

*The Law and the Origins of Political Order in Richard Hooker's Political Theology**

Abstract

Richard Hooker was one of the most important English theologians and political thinkers of the 16th century. He is regarded as the originator of Anglicanism and the greatest adversary of Puritan extremists. His fundamental work *Of the Lawes of Ecclesiastical Politie* is a repudiation of both the key principles of Puritanism (as formulated by Thomas Cartwright and William Travers) and the doctrine of Rome. While the Roman Catholics put Scripture and tradition on a parity as the touchstone of faith and the Puritans would have no authority but the Bible, this article argues that Hooker steered clear of either extreme. His formula was to accept Scripture's absolute authority where it spoke plainly and unequivocally and to consult the tradition of the church on the points which the Bible was silent or ambiguous about. However, the solution would be incomplete without human reason, which, he insisted, must be used and obeyed whenever Scripture and tradition needed clarification or were faced with a new set of circumstances. Therefore, his legal philosophy, rooted in St. Thomas Aquinas' theology and a reformed concept of justification, relies on the combined guidance of the Revelation, tradition and reason.

Keywords: Hooker, Anglicanism, law of nature, Puritanism

Introduction

From the very start, the reign of Elizabeth I was defined by religious antagonisms which tore her kingdom apart, as each denomination had expectations and fears related to the new queen's rule. There were the Roman Catholics, whose hopes had been shattered by Mary I's childless death; there were the Anglicans, faithful to the national Church; and numerous sects which opposed the very idea of a national Church. Within the Anglican

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Church there was, however, a strong movement seeking to complete the reformation according to the continental formula, which was influential also among the hierarchy, in the House of Commons and at universities. Finding herself in this dangerous religious melting pot, Elizabeth had to choose a course for England to follow; as she was not known for her excessive piety, she took the path chosen by her father, making the Church a state institution, subordinate to her authority. In doing so, she came into conflict with those who, ignoring the unique English conditions, believed that if something was right for Geneva, it would also work in their homeland.¹ Imbued with radical continental ideas during their exile under Mary's rule, they threw down the gauntlet to the new Queen, becoming the centre of opposition both against her ecclesiastical policy and the theory of the legitimisation of royal power.

At the core of the Puritan theological and political argumentation was the volition (voluntariness) to belong to the Church, following from the concept of the Covenant.² In his 1532 translation of the Geneva Bible, Tyndale rendered the Hebrew term *brit* and the Greek *diatheke* as “covenant”,³ as a result of which the Puritans transferred the language of the Covenant into the language of politics, wanting to apply Old Testament truths to social order. According to them all social relations – between God and man, pastors and congregations, justices and members of their communities, among family members – were defined in terms of a contract or covenant, based on consent and mutual responsibility. This volition and the voluntarism that lay at its core also led to the conclusion that the Church organisation and relations between the authorities and the subjects should be based on the same principles. In the 16th century, the Puritans demanded, although still rather timidly, that the state should be based, like it was in the Bible, on a voluntary contract between the ruler and the subjects; moreover, the radicals believed that power should be held not by the monarch but by the Parliament, representing the people (in which they were, of course, the majority). They also derived the concept of the right to resistance from this source of political obligation.

It was presented in the most expressive form by one of the fathers of the Scottish Reformation, John Knox. Although initially his views were not radical, after Queen Mary ascended the throne, as a result of the political events that followed, like most Protestant thinkers, he changed his attitude towards the problems of resistance and execution of tyrants. His argumentation was based on the belief that although all power comes from God, it is not vested exclusively in the king, but in his officials as well. Their power stems from the same source as the royal one and, like the king, they are obliged to reform religion according to God's law. For Knox, such officials in Scotland were the nobility, who were “lawful powers by God appointed”⁴ and had “the sword given unto [them] by God for maintenance of the innocent and for punishment of malefactors”.⁵ Like a prince, they were to wield the sword of justice and were bound to fulfil their

¹ R. Bayne, *Editor's Prolegomena* [in:] R. Hooker, *Of the Laws of Ecclesiastical Polity. The Fifth Book*, New York 1902, p. lvii.

