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The Logic of Modern Constitutional Legitimacy: From Magna Carta to the Bill of Rights (1215–1689)

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Abstract

Spanning the five centuries between Magna Carta (1215) and the Bill of Rights (1689), this study re-examines the making of England's constitutional order and argues that legitimacy was not the product of seamless progress or episodic rupture, but of a continual re-appropriation of inherited forms. It identifies three overlapping paradigms—feudal contract, parliamentary sovereignty and rights universalisation—through which successive generations re-articulated political obligation while maintaining a rhetoric of continuity. Medieval jurists first used the language of mutual obligation to circumscribe royal prerogative; Tudor and early-Stuart polemicists then adapted that vocabulary to elevate Parliament; by the late seventeenth century, appeals to the "ancient constitution" fused with natural-law theory, translating corporate privileges into individual rights. The analysis draws on royal charters, plea rolls, parliamentary journals and printed pamphlets, integrating legal exegesis with social-historical method to show how selective memory served as a legitimising resource. By uncovering the bricolage that transformed a feudal pact into a constitutional monarchy, the article challenges linear Whig narratives and contributes to comparative debates on state formation, the politics of tradition and the contingent evolution of constitutional norms in early modern Europe.

Keywords: Magna Carta; Bill of Rights; England's constitutional; natural-law theory; Whig

Introduction

Modern British constitutionalism did not emerge fully formed from a single charter or revolution; it took shape across centuries of contestation over how sovereign authority might be bound by law and rights. This article reconstructs that trajectory—from Magna Carta (1215) to the Bill of Rights (1689)—through a legal–social approach that combines close readings of charters, parliamentary rolls, and political pamphlets with attention to the social settings in which they were interpreted and deployed (Baker 2017). It asks three related questions: by what mechanisms were inherited legal forms reactivated to legitimise novel claims to authority; under what political conditions did such invocations succeed; and how did English debates interact with wider European discussions of constitutional pluralism and contested legitimacy (e.g., overlapping jurisdictions and rival sources of normative authority)? (Maddicott 2010; Tuck 2016; Haivry 2017; Loughlin 2022). For clarity, the analysis proceeds in three phases: (a) feudal contract and constitutional germination (1215–1350); (b) parliamentary consolidation and common-law expansion (1350–1640); and (c) the revolutionary crucible

culminating in the 1689 settlement (1640–1689). Each phase is read not merely as institutional change, but as a distinct mode of re-appropriating the past to settle disputes about power in the present (Halliday 2010).

The historiography has long oscillated between teleology and rupture. Classic Whig narratives—Maitland above all—cast English liberty as an unbroken ascent from 1215 to modernity (Maitland 1908). Revisionists dismantled that linearity: Pocock traced how seventeenth-century lawyers projected liberal meanings onto medieval materials, fashioning an "ancient constitution," while Elton emphasised the limited immediate reach of Magna Carta and the decisive character of later institutional change (Pocock 1957; Elton 1991). More recent work has deepened this scepticism by highlighting jurisdictional complexity and the politics of historical memory (Helmholz 2015; Tuck 2016; Loughlin 2022). Building on these insights, the article advances a third position: constructed continuity. By this is meant a patterned practice whereby political actors selectively retrieved, reframed, and ritualised inherited norms so as to cloak innovation in the authority of antiquity (Walker, 2016). Parliament's appeals to Magna Carta in the 1640s to justify resistance, and the 1689 universalisation of once-corporate privileges through natural-law language, exemplify the strategy. Such acts did not merely cite the past; they re-sorted and re-weighted it to stabilise new settlements and recalibrate expectations about lawful rule (Hobsbawm & Ranger 1983; Harris 2006; Goldsworthy 1999). The chapters that follow trace how this repertoire—feudal contract, common-law constitutionalism, and rights discourse—was repeatedly redeployed to manage crises of legitimacy, situating England's experience within early modern Europe's broader negotiation of plural authorities and competing claims to the constitutional past.

