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Sovereignty in the Political Thought of James VI, King of Scots



Abstract

Contrary to a common understanding shared by many historians the Scottish-English ruler King James (VI) and I was not an ardent defender of absolutism. It was only in his very first work written to refute and refuse the political ideas of especially his tutor, George Buchanan as well as the group known for contemporaries as “monarchomachi” (a term coined by William Barclay) that the King of Scots represented absolutist views in the Bodinian sense of the word. One should not neglect the fact that in order to be an absolutist political theoretician one must claim that the monarch is the exclusive maker of all the laws in his or her realm. This was maintained by James in “The Trew Law of Free Monarchies” but in none of his other works and speeches did he express himself in this vein. This holds as much true of the “Basilikon Doron” as his parliamentary speeches in London or his polemical writings against the Neo-Thomist Jesuits. Nevertheless, he remained within the tradition of the divine right of kings throughout his life. My contribution to this volume observes “The Trew Law” and proves that absolutism and divine right were in fact combined by the royal author in the above mentioned treatise.

Key words

Political thinking, political theology, absolutism

The Scottish King James VI had written two works on political theory before he united the crowns of England and Scotland in his own person in 1603. The *Basilikon Doron*, the earliest version of which appeared in Middle Scots and can be found among the royal manuscripts of the British Museum Library in James’ own handwriting, was anglicized in 1599 and originally published in not more than seven copies.¹ D. H. Willson claims that it was Sir James Sempill who showed the work to some ministers of the Scottish *Kirk*.² He also maintains that Sempill helped King James with writing the book.³ Since the ministers disapproved of the work at their a council in Fife in 1599, James changed his mind and had his book openly published in Edinburgh in 1603 after having attached a second introduction to it with the title “*To the Reader*”. Within a couple of days Elizabeth I died and

¹ J. WORMALD “James VI and I, *Basilikon Doron* and *The Trew Law of Free Monarchies*: The Scottish Context and the English Translation,” in L. L. PECK (ed), *The Mental World of the Jacobean Court*, (Cambridge: 1991), (36-55.) 50.

² D. H. WILLSON “James I and His Literary Assistants,” in D. H. WILLSON (ed) *Huntington Library Quarterly* 8, (1944-45), (35-57.) 38.

³ *Ibid*, 38.

James sent a copy of the new publication to London. The Venetian envoy Scaramelli reported that in some of the London publishing houses the *Basilikon Doron* was prepared for printing as soon as the news of the death of the Queen arrived.⁴ Lockyer even argues that the printing started a few days before the death of Queen Elizabeth.⁵ Anyhow, the book was addressed to the elder son of King James, Henry. It is a *speculum principis* which was rendered fairly soon into Latin, French, Italian, Spanish, Flemish, German, Swedish, and Welsh.⁶ Wormald, however, does not mention the Hungarian translation which appeared in Oppenheim in 1612 most probably based on one of the Latin translations.⁷ The other work which King James VI wrote on political thinking in Scotland bears the title *The Trew Law of Free Monarchies: or the Reciprooke and Mutuall Dvetic Betwixt a Free King, and His Naturall Subjects* in 1598. The first publication of the work appeared anonymously, better to say under the pen-name “C. Philopatris”. The place of publication was Edinburgh, the year 1598. To mention some other details of the fate of the work it is significant that at least four new editions appeared in London in 1603, the first of which must have been the one of April, right after the death of Queen Elisabeth I.⁸ The work of James was published in his lifetime, in February 1617. The title of this volume which collected the King’s writings was *Workes*. It is remarkable that the title-page has 1616. However, even prior to this, it had been widely known that the author of *The Trew Law* was nobody else but the ruler. This is namely revealed to anybody who reads it with attentive eyes. Also, the work was published by the King’s official publisher, Robert Waldegrave. This fact alone would have dismissed any doubts concerning the authorship. What is more, as Wormald points out, although she knows instead of at least four editions of only three which appeared in London in 1603, in two editions The King’s name was not even concealed.⁹ *The Trew Law* had very little success,¹⁰ especially if compared to the *Basilikon Doron*.¹¹ My first aim is to examine the very text as a source.

If one takes *The Trew Law* by King James in his or her hand, on the very first page one can find an “*An Advertisement to the Reader*”, as the first subtitle itself indicates. In this part King James refers to his writing as a “*Pamphlet*”, and indeed,

⁴ J. DOELMAN “A King of Thine Own Heart: The English Reception of King James VI and I’s *Basilikon Doron*” in *The Seventeenth Century* Vol. IX. No. 1. Spring (1994), (1-9) 1.

⁵ R. LOCKYER “James VI and I” (London – New York: 1998), 35.

⁶ WORMALD 1991, 51.

⁷ György Szepesi Korotz addressed his “Királyi ajándék” (“Royal Gift”) to István Homonnai, Cf. M. TARNÓC (ed) *Magyar gondolkodók. XVII. század* (Budapest: 1979), 50.

⁸ A. YAMADA, “The Printing of King James I’s *The True Lawe of Free Monarchies* with special reference to the 1603 editions,” *Poetica* 23 (1986), (74-80) 74.

⁹ J. WORMALD 1991, 51.

¹⁰ *Ibid*, 51.

¹¹ *Ibid*, 51.

he makes use of the term twice.¹² What is perhaps the most striking here is the careful and humble tone which is not unusual in introductions but rather strange in the case of monarchs. It is namely this tone in which the author begs the pardon of his readers, his “*deare countrymen*” in advance for all the mistakes which he committed while writing the work.¹³

As it is well known George Buchanan was the leading tutor of James. J. H. Burns sees in *The True Law* the counterpart of Buchanan’s *De iure regni apud Scotos*,¹⁴ and in fact he must be right in this. The overwhelming majority of the Protestant Reformers interpreted the 13th verse of the Epistle to the Romans by Saint Paul in a way that not even the lesser magistrates do “use the sword in vain”. The people, provided that their ruler has degenerated into a tyrant, can turn to these lesser magistrates for aid.¹⁵ It is not a revolt against the Lord, what is more, it counts as a Christian duty, if an ill person asks a doctor for help in search for a cure of the illness otherwise allowed by God by His inscrutable will. The English John Ponet, Christopher Goodman¹⁶ and William Wittingham¹⁷ departed from the traditional Biblical fundamentals and maintained that the tyrant could not have been ordered by God. As for the Huguenots they first represented very reserved views and understandably, only went over to the idea of an actual popular sovereignty after 1572 (Hotman as well as Beza and Mornay). It is true, most of them interpolated the Calvinian covenant theology which is to be discussed in brief later on. Contrary to Hotman’s “historical reasoning” that often echoed Seyssel, Beza and Mornay arrived at the Neo-Thomist way of natural law reasoning. The only difference was that unlike Neo-Thomists they wrote that the people did not alienate their power but only delegated it (*delegatio*) to the ruler.¹⁸ George Buchanan, who had spent quite a long period of time in France did not share the traditional Thomist view according to which people in the state of nature lived in an “association”, notwithstanding without positive laws. Buchanan turned instead of Aristotle and St. Thomas to a Stoic view characteristic of Cicero as well and conceived of the natural state of humanity as a world of solitary, wandering wild “creatures”. Accordingly, Buchanan stated that the people have not arrived at the

¹² The remark made by J. H. Burns on the genre of *The True Law* is undoubtedly correct: he claims that the work can best be described by the word “pamphlet” but even within this genre it is special as it is very brief (J. H. BURNS, *The True Law of Kingship. Concepts of Monarchy in Early Modern Scotland* (Oxford: 1996), 231.). *The True Law* fits G. Orwell’s definition that the pamphlet is a brief, polemical writing meant to address a wider public (G. ORWELL, - R. REYNOLDS (eds.), *British Pamphleteers. Vol. I. From the Sixteenth Century to the French Revolution* (London: 1948), 7.), the author of which likes to hide himself behind anonymity, thereby further increasing the popularity of his work. (Ibid, 8.)

¹³ SOMMERVILLE 1994, 62.

¹⁴ BURNS 1996, 232.

¹⁵ SKINNER 1978 (2), 213.

¹⁶ Ibid., 222.

¹⁷ Ibid., 225.

¹⁸ Ibid., 332.

political community for their own benefit and out of their nature as “social beings,” i. e. in a natural way but God gave them that gift in a direct way.¹⁹

Returning to *The Trew Law* one will be aware of a key expression that the King resorts to several times when he writes about the ideological strengthening of the subjects. This, in fact, was present in the very first sentences of the “*Advertisement*”: “*the trew grounds*”.²⁰ Without the adverb “*trew*” it reappears once more in the “*Advertisement*”.²¹ The expression “*trew grounds*” is inherently linked with the “*Trew Law*” of the main title which give(s) the reliable fundament onto which the King as a loving father intends to erect the duty of his children, the subjects, the very obedience of the subjects. These grounds serve as exclusive measures for all those subjects who mean to remain on the road of truth and faithfulness.

If the treacherous and misleading reasoning and examples of the “monarchomachs” are always compared by the people with the fundaments to be built by the King in this work of his, no one can ever miss the target. “*So shall ye, by reaping profit to your selues, turne my paine into pleasure.*”²² The “*Advertisement*” ends like this: “*I end, with committing you to God, and me to your charitable censures*”²³. This is the mutual, organic, and, in a sense almost family-like co-operation that King James will repeat as an end to his writing as well. This is the “medicine” for the false prophets’ futile and “*deceivable*”²⁴ concepts. “*This is how the qualitie [...] (‘of every action’)*”²⁵ i. e. the fruits of the tree can be revealed by which the tree itself can be judged - just to make use of a Biblical allusion that cannot have been alien either to James or his time.

As it appears in *The Trew Law*, the correct “*knowledge of their God*” and the obedience of the subjects are juxtaposed and closely interrelated. We may say that in the eyes of James the two are inseparable like the two stone tablets of Moses: the first informs about the Commandments related to the Lord, the second to the neighbours. In light of the Gospel the two “systems of direction” are even closer to each other. Here one evidently has to do with the due faithfulness of the subjects towards their sovereign that King James consequently renders with the term “*allegance*” all the work through. It needs to be seen clearly, that the contemporaries understood the fifth Commandment – certainly fifth in the Protestant enumeration – in a fairly wide sense. They meant by it far more than the due respect to the actual parents. They included the obedience of the servants towards their masters and, what must interest us most with regard to our investigation, the obedience and respect to state authority, the ruler, and the government. G. J. Schochet underlines that Martin Luther and John Calvin had the

¹⁹ R. TUCK, *Natural rights theories. Their origin and development* (Cambridge: 1981), 43.

²⁰ SOMMERVILLE 1994, 62.

²¹ *Ibid.*, 62.

²² *Ibid.*, 62.

²³ *Ibid.*, 62.

²⁴ *Ibid.*, 63.

²⁵ *Ibid.*, 62.

same concept of the Commandment in question, what is more, the overwhelming majority of the ministers of the English Dissenters, Puritans as well.²⁶ In England, six years after the writing of *The Trew Law*, in 1604 a joint work of John Dod and Robert Cleaver appeared under the title “*A Plaine and Familiar Exposition of the Ten Commandments*”. In this political obedience and duties of the subjects were derived from the fifth Commandment. This was in full accord with the official standpoint and teaching of the Church of England.²⁷ The argumentation was that just as the King was no father to his people by blood, so the master is not a father to his assistant either, yet the duty of obedience binds the latter just as much as the children by blood. Everything goes back to the Biblical notion of “me and the people of my house”. The patriarchal family which included all the servants as well and was “governed” by authoritarian methods was not merely the ideal preached from the height of the pulpit but the actual reality of everyday life.

In 1615 James, now already as King to both England and Scotland ordered that the tract bearing the title *God and the King* and appearing anonymously though in all likelihood written by Richard Mocket from Oxford be printed and studied in schools and at universities alike. This work elaborated the relevant questions of the catechism of the Anglican Church in detail and elucidated the political duties and obedience of the subjects.²⁸ Moreover, James made it compulsory that there be one copy of it in all households of England and Scotland. In 1616, the royal command was reinforced by newer measures of the Privy Council and the General Assembly of the Kirk.²⁹ The afterlife of the tract is especially interesting and revealing: in the early Restoration Period Charles II had it published anew and repeated the order of his grandfather of “blessed memory” on the title-page of the new edition in the same vein.³⁰ In another work of his Schochet makes us aware that the aforementioned Commandment not only had general and deeply rooted political implications but it was not limited to one single form of government and to the due obedience thereunto. Contemporaries meant by it the political, and definitely other, higher authorities. A good example for this is that in the Commonwealth era in most of the catechisms the word “King” was replaced by the word “magistrate”.³¹

King James starts *The Trew Law* by identifying the main reasons which made him write his work. He abhors rebellion and especially, when the partisans of turmoil and destruction incite the crowd to revolt. His royal anger is clearly not directed against the distracted stratum of subjects but against those who treacherously intend to persuade the people to disobey their ruler. A good parallel

²⁶ G. J. SCHOCHET, ‘Patriarchalism, Politics and Mass Attitudes in Stuart England’, *The Historical Journal* XII (1969), 424.

²⁷ *Ibid.*, 417.

²⁸ *Ibid.*, 433.

²⁹ *Ibid.*, 435.

³⁰ *Ibid.*, 435.

