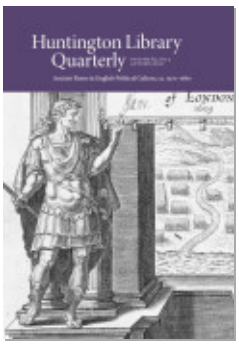
Translations of State: Ancient Rome and Late Elizabethan Political Thought



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ABSTRACT This essay reconsiders late Elizabethan political thought by scrutinizing the significance of the Roman state in the passionate controversy about the royal succession. It explains the varied and often contradictory polemical utility of Roman history in contemporary discussions in England and Europe of monarchy and imperial expansion, and then analyzes its deployment in the most daring contemporary succession tract: the Jesuit Robert Persons's *A Conference about the Next Succession to the Crowne of Ingland* (1595). While *A Conference* has been traditionally understood to advocate limited elective kingship, this essay demonstrates that its theoretical first part, in which the Roman example underpins a case for popular sovereignty, was open to far more radical readings. Persons's treatise attracted widespread charges of antimonarchism and, in the following century, served republican and Whig enemies of the Stuarts. **KEYWORDS:** antimonarchism; Catholicism; Elizabethan succession; John Hayward; popular sovereignty; republicanism; Robert Persons, SJ; Roman history; Tacitus

THROUGH THE LENS of the polemical interpretation of Roman history, this essay offers a fresh look at the political thought of the Elizabethan fin de siècle. More precisely, it investigates the significance of the Roman state in the passionate controversy about the royal succession, which raised urgent questions about the fundamental commitments of the political order and the role of sovereignty. In polemical writings across the confessional divide, ancient Rome was invoked to scrutinize not only formal structures and institutions but also wider political culture and practice.

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The controversy escalated after the publication of what is surely the period's most coruscating and inflammatory if ultimately self-destructive political work: the Jesuit Robert Persons's *A Conference about the Next Succession to the Crowne of Ingland* (1595), printed under the nom de guerre Robert Doleman.[1] *A Conference* invoked national and foreign history to question the hereditary principle, justify the right of resistance and popular sovereignty, and debunk the view of monarchy as the best form of government. In elucidating Persons's modus operandi, scholars have rightly noted his extensive citation of scripture, notably the Old Testament, and dependence on historical precedents, both ancient and modern.[2] Persons was an idiosyncratic thinker even within the militant English Catholic community, and *A Conference* was furthermore something of an outlier within his copious and varied oeuvre. Uncharacteristically shunning overt confessional bias, the Jesuit was eclectic in his use of sources because his purposes were served by different types of evidence. Drawing on a vast array of empirical data and adopting the pose of high-minded scholarly detachment in assessing it, he insinuated himself into the emergent Continental tradition of comparative politics, historiography, and jurisprudence. This in turn conferred on his claims, however spurious, the status of universal political laws. Although *A Conference* accords ancient Rome neither structural preeminence in the manner of Machiavelli's *Discorsi* (1531), nor meticulous academic inspection akin to Bodin's *Methodus* (1566) and *Six Livres de la République* (1576), nor does it take inspiration from a major classical historian as Lipsius's *Politicorum Libri Sex* (1589) did from Tacitus, it nevertheless represents, we shall see, the most incisive, militant, and influential, if quite disingenuous, interpretation of Rome's political legacy by an Englishman to that date.

Persons's *A Conference* was the first Elizabethan succession tract systematically to marshal the history of Rome and exploit a range of classical authors, chiefly Aristotle, Cicero, Livy, Tacitus, Suetonius, and Dionysius of Halicarnassus. It did so, moreover, by advancing a seemingly cohesive constitutional argument rather than libeling the queen and her councillors in the manner of earlier Catholic polemic—such as *Leicester's Commonwealth* (1584), in which Persons may also have had a hand. Meanwhile, the Jesuit's clever inflection of Rome's expansionist policies served to rehabilitate Iberian imperialism and bolster the candidacy of the Spanish Infanta. While the mischievous genealogical disquisition in the second, Anglocentric part of the tract—with its hitherto overlooked eulogy for Roman imperial rule—drew the

1. Robert Doleman [Robert Persons], *A Conference about the Next Succession to the Crowne of Ingland* ([Antwerp], 1594 [1595]); cited below by part and page number. Persons may not have been the sole author, and anyway never publicly acknowledged the tract as his; see Peter Holmes, "The Authorship and Early Reception of *A Conference about the Next Succession to the Crown of England*," *Historical Journal* 23 (1980): 415–29. For the succession debate, see *Doubtful and Dangerous: The Question of Succession in Late Elizabethan England*, ed. Susan Doran and Paulina Kewes (Manchester, 2014).

2. Peter Holmes, *Resistance and Compromise: The Political Thought of the Elizabethan Catholics* (Cambridge, 1982), 150–52.

most fire from the upholders of the Stuart hereditary claim, the theoretical first part, in which the Roman example underpins a case for popular sovereignty, provoked strident accusations of antimonarchism from writers across the religious spectrum, including the secular priest Christopher Bagshaw, the poet and recent Catholic convert Henry Constable, the civil lawyer and historian John Hayward, and the Scottish civil lawyer Thomas Craig. This essay seeks not only to explain how and why Persons and his adversaries harnessed Roman history to further their polemical ends but also, more broadly, to reconsider the place of ancient Rome in the political imagination of late Elizabethan England.

The Polemical Utility of Roman History

A good way into the complexities of late Elizabethan polemic and political thought is to analyze the treatment of the Roman state in the succession literature. For while all writers cited historical precedents, mostly drawn from scripture and England's medieval past, to score immediate points, some pursued more ambitious and elaborate transhistorical and transnational comparisons of forms of government and their mutations, often disguising their partisan animus behind a façade of learning, impartiality, and near-encyclopaedic inclusiveness—and in the case of Persons, also the nondenominational if ethically troubling perspective of reason of state.

In those works, ancient Rome served as the textbook model of constitutional change, just as it did in earlier humanist writings such as Sir Thomas Smith's *De Republica Anglorum* (1562–65; published 1583). The Roman state served as a paradigm of the rise and fall of political systems both because it had gone through so many of them and because the consecutive transitions had been exceptionally well documented and analyzed. Book 6 of Polybius's *History* defined republican Rome as a mixed polity. This definition remained influential until Bodin denied the possibility of divided sovereignty and, developing an insight of Nicolas de Grouchy, daringly categorized the republic as a popular state or democracy whose government was nonetheless aristocratic.[3]

Furthermore, the juristic basis behind the transition from a senatorial republic to what became known as the principate was of central importance in the European tradition of Roman or civil law. Specifically, the time-honored concept of the *lex regia* (royal law), defining the transfer of authority from the Roman people to the emperor—and, by extension, to latter-day rulers—gave rise to polarized views of regal

3. Richard Tuck, "Hobbes and Democracy," in *Rethinking the Foundations of Modern Political Thought*, ed. Annabel Brett, James Tully, with Holly Hamilton-Bleakley (Cambridge, 2010), 171–90 at 178–83; Tuck, *The Sleeping Sovereign: The Invention of Modern Democracy* (Cambridge, 2016), 27–28; Daniel Lee, *Popular Sovereignty in Early Modern Constitutional Thought* (Oxford, 2016), 221–22; Benjamin Straumann, *Crisis and Constitutionalism: Roman Political Thought from the Fall of the Republic to the Age of Revolution* (Oxford, 2016), 279. Straumann suggests that terms such as "constitutional equilibrium" or even "constitutional concert" better convey Polybius's conception of the Roman state than the ubiquitous "mixed polity" (152).

power.[4] It was interpreted either in absolutist terms as an unconditional alienation of sovereignty, the prince being deemed *solutus legibus* (free from or unbound by law), or else in defense of the people's residual right to hold the prince to account and, in extreme circumstances, revoke the original grant. In the sixteenth century, the latter construction was deployed by some—though, curiously, not by Persons—to justify popular sovereignty. The vocabulary and doctrine of Roman law, above all Justinian's *Digest* and *Institutes*, were also essential in promoting Christian states' claims of sovereignty and possession in the New World.[5]

For those involved in the Elizabethan succession debate, the utility of the Roman past was enhanced by three broader developments of the later sixteenth century. First, the transition underway throughout western Europe from limited to unlimited monarchies was often equated with the fall of the Roman republic. According to some, that shift produced an unhealthy concentration of power at the center and a corresponding decline of representative institutions.[6] In their laments about the apparent erosion of virtue and onset of luxury, ease, and fawning subservience, the disaffected turned to Tacitus, the chronicler of imperial tyranny and court corruption, and to Seneca, the stoic victim of Nero's despotic rule.[7] Often indebted to Tacitus, critiques of Elizabeth's increasingly autocratic style of rule emanated from the Essex circle, as also from the persecuted Catholic community.[8] Although it was the Stuart kings who would attract the most opprobrium as contemporary incarnations of Roman despots, there is evidence that in the queen's twilight years, disenchanted Protestants and Catholics figured the Elizabethan regime in similar terms. For did not Elizabeth's political arts, favoritism, and dissimulation rival those of Tiberius? Was she any better than Nero, who had wished to have no successor?[9]

4. For a convenient summary, see Lee, *Popular Sovereignty*, chap. 1.

5. Ken MacMillan, *Sovereignty and Possession in the English New World: The Legal Foundations of Empire* (Cambridge, 2006); Lauren Benton and Benjamin Straumann, "Acquiring Empire by Law: From Roman Doctrine to Early Modern European Practice," *Law and History Review* 28 (2010): 1–38.

6. Richard Tuck, *Philosophy and Government, 1572–1651* (Cambridge, 1993); cf. R. Malcolm Smuts, "Varieties of Tacitism," in this issue.

7. Smuts, "Court-Centred Politics and the Uses of Roman Historians, c. 1590–1630," in *Culture and Politics in Early Stuart England*, ed. Kevin Sharpe and Peter Lake (Basingstoke, U.K., 1994), 21–43; and Smuts, "Varieties of Tacitism"; Alan T. Bradford, "Stuart Absolutism and the 'Utility' of Tacitus," *Huntington Library Quarterly* 46 (1983): 127–55; Peter Burke, "Tacitism, Skepticism and Reason of State," in *The Cambridge History of Political Thought, 1450–1700*, ed. J. H. Burns with the assistance of Mark Goldie (Cambridge, 1991), 479–98; J. H. M. Salmon, "Seneca and Tacitus in Jacobean England," in *The Mental World of the Jacobean Court*, ed. Linda Levy Peck (Cambridge, 1991), 169–88.

8. Smuts, "Varieties of Tacitism"; Smuts, "Court-Centred Politics"; Peter Lake, *Bad Queen Bess?: Libels, Secret Histories, and the Politics of Publicity in the Reign of Queen Elizabeth I* (Oxford, 2015).

9. Smuts, "Varieties of Tacitism"; Peter Lake, "From *Leicester His Commonwealth* to *Sejanus His Fall*: Ben Jonson and the Politics of Roman (Catholic) Virtue," in *Catholics and the "Protestant Nation": Religious Politics and Identity in Early Modern England*, ed. Ethan H. Shagan

Conversely, advocates of strong royal authority and, later, Stuart legitimists and panegyrists hailed as auspicious the elevation of Augustus Caesar, who had put paid to bloody civil wars, initiating the famous Pax Romana; and they routinely underlined that Christ had been born during the peaceful reign of Augustus.