Natural Law Tradition

At the core of medieval and early modern English constitutional thought lies the axiom that royal authority is answerable to a law higher than the king's will. Henry de Bracton's well-known maxim—rex sub lege, the king under God and under the law—gave this idea a juristic form and furnished later generations with a vocabulary for constraining prerogative (Maitland 1908, 20). Early Stuart common lawyers read Bracton not as antiquarian curiosity but as usable precedent. In his confrontations with James I, Sir Edward Coke recast the maxim as a doctrine of subjection of the crown to the common law, thus translating a medieval proposition into an argument for judicially cognisable limits on sovereignty (Bowen 1957, 305; Boyer 1998; Walters 2003).

The theological strand reinforced the same hierarchy. Richard Hooker contended that even divinely instituted rule must accord with reason and with a universal moral law that binds prince and people alike (Hooker 1594/1989, 149; Kirby 1999). Seventeenth-century writers then recast these premises in the idiom of natural rights. For Locke, government is a fiduciary trust oriented to the preservation of life, liberty, and property; a ruler who violates those ends forfeits claims to obedience (Locke 1689/1988, 331). Read together, these moves—Bracton's maxim, Coke's common-law constitutionalism, Hooker's theology, Locke's rights—trace an arc by which "higher law" migrated from scholastic jurisprudence to statutory settlement, providing a moral grammar for limiting power.

Crucially, these were not static doctrines, but a repertoire repeatedly re-sorted to meet political need. Common lawyers and parliamentarians mined medieval authorities to legitimise resistance in the 1620s–40s, while post-Revolution pamphleteers framed the 1689 settlement as the restoration of ancient legality even as they universalised corporate liberties into individual rights (Helmholz 2015; Goldsworthy 1999). In this sense, the natural-law tradition exemplifies the article's central claim of constructed continuity: actors selectively retrieved and reframed inherited norms to clothe innovation with the authority of antiquity. The next

section shows how republican ideas of mixed government and civic virtue interacted with this higher-law vocabulary to deepen institutional constraints on arbitrary rule.

Republicanism and Civic Virtue

A second foundation of English constitutionalism lies in the republican ideals of civic virtue, the rule of law, and the "mixed" constitution. Seventeenth-century English republicans, influenced by classical Roman and Renaissance ideas, emphasized that liberty is best protected when power is not concentrated in a single pair of hands. They advocated a mixed government with checks and balances, in which no single authority (not even the king) could dominate or rule arbitrarily. "The rule of law and not of men" became a rallying cry – the principle that laws, rather than personal will, ought to govern. Although England's experiment with completely abolishing the monarchy (1649–1660) was short-lived, republican values left a lasting imprint. From the later seventeenth century onward, English political culture showed a heightened vigilance against arbitrary power, a reverence for representative institutions, and an insistence on the supremacy of law – all reflections of republican influence. In practice, Britons came to agree that government power must be constrained by law and deployed for the common good, and that only a government involving the people (through Parliament) could be truly legitimate. In this way, the republican tradition gave the constitutional system a participatory legitimacy: lasting authority required the consent and involvement of the governed, achieved through representation, legislative deliberation, and a separation of powers. Many of these ideals were instantiated during the Commonwealth and Protectorate (albeit imperfectly) and later folded into the constitutional monarchy that emerged after 1689.

