as empty nods in the direction of virtue, or vacuous platitudes or as pointless because the extent and limits of authority were determined by practical constraints. Recognising the deep commitment to making monarchy operate for the common good – in Aristotelian terms, to making it kingship for the common good, not the arbitrary self-interested will of a tyrant – requires moving from a juridically focused account of political theory to a world of moral exhortation. The following outlines the constant framework of ideas about counsel before sketching some conclusions about patterns of change over time.

At the root of the theory of counsel was the distinction between a ruler’s will and their reason. Stemming from classical, especially Stoic, accounts of the importance of ruling one’s

passions, backed up by a Christian sense of reason as the remnants of God in man, the practice of virtue was closely tied to a rational ability to identify the good action in any particular situation. Since an individual's ability always to identify the good relied on near-superhuman virtue, a ruler was freely admitted to need help to bolster their understanding, knowledge and reason. Counsel supplied the extra reason which in good times topped up and in bad times constrained the ruler's will, channelling it down a path of virtue rather than arbitrary passion. Advocates of the *via moderna* who laid greater stress on volition often leaned in a conciliarist direction, while their opponents tended towards a more strongly monarchist line.<sup>33</sup> But neither denied the need for both monarchy and counsel, drawing on shared ideas about virtue. Outside the universities, a generic sense of reason combating the passions meant writers from all periods and political stances noted how counsel helped the ruler. Thomas Hoccleve commented that a king 'be his wit nevere so good, he may / Erre and mistake him othirwhyle among, / Whereas good conseil may exclude a wrong'. That the wisest of rulers could err was an established fact among early modern commentators, and their solution would have been the same as Hoccleve's, to

Do nothyng reedless; do by conseillynge

Of heedes wyse, and no repentance

Ther folwe you shal in your governance.<sup>34</sup>

Importantly, this sense of counsel as a bulwark against the disease of arbitrary passion was articulated in daily political practice, not just theoretical commentaries. Susan Doran, Richard Rex, Alexander Haskell and Roger Mason all cite telling examples. Elizabeth I told William Cecil to counsel her against her 'pryvate will', her privy councillor Francis Knollys's

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<sup>33</sup> Mason, 'Arbroath', pp. 268-72.

<sup>34</sup> Thomas Hoccleve, *The Regiment of Princes*, ed. C. R. Blyth (Kalamazoo, Michigan, Medieval Institute Publications, 1999), lines 4863-5, 4933-5.

exasperated comment that his queen failed to ‘subject her own wyll and her own affectuins unto sounde advice of open cownsayle’ unconsciously echoed conciliar theory on the passions, as did the aggrieved settlers who complained that their colonial governor’s rage blinded his judgement. So too did William Peto, warning Henry VIII about bad monarchs’ ‘excessive affection’; Sir James Balfour, speaking of evil counsellors fostering royal ‘lusts’; and David Hume of Godscroft, writing of the ‘happy King ... not ... wedded to his own affection onely!’<sup>35</sup> The commonplace that counsel improved decision-making was summed up in the proverb ‘Werk al by conseil and thou shalt nat rewe’, almost exactly cited in David Lindsay of the Mount’s *Dreme* (c.1528) and *Testament of the Papyngo* (1530).<sup>36</sup>

The fact that it was a commonplace that good counsel ensured good rule did not mean that there was ideological consensus about governance. The three writers surveyed in Roger Mason’s chapter all advocated good counsel, but they disagreed on the remedy if it was ignored. Mason uncovers a discourse on kingship and counsel in early Stuart Scotland which was often mediated through the writing of history. Reflecting on events from the fourteenth to the sixteenth century, David Hume of Godscroft, William Drummond of Hawthornden, and Sir James Balfour of Denmilne all shared a vision of a well-functioning polity in which monarchs heard their natural-born counsellors, the nobility. Nevertheless, both history and their own experiences taught these writers that monarchs all too often succumbed to low born flattering favourites. All agreed that the nobility should protest against such evils, yet they divided over whether and when resistance was legitimate if kings continued to ignore pleas to heed good advice. As Mason shows, Hume was most assertive in allowing limitation and

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<sup>35</sup> TNA, SP 12/1, no. 7; see the citations in the chapters by Doran, Haskell, Rex and Mason in this volume: pp. 000, 000, 000, 000, 000.

<sup>36</sup> Qu. in Watts, *Kingship*, p. 26, n. 73; ‘Wyrk with counsall, so sall thow never rew’ and ‘Wyrk with counsale than sall thy work be sure’, qu. in Lyall, ‘Politics and poetry’, 21-2.

deposition, Drummond and Balfour much more cautious. Significantly, for Drummond the private protests made to Charles in the early to mid 1630s were acceptable, but the National Covenant was not; for Balfour, the Covenant was justified, but the increasingly radical tone of critique and growing limits on the king developed by 1641 unacceptably overthrew royal authority. Importantly, Balfour's change of heart hints at a wider pattern of behaviour among the Scottish lay nobility and their shift from being reluctant opponents to concerned supporters of Charles. Jacqueline Rose's chapter on the English councillor Edward Hyde also examines the ways in which issues of counsel polarised royalists and parliamentarians in mid-seventeenth-century England, and how it furthermore divided royalists among themselves. Charting how different visions of the relationship between kingship and counsel came to the forefront of discussions about reforming Charles I's government in late 1641, she emphasises the ways in which it could be deployed to restrain or to assert royal authority, either through binding the king to hear it or through sharper distinctions between advice/counsel and decision/command. Exploring the problems the leading royalist Hyde faced in getting Charles I and Charles II to hear the right counsel, she argues that vehement assertions of the importance of good advice were not banal commonplaces, but instead served the specific purpose of rejecting Catholic and Presbyterian alliances and the broader aim of re-establishing a morally grounded monarchy which, by governing well, would avoid tyranny and thus preclude provoking radical resistance. By stressing the ways in which Hyde saw counsel as a moral and social as well as a political entity, she shows how he reconciled respect for the institution of the privy council with the practice of fluid counsel, and how he navigated giving unwelcome advice.

It is therefore crucial to recognise that agreement on the necessity of counsel was the beginning rather than the end of disputes about it. The most ardent absolutists did not deny that counsel should exist, although they emphasised the need to manage it properly so that it

did not stray into command. The anti-monarchomach writer Adam Blackwood even advocated the removal of evil counsellors, though he condemned resistance to kings. The premier theorist of sovereignty Jean Bodin's claim that a perfectly prudent prince would need no counsel seems to have been a purely hypothetical scenario, for he went on to explain that perfect wisdom was so rare among men that 'a prince ought to follow the good advise and counsell of his graue and wise counsellors, not onely in his more great and weightie affaires, but even in his meane and least matters'.<sup>37</sup> Proponents of the divine right of kings loved counsel and the way it might ensure reason subjugated an individual's passions, for it helped explain how monarchs were different from tyrants. Those favouring some form of limited monarchy also stressed the importance of counsel, the difference being their willingness to move away from the moral economy of counsel into institutional restraints. An early-seventeenth-century plea for annual parliaments noted that kings, like most men, were 'subiect to the Infirmities of passion flatterie and error in Iudgement and will' and therefore 'the aptest government for mans Frayltie is that where ... the power Royall is restrained by power pollitique'.<sup>38</sup> Those puritans who urged Elizabeth I to further reformation of the church tied good kingship so tightly to promoting God's Word that their demands for a godly queen slipped into forms of conditional monarchy and quasi-contractual kingship.

While late medieval writers on counsel rarely faced up to the question of what to do if it was ignored, early modern theorists were increasingly willing to entertain the scenario of changing the monarch. At its most aggressive, the idea of forcing good counsel on the monarch shaded into resistance theory. Thus George Buchanan could base his case for constraining the monarch on the conventional statement that he was 'not only a king, but a

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<sup>37</sup> For Blackwood see Mason's chapter in this volume, p. 000; Jean Bodin, *The Six Books of a Common-Weale*, trans. Richard Knolles (London, 1606), pp. 253-4.

<sup>38</sup> Bodleian Library, Oxford, Tanner MS 84, fo. 227r.

human being as well' with 'emotions, which can and usually do divert men from the truth'. Clinging with one hand to the Stoic idea of a perfectly rational monarch, Buchanan tore it apart with the other, by rejecting the restraint of a wise council in favour of 'the law as a colleague or rather as a curb on his passions'.<sup>39</sup> Because counsel could encompass the spectrum of political thought from absolutism to resistance theory, and because who provided good counsel was an open question, it never lost its potential to be controversial. It was a valuable polemical weapon precisely because it was hard to deny outright that it should exist.

This world of scholarly discourse was not detached from the concerns of the political elite. Buchanan's book was dedicated to his tutee, James VI; Edward III owned a copy of the *De Regimine Principum*; both Richard II's former tutor and his uncle owned books 'of kings and princes'. John Ireland's *Meroure* was 'desirit right gretlie' by James III and dedicated to James IV; John Lydgate's mirror for magistrates of the 1430s was written at the behest of the duke of Gloucester, Protector of the realm.<sup>40</sup> The notion of good counsel seeped into speeches to parliaments, literature, drama and sermons, examples of good or bad kings becoming 'household names'.<sup>41</sup> As Claire Hawes argues in her chapter in this volume, the theory of good counsel was so well established in late-fifteenth-century Scotland that it could be parodied to entertain James IV's court. Rejecting earlier arguments that clever poetic

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<sup>39</sup> George Buchanan, *A Dialogue on the Law of Kingship Among the Scots*, ed. R. A. Mason and M. S. Smith (Aldershot, Ashgate, 2004), pp. 32-3, 44-7, xlix-lxix. Confusingly, Buchanan later suggests that this law might be made by the people consulting with the king in a council: pp. 54-7, lviii.

<sup>40</sup> A. Goodman, 'Richard II's Councils', in A. Goodman and J. Gillespie (eds), *Richard II: The Art of Kingship* (Oxford, Clarendon, 1999), pp. 62-3; Mason, *Kingship*, p. 13; Watts, *Kingship*, pp. 55-7.

<sup>41</sup> See Paulina Kewes's chapter in this volume, p. 000.

craftsmanship must necessarily be concerned with universal rather than particular moral themes, Hawes re-situates the anonymous and undated poem ‘The Harp’ to the mid-1470s, seeing it as a critique of James III’s financial, military and judicial policy which captures the king’s poor relationship with the nobility. Crucially, she suggests that the poem’s sharpest resonances derive from its deployment after the deposition and killing of James III by his son in 1488. As part of an effort to establish the new government’s narrative of events in what Hawes calls a ‘public domain’ of political action, ‘The Harp’ used satire as a tool to denigrate James III’s misgovernment. This relied on a wide awareness among the political elite of the commonplaces of good government and due taking of counsel. So too did the parliamentary denunciation of James’s following ‘dissaitful and perverst counsel’ which set the tone for a long historiographical tradition which saw James as the epitome of a bad king, badly advised.