³¹ SCHOCHET *Patriarchalism, in Political Thought. The Authoritarian Family and Political Speculation and Attitudes Especially in Seventeenth-Century England* (Oxford: 1975), 15.

can be drawn here with the Book I written by Hooker where he writes that it is always easy for anyone to persuade the masses that they are not governed as efficiently as they ought to be.³²

Herewith I would like to emphasize two aspects again. One of these is that James was an ardent defender of the true *science royalle* which enabled Kings to have an insight into the *arcana imperii*. As such, he is consequent in denying that anyone, however clever and educated he might be (as Buchanan for example undoubtedly was), possesses enough knowledge of his own which makes it possible for him to claim even more wisdom than the King's own and thereby he could make utterances in the matters of state as an unquestionable authority. What is more, the knowledge of however many of the "wise men" cannot be greater and more reliable for the people than that of the sovereign who knows the content of the *arcana imperii*. It is very important urgently to note that all these did not exclude for James the possibility or perhaps even necessity of counselling the ruler. In advance, let me quote only one but characteristic example from *The Trew Law*. The King calls Parliament, here we witness a special feudal principle and approach, "*the head Court of the king and his vassals*"³³. What we have to bear in mind is that James was consequent in the theory of divine right: as the ruler's power is directly derived from God, God endowed him with a knowledge which was nobody else's own, the *science royalle*. If it were otherwise there would not be much sense in claiming that "*Toues thunder-claps light oftner and sorer vpon the high & statey oakes, then on the low and supple willow trees: and the highest bench is sliddriest to sit vpon*"³⁴. And indeed, these are the words with which in *The Trew Law* King James summarizes the just strictness of the Almighty towards him. This explains to us why the author has an antipathy against those who think themselves capable of instructing the people. James must have acknowledged that these destructive persons possess sufficient training to make it much easier for them to cause trouble. This knowledge, this sophistication, all the classical education of Buchanan and his accomplices, however, can never ever equal the "knowledge" of the ruler that directly derives from his power given to him by the Lord. When interpreting the relevant teachings of bishop Bossuet Plamenatz is very right in saying that by all these one ought not to understand the intellectual greatness or any kind of special and natural wisdom of the ruler that would elevate him above others.³⁵ It is only God to whom the King can and should be grateful for the "knowledge" as a wise "insight" into the matters of state. It is the Lord's special gift and grace which gives the sovereign the *scientia* needed to fulfill his role as *speculator*. Their excellence, to employ the words of Plamenatz again, is not the excellence above others of an aristocracy in Aristotelian terms by

³² L. KONTLER, *Az állam rejtelmei. Brit konzervativizmus és a politika kora újkori nyelvei* (Budapest: 1997), 74.

³³ SOMMERVILLE 1994, 74.

³⁴ *Ibid.*, 83.

³⁵ J. PLAMENATZ, *Man and Society. A Critical Examination of Some Important Social and Political Theories from Machiavelli to Marx I: Machiavelli Through Rousseau* (New York-San Francisco: 1963), 191.

means of personal greatness³⁶, natural or acquired right, perhaps personal merit but exclusively a gift which God by His inscrutable celestial wisdom guarantees for those whom He selected as His servants and tools in this world to rule over others. This surplus in grace, the wise handling of the talents will be the basis on the Last Day of Judgement when the Lord calls them to account. This will be in full accord with the Biblical principle: the one who received more will have to account for more, too. The idea of the *science royalle* could be witnessed in the case of medieval charismatic rulers as well.

Here the whig and Marxist misunderstandings regarding the question of the accountability to God become evident. Anyone who is just a bit familiar with the confessional, spiritual, and conscientious debates, clashes, often armed conflicts of the 16th and 17th centuries is very unlikely to earnestly believe that the martyrs on both sides were ready to accept all kinds of miseries, punishments or even martyrdom just because they belonged to opposite groups of an era that could be depicted with a “feudal – anti-feudal” scheme. Similarly: can one really assume that it was out of mere insincerity or an attempt to hide his effort to introduce tyranny that a ruler who believed in divine right absolutism stressed his exclusive accountability to the Lord for his deeds and rule from Whom only his reign had derived? It is my deep conviction that an approach like this must go back to a serious miscomprehension of the period in question.

There is a further element which I deem worthy of investigation when discussing the way of reasoning of King James as he dismisses the acts of the political writers inciting to rebellion. This is nothing else but the view being fully compatible with the concept of “the Great Chain of Being” which says that the revolt of the crowds treacherously misled by the “Sirenes” against their King will sooner or later lead to the complete fall and destruction of the rebels themselves: James’ purpose with *The Trew Law* is evidently didactic, one might say enlightening in character. It is for the sake of this common and reasonable interest of all, for the welfare of the state and all the people living therein he is compelled “to break silence”³⁷, thereby elucidating for the people “the ground from whence these your many endlesse troubles haue proceeded”³⁸. We could think that now, after the laying of “the trew grounds”, after the admonition and information of the subjects he would be just as strict in his tone towards them as to himself, saying that the people can have no more excuse, after all, he has made it clear to them how treacherous the inciters are and what dangers and consequences a rebellion would have. He could follow a similar way of reasoning to the question of his personal accountability: as he, being the elect of the Lord, has received the *science royalle* necessary for ruling and God therefore has all right in making him answerable for this, so the people, having been made familiar with his writing, do know “the trew grounds”, so not even the subjects can hope for a yielding Judgement in future. However, here and at this

³⁶ Ibid., 191.

³⁷ SOMMERVILLE 1994, 63.

³⁸ Ibid., 63.

point King James shows no sign of a logical strictness of the kind whatsoever. His tone can be called expressively “friendly” and “peaceful”. As a good shepherd he protects his flock and does all he can to keep away the wolves. His only desire is to save not himself but his people from the horrible and destructive effects for the whole political community a rebellion would surely have. It can clearly be seen that only on the basis of these ideas of his King James could hardly be ranked among the partisans and supporters of an absolute monarchy by divine right. By dismissing and forbidding the revolt he is not doing more than many of his English contemporaries as I have tried to show before. This latter feature of James’ reasoning stands in close relation to the concept of the “very and true Commonweale” of the political writers of the Tudor era.³⁹

As, however, I have already alluded to it, from another perspective James writes about much more in *The Trew Law* than the unjust and incorrect nature of any active disobedience and revolt to the ruler. In order to be able to prove this it is advisable and at the same time necessary to investigate into “*the trew grounds*”, the laws to which the King keeps making references and onto which he intends to build his kingdom, the state.

In advance, one has to know that in the work one can find no other divisions indicated by the author but the “*Advertisement*” and the main text. If, however, we read the entire text it will be conspicuous that it can yet be divided into three main units of ideas. In the very first one King James discusses the duties of the sovereign towards his people. One should not be taken by surprise at this expression. James himself writes of “*The Princes duetie to his Subjects*”.⁴⁰ Here the governmental duties of the King are meant. There is a substantial difference between the duty towards somebody and the need to be answerable to somebody. In the latter case, only God can be thought of. The second unit in the work treats the co-operation of King and his subjects from the very opposite direction. Here the duties of the latter are enumerated. The last, the third unit, as it will be shown, is the place where the King refutes the ideas proposed by his opponents. The very fact itself, however, that James VI discusses these at all, which is actually understandable and justifiable, reveals some inconsistency by the author as he denied in both the “*Advertisement*” and at the beginning of the main text that he would not waste time on “*refuting the adversaries*”⁴¹. As it seems, political and didactic consideration proved to be stronger than consequent behaviour. This he himself may have felt because at the end of the second paragraph of the main text he makes an allusion to “*the most waighty and appearing incommodities that can be objected*”⁴². One has to do James justice, however, in the sense that he really refrains from

³⁹ R. Cust identifies the standpoints of most of the early Stuart authors on political theory as a set of ideas excluding the possibility of a revolt against higher authority. Cf. R. CUST, “News and Politics in Early Seventeenth-Century England” *Past and Present* 112 (1986), (60-90) 78.

⁴⁰ SOMMERVILLE 1994, 64.

⁴¹ *Ibid.*, 62.

⁴² *Ibid.*, 64.

attacking any of his political enemies or opponents in political theory by name. In these terms he followed his declared aim according to which he would not attack their persons “*sally*”⁴³, otherwise it would generate debates among the authors and the “*sound instruction of the trewth*”⁴⁴ would degenerate which is “*the onely marke*”⁴⁵ of his writing. We have to give credit to the works of James not merely because he says “*I protest to him that is the searcher of all hearts*”⁴⁶ but also because the entire body of *The Trew Law* and its tone is best proof that James did not mean it to become a work to attack but instruct. On the other hand, the writing does not want to become an academic treatise about the nature of government. Just to sum it up once more let me quote one of the sentences of the “*Advertisement*”: “*For my intention is to instruct, and not irritat*”.⁴⁷ We can really maintain that James did all he could to avoid the latter.

What then are actually “*the trew grounds*”, what does “*The Trew Law*” of the title of the work mean? One has to mention it in advance that James conceived of this “*Trew Law*” as a trinity, naming three aspects of it. In the work discussed he identifies three pillars as the corner-stones and sources of the government of the realm: “*First then, I will set downe the trew grounds, whereupon I am to build, out of the Scriptures, since Monarchie is the trew paterne of Diuinitie, as I haue already said: next from the fundamental Lawes of our owne Kingdome, which nearest must concerne vs: thirdly, from the law of Nature, by diuers similitudes drawne out of the same*”.⁴⁸

The first corner-stone of Jacobean political theory is the Bible. It is just natural in the confessional age and is treated in my article “*King James’ Concept of Power in His Work Bearing the Title “The Trew Law of Free Monarchies”*” to appear in the journal *Majestas* in Mainz in 2006.

In the eyes of King James the second in the rank of the pillars of monarchy are the so-called “*fundamental Lawes*” of the realm. One must keep in mind that James basically identifies the fundamental laws of the country with the King’s coronation oath: “*And this oath in the Coronation is the clearest, ciuill, and fundamentall Law, whereby the Kings office is properly defined*”.⁴⁹ Let us now have a closer look at what James enumerates as the points of the coronation oath. I have to call attention to the fact that the order and sequence of things is especially significant here. In the first place for example King James, unlike Jean Bodin,⁵⁰ mentions the maintenance of religion as a royal duty: “*And therefore in the Coronation of our owne Kings, as well as of euery Christian Monarchie, they giue their Oath, first to maintaine the Religion presently professed within their countrie, according to their lawes, whereby it is established, and to punish all those that*

⁴³ Ibid., 64.

⁴⁴ Ibid., 64.

⁴⁵ Ibid., 64.

⁴⁶ Ibid., 64.

⁴⁷ Ibid., 62.

⁴⁸ Ibid., 64.

⁴⁹ Ibid., 65.

⁵⁰ At the same time, along with Bodin James claims as well that the coronation oath is the very sign that the King is not automatically bound by the laws of his predecessor.

*should presse to alter, or disturb the profession thereof.*⁵¹ The maintenance and defence of the established religion, the function as a *defensor fidei* (despite all the incompatibility with the original title given by the Pope) which was accepted by James as well who came to the throne of England half a decade after writing *The Trew Law* must have been a clear and conspicuously evident consequence of the divine right concept of a King who has received all his authority from the Almighty Lord alone. Nonetheless, this can hardly be connected to the divine right reasoning alone. James being a convinced Calvinist, notwithstanding entering into debate with the Calvinists every so often on matters of ecclesiology, was not a person who could have shared the views of the French *politiques*. The same holds true of his stance towards the opinions of Machiavelli or Guicciardini when they discussed the “benefits for the state” of Christianity as a state religion or of Botero when he described the relative advantages of Christianity. With the marriage of James to Anna of Denmark in 1589 a court of a “mixed” religious atmosphere in all respects evolved in London. At the same time, the King did all he could to uphold the spotless purity of faith, as his religious poems so strikingly reveal. This was dictated both by his conscience and the pragmatic nature of political common sense. This is why we can mostly expect him to represent views close to the great English spiritual contemporary of his, Richard Hooker. As the latter clearly elaborates it in his main work, *The Laws of Ecclesiastical Polity*, it is forbidden because it is destructive to attack the state and the government in matters of religion, thereby confusing and breaking the unity highly esteemed by the King as well. It is not surprising that of all the points of the fundamental laws vowed by the King on the occasion of his coronation James looks upon the spotless unity and undisturbed flourishing of the country’s established religion as the most crucial one and therefore names it in the first place. The mode of approach is typically medieval and traditional but it cannot be alien either to the “confessional” era of James or his personal religious conviction and his practical reasons based on his own experiences.

As among the Biblical quotations we find the guarding of “the peace of the people” and the service of the welfare of them, here we read about a royal protection from outer and inner enemies and a service of the welfare and well-being of the people. What in the first unit sounds like that the Prince’s welfare serves the benefit of the people, reads like this in the second completed by the already familiar strict Jacobean warning to himself: the prince has to see in advance and has to avoid “*all dangers that are likely to fall upon the people*”.⁵² The prince has to take more care of his people “*then for himself*”.⁵³ It is just more than clear that the ruler was ordered by God and that he is His lieutenant. Both unmistakably indicate, to make use of the expression coined by Endre Sashalmi, the “*eo ipso theological*

⁵¹ SOMMERVILLE 1994, 64-65.

⁵² *Ibid.*, 65.