Early Modern Theories of Legitimacy

Finally, the upheavals of the seventeenth century prompted nascent theories of popular sovereignty and social contract that added a further dimension to constitutional legitimacy. Drawing on the experience of civil war and revolution, Enlightenment thinkers – and indeed some revolutionary contemporaries – argued that a constitution's legitimacy derives not only from tradition or divine sanction, but from the reasoned consent of the people (Pollmann 2017). For instance, Jürgen Habermas's modern discourse theory (echoing ideas traceable to the 1600s) holds that only those laws which have passed through inclusive public deliberation can claim true legitimacy (Baxter 2002, 215). This perspective suggests that British constitutional development can be reinterpreted in terms of emerging public reason and participation: constitutional documents gained enduring authority insofar as they embodied a broad consensus of social values. Likewise, liberal philosophers stress that constitutional legitimacy depends on the pursuit of justice and the protection of basic rights within the legal system. John Rawls, for example, argues that a constitution is legitimate only if it can be endorsed by citizens as just and reasonable (Rawls 1993, 137). Across different eras, English political actors found ways to tap into prevailing moral ideals to justify their constitutional arrangements (Peacey 2013). Parliamentary leaders in the 1640s reframed medieval precedents in the language of universal rights; after 1688, Lockean notions of a social contract and government by consent provided an explicit philosophical justification for England's new constitutional order. Understanding the historical trajectory of constitutional legitimacy in Britain thus requires combining normative theory with empirical history – examining both how legal texts were endowed with legitimacy in their own time and how contests among various social groups over authority drove constitutional change.

Sources and Methodology

The original documents of English constitutional history – royal charters, statutes, parliamentary records, and court judgments – allow study to trace legal developments first-hand. For example, the Chancery and Parliamentary Rolls preserved in The National Archives contain the text of Magna Carta and its numerous reaffirmations, as well as key statutes like the 1297 *Confirmatio Cartarum*, which famously declares that "no tax shall be levied without common consent of the realm" (Confirmatio Cartarum 1297, 124). Such archival records show directly how principles of consent to taxation and due process were asserted in law from an early date (Loughlin 2022). In addition, a wealth of pamphlets and political tracts from the seventeenth century (Notably the *Thomason Tracts* Collection) reveals how constitutional ideas were debated outside formal institutions. Radical pamphleteers argued for natural rights and social contracts, while royalist writers defended monarchical prerogative; this contentious public discourse shows the spread of constitutionalist ideas among a broader literate audience. Private writings – diaries and correspondence-provide another perspective: for instance, the diary of MP Adam Goodwin (a Puritan member of the Long Parliament) offers a contemporaneous account of debates and popular reactions to constitutional change. By engaging these diverse sources, the present analysis remains true to historical context while reconstructing the evolving meaning of constitutional principles. This interdisciplinary legal-social historical approach emphasizes how abstract principles were implemented and contested in concrete political struggles and social settings. In doing so, it illuminates the mechanisms by which constitutional legitimacy was forged over time – how shifting power relations and social dynamics invested legal texts with authoritative meaning in England's journey from feudal charter to modern constitution (Pettit 2012).

The Constitutional Germination of the Feudal Contract (1215–1350)

English constitutionalism took root in the feudal contract between monarch and nobles during the medieval period, with the issuing of Magna Carta in 1215 as a seminal moment. King John's grant of Magna Carta at Runnymede – extracted under baronial coercion – was essentially a written feudal agreement that set legal limits on royal authority and affirmed certain noble rights. It was the first document to systematically define the king's obligations under law in England. Later generations hailed Magna Carta as the foundational statute of English liberty, "the starting point of English constitutional history." Although in 1215 it primarily secured the privileges of the Church and aristocracy, its enduring significance lies in core principles that transcended its feudal context. Magna Carta's famous clauses established that even the king could not imprison, dispossess, or destroy any freeman except by lawful judgment of his peers, and that justice could not be sold, denied, or delayed to anyone (Magna Carta, 1215, clauses 39–40). These provisions laid early groundwork for the rule of law and the ideal of due process, placing fundamental constraints on arbitrary power. (The term "freeman" in Magna Carta was limited to a minority – essentially the propertied classes – at the time, but the Charter's assertion of legal rights provided a template for broader rights in the future).