The earlier rebellion against James in 1482, which had culminated in the hanging of his favourites at Lauder Bridge, was a classic instance of the well-known tendency of rebels to protest that they opposed evil counsellors rather than the monarch. This is further evidence of a widely-distributed sense of the importance of counsel. The Pilgrims of Grace in 1536 noted how necessary it was ‘that vertuus men that luffethe the communwealthe’ should be of the king’s council, citing the classic examples of poorly counselled kings who came to nasty ends: Rehoboam, Edward II, Richard II. ‘Bad counsel’ justified rebellion in Scotland in 1363, ‘wicked Counsellors’ the Ruthven Raid of 1582, just like the ‘dissaitful and peruerst counsale’ used to excuse James III’s overthrow in 1488. One can almost hear the cast list and stage directions for a morality play in the words of the chronicler who complained that Richard II followed ‘unsound policies’ and ‘excluded wholesome guidance’.<sup>42</sup>

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<sup>42</sup> J. Guy, ‘The King’s Council and Political Participation’, repr. in *Politics, Law, and Counsel*, pp. 121-2; *PROME*, VI, 321; see also K. M. Brown, *Noble Power in Scotland from the Reformation to the Revolution* (Edinburgh, Edinburgh University Press, 2011), pp. 7-10.

While the importance of preventing the rule of arbitrary will was most commonly articulated in commentaries on kingship, the criteria for good rule could be applied to government further down the political hierarchy. Good lordship involved care for one's kin, affinity and region, and the taking of counsel;<sup>43</sup> correct urban government catered for the common good and common profit (in both an economic and non-material sense), rather than the interests of a narrow oligarchy. As Susan Reynolds posits, the values and principles of community and justice created a framework in which urban government naturally leaned in a consultative direction.<sup>44</sup> As Eliza Hartrich argues in her chapter, the politics of counsel can be used to shed light on the dialogue between royal and municipal government in late medieval England. Suggesting that counsel be added to earlier accounts of the similarities between royal and urban assemblies and fiscal practices, she notes how both municipal and king's councils might exercise advisory, executive or representative functions depending on circumstance. When counsel malfunctioned and political relationships broke down, both central and local councils either reconstructed their membership and practices or reiterated earlier principles of good government (although the precise cause and exact response varied in each case). As Hartrich amply demonstrates, the 1420s offer a rich set of examples of urban and royal governments both contributing to and drawing on a 'shared fund of experiences' to reassert widely-shared principles of political harmony, careful stewardship of resources, discretion and secrecy. Linked by parliaments, progresses, patrons and meetings of the royal council, urban and royal advisers participated in a discussion about counsel which in itself fostered good political relationships. For who best represented the common

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<sup>43</sup> Brown, *Noble Power*, pp. 62, 71-3.

<sup>44</sup> S. Reynolds, 'Medieval Urban History and the History of Political Thought', *Urban History Yearbook*, 9 (1982), 14-23; C. Hawes, 'The Scottish Urban Community in the Later Fifteenth Century' (forthcoming).

good was a question faced in cities and colonies as well as courts: the *maior pars* or *sanior pars*, a popular body, the socio-economic elite or the wise?

Whatever level it operated at, rule involved frighteningly burdensome duties: fulfilment of the cardinal virtues of justice, wisdom (including prudence), temperance and fortitude; care for the common good and welfare of the people, defence of the realm and the maintenance of true piety – the last becoming increasingly problematic with the Reformation. The duties of a counsellor were almost as weighty, and there was a well-established set of qualifications held necessary to carry them out. Paramount among these was wisdom – knowledge and experience of the realm, supplemented by reading didactic histories of other rulers and eras. ‘Cheis they counsale of the most Sapient, / Without regarde to blude, ryches, or rent’ wrote David Lindsay.<sup>45</sup> Closely linked to wisdom was age, the way to have gained experience. The most widely-cited example of listening to young (and therefore foolish) counsellors was Rehoboam, the Biblical king who ‘forsook the counsel which the old men gave him and took counsel with the young men that were brought up with him’ (2 Chron. 10:9) and fell away from divine law. Indeed, the widely-circulated *Secreta Secretorum* was unusual in allowing the possibility of good counsel from the young.<sup>46</sup> Whether birth was a good qualification for advising was central to the humanist discussion of counsel and the ‘true nobility’ of virtue. Although birth, education and expertise were requirements for counsel in normal circumstances, the possibility of the low born or the divinely inspired

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<sup>45</sup> Qu. in Lyall, ‘Politics and Poetry’, 22.

<sup>46</sup> Goodman, ‘Richard II’s Councils’, p. 62; *Three Prose Versions of the Secreta Secretorum*, ed. R. Steele, Early English Text Society, extra ser., 74 (London, Kegan Paul [etc], 1898), p. 99.

prophet giving good counsel could never be totally denied; echoing in tales – such as *The Thre Prestis of Peblis* – of an outsider or wise fool visiting court and advising the king.<sup>47</sup>

Counsellors were instructed to use these intellectual tools for the good of the commonwealth. They swore to work for the common good, but also to protect the prerogatives of the king or privileges of the community, two demands which might conflict. They had to act as guardians of royal and urban wealth – mayors and kings were occasionally constrained to get conciliar consent to grants and appointments. Advisers should never flatter a ruler into following their own will, but rather speak the plain truth as an act of loving care for king and community. Flattery, an intensely problematic threat in a culture increasingly infused with humanist praise for classical rhetoric and principles of *decorum*, was widely feared as an insidious problem with false friendship masquerading as helpful counsel. Medieval English writers had an epithet to summarise the characteristics of a good counsellor: ‘sad’, meaning grave, wise, learned, trustworthy, honest. To such qualities were occasionally added physical characteristics. Thomas Blundeville’s translation of a Spanish work on councils in the 1560s described the age, complexion, height, weight and visage as well as the fifteen mental qualities of a good counsellor.<sup>48</sup>

These qualifications were supposed to create a virtuous government based on trust between ruler and adviser, and hard labour for the common good. This can easily sound like a culture of frank speech and open conversation, in which the business of government was widely debated. It may not have been so in practice. Another frequently invoked quality was the virtue of secrecy and discretion. To be of someone’s counsel could mean to be in their

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<sup>47</sup> Lyall, ‘Politics and Poetry’, 12.

<sup>48</sup> Thomas Blundeville, *A Very Briefe and Profitable Treatise Declaring How Many Counsells, and What Maner of Counselors a Prince that Will Govern Well Ought to Have* (London, [1570]), sigs. L2r-N1r.

confidence, with its dual overtones of fidelity and discretion. This was partly practical necessity – advice on defence and military strategy was useless if blabbed around the court. There was an ever-present tension between publicity and secrecy, between the desire for accountability and the need to know counsel could be freely given without repercussions. These contradictory impulses were reflected in the regulations of the English royal council agreed in 1426, prescribing that all should have ‘ful fredome’ to state their opinion without being criticised for it by fellow councillors, but also insisting that ‘greet inconveniences’ had arisen from the circulation of matters outside the council. Bills were to be subscribed (giving the potential for accountability) and great questions were to be debated in parliament, but councillors could only be punished by a majority of their colleagues.<sup>49</sup> Thus the linkage of counsel to the common good sometimes encouraged an emphasis on the ‘public’ and ‘common’ purposes of advice. But the necessity of plain and honest speech for advice to be counsel rather than flattery required discretion. Councillors’ oaths sometimes represented this (and captured the unwritten rules of the game) by promising to speak freely *when asked*. The oath of fealty given in the Scottish parliament of 1445 included the promise that ‘your consell schewin to me I sall conseille [conceal]; the best consall I can I sall gif youw, quhen ye charge me therwith’, while a fourteenth-century Scottish burgh councillor swore to ‘keep the secret counsel of the community ... as often as he shall be asked he will give them faithful counsel and assistance in the common business’.<sup>50</sup> Even here there was ambiguity

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<sup>49</sup> *PPC*, III, 215. I am grateful to John Watts and Eliza Hartrich for discussion on this point.

<sup>50</sup> *RPS*, 1445/6; *Ancient Laws and Customs of the Burghs of Scotland*, vol. I, AD 1124-1424, Scottish Burgh Records Society (Edinburgh, John Greig & Sons, 1868), pp. 127-8. My thanks to Claire Hawes for these references.

and tension: the open-ended duty to counsel ‘in all things’ for the common profit of the kingdom or town opened up a gap for a sworn councillor to offer advice at any moment.<sup>51</sup>

Secrecy might protect counsel; it could also restrict it and be a tool for the ruler to manage their councillors. Gilbert Hay’s translation of the *Secreta* urged the king to take advice from his counsellors separately, not in a group, to ensure that he ended up looking wiser than all of them and to prevent them forming a bloc against him.<sup>52</sup> By the seventeenth century, a growing emphasis on the ‘craft’ of rule and the *arcana imperii* fostered tension between the idea that the greatest and weightiest questions should be discussed in public spaces like parliament, and the notion that they were the ones which required greatest secrecy.

Hay’s account, perhaps depicting how counsel operated in the late-fifteenth-century Scottish court, in multiple bilateral conversations rather than formal multilateral councils, highlights the need for an active ruler. Monarchs had actively to gather counsel, not passively await its coming. Good counsel did not obviate the need for a good ruler, although it helped compensate for an inadequate one. In particular, counsel in the form of informal dialogue, discussion and consultation required a ruler able to discern from whom to ask advice, understand good counsel when they saw it and make difficult decisions about some of the intractable problems of government. Even in the periods when an institutional council had become an established part of the polity, decision-making was necessary to achieve political closure after the process of counsel exposed disagreement and division about the best way forward. The French ambassador acknowledged this in 1533, saying that Henry

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<sup>51</sup> *PPC*, III, 176; *Munimenta Gildhallae Londoniensis*, ed. Henry Thomas Riley, 3 vols (London, Longman [etc], 1859), I, 307-8; TNA, SP 12/1/62.

<sup>52</sup> *The Prose Works of Sir Gilbert Hay, Volume III*, ed. J. A. Glenn, Scottish Text Society, 4th ser., 21 (Edinburgh, 1993), pp. 113-14.