² P. Miller, *Errand into the Wilderness*, Cambridge 1956, pp. 48–49; D. Zaret, *The Heavenly Contract Ideology and Organisation in Pre-Revolutionary Puritanism*, Chicago 1985, pp. 130–136, 167–168.

³ D.J. Lazar, *Covenant and Commonwealth. From Christian Separation through the Protestant Reformation. The Covenant Tradition in Politics*, New Brunswick 1998, p. 231.

⁴ J. Knox, *On Rebellion*, Cambridge 1994, p. 72.

⁵ *Ibidem*, p. 85.

function even when the superior power neglected it. Princes and magistrates were not appointed to wield tyrannical power over the people but were ordained by God to protect the people's wellbeing and prosperity. When the ruler forsakes this function, when he suppresses true religion, acts against God's glory and his brethren, his actions are no longer sanctioned by God, and his subjects are released from the obligation to follow his orders.⁶ If such a situation occurs, lower magistrates should defend God's law, following God's order which demands that a godless tyrant should be disobeyed.⁷ Therefore, a Protestant could not be a loyal subject of a Roman Catholic ruler, as to Knox the Pope was the Anti-Christ, and Roman Catholicism was a collection of errors which were not supported by Scripture.⁸ This theory became the basis of a religious revolution in Scotland, so it is unsurprising that Elizabeth I was little better than Mary Tudor and Mary Stuart in the eyes of Knox and the rest of the fanatics, especially since during his exile to the continent Knox met such prominent representatives of English Protestant communities as Bishop Coverdale, Bishop Bale, John Fox and William Whittingham. While there, he had the opportunity to present his theories to them⁹ and it is to him, among others, that English Puritanism owes such a radical change of its ideology. After all, only one generation separates Tyndale's moderate *Obedience of a Christian Man* from the revolutionary treatises of Ponet and Goodman.¹⁰ As for Elizabeth, she took note of these destructive consequences of Puritanism and, as it soon turned out, it was she, not Anglican bishops, that became its greatest enemy. This was why already at the beginning of her reign she banned all sermons in the realm, so as to prevent intense Calvinist religious agitation. In 1559 the Parliament, passing over the Convocation, the Church's official organ, approved the Act of Supremacy (although not without discussions and resistance¹¹), which made Elizabeth "the only supreme governor of this realm, and all other her highness's dominions and countries, as well in all ecclesiastical things or causes, as temporal",¹² giving her the rule over the Anglican Church, like her father before her. Therefore, not only royal magistrates, university students and justices, but also clergymen had to take an oath, under penalty of losing their post, and negating the oath thrice "by open preachings, express words, sayings, writing, printing, overt deed or act" knowingly, maliciously and openly¹³ was punishable by death for treason. At the same time, the Act of Uniformity restored, with some changes, the *Book of Common Prayer* from Edward I's times. In 1563, the Convocation passed *The Thirty-Nine Articles of Religion* defining the fundamental doctrine of the Anglican Church, which were in fact a theological compromise

⁶ J. Knox, *History of the Reformation in Scotland*, Glasgow 1841, pp. 203–205.

⁷ T. M'Crie, *John Knox: Containing Illustrations of the History of the Reformation in Scotland*, Edinburgh 1831, pp. 123–124.

⁸ J. Broome, *John Knox*, Roundwood Lane 1994, p. 2.

⁹ P. Lorimer, *John Knox and the Church of England: His Work in Her Pulpit and His Influence Upon Her Liturgy Articles and Parties*, Whitefish 2004, p. 2.

¹⁰ H. Laski, *Introduction* [in:] Junius Brutus, *A Defence of Liberty Against Tyrants. A Translation of the Vindiciae Contra Tyrannos*, London 1924, p. 4.

¹¹ J.E. Neale, *The Elizabethan Acts of Supremacy and Uniformity*, "The English Historical Review" 1950, vol. 65, no. 256 (July), pp. 304–332.

¹² *Elizabeth's Supremacy Act, Restoring Ancient Jurisdiction (1559)* [in:] *Documents Illustrative of English Church History*, eds. H. Gee, W.J. Hardy, New York 1896, p. 450.