Over the century after 1215, English rulers repeatedly reissued and confirmed Magna Carta, signaling an evolving understanding of constitutional practice within the feudal framework. Henry III reissued the Charter in slightly revised forms in 1216, 1217, and 1225, each time seeking the political support (and financial aid) of his barons in exchange for reaffirming their liberties. In 1297, Edward I granted the Confirmatio Cartarum, a landmark statute that reconfirmed Magna Carta (along with the Charter of the Forest) and explicitly vowed that "no aid, tax, or charge shall be levied save by common consent of the realm" (Confirmatio Cartarum 1297, 108). This was the first explicit legal statement of the principle that taxation required the community's approval – foreshadowing the rallying cry of *no*

taxation without consent and anticipating the growing role of representative assemblies in governancefile.[1] During these years, barons and kings struggled over enforcement of such agreements: baronial leagues – for example, those behind the Provisions of Oxford of 1258 – insisted on the king's adherence to Magna Carta and even tried to impose baronial councils to oversee royal power, while kings looked for ways to evade or nullify their commitments. These conflicts helped spread the notion that the king's power was contractually and legally limited. By around 1350, although "constitutionalism" remained bounded within a feudal hierarchy, its essential elements were in place: the monarch was understood to be constrained by agreements and laws, and legal processes (like trial by one's peers) stood as checks on royal will. Crucially, later generations would mine this period for ideological resources – the idea of a primordial "ancient constitution" rooted in feudal contracts – to support new constitutional claims. The medieval feudal contractual tradition thus became a wellspring of legitimacy invoked time and again in English history.

The Gradual Expansion of Parliamentary Power (1350–1640)

Beginning in the mid-fourteenth century, the locus of constitutional authority in England gradually shifted from the royal court to an increasingly assertive Parliament. Between 1350 and 1640, Parliament was transformed from a feudal king's advisory council into the central institution of national governance, fundamentally reshaping legislative power. A series of critical statutes and political developments during this period marked the steady transfer of authority from the Crown to Parliament. Notably, under King Edward III in 1351, Parliament passed the Statute of Labourers and the Treason Act – two measures that exemplified the new role of Parliament in defining law and restraining the monarchy (Brett 2011).

The Statute of Labourers (1351) responded to the social and economic upheaval caused by the Black Death (1348–1350). The drastic population decline had empowered laborers to demand higher wages, provoking a crisis for landowners. Edward III summoned Parliament, which enacted a law freezing wages and prices at pre-plague levels to protect the interests of the landed elite. The very fact that this problem was addressed by Parliament rather than by royal decree was significant. The statute's preamble, presented as a petition from the House of Commons, underscored that the Commons now had a voice in policymaking (Statute of Labourers 1351, 312). Although reactionary in intent (and largely ineffective – it even helped spark the Peasants' Revolt of 1381), the Statute of Labourers set an important constitutional precedent: it affirmed that legislation – even on economic and social matters – required parliamentary participation file. In doing so, it nudged England toward a model where lawmaking became a shared power of Crown and Parliament.

That same year, 1351, Parliament also asserted itself in defining crimes against the state by passing the Treason Act. Prior to this Act, "treason" had no clear statutory definition – kings and their judges often stretched the concept to punish a wide range of offenses, to the detriment of subjects' security. The Treason Act of 1351 (25 Edw. III) codified and narrowed the definition of high treason, enumerating specific acts (such as compassing the King's death, aiding the King's enemies, or counterfeiting the Great Seal) as treason, and excluding lesser offenses from that category (Treason Act, 1351). By doing so, Parliament curtailed the Crown's ability to expand treason arbitrarily and made the most severe penalties (loss of life or property) enforceable only for clearly defined crimes. The Treason Act is one of the earliest statutes still on the books in England, and its constitutional significance is profound: it was the first time the monarch's criminal law powers were explicitly limited by parliamentary statute. Through this Act, Parliament established itself as a guardian of subjects' fundamental rights (in this case, rights to life and liberty), indicating that even the administration of criminal justice was subject to law and not royal capricefile.[2] Together with measures like the Statute of Labourers, the

Treason Act showed that Parliament was beginning to draw red lines that the Crown could not cross, whether in economic governance or in judicial matters.