⁵³ *Ibid.*, 65.

language’ of divine right.⁵⁴ The parallelism between God and the King can be called another characteristic phenomenon of the same language. Similarly to God the Father the prince is a “loving Father” of the people. What is more, what we read in the enumeration of the elements of the coronation oath constituting the fundamental law as “*careful watchman*”⁵⁵, we find in the form of “*good Pastour*”⁵⁶ among the paraphrases of Biblical citations. This is nothing else but one of the most significant self-identifications of Jesus Christ in the Gospel according to St. John.⁵⁷ In this context I have to quote the main work of E. H. Kantorowicz who elucidates the importance of the parallelism between Christ and “christ” when he treats the person of the Byzantine Basileios: “*The One Who is God and Anointed by nature, acts through his royal vicar who is ‘God and Christ by grace’, and who in officio figura at imago Christi at Dei est*”.⁵⁸ If we take into account that James discusses in both the above mentioned units the royal “character” and tasks related to the coronation oath, a ceremony an integral part of which had been the anointing throughout the centuries, the importance of the parallelism becomes even more striking. Furthermore, King James, being a “good Biblical prince” (it is definitely not mistaken to resort to this expression borrowed from Transylvanian history) will surely not forget what Jesus Christ, the Anointed of God the Father said of himself: “*For even I, the Son of Man, came here not to be served but to serve others, and to give my life as a ransom for many*”⁵⁹. How then could a King, an “anointed in small letters” utter of himself other words than the ones we have already seen: the King has to care more for his people than for himself, “*knowing himselfe to be ordained for them, and they not for him*”⁶⁰?! It is a Biblical self-humiliation like the one of Gottfried Bouillon when he declined to call himself King of Jerusalem in the city of Christ Who had been crowned with thorns. Instead, he adopted the title of “the Keeper of the Holy Sepulchre”.⁶¹ I find that the utterances of James above serve as further good data concerning the exclusive accountability to God which was a general absolutist principle. Also, they show how this principle was turned into practice. The King is definitely bound by, to use another theological expression the adaptionist concept of his office: By the grace of God he is anointed and “lieutenant” of and over the people, as James summarizes it. Where James demonstrates the office of the King by the Holy Writ, there, as we have seen, on the basis of the Book of Psalms he

⁵⁴ E. SASHALMI, *Autokrácia vagy abszolútizmus? Folyamatosság és változás az orosz hatalmi ideológiában Joszif Volockajtól Nagy Péter haláláig*, (Debrecen: 1997), 72.

⁵⁵ SOMMERVILLE 1994, 65.

⁵⁶ *Ibid.*, 64.

⁵⁷ John 10,11.

⁵⁸ E. H. KANTOROWICZ, *The King's Two Bodies. A Study in Medieval Political Theology* (Princeton: 1957), 48.

⁵⁹ Mark 10,45.

⁶⁰ SOMMERVILLE 1994, 65.

⁶¹ E. SIBYLLE – G. RÖSCH, *Kaiser Friedrich II und sein Königreich Sizilien* (Sigmaringen: 1995), 134.

describes the Kings as people who are called “Gods”, “because they sit on the throne of God on earth”.⁶²

According to King James the second fundamental pillar of government is constituted by the fundamental laws manifested in the coronation oath. It is not to be treated here what was meant in general by the fundamental laws of the kingdom, the *lois fondamentales* in France. It remained always unclear, especially outside France, what was actually meant by the *leges fundamentales*.⁶³ All the same, taking into account of what has been said so far it cannot be surprising that James gives the maintenance of the established religion of the country the first place and, accordingly, he also makes mention of the corporal benefit of the subjects. Despite all the coherences it means a new element if compared to the part resorting to the Biblical quotations that the Kings had to vow “to maintaine the whole countrey, and every state therein, in all their ancient Priuiledges and Liberties”.⁶⁴ This indicates that this is already and unmistakably the terrain of law. James VI virtually adjusts himself to the notions of the already discussed *utilitas publica*, *bonum commune*, and *necessitas* when he writes about the furthering of the welfare and the benefit of the people “not onely in maintaining and putting to execution the olde lovable lawes of the countrey, and by establishing of new (as necessitie and euill manners require but by all meanes possible)”⁶⁵ diverting all the dangers that might hit the subjects.

It would not fit into this article to give a detailed evaluation of what James I might have meant by “fundamental laws”. He wrote *The Trew Law* as James VI “only”, so it is not my task here critically to analyse the relations between the Jacobean concept of the fundamental laws of the realm and the English common law. Scholars have widely disagreed on the question of these relations, here I cannot survey the views of all of them. The thing I need to make perfectly clear is that I certainly cannot agree with the standpoint of J. W. Gough who claims that King James must have had some kind of contract in mind between the sovereign and his people which he identified with his coronation oath⁶⁶ and eventually this he would have considered equal with the fundamental law. With regard to this I have to point out the following. First of all, Gough committed the mistake that he conceived of the views concerning the “fundamental laws” of the Scottish King writing *The Trew Law* and of the English King James I delivering his speeches in the London parliament as constant in the two different contexts. Thus he contradicted the title of his own book (a title clearly referring to England), although he himself made the readers aware of the danger of confusing the two contexts.⁶⁷ He is certainly right inasmuch James defined in *The Trew Law* the

⁶² SOMMERVILLE 1994, 64.

⁶³ It is well known that in 18th-century Hungary the rulers layed an oath on the fundamental laws of the realm.

⁶⁴ SOMMERVILLE 1994, 65.

⁶⁵ *Ibid.*, 65.

⁶⁶ J. W. GOUGH, *Fundamental Law in English Constitutional History* (Oxford: 1961), 53.

⁶⁷ *Ibid.*, 51.

coronation oath of the King as the fundamental laws, this I have also emphasized above by quoting a key remark made by James, yet it is exactly *The Trew Law* which furnishes the best possible proof that James never accepted the idea of a contract between King and the people: “*As to this contract alledged made at the coronation of a King, although I deny any such contract to bee made then, especially containing such a clause irritant as they alledge*”.⁶⁸ Definitely, Gough is also right in saying that the King wanted to avoid even the slightest hint to any kind of tyrannical rule⁶⁹ but it can by no means be maintained that James intended to reach this purpose by any kind of identification⁷⁰ of the fundamental laws and the “original contract” made between the sovereign and his people at the coronation. I am much more in support of the view proposed by W. H. Greenleaf who wrote that “*James, like any other order theorist, would not admit the doctrine that a contract was at the basis of government and society. [...] James’s position was the usual one adopted by defenders of absolute monarchy that the king should ideally obey the law of God and the fundamental laws of the realm but that, if he broke his promise to do so, this gave no warrant at all to his subjects to restrain or unseat him for only God could do this: ‘the cognition and reuenge must onely appertaine to him’*”.⁷¹ I find that in these lines Greenleaf asserted what was really significant. Even the choice of his words is entirely correct and in full accord with the text of James: contrary to Gough, he does not employ the expression “*contract*” avoided by James but he refers to the original word “*promise*”. This is of crucial importance to which we will return soon. What can and must be noted right here is that James, the Calvinist absolutist found the Calvinist covenant theory implying a promise at hand. The word “*promise*” was much more often used by classical theoreticians of Huguenot resistance ideas than the word “*contract*”. James must have been familiar with this language going back to Calvin. All that James is doing here is that he gives it a “twist” and does not employ it for the justification of resistance but for the sake of the contrary.

One has to investigate the third element of Jacobean governmental “*pillari-trias*”, which is nothing else but the law of the nature. These are the words with which James introduces the part where he derives from and elucidates by the natural law “*the trew grounds*”: “*By the Law of Nature the King becomes a naturall Father to all his Lieges at his Coronation*”.⁷² As we will see, at first reading we cannot claim that the arguments, reasoning, and relevant parallelisms of the royal author are too difficult or complicated to understand. This we have to deem as natural if we consider the purpose of the writing and the readers addressed i. e. the subjects of James in general. It was perhaps J. P. Sommerville who underlined it in the most determinate and clearest way that especially during the 17th century the use of analogies and Biblical quotations became less frequent in the writings of absolutist

⁶⁸ SOMMERVILLE 1994, 81.

⁶⁹ GOUGH 1961, 48.

⁷⁰ *Ibid.*, 54.

⁷¹ W. H. GREENLEAF, *Order, Empiricism and Politics. Two Traditions of English Political Thought 1500-1700* (Oxford: 1964), 66.

⁷² SOMMERVILLE 1994, 65.

thinkers whereas they were much more inclined to refer to reason.⁷³ Thereby we have reached the question to be examined here which is the relation of human reason and natural law. In order to be able to comprehend the ideas put forward by King James VI in *The Trew Law* in all their aspects, it seems to be necessary to make a short trip to the world of the *lex naturalis* and within a brief survey to clarify its place, role, and, especially, its roots in legal philosophy. This is even more justifiable as thereby it will become evident that even if many of the absolutist authors employed legal reasoning, with special respect to the argumentation by natural law which was connected to the Bodinian concept of sovereignty, in a new and modern sense for the defence of absolute royal power, the idea and theory of the law of nature itself was by no means new in origin but rather went back to the Antiquities. On the other hand, we have to make it clear that it was actually the opponents and enemies of the absolutists, so among others of King James in political idea who kept resorting to the natural law reasoning. These were the Puritans and the “Papists”, who are not to be discussed here. It is true though that they came to fully different conclusions in political theology than James whereas they set out from the same premises. It is true in spite of the fact that they often strikingly differed in their theology, although sometimes only as far as language was concerned.

St. Augustin always understood natural law as an organic part of the strictly Christocentric *weltanschauung*. Therefore in the Augustinian system the natural state of humans equals the state of innocence, i. e. a state prior to original sin, the state of Creation. In this humans did not know death as “the pay of sin”. This implies that according to the approach of St. Augustin all that we discern and find in us, is actually unnatural as it is not in full accord with God’s original, creative will. As opposed to this, the concept of natural law which goes back to Aristotle can be labelled much less speculative and rather empirical. What is natural here follows the tendencies that we experience in nature. Aristotle said that in nature everything had a definite purpose. This is the teleological, one might say “practical” Aristotelian concept of the law of nature which from the early 13th century onwards, through the works of the Parisian Guillaume d’Auxerre and especially St. Thomas of Aquinas, the one who “baptized” Aristotle, gained more and more ground in the way of thinking of the Christian West and became known as Thomism in the history of philosophy. G. H. Sabine is though right in asserting that the work written before the “rediscovery” of the ancient Greek philosopher, the *Policraticus* written by John of Salisbury in 1159 is the most striking proof that there had been a number of elements reinforced by Aquinas present in Western European political philosophy even before the 13th century⁷⁴, nonetheless, the approach of St. Thomas is rightly called revolutionary. He was the one who rendered nature in its “everyday”, a not Augustinian speculative, sense its own justification. By claiming

⁷³ J. P. SOMMERVILLE, “Absolutism and Royalism,” in J. H. BURNS – M. GOLDIE (eds), *The Cambridge History of Political Thought 1450-1750* (Cambridge: 1990), 347-373. 352.

⁷⁴ G. H. SABINE, *A History of Political Theory* (New York: 1937), 246-247.

that “*gratia non tollit naturam, sed perficit*” he set the scholastic frameworks for the Biblical foundations not only for Catholic theology (frameworks valid down to our days) but thereby he asserted that divine grace had a kind of reinforcing, complementary but, let us clearly underline, therefore by no means “devalued” role. Quite on the contrary, he emphasized the uniqueness of grace. This way he opened the road for the acknowledgement of the dignity of natural human reason, of human political communities which evolve on an ascending basis, and in general, of the “*scientia politica*” of political science. In the Aristotelian Thomist teleological naturalism both society itself and government are natural for humans and indeed, for pagans and Christians alike. Divine grace which is manifested by and in Jesus Christ can evidently not be contradictory to, as “*He created everything there is. Nothing exists that he didn't make*”⁷⁵, natural law as it is planted and inscribed at the bottom of the heart of all human beings by God the Creator. This law of nature is therefore the law and will of God relating to humans, His intention displayed in the moral laws of the Ten Commandments and conscience. Due to and after original sin it is only possible to reach salvation by soteriological means. This became possible in Christ and this is about what Revelation, the *lex digna* relates. This, however, does not mean at all that the spirit of *lex naturalis*, the spirit, and not the letters, of Law is no longer valid. Quite the contrary is true: “*I did not come to abolish the law of Moses or the writings of the prophets*”⁷⁶. Thereby human conscience was elevated as the truth of Christ present at the bottom of all humans from birth on. Yet human nature which has become frail has to be made remember this again and again. “*In humans the fact is already present that at the deepest level of their spirit, as a mystery, God is hidden, Who loves them*”.⁷⁷ Conscience is given to everyone by the Creation. In Catholic theology conscience distinguishes between good and bad and does not explicitly, but even more so implicitly, deal with the Word of God which offers salvation. The latter, being the grace of God, is certainly indispensable for attaining all that is either transcendently and immanently good. After all, “self-merit” without grace has been discredited by original sin once and for all. Yet, according to what has been said so far, next to the “theological” ones the four cardinal or “political” deserts have received justification ever since Macrobius distinguished them. They can even be viewed as means of choosing the road eventually leading to salvation: “*Actus virtutis politicae non est indifferens, sed est de se bonus, et si sit gratia informatus, erit meritorius*”.⁷⁸

Similarly to conscience, human “common sense” is of ontological character as well. This was also often identified with natural law. A thoroughgoing investigation of the assertions in political theory of Neo-Thomist Jesuits opposing the views of James I on the basis of principles derived from natural law ought to be a matter of discourse within the frameworks of a chapter on James’ pamphlets.

⁷⁵ John 1,3.

⁷⁶ Matthew 5,17-18.

⁷⁷ H. BÜCHELE, *Keresztény hit és politikai ész* (Budapest-Luzern: 1991), 235.

⁷⁸ W. ULLMANN, *Principles of Government and Politics in the Middle Ages* (London: 1961), 248.