Secondly, the fierce competition for empire, trade, and colonies prompted reappraisals of Roman imperialism. For major European powers whose ancestors had once been subject to the Romans and were now battling for dominion in the Old World—and increasingly in the New—as well as confronting the Ottoman challenge, Rome was the ultimate point of reference. A small nation that had conquered the world before itself succumbing to the onslaught of barbarian hordes furnished an example at once hopeful and disturbing.[10] In the final decades of Elizabeth's reign, Rome's ruthless pursuit of new conquests and unscrupulous exploitation of the territories under her control was regularly invoked to excoriate Spain's aspirations to universal monarchy, Machiavellian cunning, and brutal enslavement of conquered peoples, as it had been in earlier French and Dutch Calvinist polemic—above all, François Hotman's *Francogallia* (1573), which famously denounced the Roman Empire as "the Great Beast" for robbing the Gauls of both liberty and valor.[11]

(Manchester, 2005), 128–61; Lake, "Ben Jonson and the Politics of 'Conversion': *Catiline* and the Relocation of Roman (Catholic) Virtue," *Ben Jonson Journal* 19 (2012): 163–89. For a retrospective figuration of Elizabeth's reign as "a true copie of the times of Tiberius," see Edmund Bolton's 1634 work, *Averrunci or The Skowrers. Ponderous and new considerations upon the first six books of the Annals of Cornelius Tacitus concerning Tiberius Cæsar*, ed. Patricia J. Osmond and Robert W. Ulery Jr. (Tempe, Ariz., 2017), 146; Bolton is at pains to cast Elizabeth as a good monarch despite the deterioration of conditions around her during the regime's final years.

10. Anthony Pagden, *Lords of All the World: Ideologies of Empire in Spain, Britain and France, c. 1500–c. 1800* (New Haven, Conn., 1995), 11–29; David Armitage, *The Ideological Origins of the British Empire* (Cambridge, 2000), 24–99; Armitage, "Empire and Liberty: A Republican Dilemma," in *Republicanism: A Shared European Heritage*, vol. 2, *The Values of Republicanism in Early Modern Europe*, ed. Martin van Gelderen and Quentin Skinner (Cambridge, 2002), 29–46; David A. Lupher, *Romans in a New World: Classical Models in Sixteenth-Century Spanish America* (Ann Arbor, Mich., 2003); *The Roman Foundations of the Law of Nations: Alberico Gentili and the Justice of Empire*, ed. Benedict Kingsbury and Benjamin Straumann (Oxford, 2010); "The Intellectual History of Early Modern Empire," ed. Andrew Fitzmaurice, special issue, *Renaissance Studies* 26 (2012): 479–604. See also, more generally, Sanjay Subrahmanyam, *Empires between Islam and Christianity, 1500–1800* (Albany, N.Y., 2019); and Giuseppe Marcocci, "Iberian Explorations: The Construction of Global Empires (1450–1650)," in *The Iberian World, 1450–1820*, ed. Fernando Bouza, Pedro Cardim, and Antonio Feros (London, 2019), 283–99.

11. Hotman, *Francogallia*, Latin text ed. Ralph E. Giesey; trans. J. H. M. Salmon (Cambridge, 1972), 173. On Hotman's demonization of Rome, see Donald R. Kelley, *François Hotman: A Revolutionary's Ordeal* (Princeton, N.J., 1973), 241, passim. On the preponderance of comparable views of Rome in the Essex circle, see Smuts, "Court-Centred Politics"; Paulina Kewes, "Henry Savile's Tacitus and the Politics of Roman History in Late Elizabethan England," *Huntington Library Quarterly* 74 (2011): 515–51; and Alexandra Gajda, *The Earl of Essex and Late Elizabethan Political Culture* (Oxford, 2012), 97, passim; and in wider culture, Paulina Kewes, "Roman History, Essex, and Late Elizabethan Political Culture," in *The Oxford Handbook of the*

Unsettling reminders of Britain's own past as a Roman province, such comparisons served as a warning that in the event of a successful Spanish invasion, which the uncertain succession and rising confessional divisions made depressingly likely, England would become a mere cog in the ever-expanding Iberian empire. But would foreign rule necessarily entail oppression? Persons, we shall see, slyly advertised the supposed advantages that would accrue to England were she to be governed by a Spanish prince.

Even as they dwelled on the dark side of Rome's quest for territorial expansion to whip up anti-Spanish feelings, Elizabethan publicists did not neglect to exploit its positive capital. Analogies with ancient Rome were routinely deployed to celebrate England's own imperial ambitions and martial prowess, and to boost her colonial effort and allegedly civilizing mission in Ireland.[12] Like Leonardo Bruni and Machiavelli before him, Persons contended that Rome's imperial conquests had been achieved by the republic, which is why nonmonarchical forms of government or, at least, an elective monarchy might be preferable to dynastic succession.[13] No, retorted apologists for James Stuart and strong hereditary kingship—it was under the Caesars that the Roman Empire had reached its zenith. A few claimed that foreign conquests had bolstered Rome's strength; others, following Sallust and Machiavelli, that relentless territorial growth had been the root cause of her eventual downfall.

The third, related development that shaped interpretations of the Roman state was the Dutch revolt. The struggle of Dutch Protestants against Catholic Spain prompted comparisons between heroic Dutchmen and their legendary forebears, the Batavians, who had risen against Rome in 69–70 CE.[14] Recounted by Tacitus, Pliny, and Strabo, the Batavian rebellion, which coincided with the insurrections by the Jews and the Britons, unfolded in the year of the four emperors (Galba, Otho, Vitellius, and Vespasian), when Rome herself was convulsed by a bitter contest for the imperial succession. The circumstances of the Batavian revolt forcefully illuminated the correlation between the form and strength of the metropolitan government and

Age of Shakespeare, ed. R. Malcolm Smuts (Oxford, 2016), 250–68; Kewes, "'A Fit Memorial for the Times to Come . . . ': Admonition and Topical Application in Mary Sidney's *Antonius* and Samuel Daniel's *Cleopatra*," *Review of English Studies*, n.s., 63 (2012): 243–64; and Kewes, "Romans in the Mirror," in "*Mirror for Magistrates*" *in Context: Literature, History and Politics before the Age of Shakespeare*, ed. Harriet Archer and Andrew Hadfield (Cambridge, 2016), 126–46.

12. Armitage, *Ideological Origins*; R. Malcolm Smuts, "Organized Violence in the Elizabethan Monarchical Republic," *History* 99 (2014): 418–43; D. Alan Orr, "Inventing the British Republic: Richard Beacon's *Solon His Follie* (1594) and the Rhetoric of Civilization," *Sixteenth Century Journal* 38 (2007): 975–94.

13. On Bruni, see James Hankins, "Exclusivist Republicanism and the Nonmonarchical Republic," *Political Theory* 38 (2010): 452–82 at 463–64.

14. Kewes, "Savile's Tacitus"; I. Schöffer, "The Batavian Myth during the Sixteenth and Seventeenth Centuries," in *Britain and the Netherlands*, vol. 5, *Some Political Mythologies*, ed. J. S. Bromley and E. H. Kossmann (The Hague, 1975), 78–101; Laura Cruz, "Turning Dutch: Historical Myths in Early Modern Netherlands," *Sixteenth Century Journal* 39 (2008): 3–22.

the position of the provinces. At the same time, the analogy with the old Romans served to cast the Dutch alternately as freedom fighters or insurgents. For the overthrow of Spanish rule by Dutch Protestants came to be figured as a reenactment—either glorious or pernicious depending on the writer's ideological perspective—of the expulsion of the Tarquins from Rome.

The future form and religious establishment of the confederal Dutch state was hotly disputed by the Dutch themselves, and by their allies as well as their enemies, serving as a kind of laboratory for constructing a new polity in time of war. Would the United Provinces opt for a monarchical or a republican government, and how would they address religious disunity? How much power would be delegated to the States General, and what sort of balance would be struck between union and provincial independence? Were a prince chosen, how far would he or she be controlled by the States?[15] How would the colonial prospects of the United Provinces be served by a republican compared with a princely government?[16] These questions acquired a sharp topical flavor in the competitive context of the late Elizabethan succession debate.[17] Throughout the 1580s a plausible case had existed that the Dutch needed a strong monarchical figure, since their republican forms and internal divisions crippled the fight against Spain. One of the leading candidates for that role was the Earl of Leicester (even if Elizabeth vetoed his attempt to become governor-general of the Netherlands, which the Dutch were not prepared to accept in any case).[18] The 1590s was the first decade when the Dutch Republic began to look like a success rather than a chaotic resistance movement always teetering on the brink of disaster. If we are to believe Sir John Harington, and that is a big *if*, some Englishmen had started to wonder whether after Elizabeth

15. Alastair Duke, "The Use of 'Privileges' in Political Discourse in the Early Modern Low Countries," *Parliaments, Estates and Representation* 37 (2017): 17–31; Martin van Gelderen, *The Political Thought of the Dutch Revolt, 1555–1590* (Cambridge, 1992); Peter Arnade and Henk van Nierop, "The Political Culture of the Dutch Revolt," *Journal of Early Modern History* 11 (2007): 253–61; James Tracy, *The Founding of the Dutch Republic: War, Finance, and Politics in Holland, 1572–1588* (Oxford, 2008); Geert H. Janssen, *The Dutch Revolt and Catholic Exile in Reformation Europe* (Cambridge, 2014); Jasper Van Der Steen, *Memory Wars in the Low Countries, 1566–1700* (Leiden, Netherlands, 2015); *Networks, Regions and Nations: Shaping Identities in the Low Countries, 1300–1650*, ed. Judith Pollmann and Robert Stein (Leiden, Netherlands, 2010), esp. Pollmann, "No Man's Land: Reinventing Netherlandish Identities, 1585–1621," 241–61.

16. Arthur Weststeijn, "Republican Empire: Colonialism, Commerce and Corruption in the Dutch Golden Age," *Renaissance Studies* 26 (2012): 491–509, and his "Commonwealths for Preservation and Increase: Ancient Rome in Venice and the Dutch Republic," in *Ancient Models in the Early Modern Republican Imagination*, ed. Wyger Velema and Arthur Weststeijn (Leiden, Netherlands, 2017), 62–85.

17. For translations of Dutch news and polemic into English, see Hugh Dunthorne, *Britain and the Dutch Revolt, 1560–1700* (Cambridge, 2013).

18. Simon L. Adams, "Elizabeth I and the Sovereignty of the Netherlands, 1576–1585," *Transactions of the Royal Historical Society*, 6th ser., 14 (2004): 309–19.

"like to the Low Countries wee should be governed by States."[19] Behind such half-serious musings lay the example of the Roman republic.

With characteristically perverse logic, Persons accepted the validity of the Dutch republican experiment—which he placed on a par with republican Rome—to reinforce his case for popular sovereignty, something his loyalist Catholic critics targeted in their replies.[20] Others, chiefly those around the Earl of Essex, viewed the events in the Netherlands from the perspective of England's reason of state, speculating about whether her interests would be better served if the Dutch were to set up a republican government or a limited (Protestant) prince well disposed toward England.[21] Following Philip II's donation of the Spanish Netherlands to his daughter Isabella and her betrothed, Albert, in May 1598, new prospects seemed to emerge for the unification of the Southern and Northern provinces, though Essex and others opposed to the peace treaty with Spain warned that this would spell a return to Spanish tyranny.[22] Meanwhile, during a vicious spat between the Jesuits and secular priests that developed in 1598 over the pope's appointment of an archpriest to rule over all English Catholic clergy, Persons's Catholic loyalist enemies, the Appellants, castigated the Dutch regime as rampant democracy, reviling the pensionaries of Holland as seditious Roman tribunes.[23] Here was a cautionary precedent for anyone contemplating England without a prince.

A Conference and the Historiography of Political Thought

Elizabethan political thought is often either treated dismissively and in isolation from European currents or subsumed into accounts of early modern "republicanism," whether "monarchical" or not. The scholarly preoccupation with "classical

19. *A Tract on the Succession to the Crown (A.D. 1602)*, ed. Clements R. Markham (London, 1880), 17.

20. *Conference*, 1:9. Naturally, Persons does not use the term *Roman republic*; he describes this period in Rome's history as "their consuls gouerment" (1:44). References to this work are given henceforward in the text.

21. Alexandra Gajda, "*The State of Christendom*: History, Political Thought and the Essex Circle," *Historical Research* 81 (2008): 423–46.