VIII ‘desires [the Council’s] opinions, but decides for himself, as every King ought to do’.<sup>53</sup>

How this closure was achieved must necessarily have varied between royal councils and local ones. At the centre, sovereign will was the solution if it was available; in the localities, we cannot be sure whether the majority principle operated or whether unanimity had to be thrashed out. There remained a gap between kings’ and mayors’ accountability: both were ultimately responsible for ending the process of discussion with a decision, but mayors could be held to account on earth for it, monarchs only at the day of judgement. We know more about the points when this process of management of counsel and implementation of decisive will failed than when it succeeded, because failure leaves traces in the record of complaints about rulers ignoring counsel or taking it from the wrong people. This explains why much of the historiography on counsel considers rulers flawed by age, gender or insanity, rendered incapable of exercising their sovereign will properly.

It is crucial to identify how far the values and principles enunciated in these circumstances of ‘abnormal’ rule (if there was any such thing as normal rule) were standard expectations brought into the open, and how far they were novel ideas developed in moments of crisis. That certain conciliar principles seem to have been operating at a variety of political levels and over several centuries shows longstanding widely-held values about the common good, good rule and the role of counsel in these. The reuse and redeployment of the same texts across time and space also suggests a shared and constant framework of thought about counsel. Nevertheless, this common and somewhat nebulous framework was made up of a diverse set of elements and opinions about the purposes which counsel might serve. If members of the polity could turn to advice to foster consensus and consent, this might lead them to seek inclusive and representative counsels so as to bring together those of disparate

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<sup>53</sup> On this point see Alford, *Kingship and Politics*, ch. 2; Jean de Dinteville qu. in Rex’s chapter in this volume, p. 000.

opinions. Alternatively, however, the need for agreement might encourage a turn to restricted counsel, so as to avoid faction. Such restrictions could cause a tilt towards the advice of natural born counsellors who would shore up the authority of an unstable regime, or towards the counsel of experts with the ability to deal with a military or economic crisis. Likewise, when a ruler's decisions were questioned, counsellors might emphasise discretion and secrecy, or seek to account publicly for their actions through formally endorsing warrants and orders. Most prominently, the shared idea of counsel as a support to sovereignty might cause it to be given aggressively, in order to correct an erring governor, or force men into endorsing a shaky ruler's ultimate choice of which advisers they should hear and what decisions they should take.

While such distinct elements normally co-existed within a shared framework loosely referred to by the terminology of 'good counsel', a crisis could cause different members of the polity to lay emphasis on one or other dimension of advice. Crises could therefore have a polarising effect on political language and behaviour, not (or not simply) through the invention of new concepts, but also by realising the latent potential for conflict between distinct elements of counsel. Demands for secrecy or accountability, representation or exclusion, external appointment of councils/councillors or exclusive royal control of advisers, for counsel to protect the common good or to assist the exercise of sovereignty were therefore more explicitly articulated during emergencies, but many such claims had previously existed in more muted form within the theory of counsel. Such notions were therefore not just temporary rhetorical tactics adopted in a crisis and discarded when it was over, but instead constituted principles of counsel more *evident* in periods of political stress, but ones which were far from absent in times of greater political stability, when they would revert to their usual slightly uneasy co-existence. Several chapters in this volume evidence this relationship between conciliar principles expressed in crises and in calmer political periods, although the

exact results altered with circumstances and degrees of polarisation varied according to the level of political strain. Tension, as Eliza Hartrich shows, caused both royal and urban councils in the early fifteenth century to tilt from their usual ‘highly amorphous’ workings to ‘more formalised’ practices – from counsel to councils. Thus too, as Susan Doran outlines, Elizabeth I enunciated ideas about the relationship between counsel and royal authority when dealing with a recalcitrant parliament, but these were far from alien to the views included in her *Sententiae* on good government, her correspondence with her fellow-rulers, and her daily political practice. And hence, as Roger Mason and Jacqueline Rose demonstrate, in a more severe crisis the poor governance of Charles I forced his subjects into fine-grained but important distinctions within their understanding of counsel, eventually leading his parliamentary opponents to advocate an externally appointed and accountable council and his royalist supporters to put up with his choice of advisers with whom they disagreed. Thus a constant belief in counsel as the solution to the problems of rule led to the reiteration of apparently shared values at moments of crisis, but tensions exposed how people interpreted the details of counsel (who should give it, in what settings and how forcefully) in different ways.

Such tensions could take the form of overt emergencies, such as rebellion or civil war. But they might also manifest themselves whenever the polity was under strain. Geographical expansion was one cause of this: whether in the form of the Lancastrian dual monarchy described in Jeremy Catto’s chapter, the precarious conditions of colonising ventures in the New World analysed by Alexander Haskell, or the Anglo-Scottish relationships in the seventeenth-century dynastic union examined by Alan MacDonald and Jacqueline Rose. Religious change was another, for Reformation demanded the fusion of ideas of godly kingship and the English royal supremacy with older understandings of good advice, as Richard Rex and Paulina Kewes demonstrate. Indeed, counsel required constant reinvention

in the light of the changing nature of warfare during the late medieval and early modern periods, shifts in political participation and dynastic contingencies. Such gradual changes caused adaptations in counsel which created a fluid and flexible set of advisory principles and practices which granted the polity remarkable resilience in the face of both sharp shocks and longer-term stresses. Therefore, while continuity is important to our story, it is a continuity which is constantly inflected by contingency. The next section considers the shifts and strains in the polity which led conciliar values to be enunciated at particular moments and tweaked to suit immediate political needs. An individual's choice from the menu of conciliar options was determined by a mixture of core ingredients of good rule, the circumstances of their choice, and individual taste. Hence the specific interests of those calling for the revival of counsel, and the particular ways in which their opponents responded, stimulated adaptations and changes in the workings of counsel with long term consequences for both political practice and conciliar theory.

#### IV

Ideas of counsel were not new in the late thirteenth century. Nevertheless a number of changes in intellectual and political life make this an appropriate moment to begin this volume. The rediscovery of Aristotle's *Politics* encouraged attention to the organisation of human societies, to the rational basis for earthly political communities and to the temporal as well as spiritual dimensions of the common good. Aquinas's endeavour to fuse this with Christian ethics was only the most famous way in which Aristotelian ideas 'reorientated' 'the whole ideological basis of medieval thought'. They were especially fruitful for those debating questions of community, albeit Aristotle's works might either reinforce earlier ideas

of the common good or introduce a new agenda for those musing on it.<sup>54</sup> Such questions sat alongside the wider attention to issues of counsel, consultation and community in late-thirteenth- and early-fourteenth-century England and Scotland. In the former, the baronial rebellion against Henry III was mounted in the name of the ‘commune of England’ and stimulated the broadening of consultation to the commons in parliament, bearing witness to the growing sense of the community of the land in the thirteenth century. Edward I’s determination to reassert royal authority and to exact full acknowledgement of his lordship across the British Isles, coinciding as it did with the sudden death of Alexander III, led to a ‘fundamental redrawing of political relationships’ between 1282 and 1292. Edward’s heavy-handed assertiveness led to a backlash against his and his son’s claims, partly from within the realm, from magnates angered at *quo warranto* and from laity and clergy annoyed at the heavy taxation necessary for Edward’s war against France, but most obviously from Scottish lords.<sup>55</sup> If the ‘community of the realm’ of Scotland was an idea which Robert Bruce

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<sup>54</sup> M. Wilks, *The Problem of Sovereignty in the Later Middle Ages* (Cambridge, Cambridge University Press, 1963), pp. vii, 84ff; Quillet, ‘Community’, pp. 525-6; for reinforcement and new agendas see M. S. Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford, Clarendon, 1999). The literature on the reception of Aristotle is vast. Jean Dunbabin’s work is perhaps most prominent, but for an overview see P. Biller, *The Measure of Multitude: Population in Medieval Thought* (Oxford, Oxford University Press, 2000), ch. 11; for Britain, see J. Marenbon (ed.), *Aristotle in Britain during the Middle Ages* (Turnhout, Brepols, 1996), esp. D. Luscombe’s chapter. Luscombe says less on Scotland than on England: for holdings in both, see C. H. Lohr, ‘Aristotelica Britannica’, *Theologie und Philosophie*, 53 (1978), 79-101.

<sup>55</sup> M. Brown, *Disunited Kingdoms: Peoples and Politics in the British Isles, 1280-1460* (Harlow, Pearson, 2013), ch. 1, esp. pp. 16, 20-2.

manipulated more than a pre-existing entity with which he negotiated,<sup>56</sup> it was significant that it was this language which Bruce found most useful in legitimating his kingship. The period from 1280 to 1350 might have witnessed the growth of English authority in the Isles to its medieval peak, followed by contraction and disengagement between the various parts of Britain. Yet, as Michael Brown has recently shown, England and Scotland in the late Middle Ages may still be studied with reference to their ‘common experiences and developments’.<sup>57</sup> Examining the language and practices of counsel in each kingdom aids identification of both common and distinct characteristics.

As Brown himself and John Watts discuss in their contributions to this volume, mapping chronological development in practices and institutions of counsel is difficult. Emphasising the contingent ways in which fluctuating royal authority affected councils, Brown argues for a core European ‘ideology of good counsel’ which was tweaked to suit immediate circumstances. While councils were used in Scotland from the mid thirteenth century to substitute for lapses in personal monarchy, attention to them declined in the early fourteenth century and, when it revived during the reign of David II, it was associated with adult kingship. As Brown shows, divisions between larger parliaments and general councils on the one hand, and smaller councils and quotidian counsel on the other, may be more apparent than real. This sense of *consilium* being common to both larger and smaller bodies continued, even after 1380, when it was used more openly for ‘directing, regulating, even transferring the exercise of royal authority’. This fluctuation in the precise uses of counsel

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<sup>56</sup> R. J. Tanner, ‘Cowing the Community? Coercion and Falsification in Robert Bruce’s Parliaments, 1309-1318’, in K. M. Brown and R. J. Tanner (eds), *Parliament and Politics in Scotland, 1235-1560* (Edinburgh, Edinburgh University Press, 2004); M. Penman, ‘Robert I (1306-1329)’, in Brown and Tanner (eds), *Scottish Kingship*.

