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# The Trial That Should Have Happened in 1483

Susan L. Troxell © December 1, 2018

Putting aside the mystery of what ultimately happened to Edward IV's two sons, one enduring difficulty for a student of history is whether Richard III used the proper legal procedure in having them declared illegitimate because of their father's previously contracted marriage to Eleanor Talbot. The most (and only) significant defect appears to be the failure to refer the issue to a church court for determination.<sup>1</sup> It seems no one has fleshed out how an ecclesiastical tribunal would have litigated such a politically divisive matter, let alone identified which church court would have had authority to hear it.

As a retired litigator of 20 years, I undertook the challenge of researching medieval English church court procedures to answer four questions: Which church court would have decided the precontract issue? How would it have conducted the litigation? What evidence would it have heard? How conclusive would its decision have been? They seemed like simple questions, but they were not. Along the way, I learned not only about the unique relationship of English church and state when it came to addressing marriage and inheritance matters, but also about a thicket of procedural issues that an ecclesiastical tribunal would have presented in 1483, the sum of which may help explain why it wasn't referred there in the first place.

## **A Claim that Involved Both Canon and Secular Law**

In a letter to the Calais garrison on June 28, 1483, Richard stated he had been petitioned on June 26 to take the crown by 'the lords spirituelx & temporelx and the commons of the land'.<sup>2</sup>

The Crowland Continuator wrote that Richard's title to the throne was put forward by means of a 'certain parchment roll' that Edward IV's sons were bastards and incapable of succession, because their father had earlier contracted a marriage with Lady Eleanor Boteler [Talbot] before he married Elizabeth Woodville. The children of George of Clarence were similarly excluded from succession because of their father's attainder. The Crowland Continuator gives us no other details about what debate, discussion, or proof was produced to support the allegation, except to suggest that the petition originated in the North and was written by someone in London.<sup>3</sup> Dominic Mancini, who was living in London at the time, reported that certain 'corrupted preachers of the divine word' gave sermons about the illegitimacy of King Edward's children, and that the duke of Buckingham supported those allegations by publicly declaring the dead king had been precontracted to a foreign princess.<sup>4</sup>

Philippe de Commynes wrote in his *Memoirs* that it was Robert Stillington, bishop of Bath and Wells, who came forward and gave evidence from his personal knowledge about the precontract to Lady Eleanor and its consummation.<sup>5</sup> Stillington's role is confirmed by a Year Book of 1486, when the lords and justices wished to question him because 'they said that the Bishop of B made the bill'. In 1533 and 1534, Eustace Chapuys, Imperial Ambassador to England, wrote to Emperor Charles V that he had been told by 'many respectable people' in England that Henry VIII 'only claims [the crown] by his mother, who was declared by sentence of the Bishop of Bath a bastard, because Edward [IV] had espoused another wife before the mother of Elizabeth of York'.<sup>6</sup>

Ultimately, the Act of Succession known as Titulus Regius was enrolled in January 1484 during Richard III's only parliament. The relevant part provided:

And here we also consider how the said feigned marriage between the above named King Edward and Elizabeth Grey was presumptuously made without the knowledge and assent of the lords of this land, and also by sorcery and witchcraft

committed by the said Elizabeth and her mother Jacquetta, duchess of Bedford, as is the common opinion of the people and the public voice and fame throughout this land, and as can be adequately proved hereafter at a convenient time and place, if thought necessary. And we also consider here how the said feigned marriage was made privately and secretly, without the publishing of banns, in a private chamber, a profane place, and not openly in the face of the church according to the law of God's church, but contrary to it and to the laudable custom of the church of England. And also, how when he contracted the same feigned marriage, and previously and for a long time after, the said King Edward was and stood married and troth-plighted to one Dame Eleanor Butler, daughter of the old earl of Shrewsbury, with whom the same King Edward had made a pre-contract of matrimony long before he made the said feigned marriage with the said Elizabeth Grey in the abovesaid manner and form. If all that is true, as in very truth it is, it clearly appears and follows that during his life the said King Edward and the said Elizabeth lived together sinfully and damnably in adultery, contrary to the law of God... Also, it clearly appears and follows that all the issue and children of the said King Edward are bastards, and unable to inherit or claim anything by inheritance by the law and custom of England.<sup>7</sup>

Church courts were quite familiar with marital precontract claims, a litigation scenario that seems to have arisen in pre-modern England with surprising regularity even in the lower social classes. Professor R. H. Helmholz detailed the frequency of such claims in his book *Marriage Litigation in Medieval England* and determined that they out-numbered other types of divorce cases. The distant date of King Edward's alleged marriage to Eleanor Talbot, and their inability to testify, although sounding suspicious or unfair to our modern sensibilities, were of no legal relevance. There were no applicable statutes of limitations, and a precontract claim could be raised after the deaths of the spouses.<sup>8</sup> It was not unknown for someone to wait 20, 30 or even 50 years before enforcing a precontract or making a claim that a particular marriage was invalid. 'This meant that established marriages could be upset by the stalest of [pre-]contracts.'<sup>9</sup> The extensive research of Harvard's Professor Charles Donahue, Jr. into marriage litigation in York's and Ely's diocesan courts, supports Helmholz's conclusions about the number of precontract claims in late medieval England.<sup>10</sup> However, this must be put into context. Richard Wunderli, who found few cases contesting the validity of a marriage in early Tudor London's church courts, observed that it was 'probable that some couples practiced informal divorces and simply lived apart or took up new partners' without going into a canon-law court to obtain the legal formalities.<sup>11</sup> It is best to be cautious in drawing too many conclusions about the frequency of precontract claims. They happened, but the vast majority of marriages were not challenged in such a way and, as we shall see below, they were not easy to prove.

Claims that sought to declare a child illegitimate because of his parents' invalid marriage were also more commonplace than we often understand, an artifact of the complex system of marriage and consanguinity rules, and the way that marriages could be formed clandestinely with a simple statement of present intent (both parties saying 'I agree to marry you right now' was sufficient). Alternatively, words of future intent ('I will marry you sometime soon') followed by sexual intercourse, were sufficient to create an enforceable marriage bond. John Ashdown-Hill mentions in his book *Eleanor the Secret Queen* the case of Thomas Fitzgerald, Earl of Desmond, whose marriage to Ellis Barry was publicly acknowledged for many years. After Thomas' execution in 1468, his younger brother, Gerald, claimed that the marriage was invalid, and all the children born of it, bastards. Gerald's action failed for lack of evidence, but had he presented proof, the children would

have all been bastardized even though they had long been seen as legitimate.<sup>12</sup> In the case of *Alice de Wellewyk c. Robert de Midelton and Elizabeth de Frothyngham*, Alice proved that she had a private future contract followed by sexual intercourse with Robert, and she bore him a child. Robert abandoned her and then married Elizabeth in church, following the public reading of banns. The church court ruled that the marriage solemnized in church trumped the previous private one, and it dismissed Alice's witnesses as biased. Professor Donahue observed that church courts often stretched the law to protect innocent women such as Elizabeth, who married Robert with all the formalities and no knowledge of the previous affair.<sup>13</sup> What was ignored was the adverse impact on Alice's child, who would have to live out his or her life as a bastard. Sympathies only went so far in the application of canon law.<sup>14</sup>

While church courts were endowed with the jurisdiction to determine whether a precontract existed or not, or whether someone's children were illegitimate as a result, they had absolutely no power to determine who inherited their parents' estate even if—and especially if—he was the potential king of England. By the fifteenth century, English legal practice was especially clear on this concept: the church courts only had jurisdiction to adjudicate who was a legitimate child from a legitimate marriage. Once it determined that the child was born outside a legitimate marriage, then it was left entirely up to the secular arm to determine what he or she would inherit from their parents. This derived from a primitive notion of the separation of church and state, and the idea that the rights of inheritance derived exclusively from feudal law. The Statute of Merton clearly made this point: no bastard child could ever be an heir to his father's estate as a matter of English feudal law.<sup>15</sup> Therefore, it must be understood that even if the issue of the legitimacy of Edward IV's children had ever been referred to a church court for determination, it had no power to say who should inherit the crown. That would always be for secular English law to determine.

### **Which Ecclesiastical Venue?**

The first conundrum in 1483 would have been what court or tribunal to refer the matter to. Each bishop had a 'consistory court' for the purpose of hearing cases involving marriage and bastardy, and other matters exclusively within church law jurisdiction. Because of the volume of litigation, it was impossible for a bishop to attend to this function personally, therefore he appointed an 'official' or 'commissary general' to act as his representative in adjudicating disputes. In many dioceses, the dean, archdeacon or chapter would also have their own courts. However, in matters involving elite personages or sensitive political issues, it was not uncommon for the bishop himself to mediate the dispute, as we can see from the bishop of Norwich's personal involvement in trying to dissolve the scandalous marriage between Margery Paston and Richard Calle in 1469.