Here we have to emphatically underline that absolutist theorists in the early modern times shared the same premises ensuing from natural law their opponents in political theory, the proponents and defenders of the right to resistance did. Out of these premises the most general one was the deeply rooted belief in the necessity of government.⁷⁹ On the basis of natural law argumentation humans are social and political beings and the state, contrary to the view of St. Augustin, is not a necessary bad thing but is simply necessary, even if one might think of its coercive methods necessiated by human frailty bad. The evolution of the state is a natural procedure and is in accord with human “inclination”. Once God has entrusted people with some wordly purposes and tasks, people need to employ the most efficient means to reach these ends. Human reason is one of the most significant gifts of God to enable humans to recognize and make use of these means. Provided that they follow their natural reason, humans can realize a lot of their wordly happiness which is God’s will. This is just as much true of the non-Christian world as of the Christian. It is justified to say that through St. Thomas Catholic theologians and philosophers preceded the Protestants in laying the fundamentals of natural law reasoning in all respects.⁸⁰ At the same time it would definitely be incorrect to think of the idea of the *ius naturale* as an exclusive sphere of Catholic theology even if the original reluctance of Protestants to emphasize the dignity of human reason is an undoubtable fact.⁸¹ Sommerville takes care to underline that it was not merely the Anglican but also the Puritan writers who shared the majority of ideas related to natural law.⁸² “*In fact Protestants believed that corruption had not entirely obliterated man’s ability to distinguish between good and evil*”.⁸³ Here I need to refer to d’Entréves as well who maintains that natural law reasoning is so important in Catholic theology that it significantly contributes to ecumenical dialogue that Protestant theologians are continuously getting rid of their fears and uneasy feelings of the idea of the *lex naturalis*.⁸⁴

Sommerville writes about the conviction of the necessity of the state and the government going back to natural law principles that although Protestant writers on political theory mainly connected coercive government to the state after original sin, at the same time they asserted that government existed even in Paradise.⁸⁵ The decisive majority of Catholic and Protestant authors actually agreed that even prior to original sin there had been some need of a co-ordinated direction but it was

⁷⁹ J. P. SOMMERVILLE, *Politics and Ideology in England, 1603-1640* (London-New York: 1986), 17.

⁸⁰ It must be noted, however, that as the Neo-Thomists revived though the paradigm of natural law but failed to combine it with a criticism (only denial) of the Scotie-sceptical tradition, modern natural law is already a Protestant product.

⁸¹ J. TORRANCE, “Interpreting the Word by the Light of Christ or the Light of Nature? Calvin, Calvinism, and Barth,” in R. V. SCHNUCKER (ed.), *Calviniana. Ideas and Influence of Jean Calvin* (Sixteenth Century Essays and Studies X) (University of Missouri, Columbia: 1988), 256.

⁸² SOMMERVILLE 1986; 15.

⁸³ *Ibid.*, 16.

⁸⁴ A. P. D’ENTRÉVES, *Natural Law. An Introduction to Legal Philosophy* (London: 1972), 154.

⁸⁵ SOMMERVILLE 1986, 18.

only the corruption of human nature which made it necessary to threaten those with punishments who did not conform to the commands of the magistrates.⁸⁶ What was of crucial importance was the concept that in order to make people subject to positive laws a system of norms was needed which was independent of human laws. This, Sommerville writes analyzing the views proposed by the learned English common lawyer John Selden, could not be anything else but the law of nature which was made and inscribed in all people by God Himself.⁸⁷ The relations between the absolute ruler and the *ius divinum* and the *ius naturale* on the one hand (*sub lege, legibus alligatus*), and the *lex humana*, or as it was also called, the *lex civilis* or *ius positivum* on the other (*legibus (ab)solutus*) cannot be discussed in detail here. One must assert that the “laws”, human measures contradictory of natural law were void. No injustice can be codified. The role of human positive laws is then to validate *in foro externo* the higher law which by virtue of their conscience all people without regard to their religion are *in foro interno* familiar with.⁸⁸ Natural law is *intellectus*, i. e. inherently true and reasonable and simultaneously, *voluntas*,⁸⁹ i. e. in accord with and deriving from God’s will.⁹⁰ Both aspects underline that the *lex naturalis* is a veritable law.

Let us now return to the ideas related to natural law of the defenders of absolute royal power. One does not only have to bear in mind that absolutist authors claimed that the ruler was bound by natural laws intrinsically equivalent with divine law but also that, similarly to the proponents of resistance theories, the absolutists, too, mostly derived their own governmental principles from natural law. Sommerville writes about this question this way: “Nevertheless, it was not upon the revealed will of God, expressed in the Bible, but upon the law of nature, inscribed in the heart of everyone and discoverable by reason, that government was based”.⁹¹ This on the one hand means that, as we have just seen, government is natural, necessary and realizable for Christians and non-Christians alike, and on the other, as I have also pointed out, Biblical, theological arguments had a distinguished, though rather “honorary” place in the political thinking of absolutist authors such as King James VI. The real fundament of reasoning was constituted by the legal approach. This made both the concept of the natural law in the Aristotelian sense as it found its way back to Western thought from the 13th century onwards and the Roman law indispensable. Of the former J. P. Sommerville believes that an understanding of Stuart political thinking is completely impossible without a proper knowledge of the concept of

⁸⁶ Ibid., 18.

⁸⁷ Ibid., 19.

⁸⁸ SKINNER 1978 (2), 148.

⁸⁹ The Jesuit Francisco Suárez was the one who deemed the will of the legislator especially important. On this basis for instance he denied that the *lex aeterna* was an actual law as God evidently does not make law for himself. Cf. K. HAARONSEN, *Natural Law and Moral Philosophy. From Grotius to the Scottish Enlightenment* (Cambridge: 1996), 16.

⁹⁰ SKINNER 1978 (2), 149.

⁹¹ SOMMERVILLE 1986, 12.

natural law.⁹² “*The concept of the law of nature was crucial in the thought of the absolutists*”.⁹³ The arguments for absolute royal power were merely reinforced by the Holy Writ. The *ultima ratio* was the law of nature. “*The key piece of reasoning for absolutism ran like this. By nature man needs to live in society. But society cannot survive unless it is directed by a sovereign governor. So nature requires sovereignty. It was the law of nature, then, which made governors absolute sovereigns. Since God was the author of nature, and since natural law was a subdivision of God’s law, it followed that rulers derive their sovereign power from God alone*”.⁹⁴

Now I take into account all the places of *The Trew Law* where James mentions the terms “*nature*”, “*natural*”, or their derivatives. In the first place the subtitle of the work itself must be remembered where we find the expression “*naturall Subjects*”⁹⁵. As it is known, the author repeats this at the beginning of the main text. Not in the order they are mentioned but grouping them according to their contents let me quote the following structures of words: “*their natie King*”,⁹⁶ “*their natie and righteous king*”,⁹⁷ “*natie country*”,⁹⁸ “*my natie countrie*”,⁹⁹ “*naturall Father*”,¹⁰⁰ “*naturall love*” (of the Father towards his children),¹⁰¹ “*naturall zeale*”,¹⁰² “*naturall zeale and duety*”,¹⁰³ (this expression appears twice, for the second time followed by the words “*natie country*”), and “*naturall kingdome*”¹⁰⁴. Besides these we find the following: “*the Law of Nature*” (it appears altogether four times in the work),¹⁰⁵ “*the corruption of his owne nature*” (i. e. Saul’s),¹⁰⁶ “*by the course of nature*”,¹⁰⁷ “*is naturall to all creatures to craue*”,¹⁰⁸ “*monstrous and unnaturall*”,¹⁰⁹ “*monstrous and unnaturall rebellions*”,¹¹⁰ “*unnaturally follow this example, to be endued with their viperous nature*”¹¹¹.

Evaluating the evident “*naturalism*” of King James in *The Trew Law* F. D. Wormuth and M. A. Judson emphasized that the structures including the attribute “*natural*” are just as much characteristic of the work as the language of divine right

⁹² Ibid., 12.

⁹³ Ibid., 12.

⁹⁴ Ibid., 47.

⁹⁵ Ibid., 63.

⁹⁶ Ibid., 72.

⁹⁷ Ibid., 82.

⁹⁸ Ibid., 78.

⁹⁹ Ibid., 63.

¹⁰⁰ Ibid., 65.

¹⁰¹ Ibid., 77.

¹⁰² Ibid., 63.

¹⁰³ Ibid., 78.

¹⁰⁴ Ibid., 83.

¹⁰⁵ Ibid., 65.

¹⁰⁶ Ibid., 67.

¹⁰⁷ Ibid., 77.

¹⁰⁸ Ibid., 79.

¹⁰⁹ Ibid., 77.

¹¹⁰ Ibid., 83.

¹¹¹ Ibid., 77.

itself.¹¹² What can be the significance of this “naturalism”? What actually can the expression “*naturall Father*”, “*natiue King*” or “*naturall Subjects*” mean? It is my deep conviction that these adjectival constructions served to help James express the virtually important, strong, and inseparable connection between the sovereign and his people. In what is to follow I intend to give a detailed account of the medieval legacy of this.

One has to remember that on the basis of the law of nature King James calls the sovereign the “*naturall Father*” of the vassals. To understand this one needs to know the correct meaning of the attribute “*naturalis*” going back to the verb “*nascor, nascere*” within the system of relations of vassalage. The word “*naturalis*”, “natural” was used in the 11th and 12th centuries in the context of vassalage. The link between vassal and his *dominus* was deemed natural in case this link was hereditary and legitimate. In the 13th century this word started to be used to describe the links between the sovereign and the people. “*The strength of the majority of later medieval European states was that they appeared natural to their inhabitants*”.¹¹³

In my view, the expression “*naturall Subjects*” in the subtitle of *The Trew Law* is understood correctly if it is emphasized that those who were born in(to) a given kingdom were looked upon as natural subjects. The natural subject was someone who was born into the *regnum*, therefore he was loyal and evidently and naturally obedient to the *rex*. The law of nature prescribes for everybody that they be loyal to the community conceived of as the *communitas perfectissima*, the *regnum* as well as to its natural governor, the monarch. This is in close connection with the already examined concept that it is according to human nature, what is more, it inevitably follows from it, that humans live in communities the most advanced of which is the political community, the state. In completely extreme cases those living outside the state were not even considered human. It was the view of St. Thomas of Aquinas that a virtuous subject must not even refrain from deposing himself to life danger for the sake of the defence of the community natural for him, i. e. the native country. Henry of Ghent compared those “giving their life for their friends”¹¹⁴ to the sacrifice of Christ on the Cross. Following the pattern when at the time of the crusades taxes were collected *pro defensione (necessitate) Terrae Sanctae*, it soon became customary to levy taxes *pro defensione (necessitate) regni*. Especially in France, from the mid-13th-century on this was done *ad defensionem (tuitionem) patriae*, or, as it was formulated under Philip (IV) the Fair, *ad defensionem natalis patriae*.¹¹⁵ According to the outcry of the Virgin of Orleans all who waged war against the holy kingdom of France were fighting against King Christ.¹¹⁶

¹¹² M. A. JUDSON, *The Crisis of the Constitution. An essay in Constitutional and political thought in England 1603-1645* (New Brunswick: 1949), 189.

¹¹³ B. GUENÉE, *States and Rulers in Later Medieval Europe* (Oxford, 1985), 64.

¹¹⁴ KANTOROWICZ 1957, 244.

¹¹⁵ *Ibid.*, 236.

¹¹⁶ *Ibid.*, 255.

B. Guenée enumerates authoritative medieval examples for illustrating the content and significance of the expression “*naturalis*” and its derivatives. Gerald of Wales, who died in 1220, described the Welshmen as “the natural inhabitants” of their country. In the middle of the 13th century the Dominican doctors at the University of Paris defined the notion of the *fraternitas naturalis* that meant the bonds among the inhabitants of a given kingdom and, at the same time, prevented them to ally themselves with anybody else living outside the realm.¹¹⁷ At the turn of the 13th and 14th centuries the French made a distinction between those who were born within the *regnum* and those who came from outside (*de foris venientes*). The latter were also alluded to by the word “*extranei*”. Earlier, this expression had been used also in cases when somebody came from another province or town.¹¹⁸ From the turn of the century on, however, expressively “foreigners” were meant by the term who could by no means counted among the natural subjects.

Guenée’s further strong claim is that by the beginning of the 14th century “national feeling” has appeared. Although it has evidently nothing to do with the modern sense of the word, nevertheless it was there in its germs as early as the 14th century. In 1328, after the extinction of the Capet dynasty the English King Edward III claimed the throne of France for himself. What he alluded to was heritage via the female line. This was definitely a nonsense in France according to the *Lex Salica*. Furthermore, Guenée adds, he was unacceptable for the French because “he was simply English”.¹¹⁹ Philip of Valois, who came to the crown as Philip VI thereby founding the Valois dynasty, however, could become King in France because he was born in the kingdom – as an English chronicle also concedes and relates.¹²⁰

On the basis of what has been said above we know more about the essence of the relations between a “natural King” and his “natural subjects”. A person who was born in(to) the realm is the natural subject of a King born in(to) the same kingdom. Thus the former has a natural obedience and obligation towards the latter who is his natural sovereign. This is comparable to the meaning of the term “*naturalis*” employed in the 11th and 12th centuries in the arguments for the bonds in vassalage. As James emphasizes it many times in *The Trew Law* both the natural subject and the natural King are due to express a “*natural zeale*” towards their “*native countrie*”, a term itself derived from the same stem as the word “*naturalis*”. This natural and therefore very close link is formed by the law of nature. James does not only make use of the expression “*native King*” but also of “*naturall Father*”, the two being virtually equal. This is why this link has its strength by natural law in a constitutive way. It is by the law of nature that it becomes legitimate. At the same time, as James puts it¹²¹, this link turns into a visibly strong relation at the time of

¹¹⁷ GUENÉE 1985, 64.

¹¹⁸ Ibid., 64.

¹¹⁹ Ibid., 64.

¹²⁰ Ibid., 64.

¹²¹ Ibid., 65.

“Coronation”. One might say that the act of crowning as well as the coronation oath already discussed in the vein of James, i. e. the fundamental laws having the strength of natural law play the declarative role.