¹³ *Ibidem*, p. 453.

between Roman Catholicism and continental Protestantism.¹⁴ Simultaneously, the resisting Roman Catholics and Calvinists were pacified, but in the case of the latter it brought the reverse effect, by consolidating the movement and pushing it into taking up a political and intellectual fight against the episcopal Church. The main figures of the Calvinist resistance were Thomas Cartwright, a theology professor in Lady Margaret College, and Walter Travers, who were the authors of a theologically-based revolutionary programme of constitutional changes. Their demands, generally speaking, came down to the purification of the Anglican Church of Papist influences, which they believed to be the embodiment of the Anti-Christ and the Beast, and to completing the reformation.¹⁵ Therefore, political methods, although effective in the short-term, had to be only a prologue to a serious theological debate with the Puritans. During the course of the debate, a coherent and convincing theoretical justification of the new religious order, as well as the basis for a monarchy functioning in these conditions, were supposed to emerge. Although prominent Anglican hierarchs challenged the Puritans, the defeat of the latter and the birth of the Anglican theology are related to the activity of Richard Hooker, an Anglican priest and the most brilliant theologian of the Elizabethan Period.¹⁶

His famous, unfinished work *Of the Laws of Ecclesiastical Polity* became not only the most important apologia of the episcopal Church but also a widely discussed treatise on law and politics, which was present in the discourse long after its author's death in 1600.¹⁷ His direct goal, expressed at the beginning of the treatise, is to defend the constitution and practices of the Elizabethan Church against the radicals¹⁸ and to present a balanced, reformed Catholic theology, formulated in 16th-century England by Thomas Cranmer and John Jewel, with its roots in the Bible, tradition and reason.¹⁹ This great work, however, is not just an apotheosis of a mixed monarchy, a national Church and a polemic with his opponents²⁰; it is also a deeply religious Christian and theologian's

¹⁴ A. Nichols, *The Panther and the Hind. A Theological History of Anglicanism*, Edinburgh 1993, pp. 37–52; for the opposite view see: N. Atkinson, *Richard Hooker and the Authority of Scripture, Tradition, and Reason. Reformed Theologian of the Church of England?*, Carlisle 1997.

¹⁵ A.F.C. Pearson, *Church and the State. Political Aspects of Sixteenth Century Puritanism*, Cambridge 1928, pp. 37–38; J.R. Beeke, R.J. Pederson., *Meet the Puritans*, Grand Rapids 2006, p. xv; E.S. Morgan, *Visible Saints. The History of a Puritan Idea*, Ithaca 1965, pp. 1–32.

¹⁶ Richard Hooker was born in 1554 in Heavitree in Devonshire. He started his studies in Exeter Grammar School and was accepted to Corpus Christi College, Oxford, with the help of his uncle. In 1579 he was ordained a priest by the Bishop of London, Edwin Sandys, who also employed him as his son's tutor. At that time Hooker also taught the great nephew of Archbishop Thomas Cranmer. In 1584 he became rector of St. Mary's Drayton Beauchamp, although he probably never took up the position, since the next year he was appointed Master of the Temple of London. This period saw the beginning of his debate with Travers and the work on *The Laws of Ecclesiastical Polity*. He spent the last years of his life in the parishes of St. Mary the Virgin in Bishopsbourne and St. John the Baptist Barham in Kent. He died on November 3, 1600 and was buried in the chancel of the church in Bishopsbourne.

¹⁷ Books I–IV were published in 1593, Book V in 1597, Books VI and VIII in 1598, and Book VII did not come out until 1662 – P. Lake, *Anglicans and Puritans? Presbyterianism and English Conformist Thought from Whitgift to Hooker*, London–Boston 1988, pp. 38–39.

¹⁸ P. Collinson, *Hooker and the Elizabethan Establishment* [in:] *Richard Hooker and the Construction of Christian Community*, ed. A.S. McGrade, Tempe 1977, p. 171.

¹⁹ J. Booty, *Hooker and Anglicanism* [in:] *Studies in Richard Hooker: Essays Preliminary to an Edition of His Works*, ed. W.S. Hill, Cleveland 1972, pp. 207–210.