The consistory courts were staffed with judges, lawyers ('proctors') and barristers ('advocates'), examiners to conduct witness interrogation, scribes, archivists ('registrars'), and summoners ('apparitors' or 'bedels'). No one was required to have a law degree, but most had some formal education in canon or civil law, especially the judges. Quite unlike common law English trials, there were no juries and no examination of live witnesses in open court. Instead, judges based their verdicts solely on the review of offered documents and written depositions which contained the answers given by witnesses to questions ('interrogatories') put to them by the examiners. Appeals could be taken either to the archbishop of Canterbury or of York, depending upon which Province the case had been filed in, or directly to the Pope via the Roman Curia. The archbishop of Canterbury's appellate court was called the Court of Arches, located at St Mary-le-Bow Church in

London, and was considered the premier ecclesiastical court in England having both original and appellate jurisdiction.

Notwithstanding this church court infrastructure, it seems highly unlikely that the 1483 allegation of precontract would have been referred to a bishop's consistory court or even to the Court of Arches. The matter touched directly on the royal family and who would become the next king of England. In looking for past precedents, the closest analogue is the ecclesiastical trial of Eleanor Cobham, wife of Humphrey Duke of Gloucester. Cobham was married to the uncle and heir-presumptive to Henry VI, and was in line to be queen-consort if the king died without children. In the summer of 1441, Cobham was implicated by members of her household in using magic to predict the death of the king. An indictment was brought forward in the King's Bench against the household servants, and they were charged with sorcery, felony, and treason. Cobham was named as an accessory. While the secular courts had jurisdiction over charges of treason and felony, the church courts had jurisdiction over matters of heresy and witchcraft.

Rather than refer the matter to a bishop's consistory court, the king's council selected a group of prelates to act as an ecclesiastical tribunal to determine the truth of the allegations against Cobham and the suitable punishment. No doubt this was done because of the shocking political implications of accusing the heir-presumptive's wife of treasonable sorcery. The panel included the archbishops of Canterbury and York, the cardinal-bishop of Winchester, the bishop of Bath and Wells, the bishop of Lincoln, the bishop of London, and the bishop of Norwich. Most of these men were also part of the king's secular government. Bishop Stafford of Bath and Wells was the king's Chancellor. Cardinal Beaufort of Winchester, Archbishop Kemp of York, and Bishop Alnwick of Lincoln all currently sat on royal council. Beaufort and Kemp, in particular, were known antagonists and opponents of Gloucester and his wife, and many saw the panel's work as nothing more than a thinly-veiled attempt to destroy them and their political faction.<sup>16</sup>

Similarly, the political dimensions in 1483 were far too enormous to refer the matter of the princes' illegitimacy to a single prelate or his court. (And what bishop would have wanted to have sole responsibility to decide such an inflammatory issue?) Therefore, if Cobham's case is any precedent, it seems that the only appropriate way to proceed would have been for the royal council, of which the Lord Protector was the chief member, to summon a group of prelates and men learned in canon law to hear it. And, just like the Cobham case, the membership on that panel could have been perceived as having partisan agendas and rendering a biased decision.

### **How Would a Church Court Conduct the Litigation?**

Church court procedure was usually divided into three stages: an opening hearing, the taking of evidence, and the reading of a judgment. The first stage required the party asserting the allegation of precontract to appear in person or by a proctor, in order to recite the specifics of the 'citation' or claim. The second stage involved the witnesses being identified by name and sworn in, and then taken outside of court to be interrogated separately and in private according to questions prepared by the parties and the judge. The testimony of each witness would be reduced to a written deposition, and then published (read aloud) on a date set by the judge. At that time, witnesses could be challenged or 'exceptions' made to their character or testimony. The last stage was for the judge to read all the depositions and review any documentary evidence, and then arrive at a decision. The parties could argue through their advocates that their side was the correct one, and even submit legal briefs to support their case. The judge was given wide latitude to arrive at whatever conclusion he deemed compliant with substantive canon law. He was not required to explain the reasons supporting his decision, and could proceed to a separate hearing on what punishment was appropriate

under church doctrine. From the first hearing to the final judgment, the average lifespan of a typical marriage case was around 5-7 months.<sup>17</sup>

Would an ecclesiastical tribunal have followed this general procedure in 1483, and if so, would we have had the benefit of written depositions from Stillington or any other witnesses who would have testified about the precontract? To the latter question, the short answer is probably no. There exist no witness depositions or transcripts from Eleanor Cobham's ecclesiastical trial, only the indictment filed against her servants in the King's Bench records. It is through the chronicles, such as *The Brut*, where we learn how the litigation proceeded against her. Her case was generally divided into these three stages. After fleeing to Westminster Abbey for sanctuary, Cobham was cited to appear at St Stephen's Chapel where she was examined on several points of felony and treason, which she strenuously denied, and was allowed to return to sanctuary. The next day, she was summoned to hear the incriminating testimony of a witness against her; she confessed to some of the charges and was transferred to Leeds Castle in Kent. A secular criminal law investigation was conducted into the three household servants, and it was determined that they—and Cobham—had celebrated a mass using elements of necromancy and sorcery in order to predict the death of Henry VI, an act of treason. During the investigation, Margery Jourdemayne (the 'witch of Eye') confessed that Cobham had long employed her as a sorceress, primarily to concoct medicines and potions to induce Duke Humphrey to love and marry her.

Cobham was next hauled before the ecclesiastical tribunal at St Stephen's Chapel four months later, for the purpose of sentencing. Archbishop Chichele of Canterbury begged illness from this event, and therefore it was Adam Moleyns, clerk to the royal council, who read the articles of sorcery, necromancy, and treason to her. Cobham again vociferously denied the charges but admitted to using potions to conceive a child with Humphrey. Several days before issuing a sentence, the ecclesiastical panel forcibly divorced Cobham from her husband. What due process was used to work the divorce is not recorded. Certainly, it was not initiated by Humphrey, and under canon law there were no grounds for divorce if one of the spouses fell into heresy.<sup>18</sup> Cobham's sentencing hearing came a few days later, and she was given the punishment of walking penitent at three public market days. Thenceforth, she never left the king's strict custody and is believed to have died at Beaumaris, Wales, in 1457, ten years after Humphrey.<sup>19</sup>

While not a perfect analogue, the Cobham case is instructive as to how a hypothetical ecclesiastical tribunal might have litigated the precontract issue in 1483. It would have had an initial hearing when the charge was announced, then it would have received witness testimony, and then it would have announced its decision after review of the evidence. Elizabeth Woodville's presence would not have been required but she could have had a proctor there to represent her interests.<sup>20</sup> Of course, there would have been no jury, and none of the safeguards that juries ostensibly brought to secular litigation. Those sitting on the tribunal would not have heard live testimony nor observed the demeanor of those testifying; they would have relied on written depositions. There would have been no requirement for a reasoned opinion describing the rationale for the decision. And there would have been no sentencing hearings, since the only role for this tribunal would have been to answer one question about the precontract's existence. The matter would then be returned to the secular courts, including Parliament, for further consideration of the princes' inheritance.