The King inherits the *regnum* in a natural way, by his birth. Along with it, however, he also inherits all the natural subjects of his born in(to) the same kingdom. By the law of nature the “natural”, legitimate subjects are part of the heritage of the “natural”, lawful King along with the kingdom. So the subjects are inherited subjects. As I have already pointed out, it was inheritance and legitimacy which together meant and safeguarded that this link between monarch and his people be “*naturalis*”, natural, exactly in full accord with what has been maintained about the relations in vassalage in the 11th and 12th centuries. As in vassalage, so far James inheritance and legitimacy were equal with the natural link. In the former one has to do with the connections between *dominus* and *homo*, in the latter with those between *rex* and *subiectus*. The King and the people are each other’s natural partners. Both have their natural obligations, too. In the part discussed here James investigates the position and the obligations of the ruler. These obligations, just as much as those of the subjects, originate and evidently follow from natural law. It is exactly this argument by the law of nature, or legal arguments in general which form the core of James’ reasoning. This becomes really clear in the part where natural law is treated as the third pillar of government. Taking into consideration the essential identity of natural and divine laws one has nothing to be surprised at that the enumeration of the royal tasks on the basis of the law of nature widely coincides with the Biblical arguments and quotations. What one must bear in mind is that the gravity of argumentation is on the legal-philosophical reasons and not on the Biblical citations. “*The Bible was quoted by authors like James in order to underline their arguments, arguments which were proved by law, especially by natural law*”.¹²² Notwithstanding the title, in his main work “*Politique tirée ...*”. Bossuet does not take his chief arguments from the Holy Scriptures but from the law of nature. What Aristotle has said was reinforced by the Holy Spirit - the argument runs.¹²³ It is well known that the bishop was an emblematic figure of absolutism by divine right. The fact that even in his case theological arguments only have the role of reinforcement next to a legal-philosophical language and way of thinking is of crucial importance. A thoroughgoing examination of the written works and speeches of King James (VI) I will have the conclusion that he borrowed his chief reasons from the law of nature. One must not be misled by the expression “absolute monarchy by divine right.” The already mentioned conviction has to be maintained at all rate that without a legal-philosophical system of arguments there could be no word of divine right absolutism. It is not to be discussed here why and in what sense it is more correct to use the term “absolutism by divine right” instead of the formula “divine right of kings”. It must be referred to the fact that just because a political author held absolutist views it did not at all automatically mean

¹²² SASHALMI 1997, 75.

¹²³ PLAMENATZ 1963, 118.

that the same author was also a representative of divine right theory. Absolute monarchy by divine right can be looked upon as only one, though undoubtedly widely spread version of the various theories of absolutism. The most striking feature of absolutism is that the sovereign is above positive law. It is possible for him or her exactly because he or she was bound by the law of nature. Yet, even if we revert the formula we do not necessarily arrive at a correct conclusion: a theoretician of the “divine right” was not automatically an absolutist thinker at the same time¹²⁴. As I have demonstrated above, besides the divine right of kings a number of other “divine rights” were known, all that referred to others. It is another question that the majority of divine right absolutist authors, including King James, accepted for example the divine right of the bishops. What is more, as it is well known, he was even an ardent defender of that.

On the basis of natural law anything needs to be condemned that contradicts nature, natural inclination, one might say, common sense (in the present case the common, reasonable interest of King and subjects). For the subjects the King is “natural and lawful”. As the expression “*natiue King*” also emerges, the term “natural” could actually be rendered as “born in(to) the realm”. Obedience to a King like this is a natural obligation. We have seen how closely and intrinsically the notion of obligation was connected to the meaning of “*naturalis*”. It can therefore be no mere chance that King James devotes the very end of the last but one paragraph of the work to the “*dutifull subjects*”.¹²⁵ What is more, the last two words of *The Trew Law* are essentially the same: “*obedient subjects*”.¹²⁶ After this, James did not attach anything else to the work but the letters “FINIS” at the bottom of the page. Obedience, the loyalty of the subjects as it emerges from the connotations of “*naturalis*” is of utmost importance for James. This is the common and basic interest of everyone as it necessarily follows from the law of nature. It is actually not the task of the King to declare a revolt unnatural. This is done by the *lex naturalis* itself.

In the light of what has been said of the *ius naturale* as well as of the role the word “*naturalis*” played in classical medieval thinking about vassalage, I deem it justified to assume that King James’ parallelisms between King and father as well as the structures including the attribute “natural” reveal more of the essence of the author’s argumentation than what is evident of the parallelisms at their first and superficial reading.

It is to be taken into account that the core of the early modern version of divine right is tangible in the medieval divine right theory which has been completed by the idea of hereditary monarchy. It is known that throughout the centuries the principles of election and inheritance rather completed than excluded one another.¹²⁷ It is also important that in France and in England alike it was from

¹²⁴ G. BURGESS, *Absolute Monarchy and the Stuart Constitution* (New Haven-London: 1996), 99.

¹²⁵ *Ibid.*, 84.

¹²⁶ *Ibid.*, 84.

¹²⁷ GUENÉE 1985, 67.

the 70s of the 13th century on that it became a practice for rulers to count the years of the rule automatically from the death of their predecessor, their father and not from their own coronation or anointing. The importance of this was that quite simply and naturally (sic!), they became Kings by birthright. “*In places where election disappeared and hereditary right was affirmed, the coronation gradually lost its constitutive force*”.¹²⁸ In the centuries of the late Middle Ages coronation gradually lost some of its former significance although exactly in France the vicissitudes of the Hundred Years’ Wars slowed down this process in a sense. Let us just think of how strongly Joan of Arc insisted on the coronation ceremony in Reims. “*In the later Middle Ages it was no longer the coronation, rarely an election, but almost always clearly defined hereditary right that now made a legitimate king*”.¹²⁹ Moreover, a formula is known from England from the year 1307 which says that Edward II is “*already king of England by inheritance and descent*”¹³⁰. Accordingly, he started his reign on the day following his father’s death. This practice survived some two centuries. In the mid-16th century even this interregnum of one single day vanished.

By discussing the principle unavoidably ensuing from the law of nature that the “natural” King who was born in(to) the kingdom both in terms of *regnum* and *officium* inherited his land and the people, the subjects of it in a natural way I virtually demonstrated the corner-stone of the new, early modern version of divine right. However, in *The Trew Law of Free Monarchies* we read about much more than the appearance of a modernized version of divine right. Here it is the *a priori*, general legal-philosophical argumentation which is decisive. This entails that the author introduces himself as a King who is above human positive laws which therefore do not bind him. He is *legibus solutus*. This is already the world of the absolute monarchy based on divine right. James even refers to himself with the expression “*free and absolute Monarche*”¹³¹. In what comes below I will primarily have to ponder over the meaning of the attribute *free*, in search of an answer to the question whether it could mean more than that the kingdom is not elective but hereditary. Are we justified in saying that the “free” monarchy and monarch are synonyms of the “absolute” monarchy and monarch? So as to be able to find a reliable answer to this one has to examine the standpoint of King James concerning the obligations of the subjects. This seems to be even more practical because by enumerating the duties of the “natural subjects” James actually reveals to us the nature of the rule of the sovereign as well as its possible restrictions. We might basically assert that whereas in the first part he treats the King’s obligations, in the second he discusses the nature of the King’s reign.

Now we have to turn to the second great structural unit of *The Trew Law* in which King James elucidates the duties of the subjects towards him. He introduces this unit by these words: “*As to the other branch of this mutuall and reciproock band, is the*

¹²⁸ Ibid., 68.

¹²⁹ Ibid., 68.

¹³⁰ Ibid., 68.

¹³¹ Ibid., 64.

*duety and alleageance that the Lieges owe to their King: the ground whereof, I take out of the words of Samuel, dited by Gods Spirit, when God had given him commandement to heare the peoples voice in choosing and anointing them a King.*¹³² This means that James makes it perfectly clear in advance that he understands by the duties of the subjects nothing but the “*duety and alleageance*” towards their King. It is reasonable to get to know more about the quotation from the Old Testament to which James here alludes and the text of which he inserts word by word. This is the 8th part of the First Book of Samuel from verse 9 to verse 20 continuously. In the first unit James has already referred to this place once, as I pointed out there.

In the above mentioned part of the First Book of Samuel we can read that after Samuel had grown old and his sons whom he had designated as judges over the people had not followed his righteous way, the elders of Israel went to Samuel and asked him for a King. As “*Samuel was very upset with their request*”¹³³, he turned to the Lord in prayer. Who, however, gave him the command to fulfill the wish of the people, after all, they did not rebel against Samuel but against God with their dissatisfaction. Nonetheless the Lord also prescribed for Samuel the task to let the people know what kinds of rights and power the would-be King would have. Samuel acted accordingly, depicting the power of the King with rather horrifying pictures. The King would have full right of disposition of the sons and daughters of Israel as well as of their movable and immovable properties. However, not even these harsh words prevented the Jews from persisting in their original pursuit: “*Nay, but there shalbe a King ouer vs. And we also will be like all other Nations, and our King shall iudge vs, and goe out before vs, and fight our battels.*”¹³⁴

As it can be seen, James VI inaugurates the obligations of the subjects by quotations from the Holy Writ, not unlike in the case of the royal duties. The problem that emerges here, i. e. why God’s order elected a King for Israel in the person of Saul who then diverged from the righteous way, James explains to the readers this way: Saul was selected by God with respect to his virtues and abilities for leadership “*whereas his defection sprung after-hand from the corruption of his owne nature*”.¹³⁵ God was ready to fulfill the wish of the people, in spite of the fact that by their wish they had renounced Him to a certain extent. It was only God Who could give them Saul even if they had asked him for themselves. This point is decisive in divine right theory: the ruler’s power comes directly from God. James underlines this in the following versions: “*the election of that King lay absolutely and immediately in Gods hand*”;¹³⁶ “*by God*”;¹³⁷ “*For as ye could not haue obtained one without the permission and ordinance of God, so may yee no more, fro hee be once set ouer you, shake him off*

¹³² SOMMERVILLE 1994, 66.

¹³³ 1 Samuel 8,6.

¹³⁴ SOMMERVILLE 1994, 66. Cf. 1 Samuel 8,19-20.

¹³⁵ SOMMERVILLE 1994, 67.

¹³⁶ *Ibid.*, 67.

¹³⁷ *Ibid.*, 67.

without the same warrant;¹³⁸ and, finally, “*he that hath the only power to make him, hath the onely power to vnmake him*”¹³⁹. It is obvious that to revolt against the King would imply a disregard for the will of God. James makes the “rights” of the subjects as clear as possible: “*and ye onely [to] obey, bearing with these straits that I now foreshew you*”.¹⁴⁰ With these words the author gives voice to an old conviction of his: the subjects can never exercise active resistance against the ruler.

King James VI found the aforementioned part of the First Book of Samuel “*so pertinent of our purpose*”¹⁴¹ that he not merely inserted it into his text word by word but he repeated first verse 9, then verses 11-15, verse 18, and finally verses 19-20 once more. One has to say that in these parts he gives us paraphrases of the Biblical text and he recapitulates the related arguments. His aim is to show “*the obedience that the people owe to their King in all respects*”.¹⁴² Actually, what he describes is virtual tyranny, thereby underlining that revolts are not even allowed in the case of tyrannical rule. He, however, implicitly lets us know that he, the King of Scots himself is far from any intention to strive for any kind of tyranny. The method he chooses is that he calls tyrannical rule which ignores the principle of “*justice and equitie*”¹⁴³ a mockery of natural law: “*So as inverting the Law of nature, and office of a King, your persons and the persons of your posteritie, together with your lands, and all that ye possesse shal serue his priuate vse, and inordinate appetite*”.¹⁴⁴ We know that it is only the tyrant who thinks that he is not bound by the *ius naturale*. Someone who neglects the law of nature, trespasses against the whole community, actually contempting common sense. It is of special importance that the tyrannical rule outlined by James can be understood as both the subversion of “*the Law of nature, and office of a King*”.¹⁴⁵ As the political community is natural to humans, so is its leadership, the office of the King. This in turn means again that active resistance against the King would equal the negligence of the commands dictated by natural law. As a consequence I can assert that King James decisively refutes tyranny which ignores the *lex naturalis* and its majesty. Nonetheless, in perfect accord with the general absolutist principles on government he clarifies that actual resistance, i. e. rebellion as the active form of resistance cannot even be lawful against the rule of a tyrant.

In the work King James practically resorts to the terms “*subjects*” and “*vassals*” as synonyms and he uses them interchangeably.¹⁴⁶ Throughout *The Trew Law* a

¹³⁸ Ibid., 68.

¹³⁹ Ibid., 68.

¹⁴⁰ Ibid., 68.

¹⁴¹ Ibid., 66.

¹⁴² Ibid., 68.

¹⁴³ Ibid., 68.

¹⁴⁴ Ibid., 69.

¹⁴⁵ Ibid., 69.