²⁰ B. Vickers, *Introduction 2* [in:] *Of the Laws of Ecclesiastical Polity*, London 1973, pp. 41–59; R. Almasy, *The Purpose of Richard Hooker's Polemic*, "Journal of the History of Ideas" 1978, vol. 39, pp. 251–270.

search for the parts which make up the fabric of creation; a search for the foundations of the universe so precisely designed by the Creator. Unlike his opponents, Hooker looks for them not only in the Revelation but also in the inherited wisdom of past generations, in human nature, and in the act of creation. *Of the Laws of Ecclesiastical Polity* is therefore a great lecture on Hooker's theory and philosophy of law, which is a highly original work in the context of the theological debate of that time. The author knows, however, that he will only be able to give solid foundations to an entire political system by convincingly refuting the normative Puritan interpretation of the Bible. Therefore, the aim of this article is to reconstruct Hooker's theory of law and the resulting genesis of political order. To start with, I would like to present the theory of the origin and hierarchy of law, which is deeply rooted in the Thomist tradition, although it is original. I will then move on to the vision of social and political order derived from this theory, whose ultimate goal for Hooker was to intellectually discredit the Puritan argument, and consequently to rationally affirm the concept of a legal monarchy and, most importantly, to legitimise the order of the Elizabethan monarchy.²¹

I

At the very beginning of *Of Laws of Ecclesiastical Polity*, Hooker performs an analysis of normative systems which is constitutive for his entire political theology, and which – as we shall see – is deeply rooted in the reflections of medieval scholastic thinkers, mainly the thought of St. Thomas Aquinas (which is why the Puritans accused him of “promoting the Roman doctrine” and “scholastic error”) and the classical Aristotelian tradition,²² which had a long history in England and still maintained some of its influ-

²¹ Hooker's political theology has not been thoroughly examined in Poland so far. B. Szlachta offers the most comprehensive analysis in one of the chapters of his monograph on the political debate in the times of the Tudors (B. Szlachta, *Monarchia prawa? Angielska myśl polityczna doby Tudorów*, Kraków 2007). It is also mentioned by P. Musiewicz in his brief analysis of the British pre-conservative tradition (*Wartość zwyczajów i tradycji w koncepcjach brytyjskich prekonserwatywnych i konserwatywnych myślicieli politycznych*, “Annales UMCS Sectio K: Politologia” 2011, vol. XVIII, no. 1, pp. 115–128). Of course, it is different in the case of the British literature, although surprisingly Hooker can hardly be regarded as a thinker popular with academics. The last few decades have somewhat changed this, especially due to the reissue, after a long interval, of Hooker's *opus magnum* and W.J.T. Kirby's monograph (*Richard Hooker, Reformer and Platonist*, Aldershot 2005; *Richard Hooker's Doctrine of the Royal Supremacy*, Leiden–New York 1990).

²² L.W. Gibbs, *Introduction, Book I* [in:] *The Works of Richard Hooker*, vol. VI, part. I, *Of the Laws of Ecclesiastical Polity I–IV*, Binghamton, New York 1993, p. 103. It is also worth briefly addressing the problem of Roman law in Tudor England, which needs to be examined on several levels. Firstly, due to a different tradition, it had never been as thoroughly accepted there as it had on the continent. This aversion became even greater, for obvious reasons, after the Act of Supremacy, which was for the islanders a manifestation of papism, all elements of which they were trying to root out, even though Roman law had undoubtedly functioned in the body of rulings for hundreds of years (see: Ł. Korporowicz, *Prawo rzymskie w orzecznictwie Izby Lordów w latach 1876–2009*, Łódź 2016). Although there are opinions in the literature that the Tudor times saw the heyday of Roman law in the English legal system, it should be noted that this concerned the development of the judiciary which did not belong to the sphere of the common law, in which the Roman-canonical procedure was used (e.g. ecclesiastical courts or the Admiralty Court). Indeed, according to J.H. Baker, and earlier F.W. Maitland, the Tudor reign was the period in the history of English law when the Roman legal