### **What type of evidence would have been received?**

One was required to produce documentary evidence and/or witness testimony to substantiate a claim in the church courts. Documentary evidence was almost unheard of in



marriage cases, and even if it had been produced, forgery was so common that it was often looked at as being less weighty than oral testimony.<sup>21</sup> If resting solely on witness testimony, then the case could be proven with only two people who were able to testify from direct observation or other reliable information. The ‘two-witness rule’ was formulated in pre-Christian classical Rome as full proof (*‘probatio plena’*) and was absorbed into church doctrine based on certain passages in the Bible. Hearsay was not excluded. In a 1443 case from the Rochester diocese, for example, the church court allowed the testimony of John North who said that William Gore told him of seeing a marriage contracted between Alice Sanders and John Resoun.<sup>22</sup> Proof of long cohabitation and children being born to a couple were not relevant except to prove sexual intercourse. Beyond that, what sentimental force it had on the judge is hard to say, certainly less than it would today. The validity of a marriage depended on the existence of a marriage contract, not on the birth of children. What was more relevant to church courts were the relative social statuses of the parties involved, as can be seen in a 1419 case where a woman lost her precontract case because the alleged husband introduced witnesses to show that he was of a far superior social station.<sup>23</sup>

Since marriage cases often turned exclusively on the testimony of two people, we find paradoxes and difficulties, and cases involving collusion and fraud. Helmholz recounts a case from York where Alice Palmer had married Geoffrey Brown and lived with him for four years. The union was not a happy one as Geoffrey physically abused Alice. As a result, Alice and her father found another young man, Ralph Fuler, and gave him gifts (i.e. bribes) so that he would say that he had contracted marriage with the said Alice before any contract and solemnization of marriage had occurred between Alice and Geoffrey. ‘This stratagem worked. Alice and Geoffrey were divorced. The whole matter came to light only some years later, after Geoffrey had in fact married another girl. Alice then sued to annul the previous judgment and get him back.’<sup>24</sup> Helmholz also recounts coming across a few isolated cases where an affirmative judgment was based on the testimony of a lone witness rather than the two required.<sup>25</sup>

For this reason, John Fortescue (d. 1479) wrote about the inanity and corruption of the ‘two-witness rule’, saying that it was clearly inferior to the English common law system which required a jury of 12 good men to attest to the truth of the facts presented by the prosecution. To illustrate his point, Fortescue used the example of someone entering into a valid clandestine marriage, walking away from that, and then marrying someone else in a public ceremony to which two witnesses could testify in a court, and none to the clandestine marriage. The Roman law requiring two witnesses in this situation, according to Fortescue, would condemn the person to live in perpetual adultery with the second wife.<sup>26</sup> But two witnesses were all that was required in the ecclesiastical courts, and that is all that would have been required in 1483 to prove the precontract, and thus the princes’ illegitimacy.

If Phillippe de Comynes was accurate, then we already know the identity of one witness: Robert Stillington, bishop of Bath and Wells, and former chancellor to Edward IV. And this is significant because the ‘two-witness rule’ had numerous exceptions. William Durantis, the medieval procedural encyclopedist, managed to elucidate thirty of them. Most were created for situations in which it would be expected and natural for only one witness to observe an event (a father, for instance, testifying that his son had been coerced into becoming a monk was sufficient to prove that fact). Other exceptions rested on the quality of the witness. The testimony or word of the Pope or other high clergyman, for instance, could alone prove a fact in the church courts.<sup>27</sup> Medieval church courts also accepted the public notoriety (*‘publica fama’*) of a fact to constitute full proof if the circumstances warranted.<sup>28</sup> In a strict sense, the testimony of a sitting bishop and former Chancellor,

coming from a high clergyman about a clandestine marriage that he personally observed, could have fallen into one of these exceptions to the rule and it alone might have been deemed full proof of the precontract.

Aside from the requirement of two witnesses and its exceptions, the church courts applied a somewhat mechanical system for sorting out qualified from unqualified, and believable from unbelievable, testimony. While the parties would set out their factual side of the case in 'position papers' and even be examined by the judge, their version of events was not considered witness testimony and was not given evidentiary weight as they were deemed partial to their own cause. For the same reason, the parties' servants, friends, and relatives, were deemed unqualified to testify, but church law had relaxed this prohibition by allowing affines of the married partners to offer testimony. Heretics and believers who were in the state of mortal sin could not testify at all. Rank in the nobility or clergy merited a witness superior credit, rich man prevailed over poor, Christian over Jew.<sup>29</sup> Had Bishop Stillington, or another high clergyman, testified in front of an ecclesiastical tribunal in 1483, then his testimony would have been accorded the highest evidentiary weight possible under the rubrics set out by canon law.

But what about the duke of Buckingham and the preachers who were making public statements in 1483 about the princes' illegitimacy? Could they have testified in a canon-law court? The answer seems to be in the affirmative. As shown above, the fact that none were present at the time of the precontract would not necessarily bar their testimony since there was no strict rule against hearsay and proof of 'publica fama' was permitted. The problem rests in what they were saying, which suggested different grounds for the princes' illegitimacy (the duke saying that Edward IV was precontracted to a foreign princess, and the preachers saying it was because Edward IV himself was a bastard). Under canon law, full proof required two witnesses providing the same basic facts, not two different scenarios for invalidating a marriage.

There is also Mancini's insinuation that the preachers were 'corrupt' in some manner, and even a suggestion by Commynes that Stillington had some sort of personal baggage when he was briefly sent to the Tower in 1478. Canon law permitted any witness, even a clergyman, to be impugned and ignored if they were shown to be of bad character or were bribed to give testimony. That required proof, too, not mere suspicion, and there was no mechanism to cross-examine witnesses directly. One had to produce evidence, usually in the form of another witness, to show that someone was unqualified. According to Professor Charles Donahue, English church courts were often more lax about this than they should have been. He found several cases in which the court proceeded to sentencing without regard to the fact that the witnesses on the winning side were objectionable. In a precontract case, *Cecilia Wright c. John Birkys*, Cecilia successfully petitioned for a divorce of John from his current wife, Joanna, on the ground that John had previously promised to marry Cecilia and had had intercourse with her. Cecilia produced only two witnesses, one of servile condition, the other Cecilia's sister and the wife of the other witness. 'Probably neither witness was admissible under the academic law. Yet despite uncontradicted testimony as to the status and the witness's admission of the relationship, Cecilia prevailed in two courts.'<sup>30</sup>

Such cases suggested to Professor Donahue that in English church court practice, there was no automatic bar to the consideration of anyone's testimony. Indeed, he concluded 'there is no case of which I am aware in which a party lost because some or all of the witnesses necessary to make up his case proved to be incapable of testifying under canon law'.<sup>31</sup> It has led modern historians to say that the church courts were often deciding

marriage cases based on ‘evidence that was seldom sufficiently verified’ and that ‘some judges appear to have bent the law to fit their normal, and sensible, prejudices’.<sup>32</sup>

Finally, it must be mentioned that Elizabeth Woodville would have had an equal if not greater challenge in proving her 1464 marriage to Edward IV. According to Michael Hicks’ biography of her in the *Oxford Dictionary of National Biography*, her clandestine marriage was performed at a private home in Grafton and was witnessed only by a Dominican priest Thomas Eborall, two gentlemen, and a boy to sing responses. Some accounts say that her mother was also present, but Jacquetta had died long before 1483 and therefore could not give evidence. A master Thomas Eborall is mentioned in a 1465 will of former London mayor William Gregory; he fades from the historical record thereafter.<sup>33</sup> Hearne’s Fragment says that the priest who officiated the wedding was buried at the high altar of the Minories in London, but leaves a blank space for his name.<sup>34</sup> The identities of the two gentlemen and young chorister are unknown. Unless they were alive in 1483, Elizabeth would have had no proof of her marriage, and no presumption of its validity, since it had never been solemnized in church following the reading of banns. In short, an ecclesiastical tribunal would have presented Woodville with the very real prospect of being stripped of her dowager’s crown.

### **How conclusive would the decision have been?**

Once the ecclesiastical tribunal had decided the issue of the precontract, the matter would be returned to the secular courts to determine whether the children could inherit under English law. A certificate of legitimacy or bastardy coming from the Church could not be challenged in any subsequent lawsuit, even if it involved different parties, facts, or issues.<sup>35</sup> This was the general rule, although Helmholz found cases where English secular judges disobeyed the church court’s decision when it would have worked an inequity or a violation of English law. They were particularly sensitive to church intrusion into matters involving inheritance. In a case from 1337, for example, it was pleaded that the plaintiff was a bastard by reason of birth before his parents’ marriage. The plaintiff countered by showing the record of a bishop’s certificate from a previous decision testifying to his legitimacy. The court, however, refused to accept it as conclusive. As Judge Sharesull said, ‘I cannot have this answer because with it a man would gain inheritance against the law of the land.’<sup>36</sup> Sharesull would later become Edward III’s chief justice in 1350.

Less certain is whether any appeal could have been made to the Pope. Since the matter ultimately concerned inheritance law and feudal succession to the English throne, it seems unlikely. Certainly, Elizabeth Woodville and her allies did not take up any appeal to the Roman Curia after her sons by Edward IV were declared illegitimate by the three estates. Such an effort, in any case, might have arguably violated the Statutes of Praeminure enacted during the reigns of Edward III and Richard II. They forbade Englishmen and women to pursue in Rome or in the ecclesiastical courts any matter that belonged properly before the king’s courts, including “any other things whatsoever which touch the king, against him, his crown and his regality, or his realm”. There were strict penalties for doing so.<sup>37</sup>

### **Conclusion**

The decision not to refer the issue of the princes’ alleged bastardy to a church court will always remain one of the criticisms of how Richard III came to the throne. As shown above, there were serious procedural dilemmas, such as how properly to constitute an authoritative ecclesiastical tribunal and how such a tribunal would have managed the hearing of a politically divisive claim. Even more difficult to predict is whether the church tribunal would have accepted a lowered burden of proof of just one eyewitness’s testimony to the precontract, or whether it would have sought out additional witnesses. There was also the

very real possibility that Elizabeth Woodville would have found the tribunal a very difficult place for her to prove her clandestine marriage to Edward IV since, as far as we know, none of its witnesses were still alive in 1483.