During the fifteenth and sixteenth centuries, these trends continued under new conditions. The Tudor dynasty (1485–1603) saw a resurgence of strong monarchy, yet even the assertive Tudor sovereigns generally worked through Parliament to enact major changes. The "Reformation Parliament" under Henry VIII (1529–1536), for example, passed laws that severed ties with Rome and redefined the religious structure of the realm – an indication that Parliament's legislative authority (even over the Church) was acknowledged when pressed by necessityfile.[3] Under Elizabeth I, Parliament further secured its standing: it became firmly established that only Parliament could authorize taxation, and the House of Commons fiercely guarded its members' freedom of speech in parliamentary debates. Although Elizabeth skillfully managed and influenced her Parliaments, the principle had taken root that certain powers (like taxation and lawmaking in key areas) belonged jointly to Crown and Parliament.

In the early Stuart period, however, James I and Charles I attempted to revive absolutist doctrines such as the Divine Right of Kings, straining this constitutional balance. James I famously lectured Parliament on his exalted view of royal authority, but leaders in the Commons invoked the "ancient constitution" – the accumulated rights and statutes from Magna Carta onward – to check royal claims file. This contest for supremacy led to escalating conflict. Sir Edward Coke, by then a former Chief Justice serving as an MP, became a symbol of resistance: he helped compile the Petition of Right in 1628 to remind the king of the law's supremacy. The Petition of Right, passed by the Commons and Lords and reluctantly accepted by Charles I, cited Magna Carta and other statutes to condemn the king's arbitrary imprisonment of subjects and taxation without Parliament's consent, demanding that the Crown observe the "laws of the realm" (Petition of Right 1628, 500). Charles grudgingly assented to the Petition, giving it the force of law, yet soon after he dissolved Parliament and attempted to rule without it from 1629 to 1640. By the end of the 1630s, the conflict over political authority had become irreconcilable: when the Long Parliament finally convened in late 1640, it immediately moved to curtail the king's power, leading to open confrontation and, eventually, civil war. This crisis was the culmination of the long-growing tension between the expansion of parliamentary power and the monarchy's refusal to accept legal limits file.[4]

Overall, the period 1350–1640 witnessed the transformation of Parliament from a subordinate feudal body into the centerpiece of the English constitutional system. Whether through legislation – such as the Statute of Labourers and the Treason Act – that subjected important matters of state to the rule of law, or through ideological battles – such as the invocation of the "ancient constitution" to justify resistance to royal prerogative – Parliament steadily consolidated a governance model of rule by law in concert (Crown-in-Parliament). By the mid-17th century, principles like "the King is under the law" and "no taxation without Parliament's consent" had become foundational norms of the English constitution. This period laid the dual cornerstones of modern British constitutionalism: parliamentary sovereignty and the rule of law. Yet tension between these two principles remained to be resolved in the revolutionary decades that followed. Social and economic changes underpinned these institutional shifts as well. The growth of an urban, mercantile economy and the rise of the bourgeoisie were enhancing the influence of the House of Commons, while popular revolts against unjust taxation and tyranny (from the Peasants' Revolt of 1381 to anti-tax riots in the 17th century) underscored that societal forces were also driving constitutional change. On the eve of 1640, a distinct constitutional culture – centered on Parliament and grounded in legal-historical rights as checks on royal power – had matured, providing the ideological and institutional groundwork for the upheavals to come.

Revolution and the Consolidation of the Constitution (1640–1689)

The period from 1640 to 1689 witnessed the dramatic resolution of England's constitutional tensions through war, regicide, restoration, and revolution. These tumultuous decades ultimately produced a settlement – the Glorious Revolution of 1688 and the ensuing Bill of Rights of 1689 – that finalized the basic framework of modern British constitutional monarchy. Crucially, this settlement both continued old traditions and introduced fundamentally new principles.