22. Luc Duerloo, *Dynasty and Piety: Archduke Albert (1598–1621) and Habsburg Political Culture in an Age of Religious Wars* (Farnham, U.K., 2012); Alexandra Gajda, "Debating War and Peace in Late Elizabethan England," *Historical Journal* 52 (2009): 851–78.

23. [Henry Constable], *Discoverye of a Counterfecte Conference* (Collen [Paris], 1600), 22. Published anonymously, this work has been persuasively attributed to Constable. For the intersection of the succession issue and the Archpriest Controversy, see Peter Lake and Michael Questier, "Taking it to the Street?: The Archpriest Controversy and the Issue of the Succession," and Patrick Collinson, "Bishop Richard Bancroft and the Succession," in *Doubtful and Dangerous*, ed. Doran and Kewes, 71–91 and 92–111, respectively; Collinson, *Richard Bancroft and Elizabethan Anti-Puritanism* (Cambridge, 2013); Thomas M. McCoog, SJ, *The Society of Jesus in Ireland, Scotland, and England, 1598–1606: "Lest our lamp be entirely extinguished"* (Leiden, Netherlands, 2017); and Peter Lake and Michael Questier, *All Hail to the Archpriest: Confessional Conflict, Toleration, and the Politics of Publicity in Post-Reformation England* (Oxford, 2019).

republicanism" in particular has obscured the influence of the Roman example on early modern constitutionalism.[24] In the English context, moreover, this reading of Roman history frequently entails either neglecting confessionally driven polemic or privileging Protestant authors, seen as earnest, radical, and progressive, over supposedly Machiavellian and reactionary Counter-Reformation Catholics.

As Benjamin Straumann has argued in his landmark study *Crisis and Constitutionalism: Roman Political Thought from the Fall of the Republic to the Age of Revolution* (2016), even to speak about "classical republicanism" is something of a mistake given the signal divergence between the Greek and Roman traditions. It was Rome rather than Athens, Straumann notes, that had been the more prominent in Western political thought until the resurgence of democracy in the nineteenth century.[25] His monograph challenges the recent "republican turn," with its emphasis on virtue (Pocock) and the "neo-Roman" conception of liberty (Skinner).[26] Straumann deftly reconstructs Cicero's inchoate constitutionalism, epitomized by a concern with higher-order norms assumed to have a legal character, and illustrates the centrality of late republican Rome and the writings of Cicero in constitutionalist thought from Bodin onward. Giving short shrift to the Sallustian cliché that attributes the republic's downfall to moral decline, Straumann stresses instead the importance of constitutional forms and design for this tradition. Constitutionalism, he argues, does not admit of mixed sovereignty and is incompatible with reason of state. While Straumann may occasionally overplay his hand, his study nonetheless provides a valuable corrective to the sway of "republicanism" in modern intellectual history. What if we apply Straumann's constitutionalist perspective to *A Conference*? In a study complementary to Straumann's, Daniel Lee documents the contest in the early modern

24. For an older approach to early modern constitutionalism that links it to Counter-Reformation thinkers, mainly of the second scholastic, and, following John Figgis, traces its intellectual origin to late medieval conciliarism, see Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols. (Cambridge, 1978), 2:113ff. For a bracing reappraisal that questions the sharp opposition between "constitutionalism" and "absolutism," and stresses the supranational dimension of the thought of the second scholastic, see Annabel Brett, "Scholastic Political Thought and the Modern Concept of the State," in *Rethinking the Foundations*, ed. Brett, Tully, and Hamilton-Bleakley, 130–48.

25. Straumann, *Crisis and Constitutionalism*, 2ff. See also Straumann, "'The Laws are in Charge of the Magistrates': Reply to Edelstein, Sullivan and Springborg," *Global Intellectual History* 4 (2019): 271–88, doi:10.1080/23801883.2019.1569750; and Kostas Vlassopoulos, "Sparta and Rome in Early Modern Thought: A Comparative Approach," in *Sparta in Modern Thought: Politics, History and Culture*, ed. Stephen Hodkinson and Ian Macgregor Morris (Swansea, U.K., 2012), 43–69. For a critique of the concept of citizenship underpinning recent studies of "republicanism," see Clifford Ando, "'A Dwelling beyond Violence': On the Uses and Disadvantages of History for Contemporary Republicans," *History of Political Thought* 31 (2010): 183–220.

26. J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, N.J., 1975); Quentin Skinner, "Classical Liberty, Renaissance Translation, and the English Civil War," in Skinner, *Visions of Politics*, 3 vols. (Cambridge, 2002), 3:308–43; Skinner, *Liberty before Liberalism* (Cambridge, 1998); Skinner, *Hobbes and Republican Liberty* (Cambridge, 2008).

period over concepts of Roman law, above all *lex regia*, and charts its preeminence—and, by default, Roman history—for theorists of popular sovereignty starting with Bodin; Persons is mentioned only in passing.[27] Again, given the reliance of several of Persons's detractors on the Bodinian notion of sovereignty, drawn largely from a forensic analysis of the Roman commonwealth, Lee's work no less than Straumann's is germane to our purposes.

A Conference, though a fixture in the historiography of the Elizabethan succession, has been often overlooked by students of European political culture. At most, it pops up in studies of Catholic resistance theory (mainly of the French League) or of Jesuit political thought (mainly Spanish and Italian).[28] But of course Persons, an exile by turns in France, Spain, and Rome, who conspired with popes and kings, was anything but parochial in either his political dealings or his writings. Examining Persons against a wider European context shows the full complexity of his response to Rome. *A Conference* both offered and elicited transnational, transhistorical comparisons of political systems, for which the Roman example was foundational. Tellingly, unlike Persons's other productions and publishing ventures, which often aimed at an international audience, the book was never printed in Latin or a European vernacular. Its argument in Part 1 deemed too insolent, the confidential Latin and Spanish translations—for Pope Clement VIII and Philip II, respectively—were severely redacted. Among the cuts in the Latin version, we shall see, was the Jesuit's outrageous treatment of Rome's political upheavals.

Prior succession polemic mostly confined itself to the matter of England, bar a few scriptural parallels. By contrast, *A Conference* went back to first principles. It outlined the formation of civil society, melding Aristotle's emphasis on man's natural sociability with Cicero's rather less sanguine view of the prepolitical state of nature. It then reached for the Roman model to illustrate the historical variability of political structures. Getting closer to home, it knowingly assimilated Sir Thomas Smith's conception of England as a mixed polity akin to the Roman state, propounded in *De Republica Anglorum*, a much-reprinted treatise supplying Roman analogues to English social orders, offices, and institutions. In conclusion, Smith had called for comparative historical study of England and other polities "to see who hath taken the righter, truer, and more commodious way to governe the people aswell in warre as in peace."[29] Three decades on, Persons obliged.

27. Lee, *Popular Sovereignty*.

28. See, for example, J. H. M. Salmon, "Catholic Resistance Theory, Ultramontanism, and the Royalist Response, 1580–1620," in *The Cambridge History of Political Thought*, ed. Burns, 219–53; and Harro Höpfl, *Jesuit Political Thought: The Society of Jesus and the State, c. 1540–1630* (Cambridge, 2004).

29. *De Republica Anglorum*, ed. Mary Dewar (Cambridge, 1982), 144. From 1589 onward, Smith's tract appeared under the title *The Common-welth of England*; it may not be a coincidence that Persons's main analytical category is the *commonwealth*.

A Conference surveyed coronation oaths in national kingdoms of Western Christianity, which it traced back to Trajan and the Greek rulers of the Eastern Roman Empire. Emphasizing its relevance to current Continental debates about the scope of royal power, especially in war-torn France, the tract targeted Pierre de Belloy, politique advocate of royal absolutism and champion of the Huguenot Henry IV (*Conference,* 1:36, passim). Loathed by Persons's Leaguer allies, de Belloy's key work, *Apologia Catolica* (1584), was available in English from 1586 onward, courtesy of Lord Burghley's dissemination enterprise.[30] For his rebuke, Persons tacitly repurposed a recent Leaguer tract, *De Iusta Reipublicæ Christianæ in Reges Impios et Hæreticos authoritate* (1590), perhaps by the English Catholic émigré William Rainolds, whose bête noire had also been de Belloy.[31] Yet in adapting *De Iusta Reipublicæ*, he advanced a new and alarming vision of politics underpinned, inter alia, by a subversive if not always consistent account of Roman political experience. The novelty of Persons's approach is missed, however, if we exaggerate his dependence on Rainolds and affinity with other Catholic thinkers, whether the Leaguers or Continental Jesuits. We may also overlook his originality if we underestimate the import of his resolutely aconfessional outlook and tendentious distortions of both history and law. For, as well as bending Roman history, Persons encourages readers to reflect on the political legacy of Roman jurisprudence alongside the native legal tradition. He does so by allocating starring parts in the fictional conference, reportedly held in Amsterdam in April 1593, to two lawyers. The book is constructed as an imaginary dialogue between a Civilian, a specialist in Roman (or civil) law then still dominant in western Europe and Scotland, and an English Common Lawyer. Their speeches comprise respectively Parts 1 and 2 of *A Conference*.

30. See Lisa Ferraro Parmelee, *"Good Newes from Fraunce": French Anti-League Propaganda in Late-Elizabethan England* (Rochester, N.Y., 1996), 102–4; and, more generally, J. H. M Salmon, *The French Wars of Religion in English Political Thought* (Oxford, 1959), 174–80.

31. Published in Paris; signed by "G. G. R. A. Peregrin. Roman" and dedicated to the League's military leader the Duke of Mayenne on November 15, 1589, shortly after the assassination of Henry III. It is widely accepted that another Catholic exile, William Gifford, may also have been involved. For discussion, see J. A. Bossy, "Elizabethan Catholicism: The Link with France" (PhD diss., University of Cambridge, 1961), 123–30; and J. H. M. Salmon, "An Alternative Theory of Popular Resistance: Buchanan, Rossaeus, and Locke," in his *Renaissance and Revolt: Essays in the Intellectual and Social History of Early Modern France* (Cambridge, 1987), 136–54. Persons drew on the second edition, published in Antwerp in 1592 under the name "Guilielmus Rossaeus," which omitted the scandalous chapter praising tyrannicide: a copy of the book with his underlining in La Biblioteca de San Albano de Valladolid has been examined by José M. Ruiz Ruiz in "Robert Persons, S.J. (1546–1610) y su obra más polémica: *A Conference about the Next Succession to the Crowne of Ingland*," *ES: Revista de filologia inglesa* 7 (1977): 117–217 at 189–99. For readings of Part 1 of *A Conference* as a Leaguer text, see Freddy Cristóbal Domínguez, *Radicals in Exile: English Catholic Books during the Reign of Philip II* (University Park, Pa., 2020); and M. J. M. Innes, "Robert Persons's *Conference* and the Salic Law Debate in France, 1584–1594," *History of European Ideas* 45 (2019): 421–35. On Persons's involvement with the French Catholic League, see A. Lynn Martin, *Henri III and the Jesuit Politicians* (Geneva, 1973).