In the final analysis, these matters of procedure do not dictate the outcome. As long as there was credible proof of a precontract, strict church law would have bastardized the offspring of the bigamous parents. English secular law did not soften this result, and indeed, barred such children from inheriting from their parents. The ultimate question is whether the English public would have found an ecclesiastical tribunal hand-picked by the Lord Protector and the royal council to satisfy their notions of due process, or whether they would have seen it merely as a handmaiden to a political coup d'état. This can be seen in the fall-out from Eleanor Cobham's trial and sentence. On May 27, 1443, two years after Cobham's ecclesiastical trial, divorce and sentence, a Kentish woman called Juliana Ridligo demanded Cobham's release to Duke Humphrey, and publicly reviled Henry VI on Blackheath. Ridligo was pressed to death after a trial in the King's Bench.<sup>38</sup> Ridligo's denunciation of Henry VI would be a precursor to the Yorkist movement to reform political power in the following decades, and Cobham's trial would be viewed as 'the *cause célèbre* of the age'. It seems safe to say that debate about the merits and propriety of Richard III's accession to the crown would have continued into future centuries regardless of the juridical mechanisms employed, even if those mechanisms followed the precise letter of canon law.

#### Endnotes:

- <sup>1</sup> R. H. Helmholz, "Bastardy Litigation in Medieval England," *American Journal of Legal History*, Vol. XIII (1969), pp. 360-383. R. H. Helmholz, "The Sons of Edward IV: A Canonical Assessment of the Claim that they were Illegitimate," *Richard III Loyalty, Lordship and Law*, P.W. Hammond (ed.) (1986). Professor Helmholz notes Continental practice was different; there, the issue of the princes' legitimacy would have remained entirely for secular courts to determine. *Ibid*, p. 98-99. He also observes the claim as stated in the 1484 Parliamentary Rolls described the princes' bastardy as a matter of public notoriety ('publica fama'), shifting the burden to the boys to prove their legitimacy, and relieving the church courts of their original jurisdiction to decide the issue. *Ibid*. For a full treatment of Edward IV's relationship with Eleanor Talbot, see John Ashdown-Hill, *Eleanor The Secret Queen: The Woman who put Richard III on the Throne* (The History Press, 2010, revised 2016).
- <sup>2</sup> Horrox & Hamond, *Harleian MS 433*, Vol. III (Allan Sutton, Gloucester, 1979) p. 29.
- <sup>3</sup> Nicholas Pronay & John Cox (eds.), *The Crowland Chronicle Continuations 1459-1486* (Allan Sutton, London, 1986)pp. 158-161.
- <sup>4</sup> C. A. J. Armstrong (trans.), *The Usurpation of Richard the Third by Dominicus Mancinus* (Oxford Univ. Press, 1936)pp. 116-121.
- <sup>5</sup> 'In the end, with the assistance of the bishop of Bath, who had previously been King Edward's Chancellor before being dismissed and imprisoned (although he still received his money), on his release the duke carried out the deed which you shall hear described in a moment. This bishop revealed to the duke of Gloucester that King Edward, being very enamoured of a certain English lady, promised to marry her, provided that he could sleep with her first, and she consented. The bishop said that he had married them when only he and they were present. He was a courtier so he did not disclose this fact but helped to keep the lady quiet and things remained like this for a while. Later King Edward fell in love again and married the daughter of an English knight, Lord Rivers. She was a widow with two sons.' Michael Jones (trans. & ed.), *Philippe de Commynes "Memoirs", 1461-83* (Penguin Books, 1972), pp. 353-54.
- <sup>6</sup> D. Johnson, P. Langley, and S. Pendlington, "More than Just a Canard: the evidence for

- the precontract,” *The Ricardian Bulletin*, September 2018, pp. 51-52.
- <sup>7</sup> Rosemary Horrox (ed.), *The Parliament Rolls of Medieval England 1275-1504*, Vol. XV Richard III 1484-85 (Boydell, London, 2005), pp. 13-18.
- <sup>8</sup> Canon law specifically allowed the question of bastardy to be raised after the death of the parents in order to determine questions of inheritance. Helmholz, “The Sons of Edward IV: A Canonical Assessment”, p. 97, endnote 26 citing the *Liber Extra* of Pope Gregory IX. ‘There was a valid question of inheritance at issue, that is the right to succeed to the crown of England, and therefore the decretal law specifically permitted raising the issue of illegitimacy after the death of the parties involved.... Whatever we may think today about the propriety of raising the claim at such a late date, or whatever we may suspect about the motivation of Richard III’s supporters in doing so, it simply cannot be said that his claim can be dismissed as coming too late. The medieval canon law allowed the matter to be raised when it was.’ *Ibid*.
- <sup>9</sup> There was no preference by canon law courts favoring the ‘settled’ or ‘long-standing’ marriage over the mere contract by words. R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge Univ. Press, 1974)pp. 57-59, 62-64.
- <sup>10</sup> Charles Donahue, Jr., *Law, Marriage, and Society in the Later Middle Ages* (Cambridge Univ. Press, 2007), Tables 6.3, 6.4., and 6.7.
- <sup>11</sup> Richard M. Wunderli, *London Church Courts and Society on the Eve of the Reformation* (Medieval Academy of America, 1981), pp. 118-122.
- <sup>12</sup> Ashdown-Hill, *Eleanor*, p. 238, Chapter 16 note 5.
- <sup>13</sup> Donahue, *Law, Marriage and Society*, pp. 124-126, discussing *Wellewyk c Midelton and Frothyngnam* (1358-60), CP.E.79.
- <sup>14</sup> Children could be equally hard-hearted. In *Katherine Hiliard c. Peter Hiliard* (1370), CP.E.108, the aged widow Katherine sued in King’s Bench to recover her dower, but her step-son opposed her, claiming that her marriage to his father was invalid for consanguinity and lack of solemnization. The issue was referred to the consistory court of York, where the widow failed to prove that she had obtained the proper papal dispensation from Rome. She was therefore deprived of her rights as a widow. Donahue, *Law, Marriage, and Society*, pp. 147-148.
- <sup>15</sup> Helmholz, *Bastardy Litigation*, pp. 381-383. The Statute of Merton, passed during Henry III’s reign in 1235, provided in part that ‘*He is a bastard that is born before the marriage of his parents*’. *The parents’ subsequent marriage did not alter the status of bastardy*.
- <sup>16</sup> Ralph A. Griffiths, “The Trial of Eleanor Cobham: An Episode in the Fall of Duke Humphrey of Gloucester”, *King and Country: England and Wales in the Fifteenth Century* (Hambledon, London, 1991), pp. 233-252.
- <sup>17</sup> Helmholz, *Marriage Litigation*, pp. 124-140, 113-115.
- <sup>18</sup> Pierre Payer (trans.), *Raymond of Penyafort’s Summa on Marriage* (Pontifical Institute of Mediaeval Studies, 2005), pp. 53, 80-81. In Title X, Dissimilar Religion, Penyafort states that when believers contract marriage between themselves and afterwards one falls into heresy or the error of unbelief, the one who is abandoned cannot remarry.
- <sup>19</sup> Griffiths, *The Trial of Eleanor Cobham*, pp. 246-252.
- <sup>20</sup> Brian Woodcock, *Medieval Ecclesiastical Courts in the Diocese of Canterbury* (London, 1952), pp. 83-85.
- <sup>21</sup> James A. Brundage, *Medieval Canon Law* (Longmans, London, 1995), pp. 132-133.
- <sup>22</sup> Helmholz, *Marriage Litigation*, pp. 131-132.
- <sup>23</sup> Helmholz, *Marriage Litigation*, pp. 132-133.
- <sup>24</sup> Helmholz, *Marriage Litigation*, p. 162.
- <sup>25</sup> Helmholz, *Marriage Litigation*, pp. 228-232.

