

“THE TENTH COIN”
RICHARD III’S PARLIAMENT AND PUBLIC STATUTES
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Allegation: Richard III’s parliament and his so-called “enlightened” laws were not novel or meaningful as the laws were either already in practice or had no real impact. They were solely used as a way to obtain the love of the people, since he had already lost support of key lords and certain of Edward IV’s household men. He abolished benevolences but then re-instated them at his convenience. He was a hypocrite and did not really intend to live up to the announced goals of his parliament.

Rebuttal Synopsis: Richard’s parliament and the public statutes it passed represent an agenda unlike any that had come before, wherein the King and his councilors put forth a slate of acts that sought to correct long-standing abuses and frauds in judicial administration and property conveyances, and to limit the King’s ability to collect extra-parliamentary taxes. These reforms were novel and consistent with the announced themes of his reign, and certainly not hypocritical. They redounded to the benefit of England’s most vulnerable subjects, putting him at risk of alienating powerful lords rather than consolidating political power. His laws on property conveyances are considered landmarks in the evolution of English law.

INTRODUCTION

Richard III’s first and only parliament spanned 27 days, from the 23rd of January to the 20th of February, 1484. At least 53 commoners were known to have attended it, as well as many “lords spiritual and temporal”, and of course the King himself. It opened with a sermon delivered by Chancellor John Russell, Bishop of Lincoln. [H.G. Hanbury, *The Legislation of Richard III*, *The American Journal of Legal History*, 1962, pp. 95-113; *Parliamentary Rolls of 1484*, with Introduction by Professor Rosemary Horrox, henceforth “PRolls”]

With the King sitting on the royal throne in the Painted Chamber within his palace of Westminster, Russell began his oration by painting a type of “E Pluribus Unum” imagery. As recorded by the Clerk in the Parliamentary Rolls, Russell said: “In the body there are many limbs, but not all have the same function” and the clerk further observed:

“In which words he gravely and very astutely explained the fealty which subjects of the king and the functions individual members owe to the principal member, asserting that there are three kinds of body, namely the natural, the aggregate and the politic, and going on to suggest that one coin, the tenth, had been lost from the most precious fabric of the body politic of England and that to hunt for it and find it would require the king and all the lords spiritual and temporal to be very assiduous and diligent during this

parliament; concluding that after the finding of the tenth coin, which signifies perfection, our body politic of England would endure gloriously and for a long time, healthy, safe and free from all damage or injury; the king, the great men of the realm and the commons eternally cherishing peace outward and inward and the Author of that peace.”

As was the case with parliaments under previous monarchs, the sermon reminded its members that the King would need financial support from his realm. This was even more pertinent in January 1484, as Richard had just suppressed Buckingham’s rebellion and dealt with its fall-out without seeking any benevolences or taxation the previous October. [PRolls, Introduction]

Other themes from Russell’s speech and from the petitions presented included the evils and predations made upon the weak by the strong and owners who abused their ownership; the perfidy of enemies who supported Buckingham’s rebellion; and the justification for confirming Richard as King of England. [PRolls, Introduction] In doing so, there was nostalgia for past days when “poor people who labour for their living in various occupations, earned enough to maintain themselves and their households, living without miserable and intolerable poverty.” [PRolls, The Royal Title/Act of Settlement]

In confirming the monarchy on Richard, the Commons reflected upon Edward IV’s reign in the following way:

“When those who had the rule and governance of this land, delighting in adulation and flattery and led by sensuality and concupiscence, followed the counsel of insolent, vicious people of inordinate avarice, despising the counsel of good, virtuous and prudent people such as are described above, the prosperity of this land decreased daily, so that felicity was turned into misery, and prosperity into adversity, and the order of policy and of the law of God and man confounded; as a result of which it is likely that this realm will fall into extreme misery and desolation, which God forbid, unless due provision of a suitable remedy is made in this matter in all goodly haste.