The standard view is that in Part 1, Persons peddled political theory drawn from *De Iusta Reipublicæ*. J. H. M. Salmon characteristically states that "the fictitious civilian . . . sounds very like Reynolds."[32] On the contrary, nothing could be further from Rainolds's denominational belligerence than the Civil Lawyer's urbane, calm, dispassionate tone. Rainolds vituperates confessional opponents as impious, corrupt, atheistic, and Machiavellian, and declares Calvinism more detestable than paganism and the "Turkish" religion. He is adamant that no heretic can be a rightful king of France or any other realm.[33] For him, reformed princes are ipso facto tyrants. Quite apart from extreme tonal differences, there is an unbridgeable ideological gulf between the two works. For in Rainolds—and other Catholic resistance writing—papal authority monarchizes all polities; commonwealths become cells in a larger corporate structure. Conversely, the telltale absence of papalism radicalizes *A Conference*'s outlook on matters of state. And that is exactly what rendered the book so attractive to Protestant and freethinking enemies of the Stuarts beginning in the mid-seventeenth century.[34]

Meanwhile, *A Conference*'s secular stance would have made it anathema to Persons's confessional allies on the Continent. The Protestant United Provinces are described matter-of-factly as an aristocratic state akin to republican Rome; and Catholic Genoa and Calvinist Geneva are seen as equally valid republican polities: "both are cityes and states within themselues," if also pronounced inferior to imperial Rome and contemporary French and Spanish monarchies in the opportunities for preferment available to their citizens (2:9, 220–21). So, too, Protestant England's dominion over Catholic Ireland, just as ancient Rome's over Britain, is accepted without demur (2:203–4). How explosive the pope or Persons's Spanish and Leaguer associates would have found his drift can be readily gleaned from the papal censor's apoplectic response to Bodin's approving mention of the city-state of Geneva in the *Methodus*.[35] In the same vein, the Civilian's quite neutral relation of the translation

32. Salmon, "Catholic Resistance Theory," 242. See also Bossy, "Elizabethan Catholicism," 129–30; Thomas H. Clancy, SJ, *Papist Pamphleteers: The Allen-Persons Party and the Political Thought of the Counter-Reformation in England, 1572–1615* (Chicago, 1964), 57ff. Peter Holmes, though he too insists on the magnitude of Persons's debt to Rainolds, does recognize the striking disparity between them. See his "The Political Thought of the Elizabethan Catholics" (PhD diss., University of Cambridge, 1976), 201ff.

33. For the tract's affinity with Jesuit and Dominican political theology, and its conception of royal power as deriving from both the people and the (Gallican) Church, see Sophie Nicholls, "*De Justa Reipublicae Christianae in Reges Impios et Haereticos Authoritate* (1590): Questions of Authority and Heretic Kings in the Political Thought of the Catholic League," *Bibliothèque d'Humanisme et Renaissance* 74 (2015): 81–101. Nicholls does not comment on the tract's abusive tone or influence on Persons.

34. Paulina Kewes, "'The Idol of State Innovators and Republicans': Robert Persons's *A Conference about the Next Succession* (1594/5) in Stuart England," in *Stuart Succession Literature: Moments and Transformations*, ed. Paulina Kewes and Andrew McRae (Oxford, 2019), 149–85.

35. Jean Bodin, *Method for the Easy Comprehension of History*, trans. Beatrice Reynolds (New York, 1945), 158; Sara Miglietti, "The Censor as Reader: Censorial Responses to Bodin's

of empire from the Greeks to the Germans combines a nod to papal authority with emphasis on the agency of the commonwealth (1:47–48). This contrasts sharply with, say, Bellarmine's polemically charged account of the process, as expressly mandated by the Roman pontiff in his capacity as Pastor of the Universal Church, in *De Translatione Imperii Romani a Græcis ad Francos* (1584), a stern rebuff to the Lutheran scholar Matthias Flacius Illyricus.[36] The confidential Latin translation of *A Conference* Persons procured for the pope in late 1596 shows he knew full well that his tract could become a liability unless judiciously altered.[37] The Latin text does not merely interpolate into Part 2 a new chapter on papal power (particularly concerning previous interventions by the Papal See in post-Conquest English politics), suggestively conceiving of the pope as England's feudal overlord. It also summarizes Part 1 with extreme brevity, such that none of the abrasive Roman material is present. Revealingly, in Part 2, the comment on the good government of the Romans—really a sly tribute to Spanish imperialism—is kept unchanged.[38]

It is customary, and perfectly acceptable, to say "Persons argues" this or that in *A Conference*. We all do so. But statements of this sort conceal our extrapolation of his supposed gist from a complex, polyvalent text, a problem compounded by our sense that in reality he often did not believe half of what he said in print. Thus, few if any would dispute the claim that in *A Conference* Persons endorses limited, elective kingship, and upholds the individual right to resist the pretender of a contrary faith. This claim, however, comes up against our—and his contemporaries'—knowledge that the "real" Persons desired nothing more than Catholic succession, if necessary in the shadow of Spanish conquest, and that his ideal prince would need to defer to

Methodus in Counter-Reformation Italy (1587–1607)," *History of European Ideas* 42 (2016): 707–21 at 714. To a Leaguer such as Rainolds, the Civilian's acceptance of Salic law and by extension of the Huguenot Navarre's claim to the French throne would have been equally revolting.

36. See the summaries of Parts 1 and 2 respectively in the second edition, to which Persons is likely to have had access: "Romanum Imperium à Græcis ad Francos summi Pontificis auctoritate translatum" and "Romanum Imperium à familia Caroli Magni & gente Francorum ad familiam Othonum, & gentem Saxonum, Summi Pontificis authoritate transisse," in *De Translatione Imperii Romani a Græcis ad Francos, adversus Matthiam Flaccium Illyricum, Libri Tres* (Antwerp, 1589), 3, 4; see also Stefania Tutino, *Empire of Souls: Robert Bellarmine and the Christian Commonwealth* (Oxford, 2010), 38.

37. On this manuscript translation, the original of which is housed in the Vatican archives, see Holmes, "Political Thought," 231–45; Holmes, *Resistance and Compromise: The Political Thought of the Elizabethan Catholics* (Cambridge, 1982), 152–57; and Stefania Tutino, "The Political Thought of Robert Persons's *Conference* in Continental Context," *Historical Journal* 52 (2009): 43–63.

38. "De regiae successionis apud Anglos iure libri duo . . . Anno Domini 1596," Biblioteca Nacional de España MS 6449, http://bdh.bne.es/bnesearch/detalle/bdh0000128968. The summary of Part 1 is at fols. IIIr–Vv; the translation of Part 2 commences at fol. 1r. "Cap. 12. De iure pontifico*rum* Romanoru*m* in regnu*m* Angliae atq*ue* Hyberniae," citing medieval texts and precedents for papal power, has been inserted immediately following "of the House of Portugal," chap. 8 in Part 2 of the English *Conference*.

the pope.[39] Why, then, does the public version of *A Conference*, rather than backing papal authority, direct or indirect, promote a secularized outlook on political society deduced, inter alia, from the history of the Roman state?

Perspectives on the Roman State in *A Conference*

The two parts of the faux dialogue are quite distinct in tenor and effect.[40] In the more abstract Part 1, Rome comes to the fore in the discussion of large-scale political transformations. The Civil Lawyer invokes the often-violent mutations of the Roman state to prove that systemic change is not just legitimate but may be necessary for the public welfare, as with the overthrow of kingly rule after the expulsion of the Tarquins (1:10, 25ff). He points to the Roman republic as an example of aristocracy, a system he sees as prone to factionalism and discord—witness successive disputes among senators and strongmen such as Marius and Sulla or Caesar and Pompey—which precipitated its demise (1:19–20). He nonetheless hymns the republican period as a golden age of Roman expansionism (1:44–45). When examining the principles of royal succession, the Civilian emphasizes the role of the senate and the people in the election of early kings as well as hinting that Octavian Augustus, too, owed his authority to election (1:25, 27, 45). This line of argument then serves to justify the senate's disciplining despotic kings and emperors, whether by legal or extralegal means, among them tyrannicide (1:45, passim). Conversely, the Civilian hails later emperors Theodosius, Valentinian, and Trajan for acknowledging themselves bound by the law even as he scolds Caligula for saying he was above it and denounces Julius Caesar as a law breaker (1:79–80, 45).

The upshot is to buttress popular sovereignty and, by default, rights of resistance. Meanwhile, regardless of the Civilian's professed reverence for monarchy (albeit a limited one), he is effectively preaching constitutional relativism (1:15ff). These competing constructions of Roman history are further complicated by the Civilian's appeals to both Providence and reason of state, and his acknowledgment and implicit dismissal of the likely objection that pagan no less than Old Testament examples were inapplicable under a Christian dispensation (2:141).

Compared to the Civilian, who speaks with confidence and aplomb, the manner of the Common Lawyer in Part 2 is considerably more tentative. At the outset of a tortuous review of England's dynastic history, he declares himself persuaded by the Civilian's discourse (preface to Part 2, sig. Q5r). Framed *in utramque partem*,

39. Far from endorsing toleration, in his unpublished *Memorial for the Reformation of England* (1596) Persons recommended a temporary suspension of punitive measures against Protestants to show that they were being given the opportunity to embrace the one true faith. See *The Jesuit's Memorial for the Intended Reformation of England, under their First Popish Prince*, ed. Edward Gee (London, 1690), 32–33. Lake interprets the discrepancy between *A Conference* and the *Memorial* as "minimum and maximum positions" in his *Bad Queen Bess?*, 476.

40. For the implications of their ideological divergence in shaping *A Conference*'s influence on later thinkers, see Kewes, "'The Idol of State Innovators and Republicans.'"

and meant "to affirme or deny nothing" (2:194), the Common Lawyer's contribution summarizes others' opinions before explaining how those have been challenged, and how the challenges have then been answered. Thus, the Civilian's assertion that the best among those elected as kings and emperors of Rome were foreign is in Part 2 qualified and debated (chap. 9, esp. 228, 206–7), and then provisionally reaffirmed. So, too, the alleged benefits of Rome's imperial sway are avowed, questioned, and cautiously upheld. The abiding impression is one of deliberation over how to judge the various facets of Roman history, even if the Common Lawyer's own preference is usually detectable from the way he reports others' beliefs, as when he attributes to the unnamed "lerned men" the view that foreign domination such as that of Rome may prove more benign, and more beneficial to the governed, than the rule of a native prince (2:206–7).

Persons's canny use of the lawyers' personas and their reflections on the Roman state complicates the customary view of him as an advocate of elective monarchy. Indeed, although ostensibly concerned with the royal succession, *A Conference*, notably Part 1, could be seen as an apology for kingless rule. "[T]he common wealth hath power to chuse their owne fassion of gouerment," asserts the Civilian, "as also to change the same vppon resonable causes . . . and God no doubt approueth what the realme determineth in this poynt" (1:12). While reminiscent of certain strands of Continental polemic, in particular the second scholastic, the idea that monarchy might be abandoned in favor of acephalous rule had never been voiced so blithely in English. Nor had it been rendered so transparently applicable to the post-Reformation era.

Like Machiavelli's *Discorsi*, Part 1 deploys the Roman precedent to show that there is nothing inevitable, natural, or God-given about any form of government.[41] Moreover, in upholding the legitimacy of constitutional change, it focuses, again like the Florentine, and like so many other heterodox thinkers, the papalist Rainolds among them, on the abolition of monarchy in Rome. The Civilian begins with extensive citations from Cicero that vividly illustrate the Romans' deep-seated aversion to kingship and then switches to Livy, on whose history he draws for an approving account of how Tarquinius Superbus "was expelled with al his posterity and the gouerment of Rome changed from a kingdome vnto the regiment of consuls" (1:27). But whereas Machiavelli called attention to the rape of Lucrece as at once provocation and opportunity for the revolution, *A Conference*, imitating Rainolds, ignores the rape and instead centers on the underlying cause of the rebellion: Tarquin's flagrant abuse and arbitrary exercise of power. In striking contrast to Rainolds, however, Persons manages a straightforward leap across the pagan–Christian, ancient–modern divide. He does so by adverting to the Protestant States of Holland, a commonwealth that had only recently thrown off the shackles of kingly government—and where

41. Persons, *A Conference*, 1:9. *Machiavels Discourses. upon the First Decade of T. Livius,* trans. Edward Dacres (London, 1636), 11.

the fictitious dialogue is set—alongside the Roman republic as an example of "Aristocratia which is the gouerment of some certayne chosen number of the best" (1:9). Diametrically different from Rainolds's antiheresy stance, this is part and parcel of the text's confessional relativism. For although the Civilian treats the rise of Christianity as a game changer, affirming that religion should be decisive for admitting or excluding a pretender, here the choice between Protestant and Catholic is left to each individual conscience, "of what side soeuer the truth be" (1:216). Consequently, the political principles derived from Roman history (and Cicero) are allowed to stand.