- <sup>26</sup> Shelly Lockwood (ed.), *Sir John Fortescue: On the Laws and Governance of England* (Cambridge Univ Press, 1997).
- <sup>27</sup> R. H. Helmholz, “The Trial of Thomas More and the Law of Nature”, [thomasmorestudies.org/tmstudies/Helmholz2008.pdf](http://thomasmorestudies.org/tmstudies/Helmholz2008.pdf) [7/3/08], pp 9-10, FN 31.
- <sup>28</sup> Donahue, *Law, Marriage & Society*, p. 164: ‘[T]here must be two witnesses to the same event. That some canonists announce such a rule is undeniable, but the law about what made a “full proof” was complicated. Suffice it to say here that at least in some circumstances, some authors would allow a “half-full” proof (such as that provided by one unimpeachable witness) to be converted to full proof by other *indicia*, such as circumstantial evidence or solid evidence of *publica fama*.’ Titulus Regius explicitly phrases part of its ‘proof’ in terms of *publica fama* when it says the defects in Edward IV’s marriage to Woodville were notorious to all, ‘*as is the common opinion of the people and the public voice and fame throughout this land*’.
- <sup>29</sup> Mauro Cappelletti & Joseph M. Perillo, *Civil Procedure in Italy* (Columbia Univ., 1965), pp. 34-35, footnote 139 cites the Decretals of Gregory IX, Liber Extra, title XX *de testibus et attestationibus*, cap. XXVIII.
- <sup>30</sup> Charles Donahue, Jr., “Proof by Witnesses in the Church Courts of Medieval England: An Imperfect Reception of the Learned Law”, in Morris S. Arnold, Thomas A. Green, Sally Scully, and Stephen White, ed., *On the Laws and Customs of England: Essays in Honor of Samuel E. Thorne* (North Carolina Univ. Press, 1981), pp. 127–154 and p. 147, footnote 89, citing case from York, Borthwick Institute, CP.E.103, 1367-69.
- <sup>31</sup> Donahue, Proof by Witnesses, p. 147. It should be noted that Donahue’s research focused on the 13<sup>th</sup> and 14<sup>th</sup> centuries, but Helmholz’s research did not reveal any different trends in the 15<sup>th</sup> century.
- <sup>32</sup> Helmholz, *Marriage Litigation*, pp. 61-62, citing Lacy, *Marriage in Church & State*, and p. 66.
- <sup>33</sup> 'William Gregory's will', in *The Historical Collections of a Citizen of London in the Fifteenth Century*, ed. James Gairdner (London, 1876), pp. xlii-xlix. *British History Online* <http://www.british-history.ac.uk/camden-record-soc/vol17/xlii-xlix> [accessed 29 October 2018].
- <sup>34</sup> J. A. Giles (ed.), *The Chronicles of the White Rose of York* (London, 1845), p. 16.
- <sup>35</sup> Helmholz, Bastardy Litigation, p. 373.
- <sup>36</sup> Helmholz, Bastardy Litigation, p. 374.
- <sup>37</sup> 27 Edw.III st. 1, c. 1, 38 Edw. III st. 2, cc. 1-4, 16 Rich.II c. 5. Richard Burn, *Ecclesiastical Law*, Vol. II (9<sup>th</sup> ed., 1842) pp. 37-39.
- <sup>38</sup> Griffiths, *Trial of Eleanor Cobham*, p. 249 note 3, citing PRO King’s Bench, Plea Roll, 725 rex m.35d.

~ ToC ~

## Ricardian Reading

Myrna Smith

**MY KINGDOM FOR A HORSE: THE WARS OF THE ROSES**, Subtitle: **A VERY, VERY SHORT HISTORY OF ENGLAND**, Ed West, Skyhorse Publishing, 2018

Not so very short; Kindle says reading time is 3 hours, due to many digressions. Some of these are both amusing and informative, as when Mr. West tries to explain the English ‘panto’ (pantomime) to non-British readers, or to explain why “English spelling and pronunciation often don't seem to be on speaking terms.” Much of that is Will Caxton's fault.

Mr. West's inspiration was, of course, books in the HORRIBLE HISTORIES, series, and the classic 1066 AND ALL THAT. In fact, one of his other titles is 1066 AND BEFORE ALL THAT, about Anglo-Saxon England. Unlike Sellar and Yeatman', the author doesn't simply go for the wisecrack, but tries to get in some factual history as well. For dates and places and that sort of thing, he can't be faulted. There are a few errors, perhaps due to typos or faulty proofreading. He refers to the daughters of Charles of France as his heirs—no doubt a typo for dauphin. William Herbert was not Henry Tudor's stepfather but his foster father. Owen Tudor was not Katherine of Valois's “footman.” Richard III had a Northern accent, and wished to be buried at York? Richard's deformity subtracted a foot from his normal height? So, he was only 4'8”?

This is not so troubling as his tendency to accept any “good story,” or even to make them up. “Anyone could fire a bow and arrow, as long as they were prepared to give themselves spinal injuries through years of practice.” Is this really true? Any citations? Richard II would sit for hours in silence with his courtiers, who were forbidden to make eye contact? Henry V did not have sex before he married Catherine of Valois? Henry VI was killed between 11 and 12 at night? Does he have the ME's report?

But he does get in some zingers: “Before cinema no other country but England turned its ‘history into popular drama,’ ‘Henry VII was able to take the throne, largely on account of still breathing.’” Henry VI and Marguerite of Anjou had two weddings in which neither of them were both there, and that just about summed up their marriage.” And I especially like this one: “The French had their own vicious civil wars in the 15<sup>th</sup> century. Where the English wars are horticultural, the French called theirs after alcoholic beverages: Burgundy and Armagnac.”

There are some informative tidbits: Direct taxation actually decreased during the Wars of the Roses. The term “Middle Ages” first appeared in literature in 1471, while “Renaissance” appeared in 1741. Conclusion, according to West: “The Renaissance invented the Middle Ages to define itself.”

Mr. West is anti-Richard, as well as somewhat anti-15<sup>th</sup> century generally. He describes Richard as a faithful husband “who spread a rumour that Queen Anne had died before she actually did,” hoping that this would kill her. Such rumors were not uncommon in the period. Edward IV's death was ‘news’ before it actually happened, and by the author's own recounting, Henry VII deliberately spread a rumour of the death of John of Lincoln

It may be that West's jaundiced view of the Middle Ages was influenced by that bane of the historian, the fact that “every man was named either Richard, Edward, or Henry.” One can sympathize, and one can enjoy a good laugh at his one-liners, but if the reader wants a mixture of factual history and fun, I can recommend THEIR MAJESTIES AND OTHER FOLK (Varrel Smith, A.S. Barnes, N.Y., 1969) now out of print, but may be obtained by interlibrary loan or second-hand. Amazon had a copy, as of this writing. Or the

more recent **KINGS AND QUEENS OF GREAT BRITAIN: A VERY PECULIAR HISTORY** (Anthony Mason, Scribio, Brighton, UK) or even **THE TUDOR TUTOR: YOUR CHEEKY GUIDE TO THE DYNASTY** (Barb Alexander, Skyhouse Publishing, 2015), which is somewhat narrower in its scope. Both of the last two named are pocket-sized, suitable for light reading in waiting rooms, or anywhere else. They do have some errors, but balanced with a lot of chuckles.

**RICHARD DUKE OF YORK: KING BY RIGHT**, Matthew Lewis, Amberley Publishing, 2016

In the Introduction, Matthew Lewis says: “Like his infamous son King Richard III, Richard, Duke of York is frequently shown to fit a simple view of the period, to serve a purpose...he is viewed in caricature.” Lewis tries to produce a more balanced view, although it is uphill work, as there is “an absence of direct written material—medieval nobles did not keep diaries, and little of their personal paperwork survives.”

Lewis is known as a Ricardian and therefore pro-Yorkist author, so he naturally tends to give Duke Richard the benefit of the doubt where there is room for it. He goes back to Richard's roots, as the son of a traitor. Nobody seemed to hold that against him as a child and youth, but King Henry VI did treat him rather shabbily as an adult. When Richard was an adult, that is, Henry's actions, both as a child king and as an adult, were for his advisor's and Council's actions. The duke did have an advantage, in that he had his own advisors, who had useful tools they could employ. “(T)he Tudors have long been seen as masters of the dark art [of propaganda], but it was not new. Yorkists did the same, appealing to emotions.” The more things change...

Much attention is given to the complicated family history of the Beauforts, as well as other Plantagenet spin-offs, with accompanying family trees. Mr. Lewis suggests that the question of Edward IV legitimacy—was he or wasn't he? has a simple answer. Little Eddie was a week or two premature—not enough to cause any serious worries (at least no more than usual for a 15<sup>th</sup> century baby) but enough to mess up any plans that had been made for a no-holds-barred Christening bash.