<sup>57</sup> Brown, *Disunited Kingdoms*, pp. 4-5, 7.

and councils in response to the specific needs of the moment continued, Brown argues, in the early-to-mid-fifteenth-century reigns of James I and II. A core set of conciliar principles could therefore be remarkably flexible, proving useful to a range of regimes. John Watts's chapter similarly argues for a continuing framework of counsel containing a variety of forms and practices which could be put to work depending on immediate political needs. Watts outlines four main genres of counsel/councils: infrequent, large, representative bodies (parliaments and general councils); occasional smaller councils imposed on weak or errant rulers to restore good government; more continuous but informal meetings of major officers and advisers to implement the royal will; and the quotidian practice of informal dialogue between the king and his subjects. To these Watts more tentatively adds the judicial elements of councils, which he argues impelled more formal record-keeping; and the nebulous status of being 'of counsel', sworn to keep the king's secrets. That any of these formats of counsel could *potentially* be deployed, albeit some were usually latent rather than active, throughout the late medieval and early Tudor period, explains the difficulty of tracing long-term patterns. This, Watts importantly suggests, is both a way to rethink earlier grand narratives of revolution, evolution, or continuity and fluctuation in the council's development, and a means to join up councils and counsel. As he suggests, these various possible combinations of counsel demonstrate how advice both lubricated links between the king, political society and governmental infrastructure and exposed tensions within such relationships. Identifying important shifts in royal landholding, warfare, taxation and political relationships between the 1440s and 1480s which encouraged better defined and recorded councils, Watts's key theme remains 'ad hocery'.

Contingent and short-term patterns of change thus seem preferable to longer narratives of evolution or revolution. However, at central level there was a clear shift from councils being *ad hoc* responses to monarchical faults to them becoming permanently present

bodies. Over the course of the transition from the late medieval to the early modern era, institutional councils changed from being sporadic impositions on wayward rulers to being a normal part of an ever-more complex government increasingly driven by proactive central direction. Councils thus changed from being in an inherently tense relationship with royal sovereignty to being a way of assisting and asserting that sovereignty in practice. We should not overplay this distinction, because the administrative and advisory roles of medieval councils were meant to direct rather than replace royal authority, and the tension between conciliar direction and monarchical authority remained strong in the early modern period. Councils were more normal, but their counsel could still be controversial. Who should appoint the king's council, and how far they could press their advice when it conflicted with royal desires, remained as problematic in the seventeenth as in the thirteenth century. While Watts rightly rejects administrative history's inbuilt assumption of evolution, the advantages which councils offered for the smooth functioning of politics did encourage their survival.<sup>58</sup> This did not mean that they remained static; indeed, councils constantly adapted themselves to the changing demands made on governments by breaking up into committees and remodelling those committees. Their great administrative strength was often their flexibility, enabling responses to the 'unknown unknowns' which governments faced. This was constant flux, not teleological evolution, but it does demonstrate that measures brought to the fore when the polity was under strain could have a long-term impact – and were not merely rhetorical flourishes seized on in an emergency and discarded afterwards.

Such changes often derived from immediate needs: a new ruler, a response to rebellion. But there were also broader trends which stimulated changing patterns of counsel. Ecclesiastical conciliarism is one, although its impact on English and Scottish religion remains unclear. Conciliarism might either enhance royal authority (as the pope's decreased)

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<sup>58</sup> For an especially strong statement of this view see Goodare, *Government of Scotland*.

or restrict it (by fostering the notion that all political societies needed conciliar limitations on a single ruler). Despite the epithet, the tendency has been for studies of conciliarism to focus on its long-term legacy for constitutionalist thought rather than on any impact it might have had on ideas of lay monarchy being only morally bounded by good advice rather than formally limited by constitutional mechanisms.<sup>59</sup> By contrast, the association of another fifteenth-century movement, humanism, with counsel is well known. Humanism encouraged an especially intense wave of concern with the dilemmas of counsel (or at least made writers more textually articulate about it). Humanists' new emphasis on the 'commonweal' supplemented earlier attention to the common good, though we should not forget that the textual resources humanists used could be deployed to support imperial monarchy.<sup>60</sup> Humanists were obsessed with the question of whether counsel was worth giving: would monarchs really heed plain truths, or would the flattery required for successful discourse violate a counsellor's conscience? Other groups of advisers lacked the luxury to indulge in

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<sup>59</sup> F. Oakley, *The Conciliarist Tradition* (Oxford, Oxford University Press, 2003); A. Black, *Monarchy and Community* (Cambridge, Cambridge University Press, 1970); A. Black, *Council and Commune* (London, Burns and Oates, 1979); J. H. Burns, *Lordship, Kingship, and Empire: The Idea of Monarchy, 1400-1525* (Oxford, Clarendon, 1992), ch. 6; J. H. Burns, *Scottish Churchmen and the Council of Basle* (Burns, Glasgow, 1962); M. Harvey, *England, Rome, and the Papacy, 1417-1464* (Manchester, Manchester University Press, 1993); A. N. E. D. Schofield, 'England and the Council of Basle', *Annuaire Historiae Conciliorum*, 5 (1973), 1-117; A. Russell, 'Conciliarism and Heresy in England', in V. Gillespie and K. Ghosh (eds), *After Arundel* (Turnhout, Brepols, 2011). Most of these do not discuss the parallels with counsel in non-ecclesiastical matters, on which see Mason, 'Arbroath', pp. 268-72.

<sup>60</sup> Mason, *Kingship*, chs 3-4; Mason, 'Arbroath', pp. 273-7.

debates about withdrawing from politics entirely. If humanism as an intellectual movement encouraged close attention to the role of a counsellor, as a wider educational and social phenomenon, associated with increasing literacy and an educational programme structured around reading classical works, it equipped a newly broad lay group to participate in national and local councils by providing them with the skills in deliberative rhetoric to identify the best course of action, and the eloquence to present it to others.<sup>61</sup>

Given the wealth of literature on humanist counsel, this volume does not revisit the topic in depth. Instead it highlights another change which altered counsel in ways not recognised in full previously: the Reformation. Governors had, naturally, always had a duty to consider the spiritual well-being of their subjects and had, doubtless, always heard confessors and preachers. But the Reformation raised the question of what counted as godliness to unprecedented heights. It forced some ecclesiastical counsellors out of advice-giving: bishops from the Scottish parliament, abbots from the English one, ecclesiastics out of the major offices of state, at least for a time, in both kingdoms. Yet Reformation simultaneously opened up an arena for a wider group of clergy (and laity) to urge monarchs to change the religious direction of their country. This was perhaps a sharper-edged counsel, for the room for compromise on religious questions was limited. That breaking God's law was one of the few evils for which monarchs might be resisted raised the temperature of debate. The impact of Reformation politics on counsel is especially apparent in the English case, due to its intensely magisterial Reformation. As Richard Rex's and Paulina Kewes's chapters show, Henry VIII's 'great matter' restructured advice-giving, after which questions

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<sup>61</sup> For examples of this in practice, see S. Alford, *The Early Elizabethan Polity* (Cambridge, Cambridge University Press, 1998), ch. 1; M. Peltonen, *Rhetoric, Politics and Popularity in Pre-Revolutionary England* (Cambridge, Cambridge University Press, 2012); Mason, *Kingship*, ch. 4.

of reform fused with those of counsel, stimulating a debate about whether a godly king or godly counsellor best heard God's instructions for His people. Focusing on the crucial phase of development in ideas of royal ecclesiastical supremacy in the early 1530s, Rex charts the extent to which the theory of good counsel, in which the king, his supporters and opponents were all well-versed, was carried through in practice. Revealing the ways in which both the language of counsel and the convening of some types of councils revived in the period following the fall of Cardinal Wolsey in 1529, Rex delineates how Henry used counsel and councils to build – or force – consensus around his divorce. While Rex's main focus is on the use of counsel for intimidation and the assertion of the royal will, he nevertheless charts how informal advice might have still influenced Henry when the king's mind was not decided. As Rex points out, the idea of the royal supremacy suggested that God should be the main adviser to Henry's conscience. But as Paulina Kewes amply demonstrates, the idea of godly kingship opened up rather than closed down spaces for critical admonitory counsel. Using the 1565 interlude *Kyng Daryus* as a test case, Kewes brings together early Elizabethan literary scholarship and the recent historiography of counsel. She surveys both new plays and revivals or adaptations of old ones to show 'the magnitude of the theatre's obsession with the proprieties of counsel', arguing that both court and popular drama offered general reflections on counsel and specific advice on questions of marriage, succession, Mary Stewart and Protestant reform to the queen as well as to courtiers. Embedding *Kyng Daryus* in recent work on the 'politics of popularity' and on Protestant critiques of Elizabeth I for insufficient zeal in purifying the Church of England, and contextualising it in a range of 1560s drama and Protestant sermons, Kewes outlines how examples of good and evil governors drawn from the classics could be blended with an account of true prophetic and evil popish counsel. In so doing, she evidences the importance of the specific context of a text on counsel for

understanding whether a commonly-cited exemplar was being used to celebrate or to admonish a ruler.

If Scottish practices of counsel adapted in response to humanism and the Reformation, they were most sharply jolted by the Unions of 1603 and 1707. There was no English equivalent to the rupturing of political norms which Scotland experienced in 1603. Dynastic union brought counsel to the fore, since tensions between English and Scottish needs could only be solved if a workable system of joint counsel developed. It never did. Alan MacDonald's chapter demonstrates how the broad culture of consultation established in Scotland by the late sixteenth century was disrupted by James VI's succession to the English throne and move to his southern kingdom. Through surveying parliaments, conventions of the estates, general assemblies and the convention of royal burghs, MacDonald argues that James VI's pre-1603 governance of Scotland was marked by a 'conciliar mood', with 'broad and increasing' consultation through a variety of routes which fostered consensus and inclusivity, and which could allow for and contain some criticism of royal policy. Yet these participatory mechanisms which allowed a variety of groups regular and direct access to the king were sharply curtailed after 1603. Although parliaments continued, they became more fractious, for where earlier debate had been undertaken before parliaments sat, after 1603 parliament was the forum in which division was exposed. Pairing this institutional survey with an awareness of the closing down of channels of access at court, MacDonald points out that the decline of conciliar bodies which guaranteed space for consultation removed a potential fail-safe mechanism if absentee monarchs restricted access too much. By the time of Charles I's accession in 1625, complaints about limited counsel were already being made.

Albeit acknowledging that Charles did much to provoke rebellion, MacDonald suggests that 1603 should be seen as a more significant date in Scottish history than 1625.<sup>62</sup>

Jacqueline Rose's concluding essay also explores the conciliar dimension to composite monarchy and the 'British problem'. As she notes, the forging of British unions in 1603 and 1707 did not result in British councils – although these were suggested by Hume of Godscroft in response to dynastic union, Henry Parker in 1642 and arguably carried into practice by the Committee of Both Kingdoms in the 1640s. As late as 1704, Queen Anne was reported to desire:

a Councill constituted near her person, for the consideration of her affairs in Scotland, to bee composed of a small number of each kingdome, by whose advice she would bee guided in all matters of the greatest importance relating to Scotland.