A Conference's sympathetic depiction of acts of constitutional iconoclasm led to accusations that Persons favored kingless rule. The outrage of the Jesuit's opponents is understandable, for his Civilian spokesman glorified good kingship in the same breath as he challenged the equivalence between the body politic and the body natural, the metaphor so dear to monarchists. He insisted, with a degree of morbid humor, that "as the whole body is of more authority then the only head, and may cure the head if it be out of tune, so may the Wealpublique cure or cutt of their heades, if they infest the rest, seing that a body ciuil may haue diuers heades, by succession, and is not bound euer to one, as a body natural is."[42] Once the correspondence between bodies politic and natural has been severed, kingless government becomes a distinct possibility.

The point Persons's Civilian makes again and again is that when kings transcend the bounds prescribed to them, not only may they be rightfully deposed but monarchical government may be cast off altogether.[43] "[T]he iustice therof is playne," he argues, given "thos examples of the Romans and Grecians alredy mentioned, who lawfully deposed their kings vppon iust considerations, & chainged also ther monarchie and kingly gouerment, into other formes of regiment" (1:33). One of the key exhibits in his case for such a revolution, almost certainly inspired by Machiavelli's *Discorsi* and Sallust's *Bellum Catilinae*—and unlike anything in Rainolds—is the prodigious territorial growth of Rome once she rid herself of kings,

> for that not only no hurt came therby to the common wealth, but exceding much good, seing their gouerment and increase of Empire was so prosperous vnder their consuls for many yeares in such sort, that wheras at the end of their kings gouerment, they had but fiftene myles territory without their cytie, it is knowne, that when their consuls gouerment ended and was chainged by Iulius Cæsar, their territory reached more then fiftene thousand myles in co*m*passe, for that they

42. Persons, *A Conference*, 1:38; Persons may be alluding to John Ponet's *A Shorte Treatise of Politicke Power* (Strasbourg, 1556), sig. D7r, on which he draws elsewhere in *A Conference*.

43. There is no attempt to come to terms with the quasi-republican potential of *A Conference* in either Holmes, *Resistance and Compromise*, or Höpfl, *Jesuit Political Thought*, or Victor Houliston, *Catholic Resistance in Elizabethan England: Robert Persons's Jesuit Polemic, 1580–1610* (Aldershot, U.K. 2007).

> had not only al Europe vnder ther dominion, but the principal partes also of Asia and Africa, so as this chastisment so iustly layd vppon their kings was profitable and beneficial to their common wealthe also.[44]

Both Protestant and Catholic critics felt compelled to rebut the Civilian's assertion, which echoed Machiavelli, of the causal link between Rome's republican government and her attainment of imperial grandeur. But where Machiavelli, following Sallust, was chiefly concerned to show how the republic stimulates the citizen to compete for public honors and military glory, Part 1 of *A Conference* emphasizes the Roman commonwealth's collective commitment to empire as the effect of kingless government; Part 2, we shall see, then undermines this tack with a glowing tribute to Rome's global sway under the emperors.

Persons raised the stakes of the debate about England's future, for even if he did not call for dissolution of the monarchy, his tract proclaimed both the legitimacy of and likely providential sanction for such a revolution.[45] His opponents, Protestants and Catholics alike, realized as much. Several retaliated by exposing what they saw as the sinister corollaries of his argument. In countering Persons, his enemies were naturally guided by their own partisan aims. One of his coreligionists, Henry Constable, dissected Persons's apparent subversion of kingship in order to promote the cause of Catholic loyalism and alienate from the Jesuit his new patron-in-chief, Philip III of Spain.[46] Conversely, in a bid to strengthen the chances of James VI, the Scottish civil lawyer Thomas Craig condemned as both irregular and smacking of popular sovereignty not only the proposals put forward in *A Conference* but also the rather different measures—such as royal nomination and statutory regulation of the succession—that he feared might be adopted by Elizabeth and the English Parlia-

44. Persons, *A Conference*, 1:44–45; Machiavelli, *Discourses*, 140: "Above all it is most marvellous to consider the greatness to which Rome rose after she had liberated herself from her kings"; Sallust, *Bellum Catilinae*, 7.2–3, trans. J. C. Rolfe, Loeb Classical Library 116 (London, 1931; repr. Cambridge, Mass., 1985). On Machiavelli's indebtedness to Sallust, see Patricia J. Osmond, "Sallust and Machiavelli: From Civic Humanism to Political Prudence," *Journal of Medieval and Renaissance Studies* 23 (1993): 407–38; and Osmond, "*Princeps Historiae Romanae*: Sallust in Renaissance Political Thought," *Memoirs of the American Academy in Rome* 40 (1995): 101–43 at 113–17. On Machiavelli, liberty, and empire, see Armitage, *Ideological Origins*, 125ff. See also Quentin Skinner, "Machiavelli's *Discorsi* and the Pre-humanist Origins of Republican Ideas," in *Machiavelli and Republicanism*, ed. Gisela Bock, Quentin Skinner, and Maurizio Viroli (Cambridge, 1991), 121–41. Cf. Bodin's claim that Rome "neuer flourished more than in the Popular estate" (*The Six Bookes of a Commonweale*, trans. Richard Knolles [London, 1606], 411).

45. In taking modern scholars to task for being too ready to discern "republican" proclivities in pre–Civil War writings, especially imaginative literature, Blair Worden points out that "all those writers made plain, however, that such speculation was irrelevant to the political conditions of their own country" ("Republicanism, Regicide and Republic: The English Experience," in *Republicanism*, ed. Skinner and Van Gelderen, 1:307–27 at 310); however disingenuously, Persons made the opposite point.

46. [Constable], *Discoverye of a Counterfecte Conference*.

ment.[47] One way or another, as Persons's adversaries correctly foresaw, *A Conference* could be used to underwrite regicide and kingless government, as indeed it was by the "Commonwealthsmen" during the Puritan revolution and their heirs in the later seventeenth century.[48]

A second leitmotif in the Civilian's engagement with ancient Rome, which supplements and occasionally contradicts the quasi-republican one, could be described as quasi-constitutionalist. Contrary to Straumann's emphasis on the pivotal importance of Cicero and the late republic for bona fide constitutionalists, however, here the whole stretch of Roman history is made to illustrate the wisdom of restricting the power of magistrates and political institutions. This maneuver logically underpins the argument for limiting the power of Christian monarchs, whether by means of laws, provision of counsel and/or council, or representative institutions such as Parliament. Meanwhile, the coronation oath, whose genesis too harks back to classical Rome, is taken to demonstrate the prince's contractual obligation to the commonwealth and guarantee of the rule of law. If the commonwealth can choose her own type of government, insists the Civilian, so can she "limite the same with what lawes and conditions she pleaseth," as shown by Roman history at least until the rise of the Caesars (1:13).

Rather than identifying inferior magistrates as legitimate agents of royal chastisement in the manner of Calvinist resistance writers, moreover, the Civilian invokes the Roman senate, a corporate entity that in institutional terms corresponds to a parliament or diet.[49] He commends their lawful proceedings against Nero, "which was the first iudicial sentence that euer the senate gaue agaynst Emperor" (1:45). More controversially, he suggests that, faced with royal tyranny, one or another political authority within the state, such as the senate in Rome, may legitimately act unconstrained by law. He thus justifies the senate hewing Romulus to pieces, or retrospectively validating the assassination of Domitian, or enlisting soldiers to kill Heliogabalus, or conniving in the overthrow of Maxentius by the foreign Constantine.[50] This is a fiendishly clever ploy, and not only because it provides a putative classical precedent for royal depositions effected by Christian Parliaments such as those of Edward II and Richard II or of Mary Queen of Scots (which Rainolds decried as godless and illegal). Consider a Catholic reader, especially one au fait with Nicholas Sander's *De Origine ac Schismatu Anglicani* (1585), an expanded edition of which Persons and Cardinal William Allen had shepherded through press

47. Craig, *Concerning the Right of Succession to the Kingdom of England* (London, 1703).

48. Kewes, "'The Idol of State Innovators and Republicans.'"

49. Persons, *A Conference*, 1:27. Catherine Steel, in the introduction to "The Legacy of the Republican Roman Senate," special issue, *Classical Receptions Journal* 7 (2015): 1–10, downplays the importance of the Roman senate in early modern English thought.

50. Persons, *A Conference*, 1:44–47. Curiously, Persons neglects to mention the instance most familiar to his contemporaries: Cicero's invocation of the *senatus consultum ultimum* against Catiline and his followers.

a year later. Or take someone familiar with Persons's *Memorial for the Intended Reformation of England* (1596; published 1690). Such a reader would easily perceive a glaring contrast between the resolute Roman senate and the pusillanimous English Parliaments, which had regularly caved in to the blandishments of successive heretical Tudor monarchs, and even under the Catholic Mary I had behaved rather despicably in not restoring the confiscated abbey lands. In the event of a successful Spanish invasion, however, a revitalized Catholic Parliament such as that envisaged in the *Memorial* would push aside Elizabeth and elect a Catholic to the throne.[51] In the secular world of *A Conference*—its providentialism is purely decorative—the Roman senate and, by extension, the parliamentary assemblies of Christian monarchies appear virtually sovereign—providing they always act on behalf and for the good of the commonwealth. Conversely, in the *Memorial* both prince and Parliament are expected to bow down to the pope.[52]

The Roman senate, explains the Civilian, traditionally cooperated with the people in the election of kings, even if some aspiring individuals seized the throne without such imprimatur (1:25, 27). In order to reinforce the superiority of the elective principle over strict dynastic precedence and thus emphasize the contractual dimension of kingship, the Civilian glosses over the differences between the early Roman monarchy and the empire of the Caesars. He contends that under both these regimes the succession went by election. This strengthens the case for popular sovereignty, then and now. For each royal succession in Christian monarchies requires an acclamation and acceptance by the commonwealth, and each new incumbent's hold on power is seen as provisional and liable to being revoked: "the power and authority which the Prince hath from the common wealth is in very truth, not absolute, but *potestas vicaria* or *deligata* [*sic*], as we Civilians cal it, that is to say a power delegate, or power by commissio*n* from the common wealth."[53] Such skewing of the civil law and blatant ahistoricism subtly bolster the candidacy of the Spanish Infanta, as both the Civilian and the Common Lawyer gush that some of the greatest Roman kings

51. *Nicolai Sanderi de Origine ac Progressu Schismatis Anglicani Libri Tres* (Rome, 1586) eviscerated time-serving Catholic MPs for helping erect the heresy and tyranny of Henry VIII. In the *Memorial*, Persons outlines a program for reformation of the Parliament, including the provision of clerical members in the Lower House.

52. There is something counterintuitive about Holmes's categorization of the *Memorial* (and *Treatise*) as a retreat from resistance: surely, the program outlined in the *Memorial* could be implemented only after the overthrow of the Elizabethan regime, which Persons hopefully anticipates.

53. Persons, *A Conference*, 1:73. Cf. *De Iusta Reipublicæ*, sig. a4r. To take this statement, which in fact has no basis in medieval civil law, as evidence of Persons's shaky command of law seems misleading, just as it would be misleading to charge him with shaky command of history. Rather, it is part and parcel of his cavalier and self-serving approach to both law and history, which comprises, inter alia, willful misrepresentation of the Act for the Queen's Surety. Cf. M. J. M. Innes, "Robert Persons, Popular Sovereignty, and the Late Elizabethan Succession Debate," *Historical Journal* 62 (2019): 57–76 at 59n10.

and emperors so elected were foreigners: "as Traian and Adrian that were Spaniards, Septimius Seuerus borne in Africa, Constantine the great natural of Ingland."[54]

If we now glance at the Anglocentric Part 2, with its energetic exposition of quasi-Pocockian "ancient constitutionalism,"[55] it is clear that the perspective on the Roman state shifts again. Naturally, we find many fewer references to Rome. Such as there are predominate in a chapter that probes "Whether It Be Better to be Vnder a Forraine or Homborne Prince and whether vnder a great & mightie Monarch, or vnder a litle prince or King" (chap. 9). Far from an academic question, this goes to the heart of the succession quandary. It implicitly pits the latter-day Caesar, Philip II, against James VI, the king of puny and uncouth Scotland. Preceded by due disclaimers and circumlocutions, the paean to Rome's global hegemony—"it is the common opinion of lerned men that the world was neuer more happelie gouerned, then vnder the Romans"—provides a savvy counter to anti-Spanish agitprop pouring off London presses; meanwhile, *A Conference*'s anti-Scottish stance makes it the first anti-unionist tract to reach print. As well as by conquest, we are reminded, Rome acquired mastery over other nations either because their rulers had made her the beneficiary of their wills or because the people themselves had resolved to get rid of their kings and instead submit to her "iust, considerat, sweete and modest" government (2:206). Here is another clue about whom the English should choose as Elizabeth's successor.