An interesting sidelight concerns the Duke's second tenure as the Royal Governor of Ireland. He minted coins for use in Ireland, inscribed with “Ireland” on one side and “Patrick” on the other. Could this indicate that he planned to declare himself king in Ireland? Or was it a gesture toward the Celtic Irish. After all, being ruler of the Irish meant, really, only the Anglo-Irish. His true motives may never be known, and Lewis duly qualifies his statements about the man with “seems to be” or similar phrases. His immersion in the politics and history of the time allows him to point out that a 'general pardon,' such as that issued to Duke Richard in 1438, didn't mean that the person pardoned had committed a crime; it was just a way of 'clearing the books’—a belt-and-suspenders precaution.

Says the author of his subject: “...he was a man, as real as any person today. He was the culmination of that had come before to create him, and his circumstances” Matthew Lewis does a good job of outlining those circumstances, all the more to be praised because he had relatively little to work with.

**THE COLOUR OF DEATH**—Toni Mount, MadeGlobal Publishing, 2018

London is not big enough for both Sebastian Foxley and the Woodvilles, as a result of what happened in the previous book in this series, **THE COLOUR OF POISON**. As the Woodvilles aren't going anywhere, Seb and Emily have to return to his native village, though he left there as a small child. He will now discover a new and complicated set of relatives. We will discover that Armitage is the family name, Seb being known as Foxley only in London, which he had come to regard as his home. He discovers a much older half-brother,



a motley crew of semi-cousins, and a step-grandmother, or is it half-great aunt? (As I have recently acquired some grown step-grandsons, I can relate to all this.)

It isn't just his relatives that Seb has to get used to. He is expected to lend a hand at harvest time—or is he? His cousins will argue with the Lord's Steward about whether he owes boon work or not, according to the custom of the manor. Oh, the steward is another cousin. Seb has cut a deal to do repairs on the artwork in the church, as he thinks (and his cousins agree) that he would be a threat to life and lime with a scythe. The steward thinks otherwise. It isn't just the work that he is not used to. There are a number of culture clashes. For example, Sebastian follows the city custom of being clean-shaven, while his country cousins have beards. When Seb tells them that some women in the city shave their eyebrows off, they are amazed. "They'll be shaving their armpits next!"

Foxley—the village, not the family—is, if not a one-horse town, is a town with only three roads, one of which is called simply The Street. There are two taverns on The Street: Upper End Tavern and Nether End Tavern, and local competitions are organized around those two social centers. Seb and his cousins are patrons of Nether End, with Upper End being the rendezvous of a slightly more elite class of peasant. Much of this long short story, or novella, delineates the adjustments Seb and Emily make, and other major events of their lives, including the birth of their son. After much discussion about what to name the child, they settle on—yes, you guessed it: Richard.

By the way, it seemed to me that Emily was up and doing very quickly, even by modern standards, after delivery. She is a strong young woman, certainly, and a lonely one in her new circumstances.

Oh, the mystery? Yes, there is one, and Sebastian solves it by intelligent forensic work, and a little help from his own K-9 unit. But that seems only incidental to the story of this family, who, even though they are fictional, are as real as any of your neighbors.

Along with this story, Kindle gave its subscribers a taste of the next story in the series, presumably a full-length novel: *THE COLOUR OF LIES*. The Woodvilles are coming to Foxley for a family wedding, and Seb thinks it would be prudent to return to London. When he does, he finds that the business, which he had left in the hands of his brother Jude, is shuttered, and his apprentices idle. (Jude had not been so closely involved in the trouble with the Woodvilles.) When the problem that caused the shutdown is resolved, the relationship between the brothers has reached a crisis, which will apparently result in Jude leaving home. However, cousin Adam Armitage is there to take his place. Something to look forward to.

**A MAN WHO WOULD BE KING**—J.P. Reedman, Amazon EU, 2017

I usually read a book to be reviewed in the standard way, but sometimes, just to make things more interesting, I will read back to front, or crosswise (a few chapters from the front, a few from the back, meeting in the middle). This was one of those I tackled backwards. I figured it would do no harm, since I already knew how it all came out.

Indeed, the author had taken on a difficult task, writing in the first person about a man who was executed. To make it more difficult, it begins when the protagonist is only four years old. Few people have clear memories of what happened when they were four. It is possible, I suppose, if the event was traumatic. In Henry Stafford's case, they were. His father dies, slowly, painfully, and disgustingly, from wounds received at the Battle of St. Albans. A short time later, the grandfather that he idolizes dies in battle, and Henry becomes Duke of Buckingham. His grandmother is a cold, hard, woman, but a realist. She takes in her sister and her sister's children, the family of Richard, duke of York. The sisters are not congenial, and the young cousins do not get on well either. Henry finds Margaret a bossy'

giantess.,' George is a practical joker, and Richard simply refuses to be awed by the young Duke, and is not above reminding Henry that he, Richard, is a royal duke.

From bad to worse, in the opinion of the young duke—he becomes a ward of the queen, Elizabeth Woodville. Henry hates her, but admires her beauty. He admires nothing about the other Woodvilles, especially the queen's young sister, who becomes his wife. When they are grown, he will come to tolerate her, as they have several children together, but they will continue to squabble Henry resents being stuck with a low-born Woodville. If I had been Catherine Woodville Stafford, I think I would have resented being stuck with a man with the social skills of a slew-footed and irascible mule.

We follow the Duke through his military and political career, and Ms. Reedman is very skilled in depicting the ins and outs of this. Here again, the author has a difficult task: showing us how a person with limited charisma and poor impulse control manages to take in so many people.

Henry does have a softer side, but it is shown mostly in his relationship with his younger brother, Humphrey, whom he calls “Dumph, like a peasant.” little dumph doesn't seem to mind, though. When Humphrey dies while Henry is away at a tournament, his brother is devastated, and troubled by conscience, for perhaps the last time in his life, unless he underwent a scaffold repentance.

Richard of Gloucester is everything that his cousin is not, including dull and worthy. Very much the stiff-upper-lip type. One feels that they never really communicate; they are talking past one another.

Having the hero/anti-hero reveal himself without realizing that he is revealing himself is a tour-de-force, and getting the reader to have some sympathy for him is no easy task. Ms. Reedman has done this very well. In an interview, she admits that she proofs her own books, and she has also done this well. I saw no glaring errors, though maybe reading back-to-front might have resulted in overlooking one or two.

**THE WHITE ROSE RENT: Katherine, Daughter of Richard III (Medieval Babes, Tales of Little-Known Ladies, Book Four)**—J.P. Reedman, Amazon Digital Services, 2018)

Ms. Reedman has taken on an even more daunting task here: writing about a person about whom not much is known except her name, who apparently died in her teens. Not surprisingly, it is a very short novel, more a novella at only 107 pages. The author is therefore free to invent much of her life story, but there is still not much incident she can fill in with.

We do know that Katherine Plantagenet was married to William Herbert, sometime before the death of her father, and she died some time before 1487, when William is referred to as a widower. In Reedman's recreation, he is at first a kind and decent man and a good husband, but there is a subtle change with the death of Richard III. One can feel a little empathy, if not sympathy, for William, caught between the rock of Katherine's firm defense of her father, and a hard place (Henry Tudor). Will Herbert was in an almost untenable position, having to take sides between his father-in-law and the man who had been his foster-brother. If he had not been close to Henry himself, his younger siblings were staunch supporters of Tudor. Even more than the English Civil War, or our own, the so-called Wars of the Roses often divided families, in-laws, and old friends. As the author reports, Henry VII send for William's mother, Lady Herbert, who was like a mother to him for most of his childhood. Wonder what she told him? Wonder which side she supported.

J.P. Reedman could have fleshed out her story by going into some of this family dynamic, but she did not. She chose to tell the story more from the point of view of

Katherine's relationship with her parents, and with her half-brother, John. She does the best she can with it, but one could wish she had chosen a more promising subject, or had exercised her fictional license a bit more.

**WHAT IF... Book of Alternative History—A bookazine in the Curious Minds series—**Philippa Grafton, ed., Future Publishing Ltd., 2018

A series of short articles purporting to re-imagine what might have happened if what happened had not happened, each written by a specialist historian of the period. For example, the article “What if Richard III had lived?” was written by our own Matthew Lewis. While it carries the story down to only 1517, thus avoiding the religious wars of the next century (and more) there is a delicious irony in making England staunchly Catholic while France goes Protestant. (Not Anglican, of course. Maybe Gallican?)