Only in 1708 was the dual conciliar system abolished.<sup>63</sup> The maintenance of distinct councils in England, Scotland and Ireland after 1603 mirrors the fact that, institutionally, the union of 1603 to 1707 was not an incorporating one. But counsel never fulfilled its potential to make the Stuart dynastic union one truly *aeque principaliter*; that is, one wherein the different parts of the composite monarchy had equal status and esteem. As Rose suggests, when the informal counsel which, albeit elusively, held together the dynastic union failed, seventeenth-

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<sup>62</sup> See also MacDonald's article 'Consultation and Consent under James VI', *Historical Journal*, 54 (2011), 287-306.

<sup>63</sup> For Hume, see Rose's concluding essay in this volume, p. 000; Henry Parker, *The Generall Junto, or The Councell of Union* (London, 1642), pp. 29-31; Historical Manuscripts Commission, 14th Report, appx, pt III (Seafield), p. 200; G. Townend, "'Rendering the Union more complete": The *Squadron Volante* and the Abolition of the Scottish Privy Council', *Parliamentary History*, 28 (2009), 88-99.

century writers turned to councils as a way of trying to guarantee means of mutual and joint Anglo-Scottish governance. The lack of any such body was more forcefully exposed with the advent of a Dutch monarch in 1689. The complaints which ensued in both England and Scotland in the following decades significantly blended old and new political languages and remedies for misgovernment in the years before the 1707 union.<sup>64</sup>

While other phases of change might be added, all depended on individual rulers. What if James VI and I had maintained Scottish mechanisms of consultation and visited his northern kingdom more often to hear them? What if Charles I or William III had understood the need to hear Scottish advisers? What if Henry VIII's ego had not pricked his conscience so often? Patterns of change were driven by individuals' reactions to the inherent ambiguities and conflicts within counsel, responses which were shaped by their assumptions about good rule and by the immediate needs of the moment. The best way to describe this long term contingency might be to see it as oscillation between the conflicting impulses inherent in counsel: between work for the common good and to uphold authority, between accountability and secrecy, between hearing those born to counsel and those expert in a sphere of action, between institutional councils and fluid counsel. Seizing on a particular dimension of counsel to try to solve a crisis or respond to a new demand on the polity could have a polarising effect, yet the consensual and conciliatory potential within counsel meant that it was not discarded when a crisis ended. Crucially, if an individual piece of counsel failed to solve a problem this did not mean that counsel per se was jettisoned. It was flexible and self-contradictory enough for one instance of failure to just drive people back to re-examine it.

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<sup>64</sup> For this type of union, see J. H. Elliott, 'A Europe of Composite Monarchies', *Past & Present*, 137 (1992), 48-71; for its application to seventeenth-century Britain, see R. A. Mason, 'Debating Britain in Seventeenth-Century Scotland: Multiple Monarchy and Scottish Sovereignty', *Journal of Scottish Historical Studies*, 35 (2015), 1-24.

There was always the hope that a different situation, a different counsellor or (most radically and unusually) a different ruler would restore conciliar effectiveness.

If its chronological development has been debated, counsel has nevertheless always been an acknowledged part of the narrative of medieval and sixteenth-century government. This volume proposes that many problems surrounding counsel continued to play a role in seventeenth-century history, despite the relative lack of historiographical attention to it. Again, recognising the continuing role of counsel does not mean denying that it changed. From the early to mid seventeenth century, counsel increasingly appeared to be a supplement to sovereignty and a means to enforce authority rather than a way to restrain it.<sup>65</sup> As always, conciliar changes reflected wider constitutional shifts, some particularly apparent between the final decade of the seventeenth century and the second of the eighteenth. From 1689, a new monarch involved England and Scotland more deeply in European conflict – warfare which over the course of the following half century would be fought for unprecedentedly sustained periods in colonial as well as continental theatres of action. Mobilisation for this required developments in public credit which were backed up by fiscal changes to gain higher tax yields and by parliaments willing to vote supply on a regular basis. The resulting annual meetings of the English parliament heightened its status and changed its role in government. A new British parliament removed the fiction of the kingdoms of the multiple monarchy enjoying equal status by formalising an incorporating union. These developments coincided with a number of changes in intellectual and cultural values. A willingness to acknowledge disagreement and division as part of political life signalled a move away from the pursuit of communal harmony and towards partisan politics. Print was not new, but the explosion of it in this period went along with greater political participation by, and heightened awareness of, the public. The expansion of print provided a new vehicle for older forms of advice, but it

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<sup>65</sup> See below, pp. 00-00.

also changed the terms of political participation.<sup>66</sup> Politics was characterised as a means of balancing different interests rather than achieving a unified common good, an instrumental rather than teleological process, while classical accounts of the soul's division between reason and the passions were challenged by more positive views of the emotions.<sup>67</sup> The humanist valuing of eloquence and the commonweal was replaced by a suspicion of rhetoric and the specific application of 'commonwealthsman' to an opponent of monarchy; enemies of the public good were denounced as corrupt rather than evil counsellors. With the unravelling of the Church of England's official monopoly on public worship, the role of ecclesiastical counsellors became less prominent.

Elements of all of these changes could be found before 1689: earlier public spheres, the fiscal-military developments of the Interregnum, the language of interest from the 1640s. Yet their confluence in the decades around 1700 fuelled a set of changes in assumptions about counsel. Simultaneously, the functions which counsel had performed in the polity in previous centuries were taken over by other mechanisms. For example, conciliar institutions such as the Board of Trade (and, to a degree, parliament) became arenas of lobbying. Lobbying became a way in which centre, localities and colonies related to each other in the eighteenth-century state. The emergence of national and local interest groups described by Bob Harris for Britain and Alison Olsen for America, and the increasing sophistication with which the 'art of lobbying' utilised print outlined by Jason Peacey were part of the evolution

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<sup>66</sup> P. D. Halliday, *Dismembering the Body Politic: Partisan Politics in England's Towns, 1650-1730* (Cambridge, Cambridge University Press, 1998); M. Knights, *Representation and Misrepresentation in Later Stuart England* (Oxford, Oxford University Press, 2005); K. Bowie, *Public Opinion and the Anglo-Scottish Union* (Woodbridge, Boydell, 2009).

<sup>67</sup> S. James, *Passion and Action: The Emotions in Seventeenth-Century Philosophy* (Oxford, Clarendon, 1997).

of the mechanisms of, and information needed for, government action.<sup>68</sup> By the early eighteenth century this was less a closed process of a set group of councillors exchanging advice than a semi-public debate in which competing interests argued, negotiated and balanced each other – and, crucially, were willing to describe what they were doing using such language. Commercial society sat uneasily with the conciliar commonweal.

## V

The prevalence of counsel derived from the wide variety of roles which it could serve in the polity, uses which have never been systematically mapped out. The following offers a survey of the varied functions of counsel, not always all operative, but a good demonstration of the vital role it played in the body politic. Some functions appear more positive than others, but the fictive shadow of counsel could be as important and useful as its ‘real’ existence.

The role of counsel described by theorists of it – its supply of wisdom and knowledge – was manifested in the first of its functions: to move information around the polity. This took place at a variety of levels. Medieval magnates drew on the counsel of retained lawyers to manage litigation about their estates, nobles’ councils provided a ‘repository of knowledge and skill’ for young successors to titles. The early modern privy council acted as a clearinghouse for information on musters, finance and reports of sedition. Both English and Scottish monarchs nevertheless gathered information about border territory from wardens on

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<sup>68</sup> A. G. Olsen, ‘Parliament, the London Lobbies and Provincial Interests in England and America’, *Historical Reflections*, 6 (1979), 367-86; B. Harris, ‘Parliamentary Legislation, Lobbying and the Press in Eighteenth-Century Scotland’, *Parliamentary History*, 26 (2007), 76-95; J. Peacey, ‘Print Culture and Political Lobbying during the English Civil Wars’, *Parliamentary History*, 26 (2007), 30-48.

the Marches.<sup>69</sup> The claim that collective groups offered a pool of wisdom superior to that of a single individual, deriving both from Aristotle ('a multitude is a better judge of many things than any individual': *Politics*, III.15 (1286a25-40)) and the Bible ('in the multitude of counsellors there is safety' (Proverbs 11:14)) was thus both recited in advice literature and witnessed in quotidian practice. Indeed, it was occasionally necessary for councillors to call on the counsel of 'experts', as when the English privy council requested the antiquary Robert Cotton to advise them on parliamentary management in the 1620s.<sup>70</sup> Counsel as a form of gathering information and pooling wisdom offered a solution to the problem of the limited knowledge of a ruler. But it also generated the problem of someone being able to claim that expertise gave them a right to counsel the ruler. Frustrated at policies of toleration, in 1688 the episcopate insisted the archbishop of Canterbury 'by his place is Counsellor to his Majesty and ... ought to be advised with in all things belonging to the Church'.<sup>71</sup> It also blurred the boundaries between advice and lobbying. Did the standing commission on manufactures which James VI and I organised in 1623<sup>72</sup> counsel or lobby him?

Moving information to where it was most needed naturally generated the next function of counsel: a means of political dialogue. Not only was counsel a chance to identify

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<sup>69</sup> Ramsay, 'Legal Counsel'; C. Rawcliffe, 'Baronial Councils in the Later Middle Ages', in Charles Ross (ed.), *Patronage, Pedigree, and Power in Later Medieval England* (Gloucester, Alan Sutton, 1979), pp. 90-3, 99-101 (qu. p. 100); Brown, *Noble Power*, p. 92; see Brown's and Doran's chapters in this volume, pp. 00, 000.

<sup>70</sup> K. Sharpe, 'Crown, Parliament and Locality: Government and Communication in Early Stuart England', *English Historical Review*, 101 (1986), 321-350, at 342.

<sup>71</sup> John Gutch, *Collectanea Curiosa*, 2 vols (Oxford, 1781), I, 371.

<sup>72</sup> Goodare, *Government of Scotland*, p. 106.

the common interest, it also represented the realm.<sup>73</sup> This was reflected in Elton's account of the king's council as a 'point of contact' between centre and locality. For Elton, this participatory and representative function ceased in the 1530s, as Thomas Cromwell's new privy council transformed an arena for dialogue into an administrative mechanism.<sup>74</sup> But the later privy council did much to maintain geographical relationships, with its members acting as justices of the peace and lords lieutenant, liaising with their colleagues in the localities about (for example) the enforcement of the Elizabethan Act of Uniformity.<sup>75</sup> It may be helpful to replace Elton's metaphor of the council as a point of contact with the idea of counsel as a channel of communication. Points either do or do not exist, whereas channels may flow freely, or become partly silted up or only flow in one direction. In Caroline England, it seems that the privy council increasingly only issued instructions to the localities, rather than absorbing or reflecting on information sent in.<sup>76</sup> In Scotland, this shift occurred in 1603, for while after James's departure the channels of communication between London and Edinburgh were well oiled, contact between the Edinburgh privy council and the localities 'withered'.<sup>77</sup> Blocking the flows of counsel resulted in political tension.