Persons, it is true, does not make a convincing constitutionalist idealist any more than he makes a convincing republican. The Civilian's duplicitous justification of extralegal measures marks the distance between, respectively, early modern constitutionalist thought so ably retrieved by Straumann and its Personian doppelgänger. Nevertheless, *A Conference* does make something like a constitutionalist approach available, just as it makes available a quasi-republican reading. That is but one aspect of its protean nature, or perhaps its ideological perversity.

To ask if Persons was a republican would be *une question mal posée*—in plain English, a red herring. His lifelong goal was the restoration of Catholicism in England, albeit in a form far different from what it had been in the past.[56] To achieve

54. Persons, *A Conference*, 2:228. By contrast, in the address to the new king prefaced to his *Treatise of Three Conversions of England* ([St. Omer], 1603), sigs. *1v–*6r, Persons casts James as the second Constantine and Mary Queen of Scots as Helena, hoping for his conversion to Catholicism.

55. J. G. A. Pocock, *The Ancient Constitution and the Feudal Law: A Study of English Historical Thought in the Seventeenth Century; A Reissue with a Retrospect* (Cambridge, 1987). Pocock never mentions Persons; cf. Janelle Greenberg, who remarks on, but does not explore, the "ancient constitutionalism" of *A Conference* in *The Radical Face of the Ancient Constitution: St. Edward's "Laws" in Early Modern Political Thought* (Cambridge, 2001), 124–25; and Kewes, "'The Idol of State Innovators and Republicans,'" 157ff.

56. On Persons's program for a Catholic renewal in England, see Alexandra Walsham, "Translating Trent?: English Catholicism and the Counter Reformation," *Historical Research* 78 (2005): 288–310; and J. J. Scarisbrick, "Robert Persons's Plans for the 'True' Reformation of England," in *Historical Perspectives*, ed. N. McKendrick (London, 1974), 19–42.

this aim he allied himself with and plotted against princes and potentates, shifting position as and when circumstances changed. *A Conference* was one among many missives he composed with a view to advancing his confessional ends. The pamphlet intervened in the fraught debate about the succession; and to the extent that it served a specific practical purpose, its argument can be taken as partly opportunistic. But what did the Jesuit have to gain from airing ideas adaptable by republicans? Would not the effect have been merely to discredit his case?

Persons's artful defense of kingless rule was not designed to establish a republican government in England. Rather, the aim was to aggravate the already severe political and ideological crisis stemming from the unresolved succession—ultimately ensuring the triumph of both Catholicism and Habsburg universal monarchy—or, at the very least, to gain a modicum of toleration for Catholics under a new Protestant ruler. As one of his Catholic adversaries, the secular priest and Elizabethan loyalist Christopher Bagshaw perceptively recognized, the Jesuit would doubtless change his tune after gaining the coveted prize: the installation of the Spanish Infanta as England's queen. In *A Sparing Discouerie of our English Iesuits, and of Fa. Parsons Proceedings* (1601), a contribution to the unfolding Archpriest Controversy published with the connivance of the Elizabethan regime, Bagshaw argued that the apparent endorsement of popular power by Persons was merely a crass trick to give some color to the scheme of securing the Spanish succession. Were his preferred candidate to be safely ensconced, Bagshaw averred, Persons would at once abandon all subversive notions and instead urge nonresistance: "that done, a new doctrine quite contrary must be deliuered abroade, that there was a happy mistaking, which aduanced him or her to this throane: but hereafter the people must take heede of attempting the like; some check must be giuen to the publishers of such documents; a dispensation must be procured and all shall be well hereafter."[57]

Bagshaw was right. In some respects, *A Conference* seems to have backfired. But though written to fit the particular political circumstances, the tract was sufficiently free from ideological bias, and possessed of sufficient intellectual edge, not only seriously to upset Persons's contemporaries and elicit substantial rebuttals but also to influence later generations. Exploited in turn by rebels against Charles I, by Exclusion Crisis Whigs, and by architects of the Revolution of 1688–89, Persons's

57. Christopher Bagshaw, *A Sparing Discouerie of our English Iesuits, and of Fa. Parsons Proceedings vnder Pretence of Promoting the Catholike faith in England* ([London,] 1601), 14–15; cf. 9, 56–57; Holmes, *Resistance and Compromise,* 196; see also *Oxford Dictionary of National Biography*, s.v. "Bagshaw, Christopher (1552–1625?)," by Peter Holmes, last modified 2004, doi.org/10.1093/ref:odnb/1042. On Catholic loyalism and the fallout from the Archpriest Controversy, see Lake and Questier, "Taking it to the Street?," in *Doubtful and Dangerous*, ed. Doran and Kewes, 71–91, and Lake and Questier, *All Hail to the Archpriest.*

book would be decried in 1703 by an enemy of the Williamite Act of Settlement as "the Idol of State Innovators and Republicans."[58]

Roman Antimonarchism Rebuked

In Elizabethan England, charges of subversion of monarchy were routine in partisan polemic. Catholic pamphleteers of the 1570s had raised the specter of popular government in their shrill attacks on the pillars of the Elizabethan regime, Nicholas Bacon and William Cecil. The anonymous Catholic libel *Treatise of Treasons* (1572), which Persons would adapt in his *Newes from Spayne and Holland* (1593), had accused Bacon and Cecil of systematically weeding out dynastic claimants to the English throne "tyll none be leaft of the blood Royal, but the Realme come to be gouerned, eyther by a Foreiner, or by a Popular State." And it had firmly tied the feared demise of hereditary monarchy in England to the deplorable decline of her ecclesiastical government following apostasy from Rome and erection of the royal supremacy: "A change from a Religion gouerned by a iust Monarchie, to a mo*n*struous Policratie of so many heads, as there are Princes, yea of women Heades, of children Heades and of popular heades: as though there were as many Gods, as there be absolute Princes."[59] Yet accusations virtually identical to those Catholics had leveled against the stalwarts of Elizabeth's government would be hurled at Puritans and their backers, notably the archbishop of Canterbury Edmund Grindal, by Protestant defenders of the 1559 Settlement who felt government of both church and state to be under siege.[60] If Catholics excoriated Protestants for undermining the kingly estate—escalating their attacks in the wake of the Scottish queen's execution—and if some Protestants brought similar charges against the Presbyterians, after the publication of Persons's *Conference* Protestants and loyalist Catholics alike targeted the Jesuit's apparent antimonarchism drawn largely from the history of the Roman state.

Not all those who replied to Persons chose to engage with the broader theoretical implications of his argument. Many confined their responses to questioning his account of dynastic titles and demolishing his objections to the Stuart claim. But four major pamphlets written from a range of national and confessional standpoints did confront head-on the antimonarchical slant of *A Conference*. Those were *A Trew Law of free Monarchies* (1598) by James VI of Scotland; *Discoverye of a Counterfecte Conference* (1600), attributed to the expatriate English Catholic Henry Constable; "De Iure Successionis Regni Angliae, Libri Duo," a massive Latin tract that the Scottish civil lawyer Thomas Craig gifted to King James for Christmas 1602; and *An Answer to the First Part of a Certaine Conference, concerning Succession* (1603) by the English

58. James Gadderar, preface to his translation of Craig's "De Iure Successionis," titled *Concerning the Right of Succession*, sig. d2v.

59. *Treatise of Treasons* ([Louvain], 1572), sig. a3v, fol. 141v.

60. Peter Lake, "'The Monarchical Republic of Queen Elizabeth I' (and the Fall of Archbishop Grindal) Revisited," in *The Monarchical Republic of Early Modern England: Essays in Response to Patrick Collinson*, ed. John F. McDiarmaid (Aldershot, U.K., 2007), 129–48.

civil lawyer and historian John Hayward. (Hayward's *The First Part of the Life and raigne of King Henrie the IIII* [1599] had brought him notoriety, and he spent the final years of Elizabeth's reign in the Tower. His response to *A Conference* was entered in the Stationers' Register within fourteen days of the Jacobean succession and was published shortly thereafter.) Of these four rejoinders to Persons, those by Craig and Hayward, both civilians, directly challenged his reading of the Roman past. Craig and Hayward would continue to invoke Roman history and law against the Jesuit in their works defending the Anglo-Scottish union, and in Hayward's case also the royal supremacy.[61]

To counteract the pernicious impact of Persons's pamphlet, King James embarked on a range of diplomatic and publicity strategies that abated only in the aftermath of the Essex rebellion and James's subsequent rapprochement with Sir Robert Cecil. James also answered Persons and, belatedly, his radical Calvinist tutor George Buchanan in print, though without identifying his adversaries by name. *A Trew Law of Free Monarchies* cultivates an air of studied detachment. With a royalist rewriting of a passage from book 6 of Lucan's civil war epic *Pharsalia* to his name, James now declares monarchy the "forme of government" that "approacheth nearest to perfection" as "resembling the Diuinitie." He also denies the conception of the coronation oath as an enforceable legal contract and contests its corollary, the accountability of the king to his people.[62] God, James maintains, is the only umpire, and rebellion never justified and always a sin. The argument of the *Trew Law* rests on the notion of constitutional difference. Drawing a firm distinction between "free" absolute hereditary monarchies such as Scotland and England and limited elective ones such as the Holy Roman Empire, James categorically denies that subjects of the former have the right to resist a ruler, however tyrannical (he gives Nero as an example), or to exclude a legitimate heir. "[T]he stile of *Pater patriæ*," he concludes, "was euer, and is commonly vsed to Kings."[63]

61. *De Unione Regnorum Britanniae Tractatus by Sir Thomas Craig, edited from the manuscript in the Advocates' Library*, trans. and ed. C. Sanford Terry (1605; Edinburgh, 1909). Craig debunks the Jesuit's case against union to target its recent English opponents, meanwhile drawing on Roman history to underscore the masculine courage and moral fiber of the Scots, whom neither the Romans nor the English had managed to conquer and subdue; see Hayward, *A Treatise of Union of The two Realmes of England and Scotland* (London, 1604); Hayward, *A Reporte of a Discourse concerning Supreme power in affaires of Religion. Manifesting that this power is a right of Regalitie, inseparably annexed to the Soueraigntie of euery State: and that it is a thing both extreamely dangerous, and contrarie to the vse of all auncient Empires and Commonwealths, to acknowledge the same in a forraine Prince* (London, 1606). In *A Reporte*, Hayward invokes *lex regia* in defense of the royal supremacy (and in defiance of the Roman See).

62. *Trew Law*, in *The Political Works of James I*, ed. Charles Howard McIlwain (Cambridge, Mass., 1918), 53. On James's rendition of Lucan, see Paulina Kewes, "*Julius Caesar* in Jacobean England," *Seventeenth Century* 17 (2002): 155–86; on his reply to Persons, see Peter Lake, "The King, (the Queen) and the Jesuit: James Stuart's *True Law of Free Monarchies* in Context/s," *Transactions of the Royal Historical Society*, 6th ser., 14 (2004): 243–60.

63. *Trew Law*, 64.