“Moreover, among other things, we consider more particularly how, during the reign of King Edward IV, late deceased, after the ungracious feigned marriage, as all England has reason to say, made between the said King Edward and Elizabeth, once the wife of Sir John Grey ... the order of all politic rule was perverted, the laws of God and of God’s church, and also the laws of nature and of England, and also its laudable customs and liberties ... so that this land was ruled by self-will and pleasure, and fear and dread and all equity and law were laid aside and despised, as a result of which many calamities and misfortunes ensued, such as murders, extortions and oppressions, particularly of poor and powerless people, so that no man was sure of his life, land or livelihood, or of his wife, daughter or servant, with

every virtuous maiden and woman standing in dread of being ravished and defiled. And besides this ... civil war... as a result of the destruction of the noble blood of this land.” (PRolls, Royal Title]

These themes of protecting the powerless, of reforming abuses in the system, and of routing out corruption can be found in many of the 15 public statutes passed during Richard’s parliament. In addition, another 18 private statutes were passed which dealt with attainting rebels and co-conspirators of Buckingham, reversing past attainder of lands on behalf of such magnates as Henry Percy, Duke of Northumberland, and making Richard king as per *Titulus Regius*.

This essay will only focus on 6 of the 15 public statutes, those dealing with reforms in the administration of the judicial system; reducing frauds in land conveyances; and limiting the King’s power in collecting extra-parliamentary taxes. According to P.M. Kendall, these laws were “directly sponsored by the King and his council.” (P.M. Kendall, *Richard the Third*, Norton & Co., New York, 1955, p. 340) “The King and his councilors were preparing an agenda for the forthcoming sessions unlike any that had been known since Parliament began, perhaps a century before, to think of itself not only as the King’s High Court but also the nation’s representative legislature.” (Kendall, p. 338)

During his years as Duke of Gloucester, Richard developed a reputation as a “fair and rigorous” administrator of law. He was in the position to mete out justice, and – as Constable of England for 14 years – he was at the head of structures where his word was law. Historian Annette Carson observes: “From all we hear, he had a fine legal brain and his judgments were respected.” (A. Carson, *Richard III: The Maligned King*, The History Press, Gloucestershire, 2008, p. 262, citing Croyland Chronicle)

According to Dr. Anne Sutton:

“Of Richard’s education in the law nothing is known.... With or without a period at an inn [of court] his own ducal council would have provided an early forcing school of experience for Richard. By the time he was king he would have been familiar with the complexities of land law, the difficulties of securing title and the endless squabbles that might arise over an inheritance. His ducal council became a valuable source of arbitration in such matters.” (Carson, p. 263, quoting Dr. Sutton)

On his first day as King on June 26, 1483, Richard made a visual statement by seating himself in the King’s marble chair at the Court of the King’s Bench at Westminster. This was the seat of the King as Justicer, and Richard had an important message to convey. He delivered a lecture to all his judges and legal officers, charging them to “justly and duly minister his law without delay and favour and declaring that all men, of whatever degree, must be treated equally in the sight of the law.” (Carson, p. 262)

Later, to the people of Kent, Richard proclaimed:

“The King’s highness is fully determined to see due administration of justice throughout this his realm to be had, and to reform, punish, and subdue all extortions and oppressions in the same. . . . The King chargeth and commandeth that no manner of man, of whatever condition or degree he be, rob, hurt or spoil any of his said subjects in their bodies or goods upon pain of death” (Carson, p. 262, citing Harley, vol. 2, pp. 48-9)

Richard’s parliament has been roundly recognized as one of early enlightenment. According to the 19th century Lord Chancellor and Lord Chief Justice, Lord Campbell:

“We have no difficulty in pronouncing Richard’s parliament the most meritorious national assembly for protecting the liberty of the subjects and putting down abuses in the administration of justice that had sat in England since the reign of Henry III.” (Carson, p. 268-9, citing Jeremy Potter, Good King Richard? (1983) pp. 22, 53)

What follows will demonstrate that these laudatory comments are well deserved. Richard’s parliament set a standard that gave life to the themes by which he conducted himself as Duke of Gloucester, Constable of England and ultimately as King of England.