¹⁴⁶ D. Potter writes this about the Kings of France: “*The king of France was first of all a seigneur supported by vassals who in the fourteenth and fifteenth centuries were slowly transformed into 'subjects'. In fact, the king remained 'seigneur naturel' of the French and the relations between government and governed were conceived in the form of a feudal*

“line of vassalage”, a kind of argumentation going back to the relations of vassalage can be detected. It is a well known fact that the essence of vassalage indispensably involves a reciprocity and mutual link which is mentioned by James in the subtitle of the work as well. Vassalage as it appeared in Western Europe at the end of the early Middle Ages was indeed based on an agreement, a contract between *dominus* and his vassal. This was an obviously mutual relation which put the idea of taking responsibility for the other partner into the foreground. In spite of all contrary claims, by means of this medieval practice based on Christian principles vassalage contributed very much to the evolution of modern constitutional views as well. It is true even if B. Tierney is right in his assertion that one can find a similar establishment in Japan, too. Nevertheless, no constitutional thinking developed there. It is indeed Tierney who attributes a decisive role to Christianity in the evolution of the latter.¹⁴⁷

Let us now return to the idea of vassalage itself that King James is at least as consequent in referring to as to the “*naturall*” links “*by birth*” between the sovereign and his subjects. Vassalage and the system of connections it implies, even if it can be inherited, does not originally stem from birth but is based on the voluntary contract of the two partners. From this point of view we have to say that similarly to the alteration on the original meaning of reciprocity James VI fundamentally modified the original meaning of vassalage, too. Yet I have to note that in one certain respect King James was “professional” in all the places where in his work he referred to himself as the chief “*ouer-lord*” of the realm and to the subjects as his “*vassals*”. The theory and practice that the oath of fidelity as well as vow of fidelity (which differed from the former inasmuch it was an ecclesiastic liturgical element) were essentially identical with the oath of allegiance of the subjects went back to Charlemagne, who made vassalage the fundament of statehood. In terms of this James had all reason to identify “*subiectus*” and vassal. He had all right to maintain that in Scotland “*the King is Dominus omnium bonorum, and Dominus directus totius Dominij, the whole subiects being but his vassals, and from him holding all their lands as their ouer-lord, who according to good seruices done vnto him, chaungeth their holdings from tacke to feu, from ward to blanch, erecteth new Baronies and viteth olde, without aduice or authoritie of either Parliament or any other subalterin iudiciall seate*”.¹⁴⁸ The twofold structure of a traditional strain of thought as well as of novelty is clearly manifested in these lines. In the argumentation on political thinking of King James the idea of divine right on the one hand and vassalage on the other can be viewed as a continuation of the traditional line in “political science”. However, it must definitely be regarded as the appearance of modernity that the concept of sovereignty clearly emerges in the citation above as well. It is true even if there is no doubt that the forrunner of sovereignty linked to the name of Jean Bodin has its roots in the Antiquities, in

obligation. Feudal law remained a powerful instrument for the demonstration of superiority in the sixteenth century.” Cf. D. POTTER, *A History of France, 1460-1560. The Emergence of a Nation State* (London: 1995), 30.

¹⁴⁷ B. TIERNEY, *Religion, Law and the Growth of Constitutional Thought 1150-1650* (Cambridge: 1982), 8.

¹⁴⁸ SOMMERVILLE 1994, 73.

Ulpian's formula and argument. At all rate, it is obvious that for James the concept of vassalage is decisive as it can be witnessed in his remark on Parliament: the Parliament "*is nothing else but the head Court of the king and his vassals*".¹⁴⁹ This is a good reflection of the standpoint that Parliament has a jurisdictional role. However, we have to see as well that King James attributes full and real Bodinian sovereignty to the ruler whose will is truly law. After all, in Parliament "*the lawes are but craved by his subjects, and onely made by him at their rogation, and with their aduice*".¹⁵⁰ Then he goes on saying perhaps even more characteristically: "*For albeit the king make daily statutes and ordinances, enjoyning such paines thereto as hee thinkes meet, without any aduice of Parliament or estates; yet it lies in the power of no Parliament, to make any kinde of Lawe or Statute, without his Scepter be to it, for giuing it the force of a Law*".¹⁵¹ With regard to the expressions "*with their aduice*" and "*without any aduice*" James contradicted himself, yet it is obvious that the Parliament alone can never make laws. Basically, it only has a right comparable to *consilium* in vassalage provided that the ruler is in need of it at all. Gy. T. Szántó correctly remarks that James was deeply convinced: "*in his countries he was the sole source and defender of law*".¹⁵² I may refer here to the opinion of Jean Bodin as well who held that legislation was the most important preliminary condition, the *sine qua non* of sovereignty ("*maiestas*" in his words of 1576): the sovereign's first feature is that he gives laws to all in general and to individuals in particular.

Going a bit further in the text of *The Trew Law* we can have a clear idea of how James VI viewed the "contract" he kept referring to: "*As to this contract alledged made at the coronation of a King, although I deny any such contract to be made then, especially containing such a clause irritant as they alledge; yet I confesse, that a king at his coronation, or at the entry to his kingdome, willingly promiseth to his people, to discharge honorably and trewly the office giuen him by God ouer them [...] I thinke no man that bath but the smallest entrance into the ciuill Law, will doubt that of all Law, either ciuill or municipal of any nation, a contract cannot be thought broken by the one partie, and so the other likewise to be freed therefro, except that first a lawfull triall and cognition be had by the ordinary Iudge of the breakers thereof: Or else every man may be both party and Iudge in his owne cause; which is absurd once to be thought. Now in this contract (I say) betwixt the king and his people, God is doubtles the only Iudge, both because to him onely the king must make count of his administration (as is oft said before) as likewise by the oath in the coronation, God is made iudge and reuenger of the breakers: For in his presence, as only iudge of oaths, all oaths ought to be made. Then since God is the onely Iudge betwixt the two parties contractors, the cognition and reuenge must onely appertaine to him: It followes therefore of necessitie, that God must first giue sentence vpon the King that breaketh, before the people can thinke themselves freed of their oath*".¹⁵³ I have deemed it reasonable to insert this quotation here for it throws some light upon the essence of James' views on a "contract". On the one hand we have to note that he is very good at reasoning

¹⁴⁹ Ibid., 74.

¹⁵⁰ Ibid., 74.

¹⁵¹ Ibid., 74.

¹⁵² Gy. T. SZÁNTÓ, *Anglikán reformáció, angol forradalom* (Budapest, 2000), 192.

¹⁵³ SOMMERVILLE 1994, 81.

when he expounds the ancient legal “axiom” according to which nobody can be a judge in his own case. How then could the people, the subjects judge whether their ruler has violated the “contract”? In this case the people themselves would act as judges in their own debated case which would amount to a legal absurdity! The right to make judgements is the exclusive sphere of the Almighty. This right cannot be taken away from Him by the people. Moreover, James reinforces his way of reasoning with the help of a further clever move! He asserts that not even the sovereign, the other partner can renounce that “agreement” in case the people have rebelled against him, saying that now he is entitled to make them perish all.¹⁵⁴ How then could the people make judgement in a reverse case?!

The quotation above, however, has a further, perhaps even more important lesson. The essence of this is that with the coronation oath discussed before an actual contract between the sovereign and his people *is* made, nonetheless all this happens in the majestic presence of the Lord. This is a contract which is practically not made between the partners but before God and *to* God, *to* the only legitimate judge and witness of the contract! If we recapitulate the idea of vassalage, this is then not similar to the ceremony of *homagium* but the oath of fidelity which is taken before the altar or in the presence of a relic! This is the core of Jacobean “contractual” thought. As in many other respects, he thoroughly and wittingly modifies the original meaning and content of the given expression.

A further aspect cannot be ignored here either. This is the Calvinian-Calvinist covenant theory already mentioned which is intrinsically linked to the so-called federal or covenant theology. As it also appears from the *Vindiciae, contra tyrannos*, the classical Huguenot work on the theory of resistance, within this tradition it is not the contract but the covenant which is the key notion. The sovereign and the community alike are joined to God separately by two covenants. The role of God is the *stipulatio*, upon His stipulation the ruler promises to keep the people in the true faith. The people likewise make the promise to sustain the true faith. All this was likened to the case when the creditor insisted on a guarantor because of the unreliable debtors.¹⁵⁵ Should either the prince or the people fail to keep their promise, the other partner will have to bear the negative consequences of this, too.¹⁵⁶ It is obvious that this cannot mean a contractual relationship, after all, that would imply a mutual obligation which is impossible in the case of God. This relationship cannot be mutual. James must have been familiar with the idea of the Calvinist covenant which implied for him the same though separate promises to God. Even within the scope of this way of thinking one can assert that the promise eventually is made to God. King James certainly does not derive from this the possibility of resistance to the ruler which is a further sign of his originality. As a Calvinist he employs a tradition but he adapts it to his own needs.

¹⁵⁴ Ibid., 82.

¹⁵⁵ G. GARNETT (ed.), *Vindiciae, contra tyrannos: or concerning the legitimate power of a prince over the people, and of the people over a prince* (Cambridge: 1994), XXV.

¹⁵⁶ Ibid., XXV.

In the part of the work of James VI where he refutes the opponents of the political theological views proposed by him, on one occasion he returns to that aforementioned part where he discussed the wish of the people of Israel to have a King of their own and, consequently, their resignation from their rights of freedom. In the argument of the Scottish King the people may by no means reclaim those “privileges” which they have already given up. It is nothing else but the classical case of the finite and irrevocable alienation of power! James argues, in fact, convincingly that not even the prince can take back those privileges which he or his predecessors have already given up. How then could the people do the same? This is the real “mutual” link and “reciprocity” which is so conspicuous in the subtitle of the work! In a certain aspect, both the King and the people have bound themselves. The difference is that in the case of the former only God can be thought of as a judge, after all, the King actually took his coronation oath not merely in the presence of God but *to* God.

King James’ assertion is also worth considering that though the sovereign binds himself, this he does only “*of his good will, and for good example-giving to his subjects*”¹⁵⁷. This holds equally true of the observance of abstinence from meat in the Lenten Period (an abstinence originally not annulled by either the Scottish or the English Reformation) and the measures controlling the various types of guns and the right to carry them. “*So as I have already said, a good King, although he be above the Law; will subiect and frame his actions thereto, for examples sake to his subiects, and of his owne free-will, but not as subiect or bound thereto.*”¹⁵⁸ Nothing can be more obvious that this is the totally clear and evident appearance in King James’ work of the ancient *lex digna* which does not in the least alter the principle of *princeps legibus (ab)solutus est*. At the same time, it might mean that, just like in Bodin’s view, the King cannot violate a valid law but he has the authority to annul it and make a new instead of it. Thus he stands above positive law.

As the argument of the Scottish King goes all that was forbidden for the Jews is likewise prohibited for “*all Christian and well founded Monarchies*”¹⁵⁹ as well, after all, the latter have to be built on the model of the “*Kingdome and Monarchie*”¹⁶⁰ of the Jews as the Kingdom of Israel and its laws were founded by the Almighty God Himself. And rebellion was expressively prohibited by God for the Jews, even rebellion against a possible tyrannical rule. In James’s view there can hardly be a greater tyranny than the one depicted by Samuel before the people of Israel based upon the words of God. Nevertheless, King James continues, “*we neuer reade, that ever the Prophets perswaded the people to rebell against the Prince, how vicked soeue he was.*”¹⁶¹ The royal author enumerates concrete examples from the Holy Writ to demonstrate that neither the Old, nor the New Testament know the idea of an

¹⁵⁷ SOMMERVILLE 1994, 75.

¹⁵⁸ Ibid., 75.

¹⁵⁹ Ibid., 70.

¹⁶⁰ Ibid., 70.

¹⁶¹ Ibid., 70.

active resistance against the ruler. King James gives Samuel, David, and Elijah much more credit before their people than to “*any of our seditious preachers in these daies of whatsoeuer religion.*”¹⁶² Here he is willing to concede that his tone is ironical: the great figures of the Old Testament never exploited their influence to inspire the people to revolt while “*either in this countrey*”¹⁶³ (i. e. in Scotland) or in France many “*busied themselves most to stir vp rebellion vnder cloake of religion.*”¹⁶⁴ That certain “robe of religion” which is so familiar from Marxist historiography is in James’ work clearly Hookerian in character. It is also obvious whom he meant by these people: Catholic theoreticians but even more so the Dissenters who enlarge completely indifferent religious questions just with the intention to subvert order in the state. This was the view of Hooker and this is the opinion of James, too. We can say without hesitation that in order to express this view James did not even necessarily have to be a divine right absolutist thinker, as evidently Richard Hooker was no representative of this strain of thought. Furthermore, King James refutes the view that one can still find in the Bible “*extraordianarie examples of degrading or killing of kings*”¹⁶⁵. He namely means that on this basis all the other obvious sins and vicious things like murder, steeling, telling lies etc. that are really frequently alluded to on the pages of the Scriptures would be allowed as they can be found in the Bible. The truth is, that these are there to deter people, to demonstrate sin as such. The same can be said of all kinds of revolts. Christ commands to render unto Caesar what is Caesar’s – the author continues his argumentation. A rebellion is out of question even in the case of the Lord’s elect people, how then could anyone else take the liberty to do the same? James says that the King is “*Gods Lieutenant in earth,*”¹⁶⁶ whose commands need to be followed without condition but the ones directly against God, i. e. the ones aimed at violating the *lex divina* and/or the *lex naturalis*. Not even in this case, however, does remain any other choice but the silent suffering of the martyrs of early Christianity. It is evident that in case of passive disobedience a prince who has turned into a tyrant will surely persecute the people. In times like this the people have to be especially zealous in their prayers for the conversion of the sovereign. If this still does not follow, the people have to be ready to accept sufferings and even martyrdom. It is conspicuous that James’ above mentioned standpoint which sounds so horribly to modern ears is identical with the original concepts of Luther, Melanchthon, Jonas, and Spalatin. That was the time when in their eyes the sovereigns were still “gods”. Luther himself, the great Reformer openly admired Emperor Charles V. We know, however, that late in October 1530, in the Torgau Palace the representatives of the freshly declared (and later several times to a lesser extent modified) Augsburg Confession, under the compulsion of the circumstances abandoned their original views on the question

¹⁶² Ibid., 71.

¹⁶³ Ibid., 71.

¹⁶⁴ Ibid., 71.

¹⁶⁵ Ibid., 71.