The English Civil War (1642–1649) erupted after the Long Parliament's confrontations with Charles I reached an impasse. While the immediate trigger was the King's attempt to arrest parliamentary leaders, the deeper issue at stake was whether the monarch's authority could be lawfully constrained by an opposing power. Throughout the war, Parliament justified its resistance by issuing grand statements of principle. The Grand Remonstrance of 1641 catalogued Charles's violations of ancient rights, and the Nineteen Propositions of 1642 effectively demanded a constitutional monarchy with parliamentary control over key offices and policies. Although these proposals were rejected by the King, they articulated a coherent vision of government by law and consent. After several years of bitter conflict, Parliament's forces prevailed. In 1649, for the first time in history, a reigning English king was tried by a high court of justice and executed for treason. This extraordinary act – putting the King to death as "a Tyrant, Traitor, Murderer, and a public Enemy" – asserted in the starkest way that the monarch was answerable to the people's representatives under law. What followed was an unprecedented decade without a king. In the Commonwealth (1649–1653) and the Protectorate under Oliver Cromwell (1653–1658), republican ideas flourished on paper, if not fully in practice. Radical groups like the Levellers advanced visionary proposals such as the *Agreement of the People* (1647), which called for nearly democratic principles (including manhood suffrage and equality before the law). However, these experiments did not yield a stable constitutional order. By 1660, weary of military rule and political chaos, the nation welcomed the Restoration of Charles II – albeit with an implicit understanding that certain hard-won gains (such as the acknowledgment of Magna Carta and the Petition of Right) would not be undone.

These hopes for a balanced restoration were soon tested. During the reign of Charles II, conflicts between Crown and Parliament reemerged, especially over issues of religion and succession. In 1679–1681, the Exclusion Crisis saw the House of Commons attempt to exclude Charles's Catholic brother, James, Duke of York, from the line of succession, on the grounds that a ruler's faith and commitment to Protestant liberties were matters of fundamental importance to the realm. Although Charles II thwarted the exclusion bills by dissolving Parliament repeatedly, the episode underscored Parliament's resolve to shape even the question of succession in defense of constitutional and religious principles. Amid this struggle, Parliament achieved a lasting legal victory with the Habeas Corpus Act of 1679, which strengthened protections against arbitrary imprisonment. This statute codified the right of detainees to demand a judicial hearing of the cause of their imprisonment (through the writ of habeas corpus), thus ensuring that no person could be held indefinitely without charge or trial. The Habeas Corpus Act gave new life to Magna Carta's due process ideals – in particular, the protection against illegal detention – and further affirmed the rule of law at a moment when executive power threatened to slip the leash of legal restraint.

In 1685, James II succeeded his brother and promptly intensified the constitutional strains. James II's open Catholicism and autocratic behavior – such as governing without Parliament, issuing *Declarations of Indulgence* to suspend laws, packing the army and administration with loyalists, and prosecuting seven bishops who objected to his edicts – alarmed both the political class and the general populace file. James attempted to dispense with or override duly enacted laws (for example, by unilaterally suspending enforcement of laws against Catholics), actions widely seen as illegal usurpations of Parliament's authority. The