RICHARD’S SIGNIFICANT PUBLIC STATUTES

Richard showed “a respect bordering on devotion” to law and the judicial system; a desire to reduce the corrupt practices of lower-level officials who were the most prone to abuse their offices and harm ordinary people; and a concern that the law should reach the people for whom it was made. (Sutton, “The Administration of Justice Whereunto We Be Professed”, The Ricardian, 1976 (Vol. 4), p. 13.) These aspects can be found in the following public statutes.

A. Bail at Pre-Indictment Phase

One of the more notable of these reforms was an act for granting bail to people suspected of felony. According to the Parliamentary Rolls, “because various people are arrested and imprisoned daily on suspicion of felony, sometimes out of malice and sometimes on vague suspicion, and thus kept in prison without bail or mainprise to their great vexation and trouble, be it therefore ordained and decreed, by the authority of this present parliament, that every justice of the peace in every county, city or town shall have authority and power to grant bail or mainprise at his or their discretion to such prisoners and people thus arrested” in the same form as though they had actually been indicted in that same court.

With this act, justices of the peace were authorized to offer bail and its protections at the pre-indictment phase, before the judge had formally weighed out the merits of the allegations made against the defendant. Oxford professor H. G. Hanbury contends this statute “gave much protection to the liberty of the subject, and sanctity of his property”. (Hanbury, p. 106)

Although some justices of the peace may have already been doing so in certain courts, or in certain situations, this act certainly set a *national precedent* and it recognized the widespread abuses that had occurred in the prosecution of criminal law. If a frivolous or unsubstantiated allegation of a felony crime was made against a person who could not afford sharp legal counsel, his goods could be seized and his body imprisoned before any formal weighing of the allegation could be made. Innocent people could not only lose their ability to continue their occupations and daily life activities, but their goods and work tools/implements could be seized and thus denied to his family for further use or employment. Significantly Henry Tudor, when he became King, retained this reform and only modified it to require that two justices of the peace agree to providing bail to the charged defendant.

B. Empanelling of Jurors

This statute dealt with who may sit on criminal courts of record called “sheriff’s tourns” which were held twice a year before the sheriff in the counties. “Various great difficulties and perjuries occur daily in various counties of England due to false verdicts given to inquisitions and inquiries before sheriffs in their tourns by people of no substance or standing, who do not fear God or the world’s shame, as a result of which many lieges of the king from various parts of England have been wrongly indicted at the incitement and instigation of their ill-wishers, and others who ought rightfully to be indicted are spared at such incitements and instigations, contrary to the common right and to good conscience.” (PRolls)

To cure these abuses, that statute laid down a property qualification for jurors -- property at that time, and until late in the 19th century, connoting respectability and a person having a vested interest in the community. (Hanbury, p. 107) A juror must own freehold worth 20/- or copyhold worth 26/8. Although sheriff’s tourns were losing jurisdiction to other court venues, they still remained a forum for trial of certain criminal offenses. (PRolls; Hanbury, p. 107) The particular evil here was that corrupt sheriffs or people of money and influence, prior to this statute, could cause to be imported jurors of unknown residence or dubious character, and could pressure them in a way favorable to their positions. (Sutton, p. 10)

C. Requirement of Plaintiff’s Sworn Statement at Piepowder Courts

A “court of Piepoudre” was the lowest and most expeditious of the courts of justice in England. Named for the dusty feet of the litigants, it was a court of record incident to every fair and marketplace. It was held before the steward and had jurisdiction to administer justice for all commercial injuries and minor offenses

done in that market or fair. (Black's Law Dictionary, 6th edition.) Common people participated and sold goods in such markets and fairs, and therefore this court provided them immediate access to address a particular grievance that was ongoing or had occurred during that market or fair.

As observed by the Commons in 1484, "these courts have recently been abused by stewards, bailiffs and other officers holding and presiding over the said courts of the said fairs *for their private profit*, hearing pleas by [com]plaint concerning contracts, debts, trespasses and other deeds done and committed outside the time of the said fairs or fair and its jurisdiction, over which in truth they have no jurisdiction, alleging that the contracts, debts, trespasses, covenants or other deeds were done during the fairs and within their jurisdiction, when in truth they were not. And sometimes upon feigned [com]plaints invented by evilly disposed people to trouble those in which they bear ill-will, some aiming to make them lose their fair and some intending that they should secure favourable inquests by bribery of those who come to the same fairs where they bring their actions." [PRolls] In other words, the piepowder courts were being abused by both their officials and those who were asserting fictitious or extra-jurisdictional claims in them, thereby harassing and causing harm to those common people who were merely trying to conduct business at the market or fair.