¹⁶⁶ Ibid., 72.

of obedience to political authority. King James did not resort to recalling his teachings of this kind but in his speeches in the London Parliament his tone was completely different. Here we have to make clear that James, although he must have backed the aforementioned, strict and original standpoint of Protestants he formed his words in a bold way, even if not as the first in the history of political thought. At any rate, it is sure that he envisaged both divine and natural laws as binding him as I have already tried to prove it. His political practice then leaves no doubt about this whatsoever. Still, in *The Trew Law* he sums up the duties of the people as subjects in these words: “*Thou shalt not rayle vpon the Iudges, neither speake euill of the ruler of thy people*”.¹⁶⁷

We have seen that in the system of arguments of King James Biblical parables and parallelisms, the language G. Burgess dubbed as “theological”¹⁶⁸ is though always in the first place as far as its dignity is concerned but in terms of significance it can merely be estimated as the second. This is more than evident in the part where the duty of “*allegance*” of the subjects towards their prince is discerned. Here, namely, we first find a number of citations from the Holy Writ, all that we have already met. Then James draws a bold caesura and declares that to his own country, Scotland, the patterns of the Scriptures cannot be applied.¹⁶⁹ What we witness here is that that Biblical words strengthen, reinforce, and illustrate royal power (this is why the King inserted them into his work), but as far as the beginnings of the Scottish Kingdom are regarded, that happened in a totally different way than in the case of Old Testament Jews where the people asked for a King for themselves. Although James acknowledges that in the first period in many states in “*diuers commonwealths and societies of men choosed out one among themselves, who for his vertues and valour, being more eminent then the rest, was chosen out by them, and set vp in that roome, to maintaine the weakest in their right, to throw downe oppressours, and to foster and continue the societie among men: which could not othervise, but by vertue of that vnitie be wel done*”¹⁷⁰. These general statements on the office of the King are fundamentally identical with the royal role that James has already detailed, without regard to its origin. Yet in his country as in many others the kingdoms “*had their beginning in a farre contrary fashion*”.¹⁷¹

What did actually happen in Scotland? This is the way James describes the beginnings of the Scottish Kingdom: “*For as our Chronicles beare witnesse, this Ile, and especially our part of it, being scanty inhabited, but by very few; and they as barbarous and scant of ciuilitie, as number, there comes our first King Fergus, with a great number with him, out of Ireland, which was long inhabited before vs, and making himselfe master of the countrey, by his owne friendship, and force as well of the Ireland-men that came with him, as of the countrey-men*

¹⁶⁷ Ibid., 71. Cf. 2 Moses 22, 28.

¹⁶⁸ G. BURGESS, *The Politics of the Ancient Constitution. An Introduction to English Political Thought, 1603-1642* (London: 1992), 130.

¹⁶⁹ SOMMERVILLE 1994, 73.

¹⁷⁰ Ibid., 72-73.

¹⁷¹ Ibid., 73.

that willingly fell to him, hee made himselfe King and Lord, as well of the whole landes, as of the whole inhabitants within the same".¹⁷² This is a sheer and clear definition of the conquest theory. James embeds his evident legal argumentation into a (disputable) historical relation. The very fact of the conquest itself has legitimated the rules of the Kings of Scots, his ancestors. This conquest therefore has a legitimating effect on his own reign as well. To use the words of J. G. A. Pocock James had to prove that the laws were made "at a time when there was already a king", "and who sanctioned them was certainly the king".¹⁷³

Pocock elaborated on this while treating "the ancient constitution and the feudal law" of England, i. e. when he was in search of the roots of English common law. What interests us here in this Scottish context is that James attacks and refutes the belief that the laws had preceded the Kings by means of an outspoken "*legisdatio*", a "royal giving of laws" which can be very well linked to a certain time. The supporters of the *mos docendi Gallicus* led by Francois Hotman stressed the importance of feudal law and an independent French legal historical evolution going back to the times of the Gaul, thereby trying to push back the overwhelming dominance of Roman law which they deemed was anachronistic. It was the French absolutist thinkers who represented views strongly opposing feudal law.¹⁷⁴ In our case, however, the Scottish King James VI wittingly connects the above mentioned feudal reasoning and the conquest of Fergus normally linked to the 5th century A. D.: by this conquest the King of Scots became the chief "overlord" of the entire country and the subjects became his vassals. Indeed, as we have seen, this happened in the most natural way, by means of birth into the kingdom. As a matter of fact, everybody who was born in Scotland after this conquest, was and is subject to the natural government of the prince who had become King as a result of the conquest by Fergus.

One can meet the concept of *necessitas* where in the view of James Fergus and his descendants coming to the rule in this way gave newer a newer laws to the "Barbarians" who had lacked all kinds of laws before. This "*legisdatio*" namely happened "as the occasion required".¹⁷⁵ First of all, however, Fergus, "the wise king",¹⁷⁶ had to face the task of establishing the "estate and forme of government".¹⁷⁷ James makes an allusion to "the rolles of our Chancellery", "which containe our eldest and fundamentall Lawes"¹⁷⁸ and which clearly prove that "The kings therefore in Scotland were before any estates or rankes of men within the same, before any Parliaments were holden, or lawes made: and by them was the land distributed (which at the first was whole theirs)".¹⁷⁹ The latter

¹⁷² Ibid., 73.

¹⁷³ J. G. A. POCKOCK, *The Ancient Constitution and the Feudal Law. A Study of English Historical Thought in the Seventeenth Century* (Cambridge: 1957), 16.

¹⁷⁴ SKINNER 1978, 264; 268.

¹⁷⁵ SOMMERVILLE 1994, 73.

¹⁷⁶ Ibid., 73.

¹⁷⁷ Ibid.,

¹⁷⁸ Ibid., 73.

¹⁷⁹ Ibid., 73.

statement is in accord with the idea of the patrimonial kingdom. James obviously puts the emphasis on the assertion that in Scotland “*kings were the authors and makers of the Lawes, and not the Lawes of the Kings*”.¹⁸⁰ In my estimation the statement made by J. Wormald that in *The Trew Law* King James “*rewrites Scottish history*”¹⁸¹ is a correct one. He ignores the history of those forty Scottish Kings who are mentioned in the “*Veremundus*” written by Hector Boece, rector of Aberdeen University, a friend of Erasmus and a contemporary of John Mair. In the views of Boece and those of the tutor of James, Buchanan these Kings have all been dethroned one by one. Instead of these rulers James emphasizes the person of Fergus, King of Dalriada. It is true, nothing could be farther afield from King James’ mind than to accept that the monarch can be deposed by the people, what is more, they could even have him executed. James must have been depressed enough by the horrible experiences he made in his childhood. That was the time when regents in turn were assassinated in Scotland. George Buchanan’s frightening stories and teachings must have contributed to this state of mind of James when the former terrified his pupil by telling him what kind of future awaits those rulers who are “disobedient” to the subjects. Buchanan even claimed that it was “Scottish custom”. J. Wormald’s psychological explanation is remarkable¹⁸² which I can evaluate as most likely. According to this James in *The Trew Law* sort of “psychologically got rid of” all the nightmarish experiences of his childhood as well as what Buchanan had taught him. These were in sharp contrast both with the contents of the other books he discovered in his own library with great relief and joy such as the *Institut du Prince* of Guillaume Budé or the *République* by Jean Bodin and his own deep conviction and the desire of his heart. I may add: finally, at last, he was able to “absolve” his mother in himself, a mother who had been decried as a vicious arch-enemy.

To achieve all this, however, the idea of the absolute monarchy by divine right was indispensable. Seemingly, we find an incongruence between this theory and the Fergus-story that has just been related. The latter, namely, evidently fits into the row of historical conquest theories. Accordingly, in his reasoning James fully omits from the Roman principle of the *lex regia* the idea that the people delegate their power to the ruler. This is true of popular sovereignty, too. What remains is the second element that can be derived from the *lex regia*: the idea that the will of the ruler is law. This is justifiable on the basis of Ulpian’s sentence “*Quod principi placuit legis habet vigorem*”. In Scotland, however, as James tells us, there was a conquest, so royal will evidently has the strength of law by this conquest. The royal descendants inherit the throne, the realm, and all the natural subjects “born into” it from Fergus. It is the natural duty of these subjects to obey their natural lord and King. Here James actually resorts to the old and practical papal terminology: in the case of the Pope, too, the *voluntas principis* was the sole fountain of the laws, the principles

¹⁸⁰ Ibid., 73.

¹⁸¹ WORMALD 1991, 45.

¹⁸² Ibid., 43.

governing Church discipline and practice. He is the only person “from whom” the laws originate in the Church. The Pope is a veritable *princeps legibus solutus*. Likewise in Scotland, all the laws “flow” from the will and insight of the absolute ruler, “*Kings were the actual law-givers*”.¹⁸³ The ancestors of James came to the throne by conquest. The throne which was acquired by conquest James inherited in a natural, i. e. true, righteous, and legitimate way. This has the consequence that all the sphere of authority that belonged once the Fergus belongs now to him alone. We could see that even in the case of Old Testament Israel the delegation of power was irrevocable for once and for all. In the primitive history of the Scots, moreover, one finds something completely different. Here the conquest made King Fergus absolute lord over all his subjects without any regard to popular will. Besides these, James does not forget to mention that, whereas in England William the Conqueror “*changed the Lawes*”¹⁸⁴, i. e. the laws that had already existed (in full contrast with the myth of an ancient English constitution that was maintained and reinforced by the “Bastard”, a view proposed by English common lawyers), Fergus, coming from Ireland found a Barbarian country, so he was the very first to give laws to the Scots, thereby civilizing them. To illustrate the legal continuity between King Fergus and King James VI let me quote here James’ opinion: “*And it is here likewise to be noted, that the duty and allegiance, which the people sweareth to their prince, is not only bound to themselves, but likewise to their lawfull heires and posterity, the lineall succession of crowns being begun among the people of God, and happily continued in diuers christian common-wealths*”.¹⁸⁵ It is another clear allusion to the people of the Old Testament. At the same time it is a natural and obvious basis of argumentation especially for a Protestant Christian ruler. It was primarily true in a period when towards the end of his reign, the Separatist “Pilgrim Fathers” led by their governor William Bradford and sailing to the New World in 1620 as well as the Congregationalist Puritans commanded by John Winthrop, who envisaged the “city upon a hill”, i. e. Boston were all eager to realize the “New Jerusalem”, the “New Israel”. Although it is difficult to assume that James shared the ecclesiological views of even the latter, more moderate group, allusions to the Old Testament and patterns and parallelisms taken from it form not only a characteristic feature of Protestantism in the confessional era but also very well exemplify the identity of “Old England” as God’s newly chosen people, as the new “Elect”. When preparing the work James definitely only possessed the throne of Scotland, nonetheless, the parallelisms above can hardly have sounded strange and weird in the ears of the English subjects a couple of years later. This is not irrelevant from the point of view of the reception of the work in England.

I have already argued that in James’ political thinking this legal aspect, this obvious act of wide-ranging consequences is much more important than the Biblical references in themselves. Thus we can hope to bridge the gap between the

¹⁸³ SOMMERVILLE 1994, 73.

¹⁸⁴ *Ibid.*, 74.

¹⁸⁵ *Ibid.*, 82.

aforementioned, seemingly contradictory facts of the conquest on the one hand and divine right kingship on the other. In this respect it is over-important for us to make clear that there is a fundamental difference between how political authority is acquired and how it is made legitimate. In brief one might say that the right to the throne of a ruler who came to the crown by conquest can easily be the result of divine will as well. What is more, in the way of thinking of the contemporaries it was in all likelihood the definite manifestation of it. The difference can be found between the right to rule and the actual source of power. And indeed, “*Obey the government, for God is the one who put it there*”¹⁸⁶. This verse of the Epistle to the Romans was a key Biblical quotation of especially Protestant political thought in the 16th century. Moreover, Jesus Christ tells Pilate: “*You would have no power over me at all unless it were given to you from above*”¹⁸⁷. Evidently, King James was also acquainted with the fact that the Roman governor did not receive his office directly “from above”. “*The title unto an authority is not without the means of man, but the authority itself is immediately from God*”¹⁸⁸. It is to be underlined that it is inevitable for both divine right and divine right absolutism that the power of the ruler be directly from God. If this condition is met, it is far less important how one actually comes to power! This can even be election as it was shown by King James by the pattern of the Old Testament “election of a ruler”. Nonetheless, the King was given even to the people of Israel by the Lord, and indeed, in a direct way. The means by which one comes to power, however, can likewise be a conquest as well. “*The idea that conquest, at least in a just war, gives the victor absolute sovereignty over the vanquished was widely accepted on both sides of the Channel. Since the conqueror could put the defeated population to death, the argument ran, it was only reasonable that he acquire absolute rights over it if he chose to spare it*”¹⁸⁹. The statement made by László Kontler according to which “*It, however, becomes evident already in this work that Fergus himself and conquest in general do not have much to do with buttressing royal authority*”¹⁹⁰ can only be shared inasmuch one is really in search of the source of an origin of power and not the way one comes to it. The method, the way in *The Trewn Law* namely is unequivocally the conquest, after all, James underlines that in Scotland the foundation of the monarchy did not follow the Old Testament “pattern”¹⁹¹. However, the above mentioned opinion proposed by Kontler is by all means acceptable for other works of James or rather, it is true even here if we take the origin of royal power “from above” into consideration. Kontler, who had no intention to evaluate this work, does not discuss this distinction, although by making use of the term “buttressing” he must have meant the question of the origin, too. No parallel at all, however, can be drawn between

¹⁸⁶ Romans 13; 1.

¹⁸⁷ John 19; 11.

¹⁸⁸ SOMMERVILLE 1990, 357.

¹⁸⁹ *Ibid.*, 364.

¹⁹⁰ KONTLER 1997, 94.

¹⁹¹ SOMMERVILLE 1994, 73.

“*the establishment of the Jewish monarchy*”¹⁹² and the kingdom of James. As I have tried to demonstrate, Biblical quotations have the role to illustrate and reinforce. Legitimation itself is rendered by a legal argumentation. In order to have this, James in *The Trew Law* relied on the conquest theory. What is decisive, however, is that even the conquest was permitted by God. As in the case of an elected monarchy the choice of the people designates a certain person to kingship yet the only source and animator of royal power itself is undoubtedly the Creator, so a conquest, too, designates a person to a position, nevertheless, his *officium* and *potestas* is by God alone.