The growth in the role and geographical breadth of late medieval and early modern government could stimulate conciliar developments. This made the role of counsel and councils in managing geographical relationships increasingly vital, and increasingly

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<sup>73</sup> Watts, *Kingship*, pp. 25-6, 18.

<sup>74</sup> G. R. Elton, 'Tudor Government: The Points of Contact: II: The Council', *Transactions of the Royal Historical Society*, 5th ser., 25 (1975), 195-211.

<sup>75</sup> M. B. Pulman, *The Elizabethan Privy Council in the Fifteen-Seventies* (Berkeley, University of California Press, 1971), pp. 20-1, 123-8.

<sup>76</sup> Sharpe, 'Government and Communication', 345.

<sup>77</sup> MacDonald, 'Consultation and Consent', 299 and *passim*.

problematic. As stated above, the seventeenth-century composite monarchy did not have a composite council. But counsel as a mode of communication, if it functioned well, could have compensated for the lack of a British council. In 1704, the suggestion that ‘a certain number of [the] Counsell of Scotland ... bee always attending upon [the queen’s] person’, blended representatives of an institutional council into the informal networks of counsel around the monarch.<sup>78</sup> There was a constant tension between the need for a small administratively effective council and wide representative and participatory counsel. Even small privy councils subdivided into committees to get their business done. An effective ruler could combine small councils and wider counsel, but it took a lot of effort.

The importance of counsel in drawing together a geographically disparate polity was but one element of its vital role in fostering political consensus and achieving consent. As both Michael Brown and Alan MacDonald note, inclusivity was necessary for councils to carry credibility, even if this meant incorporating one’s opponents. As they took counsel from local retainers and gentry, magnates cemented crucial political ties. By meeting to solve problems, urban corporations built up a sense of trust and community values, echoed in ritual processes of public proclamation of communal matters.<sup>79</sup> As Andrew Swatland has demonstrated, during the first half of Charles II’s reign, privy councillors continued to manage the House of Lords, transmitting a sense of the king’s attitude to its activities and organising and chairing its committee work.<sup>80</sup> Hinting at royal approval or disapproval of

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<sup>78</sup> Historical Manuscripts Commission, 14th Report, appx, pt III (Seafield), p. 207.

<sup>79</sup> See Brown’s and MacDonald’s chapters in this volume, pp. 00, 000; Rawcliffe, ‘Baronial Councils’, pp. 94-5, 105; Hawes, ‘Scottish Urban Community’.

<sup>80</sup> A. Swatland, ‘The Role of Privy Councillors in the House of Lords, 1660-1681’, in C. Jones (ed.), *A Pillar of the Constitution: The House of Lords in British Politics, 1640-1784* (London, Hambledon, 1989).

certain measures created a sense of momentum behind them, easing their passage through an uncertain or divided House.

Conciliar contributions to political momentum and consensus are richly evidenced in Alexander Haskell's chapter. Providing a novel trans-Atlantic discussion of councils, he shows the importance of such bodies to the identity and authority of early colonising efforts in Virginia. Drawing on longstanding notions of good counsel and blending them with a strong sense of worthy advice as a seal of divine approval, colonists frequently sought the backing of privy councillors for their ventures. Since Elizabeth I and James VI and I were too wary of offending Spain to give an official imprimatur to their subjects' voyages, first privy councillors, then the Council of Virginia provided effective substitutes for sovereign authority. The Council was a clearing house for information about the colony, a way to build consensus about the venture, and it encouraged momentum in implementing colonisation. Its significance was recognized by Spanish ambassadors who realised that colonial councils provided an increasingly self-reinforcing authority and identity for the new territories – a system so effective that Francis Bacon saw it as a model for governing Ireland. For Catholic critics, the whole venture of English expansion was a paradigmatic case of evil Protestant counsel. The creation of consensus had its limits.

The importance of consensus-building for difficult and contentious decisions – those inherent to the burden of government – is also demonstrated in calls to broaden counsel at specific moments of crisis. James II's minority council sought the assent of general councils for their actions after 1439.<sup>81</sup> The Elizabethan privy council debated calling in 'other erles' to discuss the dynastic challenge of Mary Queen of Scots; Elizabeth herself requested advice on Mary's plan to marry Darnley. The privy council took the unusual step of recording its

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<sup>81</sup> M. Brown, 'Public Authority and Factional Conflict: Crown, Parliament, and Polity, 1424-1455', in Brown and Tanner (eds), *Parliament and Politics in Scotland, 1235-1560*, p. 131.

advice to the queen so that Mary could be presented with a united front, not dissimilar to Henry VIII's showy uses of his council to try to force Katherine of Aragon to comply with his wishes and to examine the prophetess Maid of Kent. In 1649, the royalist privy council sought wider consultation with exiled courtiers about how to respond publicly to regicide.<sup>82</sup> Indeed, consensus-building was perhaps the stimulus behind James II and VII's practice of 'closeting' individual courtiers in order to encourage them to support his policy of religious toleration. As this last example shows, seeking counsel could easily slide into overbearing sovereign persuasion.

Consensus and counsel were sometimes somewhat fictive. Wolsey's suggestion of a counsel attendant on Henry VIII in 1525 was a figleaf for the Cardinal's control; while Henry's response to the Pilgrims of Grace a decade later that he had nobles in his council stretched the truth.<sup>83</sup> Sometimes there *was* an attempt to appoint councillors to broaden a regime's basis. Mary Tudor in 1553 understood the importance of bringing her old opponents onto the council, a group whose experience and political skill eventually led to their *de facto* control of that body.<sup>84</sup> This did not always work; in 1525, the exclusion or withdrawal of the earl of Angus from regency councils stymied the endeavour to create a broad-based regency.<sup>85</sup> But sometimes it worked just well enough to create the appearance of broad conciliar inclusiveness. Blair Worden has noted how some (less active) members of Oliver Cromwell's council were appointed to increase the council's status or to reassure anti-

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<sup>82</sup> Pulman, *Privy Council*, pp. 53, 63, 60; see Rex's and Rose's chapters in this volume, pp. 000, 000.

<sup>83</sup> Guy, 'Political participation', pp. 144-5, 135f, 131.

<sup>84</sup> D. Hoak, 'Two Revolutions in Tudor Government: The Formation and Organization of Mary I's Privy Council', in Coleman and Starkey (eds), *Revolution Reassessed*.

<sup>85</sup> K. Emond, 'The Parliament of 1525', in Brown and Tanner (eds), *Parliament and Politics*.

sectarian thinkers. Although the council was not Cromwell's main source of counsel (he took advice from other groups), the regime grasped the value of seeming to respect it, and that appointments to it emitted suggestive messages about their intentions.<sup>86</sup> Nearly two decades earlier, Charles I had considered 'whether some of the noblemen not counsellors shall not be called to counsel if it be but to engage them?'. This was a hard balancing act – incorporating what Conrad Russell termed a 'vital ambiguity'<sup>87</sup> about whether Charles was hearing new voices or merely trying to win men over to him. Conciliar consensus-building could solve one problem by healing political rifts, but risked rendering a council unworkable by introducing division and rivalry.

A call from a ruler or council for broader advice highlights another valuable function of counsel: what we might colloquially term political buck-passing. On first appearances, it seems that there was an appreciation in late medieval Scotland and England that decisions about war, or about royal captives, required broad consent. The Scottish great council debated the release of James I from English captivity, not leaving this up to the governor Albany.<sup>88</sup> But there was also a sense of unwillingness to shoulder responsibility for difficult decisions. In 1383, Richard II's council sought parliament's assent to the young king leading the campaign to Ghent in person. In parliament the lords insisted that the commons should give their opinion; the commons stated that it was a matter above their control and, when

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<sup>86</sup> B. Worden, 'Cromwell and his Councillors', in his *God's Instruments* (Oxford, Oxford University Press, 2012).

<sup>87</sup> C. Russell, *The Fall of the British Monarchies, 1637-1642* (Oxford, Clarendon, 1991), p. 237.

<sup>88</sup> K. Hunt, 'The Governorship of Robert Duke of Albany (1406-1420)', in Brown and Tanner (eds), *Scottish Kingship*, pp. 135-6 (mainly due to distrust of Albany's intentions towards James).

forced to speak, that they gave only advice, not counsel; yet in 1386 the great council again sought the ‘better advice and weightier counsel’ of parliament about the king’s campaigning.<sup>89</sup> The recourse to counsel as a fobbing-off mechanism was one familiar in the localities too. A frustrated John Paston wrote of how the duke of Norfolk’s council sent him to the duke’s wife to resolve a property dispute; she referred him back to the council.<sup>90</sup>

Counsel could therefore be invoked not just in the positive sense of a means to gain information, manage an increasingly-complex polity or foster political relationships, but also as a tool to excuse delegation, delay or disaster. Thus an offer to take counsel may not signal a real commitment to hearing advice. But even the fictive shadow of counsel played a vital role in politics. Professing respect for counsel was an obvious way to look like a good monarch; it was, writes Susan Doran, part of Elizabeth I’s ‘public relations armoury’, used to present herself to both domestic and foreign audiences.<sup>91</sup> Charles I’s comment on ‘engaging’ nobles highlights how counsel could be manipulated and simulated so that it appeared to be happening, when in reality only the shadow of it was present. The fiction of advice taking was practised by a number of rulers, to varying degrees of success. While historians naturally tend to ask whether a profession of hearing counsel is true or false, a fictive claim to have taken advice is also revealing. It could usefully delay a decision. Elizabeth put off negotiations for a French marriage in 1571 with the claim that religious articles must be drawn up ‘as our Council shall devise’, and in 1574 suggested its advice was needed before a personal meeting with a prospective husband could be arranged, similarly insisting in 1579 that the counsel and consent of parliament was needed for such an alliance. Playing for time in September 1572, she refrained from final comment on the news of the St Bartholomew’s

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<sup>89</sup> *PROME*, VI, 310-12; VII, 35.

<sup>90</sup> Rawcliffe, ‘Baronial Councils’, p. 89.

<sup>91</sup> See Doran’s chapter in this volume, p. 000.