The act required that the complaining party (the plaintiff) take an oath that the contract or conduct in dispute was made at the time and under the jurisdiction of the fair. If the plaintiff was represented by attorney, then the attorney had to take the same oath or provide a deposition attesting to the truth of the jurisdictional requirements. The penalty of 100/- against a steward who proceeded without such sworn deposition by the plaintiff or his attorney was made recoverable by action of a debt. The oath of the plaintiff was not final; the defendant could contest and offer proof against it and show that the claim was wrongfully placed. (PRolls; Hanbury, pp. 107-8)

D. Reforms in Property Conveyances

Richard's parliament passed two statutes that are still considered critical developments in the evolution of English property law and "an important landmark in the history of the use of land". (Hanbury, p. 98) One dealt with "publishing fines levied" and the other one was addressed against "secret and unknown enfeoffments" (the latter act also being known as the "statute of uses").

According to Dr. Anne Sutton on the Richard III Society webpage, these laws "aimed to ease the processes of proving title and remove prevalent frauds". Chancellor Russell – as chief justice of the chancery courts - may have been keen to stem the flood of cases before him that concerned dishonest trustees (feoffees) who held "use of" the land. A trustee who only possessed "the use" of land had rights to farm or extract resources from a plot of land and to keep all profits thereof, even though the property was technically in the ownership of another person, but to all outward

appearances it may appear as though he completely owned full title. Abuses could occur if the trustee to the use of the land held himself out as the actual legal owner of title and to transfer what purported to be full legal title. (Hanbury, p. 99). This temptation often “proved irresistible” and giving in to it resulted in a fraud committed on the buyer. (Ibid.) Richard’s statute, while not a perfect cure to this type of fraud, was significant because it sought to protect innocent purchasers who were not aware that they were *not receiving full legal title*. The act passed in Richard’s parliament provided that the trustee, when engaging in such a conveyance, warranted to the buyer that he actually owned full title, and the buyer had a right to enforce the transfer of the land to him. (PRolls)

The other public law on property conveyances dealt with fines. A “fine” was a type of land conveyance in which two parties would agree to submit themselves to a court of law. The vehicle would be a lawsuit, by which the lands in question become, or are acknowledged to be, the right of one of the parties. A “fine” was so-called because it put a definitive or “*de finibus*” end not only to the suit thus commenced, but also *to all other suits and controversies concerning the same property*. (Black’s Law Dictionary) But if the parties to the matter failed to disclose that the land was burdened by other claims or had other owners, an injustice would result to such collateral owners or claimants. This abuse was rampant in the 15th century, and undoubtedly Richard was familiar with it when he was Duke of Gloucester and serving as arbitrator in land disputes.

Although the technicalities of the statute are far too legalistic to explain in this essay, the act passed in Richard’s parliament required the parties to the fine “to publish” their transaction by filing the fine with the court and it required the court to announce the transaction on a regular basis for at least a year before it took full effect. This gave people in the jurisdiction notice of the transaction so that they could notify any collateral stakeholders, owners, or claimants before the transaction was rendered final and indisputable. The intent here was to protect innocent bystanders who could be deprived of an opportunity to pursue their rights to the land in question.

As observed by P.M. Kendall, “[t]he wholesale confiscations of property during the Wars of the Roses and the failure of the common law to keep pace with various tricks that had been invented for fraudulently disposing of estates had thrown the traditional methods of conveying land into confusion. Men found their property rights contested by titles they had never heard of, and as the Paston Letters eloquently testify, could be brought to the brink of ruin by endless lawsuits.” (Kendall, p. 34) Richard’s statutes on property conveyances represent an impressive attempt to rectify some of the uncertainties of property law and to mollify the flood of litigation that not only burdened English civil law courts, but also literally bankrupted her most vulnerable subjects in the 15th century.