Published on the Continent within two years of James's *Trew Law*, the *Discoverye of a Counterfecte Conference* castigates the Jesuit for harping on the doubtfulness of the title to the English crown when in fact there is an incontestable lineal heir: James Stuart. Aside from putting forward an argument at once injurious to the kingly estate, harmful to the welfare of England, and detrimental to the interests of Spain, *A Conference*, it is argued, flouts the long-term political strategy of the Holy See. By meddling with the succession, Persons ignores papal authority in temporal matters—the chapter on the deposing power of the pope, we recall, was absent from the English version of the tract—and jeopardizes the prospect of England and Scotland returning to the Roman fold. Persons is unpatriotic in fomenting domestic discord and encouraging foreign invasion of his own country even though there is every reason to expect that, like Henry IV of France, James VI of Scotland will convert to Catholicism. The *Discoverye*, a work of Catholic loyalism, stresses that the accession of James and the ensuing union of crowns would bolster England's imperial stature. Conversely, were Persons's plans to take effect, England would degenerate into a mere province of the Spanish empire.[64]

Unlike most previous rebuttals, however, the pamphlet makes no attempt to prove the validity of the Stuart claim—that is simply taken for granted. Nor does the *Discoverye* avail itself, as James availed himself, of the idea of constitutional difference. Rather, it vehemently attacks what it takes to be the single most heinous component of Persons's theory—namely, the notion that political power rests with the people. The pamphlet cleverly homes in on Persons's vagueness in delineating institutional mechanisms of deposition and election. Equating the commonwealth, which in *A Conference* has uniformly positive overtones, with the unruly multitude—"prodigious monsters of manye heads," "rebellious rout," "factious assemblie," "fren*t*icke multitude" (24, 25, 27)—the *Discoverye* indicts Persons as subverter of the law and enemy of monarchical government. Persons, it is alleged, seeks to undermine "the municipiall lawes of englande" and bring about "not only a tra*n*sfiguration of the shape & forme of that common wealth but a transmutation also, or translation at least of the verye matter, wher upon the true common wealthe of englande, & everye particular mans state doth rest, and that is the lawes, & lawful customes of that Realme" (18, 17). What makes this project so disturbing is that it could be easily replicated to destabilize any kingdom in like manner: Persons's doctrine necessarily entails the debasement of kingship and erosion of the royal prerogative; worse yet, it effectively sanctions endless constitutional innovation and upheaval, so that "any monarchie how vniforme so euer it be otherwise mai & must be reduced to a dimocracie or popular state" (65). The outcome would be something akin to "that prodigiouse republicke or colourable commo*n* wealth in Holand & Zeland, framed and cloke togither in a hochepot with the basser sorte of a rowt & rable of artificers & handy crafts men, vnder a glorious style & title of stat[e]s" (60).

64. *Discoverye*, 12; page references to this pamphlet are given henceforward in the text.

The *Discoverye*'s claim that Persons's theoretical arguments might underpin successful export by the Dutch of their republican (really, popular) government offers an instructive comparison to the sentiments voiced in an unpublished tract originating from the Essex circle. Written by an anonymous Protestant, possibly Anthony Bacon, *The State of Christendom* (about 1594–95) argues that the overwhelming success and prosperity of the republican Dutch might well persuade other countries to "shake off their Kings, and live under their wings and protection." To drive the point home, the tract invokes the precedent of the Roman Empire that Persons used for a like purpose: "Was it not the common report of the Romans good Government that made Forreign Nations desirous to be subject unto them?" Should this come to pass, European princes ought to blame the Spanish king, whose tyranny will have effectively precipitated this revolution: "God grant that all the Princes of Christendom, yea the Child that is unborn, have not just occasion one day to curse the King of Spain for enforcing the States to know and use their strength."[65] Note the striking echo here of Philisides's beast fable from Sir Philip Sidney's *Arcadia*: "And you, poor beasts, in patience bide your hell, / Or know your strengths, and then you shall do well."[66] The *Discoverye*, for its part, alerts "the kinge of spayne & all monarches in generall" that Persons's *Conference* could well contribute to the spread of the republican plague (84). While the pamphlet does concede that advocates of royal absolutism such as Pierre de Belloy, Persons's whipping boy, may have exaggerated the extent of kingly powers, it warns that the upshot of Persons's subversive ideas would be chaos—universal instability and disorder.

The theory of popular sovereignty, we are reminded, was first formulated in Scotland by Buchanan to justify the unjustifiable—namely, the deposition of the sovereign ruler Mary Queen of Scots—and has since been invoked by the seditious ministers of the Kirk to intimidate her son and successor. Persons is said to have adapted it to underwrite the exclusion of a lineal heir to the English crown and advance the blatantly spurious title of the Spanish Infanta. But—and here the intention to cause a rift between Persons and his Habsburg patrons is unmistakable—the seditious doctrine promoted in *A Conference* could equally serve to license the Dutch revolt against Spain or Antonio Perez's Aragonese rebellion or any other attempt to unseat a legitimate ruler. Neither Philip II nor Philip III could have been privy to the contents of *A Conference*, it is suggested, for if they had been, they would have instantly perceived how prejudicial it was to the interests of all monarchs and would have ensured its suppression.

65. *The State of Christendom: Or, A most Exact and Curious Discovery of many Secret Passages, and Hidden Mysteries of the Times* (London, 1657), 258, 259.

66. *The Countess of Pembroke's Arcadia (The Old Arcadia)*, ed. Jean Robertson (Oxford, 1973), 259, lines 15–16; Blair Worden, *The Sound of Virtue: Philip Sidney's "Arcadia" and Elizabethan Politics* (New Haven, Conn., 1996), 267–94. Elsewhere, though, the *State* sounds much less sanguine about Roman imperialism.

Whereas King James and Henry Constable strove to refute Persons's theoretical arguments without explicitly contesting his use of Roman history—though the latter did denounce "the paires or couples of pensioners [Grand Pensionaries] among the states of the lowe Countryes" by comparing them to the "troublesome [Roman] tribunes" (21)—the two civilians Craig and Hayward produced monumental rejoinders to discredit Persons's interpretation of, inter alia, the Roman polity. Craig, passionate supporter of the Stuart succession and Anglo-Scottish union, seeks to demonstrate the drawbacks of elective kingship in general and the illegality of departing from hereditary succession in the particular case of England. He stresses the instability and weakness of elective monarchies ancient and modern, and argues that however appealing election might be in theory—disarmingly, he acknowledges that during his student days in Paris he had been temporarily converted to the idea—in practice, lineal succession provides for a more just, stable, and efficient government.

Drawing on the Bodinian notion of sovereignty, Craig asserts the superiority of hereditary monarchy (which he took England to be) to any other form of government and denied the legitimacy of constitutional change. "[O]ur Neighbours," he writes hopefully (and self-servingly), "are of all things, least capable to entertain any thought, of altering that Form of Government which they derive from their Ancestors, or of Introducing Aristocracy or Democracy, as some restless Incendiaries, wou'd perswade them that they may and ought to do."[67] Craig invokes the example of ancient Rome to condemn resistance (the expulsion of the Tarquins and the assassination of Caesar, he insists, had both been illegal), to illustrate the evils of election and interregnum (the choosing of early kings and later of emperors had inevitably led to tumult), and to prove that the fall of the republic (which he like the author of the *Discoverye* decries as a democracy) had eventuated in the providential emergence of the empire of the Caesars. In a bid to strengthen the chances of James VI, Craig condemns not only the proposals put forward by Persons but also the expedient of royal nomination and statutory regulation of the succession that he, like his royal master, worries might be implemented in the southern kingdom to suppress the Stuart claim.[68] In cataloguing the recurrent causes and pernicious consequences of political upheavals, Craig relies extensively on the Roman frame of reference, above all the writings of Livy, Appian, Plutarch, and Ammianus Marcellinus, but also of Seneca, Valerius Maximus, Ovid, and others.

As one might expect, Hayward's approach to Roman history in many respects mirrored Craig's. There are, however, two distinctive aspects of Hayward's *Answer*: first, his ubiquitous citation (and frequent manipulation) of Tacitus, especially the

67. *Concerning the Right of Succession*, 5. On Craig's use of Bodin, see Matthew Innes, "The Threat of Popular Authority and the Jacobean Succession" (M.Phil. diss., University of Cambridge, 2016), 23, passim.

68. *Concerning the Right of Succession*, 132.

Annals, to bolster a monarchist assessment of the demise of the republic; and, second, his point-blank rebuttal of Persons's claim that there is a necessary connection between kingless rule and predisposition to imperial glory. In a fulsome dedication to King James, Hayward affirms that, like his earlier politic history *The . . . raigne of King Henrie the IIII* (1599), the present offering has been "vndertake*n* with particular respect, to your Maiesties iust title of succession in this realme." Both works, claims Hayward with considerable benefit of hindsight, were defenses of "the present authoritie of Princes, and of succession according to proximitie of bloud: wherein is maintained, that the people haue no lawfull power, to remoue the one, or repell the other."[69] Even so, the *Answer* tactfully forbears to delve into the dynastic title of the now safely ensconced King James, which Persons had impugned in the second part of *A Conference*. Instead, Hayward targets the first, theoretical part of the pamphlet. Capitalizing on his immense erudition, knowledge of history, and command of civil law, Hayward, like Constable and Craig before him, sets out to uphold absolute hereditary monarchy and vilify all manner of constitutional innovation.

The Tacitean subtext of *King Henrie the IIII* is well known. In that work, Hayward incurred an exceptionally heavy debt to Tacitus for his historiographic outlook, style, and phraseology.[70] In contrast, his deployment in the *Answer* of Roman history, Tacitus in particular, has been neglected. Like the conformist cleric Thomas Bilson in *The True Difference betweene Christian Subiection and Unchristian Rebellion* (1585), Hayward questions the usefulness of pagan examples, yet unlike Bilson repeatedly marshals them. In order to denigrate nonmonarchical forms of government, Hayward characterizes that prototypical example of a kingless commonwealth, the Roman republic, as continually riven by civil strife and sedition. He insists on the inherent instability of both aristocracy and democracy, which, he says, inevitably mutate into monarchy; and he ingeniously adapts passages from Tacitus's *Annals* to prove at once the inevitability of the republic's fall and the salutary effect of the elevation of Augustus (sig. C1r–v).

Hayward knew his Tacitus. He was well aware that to enlist the Roman historian as a quintessential monarchist would be to play fast and loose with his writings. Having used in *Henrie IIII* both Henry Savile's translation of Tacitus and the state-of-the-art edition by the Dutch scholar Justus Lipsius, Hayward is virtually certain to have been familiar with Lipsius's *Politicorum sive Civilis Doctrinae Libri Sex* (1589),

69. John Hayward, *An Answer to the First Part of a Certaine Conference, concerning Succession, published not long since vnder the name of R. Dolman* (London, 1603), sig. A3v, A3r. References to pages or signatures in this pamphlet are given henceforward in the text.

70. On Hayward's appropriation of Tacitus and others, see Lisa Richardson, "Sir John Hayward and Early Stuart Historiography," 2 vols. (PhD diss., University of Cambridge, 1999); and Richardson, "Plagiarism and Imitation in Renaissance Historiography," in *Plagiarism in Early Modern England*, ed. Paulina Kewes (Basingstoke, U.K., 2003), 106–18. On *Henrie IIII* as a politic history, see F. J. Levy, "Hayward, Daniel, and the Beginnings of Politic Historiography," *Huntington Library Quarterly* 50 (1987): 1–34.

translated into English as the *Sixe Bookes of Politickes* (1594). This disquisition on the nature of political power was made up in large measure of quotations from Tacitus and other classical authorities. In a chapter reviewing the three principal forms of government, Lipsius draws attention to Tacitus's ambivalence about the institution of monarchy: "But which of these sortes of gouernment is the best? It hath bene long in question, which *Tacitus* doth resolue, and yet leaueth in doubt." Compared to the Roman's more reserved and uncertain judgment, Lipsius highlights his own forthrightness in asserting the superiority of monarchical rule: "If I speake not more agreeable to the troth, yet do I declare the matter more plainly, and do expresly prefer principalitie."[71] Hayward ignores the ambiguities inherent in Tacitus's outlook, so openly acknowledged by Lipsius, and instead brazenly exploits the Roman historian's works to strengthen his case for divine-right hereditary kingship.