Often it would seem that the historians featured are indulging in special pleading, maintaining that everything would have been so much better if things had happened the way they wished, or regretting that they didn't turn out so much worse, to prove them right. Would slavery still exist in 2018 if the South had won? Would Abraham Lincoln have been impeached if he hadn't been assassinated? Steven L. Carter doesn't think so, but believes he should have been, by 20<sup>th</sup> century standards. If the Aztecs hadn't been conquered, would they have 'mastered steel and other Western technologies'? Was the practice of human sacrifice no worse than the European practice of beheading criminals? Would World War II not have happened if the Germans had won World War I? “What is likely to happen is you get a very strong and dominant Germany that is not quite as bad as Hitler's Germany.” (Stephen Badsley) Wonderful!

In many cases, it wouldn't matter much in the long run. What if the Beatles had never formed? “In a world without the Beatles, something else would have filled the commercial vacuum...” (Nick Churchill). But that's not the point. If reading these vignettes inspires you to do your own research, or argue with the 'experts,' or just to read some of the AU novels in the brief bibliography, (such as *THE MAN IN THE HIGH CASTLE*, by Phillip K. Dick, or Harry Turtledove's *GUNS OF THE SOUTH*). it would be well worth the price, \$14.99. Sigh. I remember when you could buy a hard-cover book for that. As the articles I have cited are only a fraction of the themes considered, you are still getting a bargain.

The art work is also questionable at times. Richard is shown on shipboard. While he might have encouraged voyages of discovery, it would have been unlikely for him to make any such voyages in person. The next chapter “What if Henry VIII and Catherine of Aragon had a son?” shows the Christ of the Andes statute in modern-day London. A bit odd, that. Of course, they did have a son, but the author obviously means a son who survived. What if Rome never fell, and gladiators commuted on steam trains, alongside a pristine Coliseum? Wouldn't it be a bit run down by now? Still and all, an enjoyable read.

**CROWNED BY LOVE—**Diana Rubino, Creativia, 2018

This is not an Alternative Universe or Alternative History story, although it has elements of both, plus a bit of fantasy. For example, titles are invented. Our leading man, Valentine, is Duke of Norwich, a title which is purely fictional. Also, the real Earl of Warwick is given a wife and children that he did not have in real life. This is, however, within the range of allowable license for romances. ms. Rubino has also written some out-and-out science fiction and fantasy; for example, *FOR LOVE AND LOYALTY*, a time-travel story featuring Richard III and several members of his family.

*CROWNED BY LOVE* is a reworking or second edition of a novel written by Diana Rubino a few years ago, and reviewed by me previously in this column. I don't have the

original story by me, to make a page-by-page comparison, but I can't see much difference, unless it is in giving more prominence to the Christopher Columbus story.

Like Columbus, Denys Woodville is on a quest. She wants to find out who she is. A foundling, adopted as a baby by Queen Elizabeth Woodville (though, given Denys' age, this would have been before she became queen) and given the name of Woodville, Denys realizes the advantages this has brought her, but still wants to find her birth parents. As she grows up, the queen tries to make a marriage alliance for her, first with her cousin Richard of Gloucester (she is certain he is some kind of cousin, as he is) Since they regard each other as more like siblings, this fills both of them with horror. This deal falling through, the queen brings up her second-string suitor, Valentine Starbury. Denys is not too thrilled by him either, but at least he is not Richard, and is a full-fledged Duke. Gradually, she becomes reconciled to him, and finally falls in love. Paralleling this story are her efforts to find her family, and she eventually does. You may be surprised; she certainly is.

Ms. Rubino has also written several historical romances having to do with American history. One is *THE END OF CAMELOT*. No, it is not about King Arthur, but about JFK. Good Lord, things that happened during my adult life are not the stuff of romance and legend! While I recover from my shock, I will recommend that you read Ms. Rubino's story, if you haven't already, and if you are blessed with an erratic memory, like mine, read it even if you already have. A fun read, as all the Rubino novels I have read are.

By the way, the cover art shows a blonde young lady in front of a turreted circle, much like those built by mad King Ludwig, referred to below.

*THE MADNESS OF KINGS: Personal Trauma and the Fate of Nations—Vivian Green*

After an introduction covering the various diseases that may mock or induce madness, such as encephalitis, porphyria, and syphilis. I was not aware until recently that Parkinson's disease may cause hallucinations, which gives me a new insight on the health problems of my late brother-in-law. There are also different types of mental illness not related to physical causes. The author then gets down to cases, starting with the Roman emperors. Julius Caesar and Octavius (Augustus) were, if not particularly nice guys, eminently sane, their successors Caligula, Claudius and Nero were another story. At least Caligula and Nero. Claudius may have been crazy like a fox, knowing when to play dumb. And then there was Commodus, who made that trio look normal.

~ ToC ~

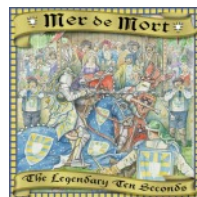
## Ricardian Music

Elke Paxson

*MER DE MORT, LEGEND*, The Legendary Ten Seconds, Richard the Third Records, Copyright:

©© 2019 Ian Churchward, Total Length: 53:38, Release Date: May 1, 2019 (available for pre-order)

This new concept album by The Legendary Ten Seconds gives us an excellent window into the history of this noble and mighty family, its roots and heritage told and sung by the talented Ian Churchward. Listening to this album is like reading a great historical fiction and being taken back in time.



The album has songs about the Marcher Lords, Roger De Mortimer, Simon De Montfort and the battle of Evesham, Maude and King Stephen, and also tells us about follies and treachery, honour and pride, executions, gifts, special places, and kings and the nobility. Spanning four centuries, it's about events known,

but often forgotten and that's quite an undertaking to put together.

John Challis starts the album with a short narration about the songs then quickly leads into an excellent instrumental. There are brief and interesting narrations between all of the songs.

Some highlights songs in an album rich in outstanding songs are: *Mortemer Castle*, for its beautiful harmonies, *Marcher Lords* with its wonderful melody and rhythm, *Two Thousand Marks* is an awesome, lively song, *Leintwardine* is pure poetry, and *Mer De Mort II* is just beautiful.

This is music that is story-telling at its best—often combined with a catchy rhythm, exciting use of different string instruments, percussions, beautiful harmonies and a sound with a very special flair and feel.

The tireless work that was put into the making of this project has turned an idea into crafting of some witty songs with an entertaining mix of history and wonderful music to form a special and timeless new album. Surely it has something to please everyone.

My thanks to Ian Churchward for sending me an advance copy of *Mer de Mort* for review.—Elke Paxson

~ ToC ~

## from the chairman

Compton Reeves

The American Branch owes a large THANK YOU to Deborah Kaback for offering to take on the office of Treasurer of the Branch. She was already doing the Vice Chairman duties. I do not wish to relive the saga of changing the officer responsible for our exchequer that we went through, and I am grateful that Deborah did not throw up her hands in disgust and back out. You are a truly dedicated Ricardian, Deborah!

## from the editor

Joan Szechtman

### VOLUNTEERS FOR EXECUTIVE BOARD:

Every two years at the GMM, the terms end for Chairman, Vice Chairman, Secretary, Treasurer, and Membership Chairman. To date, we have been seeking volunteers for those positions that will be vacated about six months or so in advance of the GMM. Volunteers elected to the next Executive Board will assume their duties in October 2020 at the conclusion of the GMM.

This time, the executive board made the decision to begin the process this year as some positions have been difficult to fill. While there are no paid positions, a consulting firm has been hired to do the more difficult and technical duties of the treasurer—tax preparation and accounting.

### CALL FOR ARTICLES

The quality of this publication depends on our members. Please consider writing an article for *Register*. Submission guidelines are printed after contact information and before membership renewal application. Alternately, if you see an article published online in a Ricardian or historical group or blog, please send the link to me at [info@r3.org](mailto:info@r3.org).

Many thanks to all who contributed to this issue of the *Ricardian Register*.

### REGISTER MASTHEAD APPEARANCE

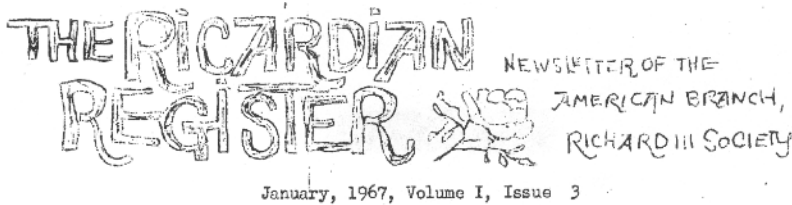
A shout out to our talented secretary, Emily Newton, for creating the American Branch logo you now see on the front cover and “save the date” for the 2020 GMM.