E. Limiting the Power of the Crown to Collect “Benevolences”

Lastly, but certainly not least, is Richard's "act to free subjects from benevolences". This was actually the *first public statute* passed in his parliament and it made a strong statement:

"The king, mindful that the commons of this his realm have been enslaved by intolerable charges and exactions as the result of new and unlawful inventions and inordinate covetousness, contrary to the law of this realm, and in particular by a new imposition called a benevolence, by which for several years the subjects and commons of this land, against their will and freedom, have paid great sums of money.... Therefore the king wills it that it be ordained, by the advice and assent of his lords spiritual and temporal and the commons assembled in this present parliament That henceforth his subjects and the commonalty of this his realm shall in no way be burdened by any such charge, exaction or imposition called a benevolence or similar charges, and the exactions called benevolences taken before this time shall not be taken as a precedent for making such or the same charge upon any of his said subjects of this realm in future, but shall be voided and annulled forever." (PRolls)

Dr. Sutton states: "[i]n his statute forbidding the benevolences (cap.2) invented by his brother, Edward IV, Richard is following the spirit of reform voiced in the *Titulus Regius* that 'self-will, pleasure, fear and dread' should no longer prevail. He was also duly endorsing parliament's well-established right to vote all taxes to the king. He had already gone further in recognition of parliament's unique position by getting his own legitimist title to the crown ratified in it so that he has been flamboyantly styled as 'in a sense ... the most "parliamentary" monarch of the 15th century.'" (Sutton, p. 10, citing B. Wilkinson, *Constitutional History of England in the 15th Century*. Longmans, 1964, p. 163.)

NOVELTY AND MOTIVATIONS UNDERLYING RICHARD'S PUBLIC STATUTES

There are several novel aspects to Richard's reign and parliament. He was the first monarch to take the coronation oath in English. His laws were the first to be published in the native tongue in order that they could be understood by the literate public rather than just churchmen, educated nobles or the few who could read Latin. (Carson, p. 270, citing Bertram Fields, *Royal Blood*, (New York, 1998, pp. 162-3)) He went out of his way to exempt the printed book trade from xenophobic prohibitions imposed on foreign-made goods. This reflects Richard's encouragement of the dissemination of learning by books. And, as stated above, his statutes on land conveyances represent significant developments in the area of property law. It would be insincere to dispute the novelty of these actions.

Richard was also true to his word when it came to putting the interests of his subjects before that of the Crown's purse. Not only did he revoke royal benevolences, but the second public law passed during his parliament dealt with repealing the Crown's royal rights to fines, enfeoffments, tenements, hereditaments,

and wardships in the duchy of Lancaster. As per a number of acts passed by Edward IV, it had been the prerogative of the Crown to have these benefits, which were undoubtedly a rich source of revenue. Indeed, Richard's northern affinity as Duke of Gloucester included the eastern portion of the duchy, so he would have had double-cause to retain them. Nevertheless, he surrendered all of them in the second public statute passed in his parliament:

“The king, notwithstanding that he believes the said acts to be to his great profit and benefit, believes them to be to the great damage and enslavement of his subjects, and having more affection to the common weal of this his realm and of his subjects than to his personal profit, by the advice of his lords spiritual and temporal and the commons assembled... has enacted and decreed that the aforesaid acts [made under Edward IV], and each of them, be annulled, repealed and of no force or effect, and that his said subjects shall stand and be at their same liberty and freedom as they were before the same acts were made.” [PRolls]

Professor Rosemary Horrox in her Introduction to the 1484 Parliamentary Rolls, says that Richard was quite genuine in explaining that the motivations underlying this repeal sprung from his concern with the wellbeing of the common people in the duchy than his own singular profit. (PRolls) Duchy records from Richard's reign confirm his sincerity. “[T]hey convey a sense that royal pressure on the duchy had been lifted, which, given Richard's own close links with the duchy and its officers north of the Trent, was perhaps predictable. Good housekeeping within the crown lands remained important, but for Richard the need for support took primacy over the need for money.” (Introduction to PRolls) This is entirely consistent with Richard's announced goal of wanting to distance himself from the greed and avarice witnessed during Edward IV's reign.