prosecution of the bishops in 1688 for merely petitioning the King not to violate the law was seen as a blatant attack on the Church and the rule of law, and it stirred public outrage. By the autumn of 1688, a broad coalition of English leaders – Whig and Tory alike – had lost faith in James II. They extended an invitation to the Dutch Protestant stadtholder, William of Orange (who was James's son-in-law), to intervene with force if necessary and assume the English throne. This nearly bloodless coup, the Glorious Revolution of 1688, was accomplished largely on Parliament's terms. William of Orange and his wife Mary (James II's Protestant daughter) were offered the throne jointly, but, crucially, they agreed to govern subject to a Declaration of Right drafted by Parliament. This document, rapidly enacted as the Bill of Rights (1689) after William and Mary's accession, enumerated the ways in which James II had broken the law and asserted a set of fundamental constitutional principles. Among other provisions, the Bill of Rights forbade the monarch from suspending or dispensing with laws at will, from levying taxes without parliamentary consent, from maintaining a standing army in peacetime without parliamentary approval, and from interfering with the free election of MPs or with freedom of speech in parliamentary debates. It also affirmed basic individual rights such as the right of subjects to petition the king and protections against excessive bail, fines, and cruel and unusual punishments (Bill of Rights, 1689). The Bill of Rights thereby institutionalized the core idea that the king's power is not only limited by law, but conditional upon upholding the laws and liberties of the realm.

In effect, the Revolution of 1688–1689 created a new constitutional paradigm that nonetheless claimed deep roots in English history. The Bill of Rights explicitly framed itself as restoring "ancient rights and liberties" that had been violated under Jamesfile.[5] Many of its safeguards echoed principles seen earlier in English history: the prohibition on taxation without consent harked back to *Confirmatio Cartarum* and other medieval tax agreements; the insistence on due legal process recalled Magna Carta; the condemnation of standing armies without Parliament's consent resonated with a longstanding English distrust of permanent military forces. In this way, the settlement was presented as the culmination of the ancient constitutional tradition. Yet the differences between 1689 and 1215 were stark. The community of those protected by the constitution was by now effectively the entire nation ("all subjects"), not merely a feudal elitefile. The structure of government had shifted to what we recognize as parliamentary sovereignty – Parliament (not the Crown) was now the supreme law-making authority, and the monarch could no longer claim personal supremacy over the law. The ideological underpinning of the polity had also evolved: whereas Magna Carta's legitimacy in 1215 rested on feudal custom and the king's own grant of liberties, the Bill of Rights drew on theories of natural law and contractual government that located sovereignty in the people. Indeed, John Locke's ideas – articulated in his *Two Treatises of Government*, published just months before the Revolution – provided a retrospective philosophical justification for the change of regime: government is a trust from the people, conditional on the protection of life, liberty, and property, and James II had been rightly removed for breaching that trust (Locke 1689/1988, 384–387). Finally, the Revolution settlement's permanence was secured in a way Magna Carta's initially was not: enacted as a statute of Parliament, the Bill of Rights had clear legal authority and became a foundational part of the "constitution" (in Britain's uncodified sense), whereas Magna Carta had required continual reissuance and was often ignored or defied in its early centuries file.

By 1689, therefore, England had solidified a model of constitutional monarchy that balanced tradition with innovation. The monarch and Parliament now governed together, but with Parliament clearly ascendant. The rule of law and the protection of individual rights were established as inviolable cornerstones of the polity. Importantly, even though the republican interlude had ended, many republican ideals – limits on executive power, the centrality of consent, the value of civic rights – were interwoven into the constitutional fabric. The English

experience from Magna Carta to the Bill of Rights thus demonstrates how a political community can achieve modern governance while invoking ancient authority. In the centuries that followed, this English model – cautiously evolutionary yet capable of revolution when necessary – served as a blueprint for constitutional development in other parts of the world, including British colonies and the early United States.

Conclusion

From the sealing of Magna Carta to the enactment of the Bill of Rights, England's constitutional order took shape through a recurring dialectic in which innovation was presented as fidelity to inherited forms. The Charter's terse insistence that the Crown stood beneath the law provided a durable point of reference, but its meaning was neither fixed nor uncontested. Across four centuries, statutes, crises, and polemics repeatedly reinscribed that authority, each episode recalibrating the uses of the past to meet the demands of the present. By 1689, limited monarchy rested on a layered jurisprudence: medieval contractarianism reinforced by common-law maxims, civic-humanist suspicion of concentrated power, and natural-law claims that liberty pre-dated positive enactment.