Day Massacre because ‘we would be further advised for our answer’ by the council.<sup>92</sup> Closely examining Elizabeth I’s language of counsel, Susan Doran’s chapter delineates the topics, groups, and specific circumstances on which, from whom and in which the queen followed or rejected advice. She is optimistic about the queen’s real commitment to seeking and hearing advice. The queen’s responsiveness to counsel was, Doran argues, greater than most recent historiography (stemming from Patrick Collinson’s notion of an ideologically fractured ‘monarchical republic’) allows for. Collinson depicted a body of privy councillors who, imbued with quasi-republican notions of mixed government from their reading of Cicero, and/or seeking more aggressive support of forward Protestantism at home and abroad, aggressively used counsel to criticise royal policy. Doran instead points to the queen’s ‘remarkable tolerance of unsolicited counsel’, her practice of seeking not only information from her subjects, but often their opinions as well. Although Elizabeth was determined not to change her religious settlement of 1559, and to avoid naming a successor, on other ‘prerogative’ questions of marriage, foreign policy and Ireland she was open to advice. When she rejected it, she often dissented from specific counsellors rather than the privy council as a whole, and conciliar consensus could lead her to change her mind.

As Doran shows, the queen was adept at deploying commonplaces about good counsel to present herself as a good and godly prince, although this did not always convince her critics. But Elizabeth was not alone in being able to trump the conciliar assertiveness of one group with the status of another set of councillors. When rejecting parliaments’ claims to advise them on marriage, succession or war, both she and Charles I took care to emphasise that they still believed in advice. Thus Charles I told parliaments in the 1620s that he had taken the privy council’s advice before dissolving them, while Elizabeth offered to take

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<sup>92</sup> *The Letters of Queen Elizabeth I*, ed. G. B. Harrison (London, Cassell & Co., 1935), pp. 101, 121, 132, 112.

counsel from lawyers about the succession. But, importantly, while the Tudor queen told MPs that they had no conciliar authority over a particular issue, the Stuart king drew a sharper distinction between counsel and sovereign command. Parliament was a council – but only a council.<sup>93</sup> Perhaps this was the beginning of the decline of counsel: it had not disappeared, but it was now more often deployed to assert an inferior rather than superior position in a political relationship.

If counsel could be manipulated to conduct power relations within the polity, so too could it be used in diplomatic transactions between kings. Sometimes counsel acted as an assertion of authority through the tone in which it was given – such as the hectoring rebukes which Elizabeth sent to Mary Stewart and, at times, her son as well. In the latter case, she could have pointed to James VI's occasional positioning of himself as asking counsel – a dangerous strategy had he not been equally capable of telling Elizabeth she was badly advised. In their cross-st exchange, each accused the other of being seduced by ill counsel, and so violating their duties as kings. Thus monarchs as well as their subjects could find the rhetoric of evil counsel useful in condemning each other's actions while not breaking alliances or offering insults. In 1572 (when she finally replied) Elizabeth used this strategy to criticise the St Bartholomew's Day Massacre while not totally cutting ties with France.<sup>94</sup>

If, as John Guy has stated, good counsel was an 'inspirational myth', we may deem the notion of evil counsel a necessary fiction. Joel Rosenthal's work on complaints of evil counsel in medieval baronial rebellions demonstrates how the claim was a tactical means to unite disparate opponents, an enabling mechanism permitting criticism of an individual ruler and a strategy of containment which prevented criticism of one king becoming an attack on

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<sup>93</sup> See Rose's chapter on Edward Hyde in this volume, p. 000.

<sup>94</sup> *Letters of King James VI and I*, ed. G. P. V. Akrigg (Berkeley, University of California Press, 1984), pp. 123, 129-31; *Letters*, ed. Harrison, pp. 49, 228, 116.

the institution of monarchy. It also allowed its users to avoid having to engage with constitutional debates about the exact relationship between king and subjects. Thus the ‘tactical and rhetorical’ language of evil counsel was infused with ‘substance and value’.<sup>95</sup> Long after the fourteenth century, evil counsel offered a safety valve for the expression of opposition without raising the stakes to the dangerous level of resistance.

Yet, as suggested above, this language contained within itself the potential to slide towards deposition. The Earl of Essex’s march on the court in 1601 to free Elizabeth from her evil counsellors was a protest which inevitably overstepped the boundaries of acceptable political criticism.<sup>96</sup> The overthrow of James III, the Scottish Covenanted rebellion and the English Civil War were all points of resistance which began with denunciations of bad counsel. Repeatedly, when monarchy went wrong the instinct was to blame evil counsellors, dispose of them and get the king to listen to the right men. External control of councillors or counsellors often seemed to be a panacea for the nation’s ills. The Song of Lewes pointed out that an unwise king could not be trusted to choose wise counsellors.<sup>97</sup> The Pilgrims of Grace demanded the king replace his new men with his ancient aristocratic councillors. Elizabeth’s government toyed with the idea of controlling Mary Queen of Scots by appointing her advisers. In 1641 first the Scottish, then the English parliaments demanded control of appointments to the king’s council. Charles II was forced to reconstitute his privy

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<sup>95</sup> J. Rosenthal, ‘The King’s “Wicked Advisers” and Medieval Baronial Rebellions’, *Political Science Quarterly*, 82 (1967), 595-618, esp. 596-7, 608-9.

<sup>96</sup> On this episode, see P. E. J. Hammer, ‘Shakespeare’s *Richard II*, the Play of 7 February 1601, and the Essex Rising’, *Shakespeare Quarterly*, 59 (2008), 1-35; A. Gajda, *The Earl of Essex and Late Elizabethan Political Culture* (Oxford, Oxford University Press, 2012), ch. 1.

<sup>97</sup> Rosenthal, ‘Wicked advisers’, 612-15; ‘Song of Lewes’, in *English Historical Documents, 1189-1327*, ed. H. Rothwell (London, Eyre and Spottiswoode, 1975), p. 909.

council in 1680 to include some of his opponents. In 1701 the English parliament banned aliens from being privy councillors, and the idea of parliament appointing the privy council recurred as one of the suggested ‘Limitations’ on a successor to Queen Anne debated in Scotland in the years before Union. Yet this solution failed because it was almost impossible to make the king hear his privy council. To limit counsel to councils interfered too much in the natural operation of politics to be viable.

Considering the functions of counsel described above demonstrates how it could strengthen rule. This was not just in the sense enunciated by theorists of a wider pool of wisdom and knowledge, but in the practical functions it served: contact, consensus-building and tactics of delegation, delay and scapegoating. Strong government, be it at urban, magnate, colonial or national level, always relied on counsel (if not necessarily on councils). But it also leaned on good management of counsel by an individual king, noble, governor or group of urban councillors. When this went wrong – most spectacularly, when royal sovereign authority malfunctioned – counsel seemed like the solution. Insisting on it being given honestly, and being properly attended to, was the panacea for the ills of government. To call for good counsel was ‘virtually unanswerable’.<sup>98</sup> But failing counsel was less often the cause, and more frequently the symptom, of a diseased body politic; it could not compensate for poor rule.

## VI

The obligation to take counsel was widely accepted. But whose counsel should be heard was contested. This was not simply a question of institutional councils versus informal counsel,

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<sup>98</sup> A. Black, *Political Thought in Europe, 1250-1450* (Cambridge, Cambridge University Press, 1992), p. 157.

but one about who peopled these institutions and who surrounded the ruler. Various types of people could claim to give valuable counsel and, while it was difficult for any single individual to assert a right to advise, the exclusion of whole categories of subjects risked triggering crises.

The most obvious advisers for the monarch at the beginning of our period were his ‘natural born’ counsellors – the nobility. Their birth granted them both a hereditary claim to serve the ruler by counsel and a nearer equality of status which made it both proper and feasible for them to speak freely to the king. Their very real power in governing the localities meant that hearing their counsel was a practical necessity to lubricate political relationships and foster consensus. ‘Feudal-baronial’ counsel lasted long into the early modern period. Scottish nobles were frequently described as ‘born councillors to the state’ in the sixteenth century, and in the following fifty years the earl of Rothes clearly felt that the ancient nobility should retain a place in monarchical counsels, as did Hume of Godscroft and Balfour of Denmilne.<sup>99</sup> It is hard to deny that the nobility’s role as counsellors diminished during the period discussed in this volume, although this was more a result of their becoming one group among many more types of advisers (as opposed to their earlier dominance in counsel) than of the collapse of their power. By the seventeenth century, their status in some European polities rested more on their links to court and to crown service than on their retinues or local landholding, but in Scotland land remained the basis of noble authority, and both there and in England suggestions of any deliberate royal policy to curb aristocratic authority have been refuted.<sup>100</sup> Ignoring an entire cohort of significant landholders would have been disastrous

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<sup>99</sup> Brown, *Noble Power*, pp. 148, 166, ch. 6, and *passim*; see section III of MacDonald’s chapter and Roger Mason’s, *passim*, in this volume.

<sup>100</sup> See J. M. Brown, ‘The Exercise of Power’, in J. M. Brown (ed.), *Scottish Society in the Fifteenth Century* (London, Edward Arnold, 1977); J. Wormald, *Lords and Men in Scotland*

for medieval monarchs; it remained dangerous for their early modern successors. Indeed, James VI spent more effort trying to foster than to repress the counsel of men who, one writer commented, ‘esteem them selves to be borne consellours, and yet will not remain at court, nor upon the counsaill’.<sup>101</sup>

Nobles’ role as counsellors was facilitated most of all by their presence at court. Their shared interests and shared lives alongside the king fostered the trust which smoothed the process of advice-giving.<sup>102</sup> Warnings and admonitions were surely more likely to be received graciously when they came from companions rather than from outsiders, from longstanding friends rather than perceived enemies or rivals. That friendship involved the giving and receiving of frank counsel was a clearly understood principle. It was one strengthened by classical texts penned by Cicero and Plutarch which circulated in ever-increasing numbers from the mid fifteenth century onwards. Those texts also emphasised the notion that friendship required social equality. Nobles and high-born companions of the prince were their natural friends. Further down the polity, the ideal of harmony which pervaded the theory of good governance encouraged the claim that urban governors were a companionable cohort – albeit this seemed at times to be a thin disguise for an oligarchic clique.

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(Edinburgh, John Donald, 1985); Brown, *Noble Power*; G. W. Bernard (ed.), *The Tudor Nobility* (Manchester, Manchester University Press, 1992); Boardman and Goodare (eds), *Kings, Lords and Men*.

<sup>101</sup> qu. in Brown, *Noble Power*, p. 152.