We would commit a mistake if we forgot to make mention here of the policy James followed concerning the canon of 1606. In 1606, at the Council of Canterbury upon urge of Bishop Overall the formula was agreed upon that a government instituted and strengthened successfully by a rebel could hardly have come into existence without the permission of the Lord, therefore, the subjects are to obey a *de facto* ruler of this kind as well.¹⁹³ It can easily be understood that James, who at that time was King of England as well, must have found this argumentation extraordinarily dangerous and suppressed the so-called Convocation Book right at once. The conquering Fergus of *The Trew Law* made no reappearance here at all. One has to know that in 17th-century England for a long time it was a ground for heated debates to decide the question how long a period of time had to pass ere a rule established by conquest could be looked upon as legitimate and not as a usurpation.¹⁹⁴ In 1645 William Brall wrote that it was not merely by reason of divine approval of a successful conquest that the conqueror had to be obeyed but also by the simple fact that he guarantees the safety of the people.¹⁹⁵ In the conviction of Hadrian Saravia and Dudley Digges when William the Conqueror came to England he retained for himself the *dominium directum* and the subjects were only granted the *dominium utile*.¹⁹⁶ This distinction between *proprietas* and *possessio* known from Roman law is in accordance with King James’ standpoint he elaborated in *The Trew Law*, as we have seen. What is more, this view of his he supports with a further example: he refers to “*the Law of our hoordes*”.¹⁹⁷ The King is the proprietor of all the treasures found in the soil of Scotland. Furthermore, “*If a person, inheritour of any lands or goods, dye without any sort of beires, all his landes and goods retorne to the king*”¹⁹⁸.

It is not merely Scotland, Fergus, and the power of the Scottish Kings James writes about in his work but also the situation in England following the conquest of the “*Bastard of Normandie*”¹⁹⁹. He maintains that William changed the laws of

¹⁹² KONTLER 1997, 94.

¹⁹³ J. N. FIGGIS, *The Divine Right of Kings* (Cambridge: 1922), 238.

¹⁹⁴ KONTLER 1997, 153-160.

¹⁹⁵ SOMMERVILLE 1990, 366.

¹⁹⁶ *Ibid.*, 367.

¹⁹⁷ SOMMERVILLE 1994, 74.

¹⁹⁸ *Ibid.*, 74.

¹⁹⁹ *Ibid.*, 74.

England, “*inverted the order of gouvernement, set donne the strangers his followers in many of the old possessours roomes*”²⁰⁰. He deems it important, however, to note that contrary to England and other countries it has never occurred in his country that there was a change in “*the blood Royall, and kingly house, the kingdome being reft by conquest from one to another*”²⁰¹. By claiming this he evidently intended to annul the tension between conquest theory and the idea of hereditary monarchy.

For King James both theories were equally significant. Fergus established his rule by his conquest, i. e. divine approval, he himself sits on the throne of Scotland as James VI by inheritance, descent, the principle of primogeniture. In fact, this is made possible by God alone as well, after all, had God not wanted his rule, he would not even have been born or would not have lived long enough to come to the throne. It is true, in his case, this happened as soon as when he was thirteen months old. Whatever the angle, everything can exist by the grace of God, Kings derive their power directly from Him. What is sure, James has a hereditary right to the crown of Scotland. We can add on the basis of the aforementioned things: he has a hereditary and lawful, therefore natural right to it. By God’s permission James “was born into” the kingship. For James the King’s right to his crown is just as much hereditary as the right of the eldest son of a possessor of a feudum militare – argued McIlwain.²⁰² Regarding the utmost significance of the principle of lawful inheritance and descent I have already quoted the King when he discussed “*the lineall succession of crowns*”. Here James makes clear the essence of his political theory: he denies that anybody – especially the Pope – can absolve “*ad fidem spiritualem*” the subjects from the oath of allegiance. This was later contested by his Jesuit adversaries. James namely writes this: “*So as no obiection either of heresie, or whatsoever private statute or law may free the people from their oath-giving to their king*”²⁰³. He stresses that coronation itself is only of declarative nature: “*by birth, not by any right in the coronation*”²⁰⁴. Then he continues: “[...] *at the very moment of the expiring of the king the reigning nearest and lawful heire entred in his place*”²⁰⁵. It is the Almighty Lord Who makes sure that there will always be an inheritor like this. “*The crowne ever standing full*” is a gift of God. This means that there is always a legitimate heir in the kingdom. On this basis James refutes with horror the “*the supertitious rebellion of the liguers*”²⁰⁶ in France, i. e. the policy of the Catholic League against the converted King Henry IV by which they thwarted that “*to the great desolation of their whole countrey their native and righteous king [from] possess[ing] of his crowne and naturall kingdome*”²⁰⁷.

²⁰⁰ Ibid., 74.

²⁰¹ Ibid., 74.

²⁰² C. H. McILWAIN (ed.), *The Political Works of James I* (Cambridge (Massachusetts): 1965 (First publication: 1918), XXXVII.

²⁰³ SOMMERVILLE 1994, 82.

²⁰⁴ Ibid., 82.

²⁰⁵ Ibid., 82.

²⁰⁶ Ibid., 82.

²⁰⁷ Ibid., 82.

James VI proves that his rule is natural and is by God: he inherited the throne legally and by lineal descent. This “naturalness” implies that he is the “*naturall Father*” of his “*naturall Subjects*”. Although James does not base his arguments in *The Trew Law* on the classical patriarchalist principles but, as I have mentioned, he frequently resorts to the analogy of the relations between the father and his children, he also refers to himself with the title “*Pater patriæ*”. We should not forget that he signed the “*Advertisement*” with the word “*Philopatris*”, and indeed, with Greek letters. He is the “loving Father” and at the same time the one who loves his country. He exploits the former expression in the work several times. It is evident for him therefore to ask the question whether the revolt of the sons against their father can be deemed natural. His answer is a flat no, as the servant cannot depose his lord and the vassal his one either. Here we can see as well that in the eyes of James the reciprocity of vassalage disappears, despite the subtitle of the work. But “*for the people of a borough cannot displace their Prouost before the time of their election*”²⁰⁸. Similarly, it is not possible for the flock to rebel against their minister or the disciples to revolt against their schoolmaster.²⁰⁹ James argues according to the order of nature, common sense, and the law of nature: if these elected magistrates of otherwise lower rank cannot be deposed freely by those whom they have to take care of, how then could “*the great Prouost*”, the King be bereft of his office?! All this would be possible only “*by inverting the order of all Law and reason*”²¹⁰. It is against common sense if the child rebels against his father, however bad a father he might be. James only identifies the vipers as creatures which constitute an exception to the rule in nature.²¹¹ “Viperous breed” are those who actively resist their King – could King James thunder in a Biblical vein. James is to be ranked among those authors who extend the relevance of the law of nature to animals as well. The Serpent, the snake, the condemned one that leads into temptation differs from what is natural. It does not fulfill the commands of nature, not unlike the rebellious subjects. As for the analogy of head and body I discuss it in my above mentioned article to appear in Mainz this year.

King James ends the treatise “*with the solution of foure principall and most weightie doubts*”²¹². This part is the third great structural unit of *The Trew Law*. Out of the views of the opponents of his standpoint he first mentions that it is presumed by some that “*good Citizens*” have a “*naturall zeale and duty to [his] commonwealth*”, towards their country which demands that they do all they can to liberate their native country from under tyrannical rule.²¹³ In the first part of his answer to this he argues this way: “*First, it is a sure Axiome in Theologie, that euill should not be done that good may come of it: The wickednesse of the King can neuer make them that are ordained to be iudged*

²⁰⁸ Ibid., 76.

²⁰⁹ Ibid., 76.

²¹⁰ Ibid., 76.

²¹¹ Ibid., 77.

²¹² Ibid., 78.

²¹³ Ibid., 78.

by him, to become his Judges”.²¹⁴ Without mentioning the Apostle Paul he refers to his well-known Epistle to the Romans, where the Apostle maintains that it is only the prince – in James’ words – the magistrate who has the right and the duty to use the sword.²¹⁵ This is the classical principle of the *ius portandi gladium* which private persons, subjects never have anything to do with. In the second part of his answer James underlines that the leadership of even a ruler who has turned into a tyrant is better and more ordered than the anarchy which would follow from his deposition. This latter liberality is a sheer horror to James: “[...] no King being, nothing is unlawfull to none”.²¹⁶ He quotes the “*divine Poet DV BARTAS*”,²¹⁷ i. e. Guillaume de Salluste, the French Huguenot, who said that “*Better it were to suffer some disorder in the estate, and some spots in the Common wealth, then in pretending to reforme, utterly to overthrow the Republicke*”.²¹⁸

As the third contrary opinion James mentions that throughout history many revolts ended successfully, so one might think of their divine approval. In his answer James acknowledges that “*the successe of battels*”²¹⁹ is in the hands of “*the God of Hosts*”.²²⁰ On this basis, however, one ought to believe in the just cause of the Philistines, who fought against the Jews and even got hold of the “*Arke of God*”.²²¹ What is more, theologians would not forbid duels provided that it was a real sign by God as to who fights on the just side. Here the King enters into a brief theological exposition the chief message of which is that in God’s presence not even the otherwise innocent party is veritably innocent. In a theological sense everybody is equally sinful. We can often read in the Old Testament Bible that in order to restrain His own people God sends other peoples against the Jews. After having punished Israel this way He “*cast[s] his scourge in the fire*”.²²² Likewise, God often punishes His “*Deputie*”, the King by means of inciting rebels against him whom He, however, eventually abandons as the tools of His anger.²²³

As regards the fourth and last contrary opinion related to a “presumed” mutual contract and agreement made between the King and his people at the time of the coronation, I have already treated it above in detail due to the logical order of the King’s arguments. Now, as a summary, I am about to face the task to answer the question about the use of the word “*free*”.

In the eyes of the Scottish King James VI there can be no word of a real contractual relation between the ruler and his people. Contract theories are usually exploited to justify resistance, James, however, evidently gives no active right to the

²¹⁴ Ibid., 78.

²¹⁵ Ibid., 78.

²¹⁶ Ibid., 79.

²¹⁷ Ibid., 79.

²¹⁸ Ibid., 79.

²¹⁹ Ibid., 80.

²²⁰ Ibid., 80.

²²¹ Ibid., 80.

²²² Ibid., 80.

²²³ Ibid., 80.

subjects to resist him, he redefines these theories. Although throughout the discussed work he calls his subjects vassals again and again, it is just the reflection of the aforementioned fact that from the Middle Ages onwards it was customary to conceive of the allegiance as something modelled on fidelity in vassalage. Nonetheless, it would be a futile attempt to search for an actual relation of contractual character between lord and vassal in the political theory of James. Unlike the vassals, the subjects can never denounce their mandatory allegiance towards their ruler. Although in James' understanding monarchy in Scotland began with a conquest, Kings, so he himself actually receive their power from God, therefore it is natural that they are only accountable to Him for their deeds. As to the strictness of this celestial giving of account, however, the author leaves no doubt about it as it has been shown on the basis of his closing sentences.

There is a hereditary and legitimate, thus very strong and natural relation between King and his subjects. That this relation is in accord with the order of nature, therefore it is right and "*trew*", recalls the idea that it gains its force from the will of God, after all, the law of nature and divine law are virtually identical. To these the monarch is definitely subject, which is not the case with positive laws. In this sense the ruler is both *legibus (ab)solutus* and *legibus alligatus*. This is one of the most important common corner-stones of the different theories of absolutism. According to James VI the ruler is "free" from positive laws, so he is "free" in his country. Also, he is "free" as regards other powers because his power is not dependent on any outer power as the exclusive source of his *potestas* is the Almighty Lord Himself. In order to enter his office as King he was in no need whatsoever of either the mediation of the people or the Pope or anybody else. This double "freedom" makes him really sovereign, and indeed, in the Bodinian sense of the word for he is the real lawmaker, the "speaking law". His subjects merely "crave" the laws and the Parliament, to which in this work of his James attributes a jurisdictional authority, has no right to make laws without the King's scepter.

My final answer to the question asked above is therefore that for James the word "*free*" means more than the exclusion of the principle of election. He undoubtedly says that "*I meane alwaies of such free Monarchies as our king is, and not of electiue kings, and much less of such sort of governors, as the dukes of Venice are, whose Aristocratike and limited gouernement, is nothing like to free monarchies*".²²⁴ In my view in this sentence it is both important that the ruler has not come to the crown by an election and, simultaneously, that his power is not limited by positive laws. The principle of election as a means of coming to power would still be reconcilable with absolute royal power, what is more, with the eventual divine origin of power, too. A restricted royal government, however, i. e. one which is subject to human laws could not be absolute, and in consequence, "free". "*The Trew Law of Free Monarchies*" is a fundamental work of King James on political theory. The divine

²²⁴ Ibid., 76.

right as the basis of absolute royal power is the chief assurance and proof that the King of the Scots is truly “free”, he is responsible for his deeds only to God as the final, what is more, in the opinion of James VI, indirect source of all conceivable power. Thus, by having his authorization from the final Lawmaker in a direct way the ruler can be veritably sovereign, lawmaker, and “speaking law”, the last being an appearance of the notion of the *lex loquens* in the work. Provided that the subjects listen to the King and not to the “*Sirene songs*” the actual purpose and goal of the Creator, the entire nature, the Creation, and, therefore of King James comes true which is in full and perfect accord with the well understood interest of the people. This is nothing else but a reflection of celestial harmony on earth. As for the question why the *Basilikon Doron* was much better received in England than *The Trew Law* it will need another article.