In the Renaissance some read Tacitus as a savage critic of imperial tyranny and court corruption. Others saw him as a canny instructor in the ways of the court for both aspiring princes and those vying for office and preferment.[72] Like the disillusioned republican Sallust, Tacitus realized, and in some sense came to terms with, the inevitability of empire. But Hayward's bid to conscript him as a straight-faced monarchist is highly idiosyncratic, and contrasts sharply with his own earlier deployment of Tacitus in *Henrie IIII*. It is not just that Hayward elides the deeply skeptical view of imperial rule evinced by both the *Histories* and the *Annals*. The specific lines he quotes from the latter hardly possess the sort of unequivocally monarchist ring he attributes to them. In order to counter Persons's image of the Roman republic as glorious and successful if ultimately unstable, Hayward dwells on the civil wars, concluding that "as *Tacitus* saith, there was no meanes to appease these tumults, but by returning to a monarchie againe" (38). Now, Tacitus says no such thing. Far from expressing the author's judgment, the line quoted by Hayward represents but one among many contradictory opinions that Tacitus reports had been voiced upon Augustus's death:

> [A]mong the better sort his life was diuersly commended or discommended: Some sayd, that the loue of his father, and the care of the Common-wealth, at that time when all lawes were dasht, droue him to ciuill warres, which can neuer be begun or prosecuted by any good meanes: and that he had yeelded in many things to *Antony*, and

71. Lipsius, *Sixe Bookes of Politickes*, trans. William Jones (London, 1594), 17–18. Lipsius's *Admiranda sive de Magnitudine Romana Libri IV* (1598), a cultural-historical treatise on Rome's grandeur postdating his reconversion to Catholicism, proclaimed ancient Rome to live on in the Holy Roman Empire ruled by the Habsburgs. See Marc Laureys, "'The Grandeur that was Rome': Scholarly Analysis and Pious Awe in Lipsius's *Admiranda*," in *Recreating Ancient History: Episodes from the Greek and Roman Past in the Arts and Literature of the Early Modern Period,* ed. Karl Enenkel et al. (Leiden, Netherlands, 2001), 123–46.

72. Burke, "Tacitism"; Smuts, "Varieties of Tacitism."

> to *Lepidus* in like maner, because he would reuenge his fathers death. For seeing the one grew carelesse with age, and the other wasted with lasciuiousness, *there was no other meanes left to redresse all discords in the common-wealth, then to bring her vnder the obedience of one alone*, who should gouerne; neuerthelesse not as King or Dictator, but as Prince. . . . Contrarily some sayd, that the loue of his father, the corruption of times, serued him but for a cloake and colour.[73]

Restored to its context, the quotation signally fails to bear out the royalist construction put on it by Hayward, while the whole passage attests to the murky machinations behind Augustus's rise to power. Hayward uses the same extract a second time, again misleadingly ascribing to Tacitus the view that there was no other remedy to end the civil conflagration but to vest power in the hands of one man: "*Tacitus* reporteth that certaine wise men discoursing of the life of *Augustus* after his death, affirmed rightly that ther was no other meane to appease the discordes of the state, but by reducing it vnder the gouernement of one."[74] Hayward's contretemps with the text of the *Annals* exemplifies the newly fashionable trend among Stuart panegyrists to hail the ascendancy of Augustus as a propitious precedent for the Jacobean succession.[75] In the proem to the *Annals*, Tacitus expresses a far less sanguine view of the principate: that the weariness and despondency induced by prolonged, bloody internecine strife facilitated the imposition of rule by one man, which, in its turn, led to loss of liberty.[76]

Perhaps Hayward's most disingenuous attempt to commandeer Tacitus as a monarchist is his appropriation of another extract from the *Annals* to demolish Persons's conception of political forms as arbitrary. Here Tacitus is enlisted to promote divinely ordained patriarchal kingship:

> The whole worlde is nothinge but a greate state; a state is no other then a greate familie; and a familie no other then a greate bodye. As one GOD ruleth the worlde, one maister the familie, as all the members

73. *The Annales of Cornelius Tacitus*, trans. Richard Grenewey (London, 1598), bk. 1, chap. 4, p. 5; my italics.

74. Hayward, *An Answer,* 13. Cf. a parallel passage in Tacitus's proem to the *Histories*: "when as after the battaile at Actium, the whole soverainetie, as it was meete for the peace of the state, was conferred upon one" (*The Ende of Nero and Beginning of Galba. Fower Bookes of the Histories of Cornelius Tacitus. The Life of Agricola*, trans. Henry Savile [Oxford, 1591], 1, second pagination).

75. Jonathan Goldberg, *James I and the Politics of Literature: Jonson, Shakespeare, Donne, and Their Contemporaries* (Baltimore, 1983), 43ff; Kewes, "*Julius Caesar* in Jacobean England." See also Graham Parry, "The Iconography of James I," in *The Golden Age Restor'd: The Culture of the Stuart Court, 1603–42* (Manchester, 1981), 1–39.

76. "*Augustus* . . . entitling himselfe by the name of Prince, brought under his obedience the whole Romane state, wearied and weakened with civill disorders" (*Annales*, trans. Greneway, 1).

> of one bodye receiue both sence and motion from one heade, which is the seate and tower both of the vnderstanding and of the will: so it seemeth no lesse naturall, that one state should be gouerned by one commaunder. . . . To the third [of these arguments] *Tacitus* did allude, when hee saide: *The body of one Empire seemeth best to be gouerned by the soule of one man*. (Sig. B4r–v)

What is served up as Tacitus's ringing endorsement of one-man rule in fact derives from a sycophantic speech by Asinius Gallus to Tiberius.[77]

Hayward is no less cavalier in his use of Livy. He pounces on Persons's interpretation as endorsing the abolition of kingship, which in fact follows faithfully Livy's account in *Ab urbe condita*, previously deployed by Rainolds. Both the *Discoverye* and Craig, drawing on if also mangling Bodin, categorized republican Rome as unbridled democracy, this "middle time" between kings and emperors "wherin [Rome] neuer inioyed x. yeeres together free fro*m* sedition." He takes issue with both the Polybian description of the republic as a mixed polity, espoused by Persons, and with the classification of it by Ulpian and others as popular. "Whatsoeuer it was in shew," he maintains, "in very deede it was alwayes gouerned by some one principall man" (sig. C1v). To document the Roman state's intrinsic receptivity to monarchical government, Hayward cites the appointment of dictators at times of national emergency, albeit he conveniently downplays the originally strictly temporary nature of the office; his model, Bodin, specifically denied that dictators possessed sovereignty. Hayward's cause célèbre is the erection of the permanent dictatorship of Sulla (sig. H4v).

Persons, as we have seen, credited the republic with the achievement of imperial grandeur. On the contrary, argues Hayward, Rome "atteined the highest pitch both of glory and greatnes vnder emperors" (sig. C2r). He is determined to sever the link that Persons, like Machiavelli and Sallust before him, discerned between Rome's shift to kingless rule and her growing military prowess and propensity for imperial expansion: "And wheras you attribute the inlargement of the empire, which happened many ages after, to this expelling of their kings, you might as well haue saide, that the rebellion against king *Iohn* was the cause of the victories which wee haue since had in France" (sig. H4v). In the absence of hard evidence, Hayward resorts to sarcasm and braggadocio.

Both Craig and Hayward denounce *A Conference* as a species of utopian literature. According to Craig, Persons's arguments in favor of the elective principle (and, though he does not say so explicitly, the institutional measures pertaining to the succession contemplated by at least some English Protestants and perhaps the queen herself) were entirely spurious:

77. *Annales*, bk. 1, chap. 4, p. 7.

> For these men propose nothing to themselves, but some *Utopia*, and in it a *Stoical* King presented to our imagination, of whom we may form some *Idea* in our minds, but shall never see him with our eyes. They entertain themselves with meer *Platonical Ideas*. For their Vizard is no sooner pull'd of, but the innumerable Inconveniences and Mischiefs which attend and Spring from Elections in Kingdoms become manifest to all men.[78]

Hayward too decries Persons as one of those "[u]topicall state-writers . . . who being mellowed in idlenesse, & hauing neither knowledge nor interest in matters of gouernment, make new models vpon disproportioned ioints, borrowed from nations most different in rule." Persons's "deuice in ioyning election to succession," scoffs Hayward, "is a meere vtopicall conceipt, . . . an imposture of state, a dreame, an illusion, fit only to surprise the iudgement of the weake and ignorant multitude." Echoing Sir Philip Sidney's description of the proponents of a republican future for Arcadia after the supposed death of Duke Basilius, he issues a final dismissal: "[t]hese toyes are alwaies hatched by the discoursiue sort of men, rather then the actiue; being matters more in imagination then in vse."[79] But does one require a hundred pages merely to refute a utopia? Like Persons's *Conference*, Sir Thomas More's *Utopia* had embodied the ideal of limited, elective kingship and a provision for resistance to tyranny; yet no one ventured to rebut it. Rejoinders to Persons proliferated precisely because his program was not for a never-never land but apparently for the here and now: England in the throes of a succession crisis.

Conclusion

The late Elizabethan succession debate, whose reverberations continued well beyond the peaceful if not entirely unproblematic ascent of King James, used to be something of a blind spot in modern intellectual history.[80] Yet it emerges as a site of both sophisticated political reasoning and sustained engagement with the legacy of the Roman state, undertaken in dialogue with avant-garde works of Continental political philosophy and polemic.

78. *Concerning the Right of Succession*, 28.

79. Hayward, *An Answer,* 36, sigs. N4v–O1v. Cf. Sidney, *Old Arcadia*, 320–21: "these were rather the discoursing sort of men than the active, being a matter more in imagination than practice."

80. For an important reappraisal of James's accession, see Susan Doran, "1603: A Jagged Succession," *Historical Research* 93 (2020): 443–65. My "Contesting the Royal Succession in Reformation England: Latimer to Shakespeare," contracted to Oxford University Press, will provide the first interdisciplinary account of the range, impact, and long-term ideological and cultural significance of the succession controversy, and of its implications for the study of Renaissance literature, in the period from Henry VIII's death in 1547 to James's arrival and union of the English and Scottish crowns in 1603, from a comparative British and European perspective.

In *A Conference about the Next Succession*, Persons articulated some rather uncomfortable facts about the Roman polity, many of which were implicit in his sources, such as Livy and Polybius, though he also twisted them as and when occasion required. Even more disturbingly, he then derived from Roman history a theory of constitutional change that he applied to contemporary English and European politics, and moreover did so from a nondenominational perspective, which made the whole even more unnerving.

Ostensibly no one advocated change—indeed *innovation* was a pejorative term, and rarely connoted improvement.[81] But Persons, who at least in theory defended the legitimacy of remodeling political structures, drew fire for allegedly hankering after popular sovereignty à la republican Rome and for seeking to destabilize or indeed abolish the monarchy—even though his actual aim in publishing *A Conference* was the establishment of a Catholic succession and, in due course, of the Habsburg mastery over England and Europe. Bound up as it was with confessional conflict and international politics, the succession debate suggests that even to some of the Jesuit's critics the institution of monarchy seemed in crisis.

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81. For a stimulating reconsideration of the changing meaning of *innovation* and its origin in the Roman concept of *novae res*, see Foxley, "'Innovation' and Revolution in Seventeenth-Century England," in *Classicising Crisis: The Modern Age of Revolutions and the Greco-Roman Repertoire*, ed. Barbara Goff and Michael Simpson (London, 2020), 19–39. I am grateful to Dr. Foxley for sending me her essay in advance of its publication.