Some have questioned Richard's integrity by pointing out that he later sought “loans” in 1485 to fund the defense of his realm against the anticipated invasion of Henry Tudor, which some view as tantamount to exacting benevolences. Further, some suggest that the real motivations behind Richard's populist statutes arose only from his need to win support “on the cheap” for his new regime, especially in light of the unusual way in which he came to the throne. We have no way of knowing whether Richard intended to refund the “loans” since he was killed at Bosworth and therefore did not have the opportunity to repay them. Certainly, with no standing army of his own, and with events moving too quickly in 1485 to call another parliament given the tragic deaths of the Prince of Wales and his Queen and the paramount need to address his own succession, it would be very harsh to judge him on not calling parliament and requesting funds from it to defend a foreign invasion. This situation is entirely distinct from Edward IV's requests for benevolences to sustain a planned invasion of France, which ultimately redounded to Edward's own personal benefit when he and his courtiers received pensions from the French king.

As to the need to bolster his own regime by passing such enlightened laws, Annette Carson does a splendid job of debunking this type of cynicism. The laws described above were largely aimed at minimizing abuses that harmed the common man and the powerless. (Carson, p. 271) Yet “the support of the common man earned him no votes, brought him no armies, supplied him no lucrative taxes. Why would he seek to protect the poor from the rich, the weak from the powerful, when the rich and powerful were the only constituency that mattered to the sovereign?” Carson asks. (Ibid.) According to P.M. Kendall, Richard’s laws “offered a prospect of fair dealing in the courts which they had not seen for decades” but the nobility and upper gentry probably did not support Richard in this endeavor. “For these laws were aimed directly at curbing the practices by which this class had overawed and preyed upon its weaker neighbors through the past century”. (Kendall, pp. 341-342) Richard was actually serving justice at a great risk – a risk of alienating powerful men whose military power he would need in the day of battle. (Ibid.)

Too often, we view Richard’s two-year reign in the prism of hindsight. He lost at Bosworth, and therefore we tend to give too much weight to the risks he undertook during his time. Edward IV was a much riskier man, a man who undertook an invasion of England in 1471 during a great sea storm which battered and wrecked his ships and dispersed his small army. He landed in the throat of Lancastrian support, yet Henry Percy and John Neville did not engage him when the opportunity was perfectly ripe to do so. To us, in hindsight, Edward IV appears to be a brilliant strategist, when in actuality he had the benefit of good fortune, a deeply fractured polity, and a consistently loyal younger brother, to survive to reclaim his crown. “During his brief reign [Richard] displayed many qualities which, if he had come to the throne in a more acceptable way, might have helped him to a long and successful reign.” (A.R. Meyers, “The Character of Richard III”, *History Today*, 1954.) We should beware the temptations of applying historical 20-20 hindsight and instead understand that Richard III was a man of his troubled and difficult times. But what a man he was!

CONCLUSION

Richard’s public statutes are consistent with the stated goals of his parliament as expressed by Chancellor Russell in his opening sermon. The “tenth coin” mentioned by Russell is a reference to a parable contained in the New Testament. In the parable, a woman having ten pieces of silver loses one. She lights a candle, sweeps the house and seeks “diligently” to find it. (see Luke 15:8). When she finds it, she calls her friends and neighbors together to celebrate, saying: “Rejoice with me; for I have found the piece which I had lost” (Luke 15:9). Christ likens the woman’s joy to the joy of angels when one sinner repents. Not only is her search rewarded by finding that which had been lost, but her house undergoes a cleansing in the process. Perhaps this transformation could not have taken place without the urgency of the search. The house could well represent elements of the English national character that could only be improved and cleansed in the urgent work of

recovery and attention to “that which was lost.” Or, as many have astutely observed, the tenth coin represents an allusion to the concept of good government and fair dealing expressed through the program of laws which Richard and his legal advisors put forth in his first parliament. Had Richard remained the monarch after Bosworth, it is entirely likely that his continuing search for the “tenth coin” would have produced additional reforms leading to a more fair and equitable kingdom.

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