<sup>102</sup> For an example of this see G. L. Harriss, ‘Introduction: The Exemplar of Kingship’ and ‘The King and his Magnates’, in G. L. Harriss (ed.), *Henry V: The Practice of Kingship* (Oxford, Oxford University Press, 1985).

The origins of royal counsel in the monarch's *curia* and *familia* meant that those surrounding him or her were the best placed and most obvious advisers. This embodied the idea of conciliar friendship: informal consultation going on, almost subconsciously, as the ruler walked, hunted, dined or dressed. Some of the best accounts of counsel unwittingly capture its happening almost unthinkingly in quotidian settings. This meant counsel never stopped. It flowed ceaselessly between monarchs and their courtiers, and might crop up in chance meetings in the marketplace or houses of mayors and aldermen. Consorts and court ladies, physicians and musicians, might give advice.<sup>103</sup> Counsel permeated even those spheres which were created as apolitical entities. Thus Henry VII's privy chamber, staffed with apolitical body servants to insulate the king from plots, became a political hothouse in Henry VIII's reign, when filled with higher-born companions of the monarch who were active political players.

Against such tendencies to open-ended counsel came the endeavours to revive institutional councils whose membership was more clearly defined. Although monarchs could choose members of their (privy) councils, they had much less sway over those of parliaments, great councils and conventions of the estates. These bodies often blended multiple types of councillors who could justify their roles in giving advice in different ways. Noble councillors sat by birth and by the holding of particular lands, burgess or mercantile members by some claim to represent their localities. As a whole such bodies could assert their conciliar status through history and (invented) tradition (as in the ancient constitutionalist language of early modern England), their expertise (for advice on economic policy), the principle of *quod omnes tangit* (for advice and consent to taxation), or the notion of community consent and consultation being necessary for the most difficult and weighty affairs – acknowledged in writs of summons to discuss *arduis negotiis* or in the proverbial

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<sup>103</sup> William Scheves, Theodore de Mayerne and David Riccio all spring to mind.

sense that many heads were better than one. For most of our period, parliaments and conventions were advice-giving bodies. They did not seek to govern the kingdom, but rather to bring its grievances to royal attention. *In extremis*, they might hold the king's ministers to account and offer forceful assertions of their right (framed, importantly, as a duty) to counsel, defending their privilege of liberty of speech. At their most powerful, they did not usurp sovereign rule, but rather made the idea of the community a living reality, debating tricky questions and closing with rituals of harmony and concord.

Parliaments and councils, it is important to remember, were not purely secular entities. Throughout medieval and early modern Britain, many churchmen had the status, the ability (through education and literacy) and the authority needed to give counsel. Most obviously this could be undertaken on religious matters: ecclesiastical patronage, which pope to obey during the Schism, dealing with heresy and dissent and reforming the Church. But it was not confined to such questions. William of Pagula, vicar of Winkfield, criticised Edward II's and Edward III's use of purveyance. Edward II's untimely end was cited by Archbishop John Stratford in 1340 to 1341, in one of the most famous late medieval confrontations between a king and his primate. Less explosively, Philip Repyndon both advised Richard II on the Schism, and wrote to Henry IV in 1401 urging him to better enforcement of the law.<sup>104</sup> Similarly, ecclesiastical counsel had its own specific settings – such as the chapel royal, or the sermon before parliament – but it also permeated wider conciliar bodies: the bishops in parliament or privy council; and it could be offered in institutional councils (convocations and the General Assembly) or in freer counsel (confession and discussion). Godly counsel

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<sup>104</sup> L. E. Boyle, 'William of Pagula and the *speculum regis Edwardi III*', repr. in L. E. Boyle, *Pastoral Care, Clerical Education and Canon Law, 1200-1400* (London, Variorum, 1981); R. M. Haines, *Archbishop John Stratford* (Leiden, Brill, 1986), p. 289; S. Forde, 'Philip Repyndon', *ODNB* (accessed 3 March 2015).

could employ a variety of languages to justify its provision. Stratford wrote to Edward III as his primate and spiritual father, but also portrayed himself as an Ambrose rebuking Theodosius, a long-running example which would be deployed by both Archbishop Grindal against Elizabeth I, and a range of early modern clergy. Archbishop Peckham, defending the Church's jurisdictional privileges against Edward I, cited Becket.<sup>105</sup> If Becket was impossible to use after the Reformation, clergy could still vocalise prophetic Biblical utterance, patristic admonition to be a godly Constantine, a claim to theological expertise or an appeal to the ruler's conscience. Conscience opened up religious counsel to apply to almost any sphere of government, for the ruler's conscience needed to be satisfied on issues of war and taxation as much as on theology and ritual.

Counsellors, like their rulers, had consciences. As Jeremy Catto demonstrates in his contribution to this volume, they turned to spiritual guidance to help manage the moral burdens of government. Catto examines the sense of duty felt by both lay and clerical councillors who were left with the task of managing the new Anglo-French dual monarchy in the aftermath of Henry V's conquests and early death. This provides a test case of the way councillors behaved without a pre-eminent sovereign king to guide them, and how their sense of duty encompassed obligations to fulfil the deceased king's agenda while also acting as good stewards of the young Henry VI's resources and bringing peace to their subjects on both sides of the Channel. Despite the development, in these circumstances, of a type of vernacular written advice more plainly phrased, policy-specific and 'realistic' than before,

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<sup>105</sup> Haines, *Stratford*, p. 297; R. M. Haines, 'Conflict in Government: Archbishops versus Kings, 1279-1348', in J. G. Rowe (ed.), *Aspects of Late Medieval Government and Society* (Toronto, University of Toronto Press, 1986); P. Collinson, 'If Constantine, then also Theodosius: St Ambrose and the Integrity of the Elizabethan *Ecclesia Anglicana*', *Journal of Ecclesiastical History*, 30 (1979), 205-29; Rose, 'Kingship and Counsel'.

Catto argues that Lancastrian councillors were deeply imbued with conscience and duty, perhaps sharing the pious vision of Henry VI. Recognising their human frailty, they urged recourse to advice and counsel, knowing that they had a duty to dispense justice by ‘reason and conscience’. Catto’s account of the problems historians face in the exigencies of what evidence survives speaks to wider themes about counsel, as does the idea that temporal just as much as ecclesiastical advisers could assert the necessity of giving counsel in order to salve one’s conscience.

The justifications which underpinned many claims to advise were commonly associated with specific groups: parliaments with ancient constitutionalism, for example, or prophecy with churchmen. Yet many could not be restricted to those groups. Friendship, conscience, expertise, wisdom and prophecy were all widely deployed, especially by those not invited to give advice on a particular issue but who felt they had a duty to speak out on it. The acceptability of such unsolicited counsel relied heavily on it being given at and in a suitable juncture and setting.

We still know too little about the rituals surrounding counsel and the significance of the spatial settings in which it was given. The fourteenth-century burgh oath described above was sealed with a kiss, a sign of communal harmony. But the source material makes conciliar *performances* difficult to trace. How much did it matter whether advice was given in a passing conversation or in a formal dialogue? Did written and oral advice carry different valences? It certainly mattered how public the arena for counsel was: speaking exclusively to the ruler, or to the ruler and other counsellors or to the wider community had very different resonances. Admonition became more and more charged when given in a wider arena, opening up the ruler to criticism and therefore often best dressed up in the guise of praise to an imaginary ideal, *laudando praecipere*. The issue is further complicated by the extent to which what was ostensibly the same piece of counsel circulated to multiple audiences: a

sermon preached in the Chapel Royal, but then printed; a letter of advice to the ruler, thereafter scribally circulated; a play performed first at court, and then in a town. Could decorum – making speech appropriate to one’s audience – be maintained across these transitions?

Giving advice at the wrong time, or exposing it to too wide a group of people, violated the principles of decorum. Counsel thus slipped easily over the boundary of acceptability into the crime of seditious opposition. The unspoken rule of being able to speak honestly only once invited to do so was impossible to observe when a governor was not hearing counsel. Many advisers therefore had to begin with an apology for counselling without permission, articulate a justification for why they felt themselves legitimately able to do so, and then hope for the best. They constantly teetered on the brink of the political abyss: would their advice be followed, ignored but tolerated, or result in disgrace and, for some, death?

## VII

When problems arose in the medieval and early modern polity, theorists and political actors turned instinctively to counsel. They did so despite repeated experience of it failing to substitute effectively for flawed governance. This raises the final crucial problem scholars face regarding counsel – the question innately nagging at studies of it – did it succeed? Success always highlights contingency: the person being counselled, the mood they were in on the day, because on the surface success seems to mean the counsellor’s advice being followed. But the multiple functions and purposes of counsel described above complicate such a simple equation. They might, indeed, *lower* the bar for success – advice not being followed, but still acting as a way to glue the polity together or to assert political authority.

The multiple functions which counsel could serve, and the ease of achieving some of these, may suggest that those turning to counsel to solve their problems were right to be optimistic. But the barriers to achieving full success, or guaranteeing that the recipient would take advice in the full sense of heeding as well as hearing it, were high.

Counsellors might often see their advice as having failed, because the recipient did not act in the manner they were advised to. Yet the fact that counsel was repeatedly given, and still believed in, was not simply the outcome of the alternatives (withdrawal or rebellion) being unpalatable. Remarkably often, critical and admonitory words gained second-order success: that is, they were accepted as being counsel rather than an impertinence, or an insult or a slander. Second-order conciliar success occurred when the recipient and giver's views converged on the legitimacy of a certain individual's speaking on a particular topic at a specific time, in a precise setting. Counsel totally failed – i.e. speech was not deemed counsel – when it was seen as violating the acceptable boundaries of legitimate political discourse because of who gave it, when, where, on what or how. Perceptively commenting on this in a treatise on kingship presented to Henry VIII, Stephen Baron wrote in 1509:

Among those admonished, some are comparable to wax, some to stone, and some to thorns. Wax gives in as soon as it is touched: thus some people give in as soon as a word or virtuous exhortation reaches them, they immediately correct themselves ... A stone, if touched, does not give way; neither however does it hurt: thus a great many when admonished do not acquiesce, yet hurl no harsh words on the reproving person. Now a thorn, if touched, does not give way, and in addition it pricks: thus a great many, if they hear words of

exhortation or sound advice, fail to correct themselves, and in addition they  
hurl abuse or harmful actions at the exhorting person, which is to Neronize.<sup>106</sup>

Scholars may be left to draw their own conclusions about which rulers were wax, or stones or  
thorns.

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<sup>106</sup> Stephen Baron, *De regimine principum*, trans. and ed. P. J. Mroczkowski (New York,  
Peter Lang, 1990), p. 95.