What lent the 1689 settlement its resilience was not a simple accumulation of rights but a deliberate synthesis. Parliamentarians and pamphleteers mined the "ancient constitution" to legitimise resistance while adopting idioms of consent and popular sovereignty. Continuities were curated rather than discovered; rupture was rendered acceptable by being cast as restoration. The resulting architecture—a monarchy constrained by statute, a legislature with fiscal supremacy, and a rights discourse capable of outgrowing its corporate origins—proved elastic enough to absorb later democratic pressures without forfeiting historical legitimacy.

The durable lesson is methodological as much as institutional. The English case illustrates constructed continuity: the selective retrieval and reframing of inherited norms to stabilise new settlements. Constitutional cultures endure when memory and necessity are set in dialogue, allowing precedent to supply moral authority even as it is re-engineered to address altered configurations of power. Modern constitutionalism, accordingly, is less a telos than a disciplined practice of recalibration—anchored in the past, yet responsive to the political present.

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Notes

1. *Confirmatio Cartarum* (1297), in Statutes of the Realm, vol. 1 (London: Record Commission, 1810), 122–125, at 123–124 ("no aid, task, nor prise shall be taken but by the common assent of the realm"); D. A. Carpenter, "The *Confirmatio Cartarum* of 1297 and the Development of Parliament," *English Historical Review* 120, no. 486 (2005): 1–34; J. R. Maddicott, *The Origins of the English Parliament, 924–1327* (Oxford: Oxford University Press, 2010), 323–328.
2. *Treason Act* (1351) (25 Edw. III stat. 5 c. 2), in Statutes of the Realm, vol. 1 (London: Record Commission, 1810), 319–320 (codifying and narrowing high treason); J. H. Baker, *An Introduction to English Legal History* (5th ed., Oxford: Oxford University Press, 2019), esp. ch. 7; J. G. Bellamy, *The Law of Treason in England in the Later*

Middle Ages (Cambridge: Cambridge University Press, 1970), 41–54.

3. *Act in Restraint of Appeals* (1533) (24 Hen. VIII c. 12); *Submission of the Clergy* (1533) (25 Hen. VIII c. 19); *Act of Supremacy* (1534) (26 Hen. VIII c. 1), all in Statutes of the Realm (London: Record Commission, various vols.); G. W. Bernard, *The King's Reformation: Henry VIII and the Remaking of the English Church* (New Haven: Yale University Press, 2005), 161–212; Ethan H. Shagan, *Popular Politics and the English Reformation* (Cambridge: Cambridge University Press, 2003), 27–61.
4. *Petition of Right* (1628), in W. Stubbs (ed.), *Select Charters and Other Illustrations of English Constitutional History* (Oxford: Clarendon Press, 1913), 499–502; *An Act for the Preventing of Inconveniences Happening by the Long Intermission of Parliaments* (the Triennial Act, 1641) (16 Car. I c. 1); *An Act against Dissolving this Present Parliament without its own Consent* (1641) (17 Car. I), both in Statutes of the Realm; John Adamson, *The Noble Revolt: The Overthrow of Charles I* (London: Weidenfeld & Nicolson, 2007); Conrad Russell, *The Causes of the English Civil War* (Oxford: Clarendon Press, 1990).
5. *Bill of Rights* (1689) (1 Will. & Mary, sess. 2, c. 2), preamble ("vindicating and asserting their ancient rights and liberties"), in Statutes of the Realm, vol. 6 (London: Record Commission, 1819), 142–145; Lois G. Schwoerer, *The Declaration of Rights, 1689* (Baltimore: Johns Hopkins University Press, 1981); Mark Goldie, "The Revolution of 1689 and the Structure of Political Argument," *Bulletin of Research in the Humanities* 83 (1980): 473–564; Steve Pincus, "Rethinking Revolutions: The Glorious Revolution and the American Revolution," *American Historical Review* 111, no. 3 (2006): 801–828.

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