Note: first published in the December 2018 *Ricardian Chronicle*.

## Archive Excerpts: from 1967 Ricardian Register Vol. 1 No. 3

The January 1967 *Ricardian Register* is the third issue since the newsletter's inception. It is three letter pages long, formatted in two column and appears to be hand typed. This is pre-personal computer and unless the editor had access to (shudder) a main frame computer, or mini-computer (Digital Equipment Corporation made minis for the government and commercial enterprises and before Xerox introduced the Alto in 1973, for example), my mind boggles as to how painstaking it must have been for the editor to have created these newsletters. This article has three samples of what appeared in this *Register*: banner, ANYBODY OWN A XEROX?, and IF MY UNCLE IS MY FATHER'S BROTHER....

Members may access this and other archived Registers on our website at Archived *Ricardian Registers* 1966-1991 on the Members Only page.



### ANYBODY OWN A XEROX?

In our latest effort—revived—to arrange for reprints of the RICARDIAN, we need to know if, any member can beat the price of 10¢ a sheet. At this price, the cost of the complete set is around \$30. I son't (sic) think that many of you would want to pay that, so to repeat the headline, DOES anyone out there own a Xerox (or equivilant (sic)).

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## MY UNCLE IS MY FATHER'S BROTHER

A most interesting letter was received this month from Mrs. William Lichtenstein and as it is of general interest, I am reprinting it in full.

Today I found my thoughts turning to a subject which has always fascinated me. The curious family entanglements created by the limited arena for an advantageous marriage among the great English families of the Middle Ages, and although I know the majority of our members are well versed in Richard's family tree, from the roots up, I thought some might find my private reflections interesting.

Particularly interesting to me was the awareness that Richard and his brothers, through their mother Cicely Neville, were as true descendants by blood of John, Duke of Lancaster as was Henry the Sixth, although the bar sinister rears its ugly head here as it does in the family tree of Henry Tudor. It must be remembered that John Beaufort, Earl of Somerset, the ancestor of Margaret (Henry Tudor's mother), was one of four children born to Katherine Swynford and John of Gaunt; during their illicit relationship and later declared legitimate by the Pope and Richard the Second, when the two married. John, Thomas—who became Earl of Exeter, Henry—later Cardinal Beaufort, and Joan, who became the second wife of Ralph Neville the fourth Baron Neville of Raby and mother of Cicely, Duchess of York.

I have always reflected with great interest, upon the fact that some tend to blame the Wars of the Roses on the (proliferation\*) of Edward the Third, which may or may not have helped the situation along. When curiously enough the major combatants, King Henry the Sixth, the brothers York, and Henry Tudor were all either by maternal or paternal descent the great grandsons, or as in the case of Henry Tudor, the great-great grandson of 'old John of Gaunt, time honoured Lancaster' to borrow Shakespeare's epithet.

\* my guess as to the word, as much of it was illegible.

+ could not read any of the word

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Judith Lichtenstein

Judith Lichtenstein



## ex libris

Susan Troxell  
Research Librarian

Many of you are undoubtedly aware that the fiction and non-fiction libraries of the American Branch contain hundreds of books and items that are focused on the life, times, and contemporaries of Richard III. But many in the broader public do not know that one of the benefits of membership in our Branch is having virtually free access to these resources. For those of us who live in an area where libraries are either limited in scope, or inaccessible due to high membership fees, having access to these materials for as little as the relatively minor mailing cost is a huge bonus. For example, it's virtually impossible to find a copy of the Sutton/Hammond book "The Coronation of Richard III", a definitive account of King Richard's and Queen Anne's double coronation, on the shelves of our local libraries. And trying to purchase that out-of-print book is nearly impossible for those who cannot afford to spend hundreds of dollars for it. The same could be said for Sutton/Visser-Fuch's "The Books of Richard III": impossible to find locally, far too expensive to purchase on the used book market, but available to all Branch members.

In order to promote this truly valuable but often overlooked benefit, your trusted librarians at the fiction and non-fiction collections have undertaken a project to create and upload inventory catalogues on the public side of our Branch website. Please do welcome our new fiction librarian, Jessie Pritchard Hunter, who has just received that library from her predecessor, and has tasked herself with the mission of preparing an updated inventory of its contents. Having undergone that myself when I took the position in 2015, I can attest to the hard work that goes into creating a full and complete inventory.

Our goal is to have the library catalogues posted as a .pdf document on the "benefits to membership" tab of our website. This serves a double mission. It promotes the benefits of being a member, but it also demonstrates the Society's mission to advance historical knowledge about England in the 15th century and to make this available to lay people. Personally, I have found the non-fiction library to be an incredible resource for writing research articles about the life of Richard III. There is really no other library in the United States that has been so curated and tailored to fit the needs of students of Ricardian history.

I would like to thank Joan Szechthman for being the member who proposed this great idea.



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If you do not see a chapter near you and you would like to reach out to other Ricardians in your area, please contact the Membership Chair at [membership@r3.org](mailto:membership@r3.org). She will circulate your email address to members in your area. If you later decide to go ahead and form a chapter, please contact the Chapters' Advisor at [chapters@r3.org](mailto:chapters@r3.org).

If you do not see your chapter listed here, please contact the Chapter's Advisor at [chapters@r3.org](mailto:chapters@r3.org) and include current contact information.

## Advertise in the *Ricardian Register*

Your ad in the *Register* will reach an audience of demonstrated mail buyers and prime prospects for books on the late medieval era, as well as for gift items and other merchandise relating to this period. They are also prospects for lodging, tours and other services related to travel England or on the continent.

Classified advertising rates for each insertion:

Back Cover color (about third page size): \$80, Full Page: \$80; Half Page: \$40; Quarter Page: \$20, dedication box (2.25" x 1" approx.): \$10; memorial box (to fit): optional donation.

Send digital files to Joan Szechtman at [info@r3.org](mailto:info@r3.org). Do not send payment until you agree with the ad format and placement and receive instructions as to where to send payment.

### **Copy Deadlines:**

January 1–March Issue

July 1–September Issue

~ToC~

## Submission guidelines

- Word doc or docx file type or Open Office Writer odt file type, or rtf file type
- Prefer tables in spreadsheet or database format–file type examples: xls, xlsx, csv, txt, mdb, htm, html
- Use standard fonts such as Times New Roman, Calibri, or Verdana. Avoid fonts that you had to purchase. I use Times New Roman throughout the publication.
- Images that are in the public domain should be stated as such, those that are not require permissions and attributions
- Image size should be at least 300 dpi, which means a 1" X 2" image at a minimum should be 300 pxls X 600 pxls
- Paper must have references in the form of endnotes or footnotes (which I'll convert to endnotes) and/or Bibliography. Papers that do not require references are travel notes (e.g. report on a Ricardian tour), review of a lecture, and essays.
- Copy deadlines (submissions may be accepted for each issue after stated deadline, but not guaranteed):
  - March issue is January 1
  - September issue is July 1

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## Regular Membership Levels

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Family membership: add \$5.00 for each additional adult  
at same address who wishes to join. \$ \_\_\_\_\_

Please list members at the same address (other than yourself) who are re-joining

For non-U.S. mailing address, to cover postage please add: \$15.00 \$ \_\_\_\_\_

## Contributing and Sponsoring Membership Levels

Honorary Fotheringhay Member \$75.00 \$ \_\_\_\_\_

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## Donations\*

Judy R. Weinsoft Memorial Research Library \$ \_\_\_\_\_

General Fund \$ \_\_\_\_\_

Morris McGee Keynote Address Fund \$ \_\_\_\_\_

Schallek Special Projects Fund \$ \_\_\_\_\_

Total enclosed \$ \_\_\_\_\_

\*The Richard III Society, Inc., is a not-for-profit corporation with 501(c)(3) designation. All contributions over the basic \$60 membership are tax-deductible to the extent allowed by law.

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New  Renewal  Please check if new address

If this is a gift membership please place the following message on the gift  
acknowledgement email: \_\_\_\_\_

Make checks payable to: THE RICHARD III SOCIETY, INC. (U.S. Funds only, please.)

Mail to:

Richard III Society Membership Dept.  
c/o Cheryl Greer  
1056 Shady Avenue  
Pittsburgh, PA 15232

~ToC~

Mail to:

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Inside back cover  
(not printed)

**Front cover:**

***King Richard III* by Jamal Mustafa**

Stained Glass Studio, Birmingham UK , stainedglassic.com, email: theportraitartist@gmail.com

*Richard III Forever*



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**R III** *GM*  
*2020*  
*Philadelphia*

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**October 16-18, 2020**