ence.²³ However, unlike his medieval predecessors, for whom analysing the law was of secondary importance, Hooker makes it the cornerstone of his system. He claims that it is the erroneous understanding of its nature and mixing its various systems that leads to mistakes with regard to the Church's authority and organisation. The aim of his project is therefore to show the incorrectness of the Puritan perspective, in which all human actions undergo a theological evaluation by means of God's law revealed in Holy Scripture. He does not deny that it is the highest law with regard to salvation, but he also wants to prove that God's law is not the only law that the Creator, in his benevolence, gave to his creations. The subject of his thought is, therefore, not "natural knowledge" but "supernatural knowledge"; he does not explain how to build a house or plough a field. Contradicting Cartwright's position, with which he openly disagrees, he claims that neither the Bible nor the Church Fathers, nor any respected English theologian, restrict the knowledge of Christian God's laws to the Revelation. It is a feature of humankind to function on several levels of the great normative system, in accordance with various aspects of human nature and activity. It is, after all, obvious that

as the actions of men are of sundry distinct kinds, so the laws thereof must accordingly be distinguished. There are in men operations, some natural, some rational, some supernatural, some politic, some finally ecclesiastical: which if we measure not each by his own proper law, whereas the things themselves are so different, there will be in our understanding and judgment of them, confusion.²⁴

Contrary to Calvin's position, which stressed God's sovereignty,²⁵ Hooker argues: "That which doth assign unto each thing the kind, that which doth moderate the force and power, that which doth appoint the form and measure, of working, the same we term a Law".²⁶ Law is therefore the naturally correct model of behaviour, according to which all things strive towards their perfection. He thus rejects nominalism and formalism, which emphasise God's will²⁷; instead, he turns towards the Divine reason. This is what always guides God's will, which is why all laws have their ultimate source in will, which is rational. His theory of law is, therefore, in fact an attempt at rehabilitating reason,

tradition could seriously threaten the functioning of the common law. Secondly, under no circumstances should this be linked with attempts to legitimise the royal prerogative at the time. The establishment ca. 1540 of Regius chairs of Roman law at Oxford and Cambridge by Henry VIII also cannot be treated as an embodiment of the above assumption. The chairs were merely a response to the abolishment, at least in theory, of lectures on canonical law following the Reformation. Therefore, accusations of the Romanisation of the law (The Star Chamber, the High Commission) during the reigns of Henry VIII, Elizabeth I and the first two Stuarts were often made by the Parliamentary opposition, which saw them as instruments of building an absolute monarchy modelled on continental solutions. Even so, proponents of such solutions (in practice, theorists of the divine royal prerogative, see Saravia or Filmer) never reached for the argumentation based on Roman law, limiting themselves to deriving absolute royal power from the biblical or historical (constitutional) argument. Roman law was therefore not treated as an argument legitimising or delegitimising power in any of the dominant, although frequently opposing, theories at the time.

²³ P. White, *Predestination, Policy and Polemic. Conflict and Consensus in the English Church from the Reformation to the Civil War*, Cambridge–New York–Port Chester–Melbourne–Sydney 1992, p. 126.

²⁴ *Of Laws of Ecclesiastical Polity* I, 16 [in:] *The Works of Richard Hooker*, Oxford 1820, p. 286 (unless otherwise stated, all quotations from *Of Laws...* are from this edition of Hooker's works).

²⁵ J. Calvin, *Institutes of the Christian Religion*, I, XVI, 7, trans. F.L. Battles, Louisville 1960, vol. I, s. 206.

²⁶ I, 2, p. 199.

²⁷ A. Passerin d'Entrèves, *Natural Law. An Introduction to Legal Philosophy*, London 1951, p. 68.

trampled on and marginalised by the Puritans,²⁸ who “never use reason so willingly, as to disgrace reason”.²⁹ Contrary to the fathers of the Reformation, who never deprecated the autonomous reason in such a radical manner, the Puritans almost completely refused to legitimise its claims in favour of the unlimited, and sometimes reaching absurd proportions, authority of Holy Scripture³⁰ – “rigorous and systematic bibliolatry”.³¹ Therefore, in the words of Cartwright, “the word of God containeth the direction of all things pertaining to the church, yea, of whatsoever things can fall into any part of man’s life”.³² The Bible is the only guide in all activities public, private and political. Hooker therefore must create a theory of law based on completely different assumptions and to this end he reaches for the scholastic tradition, mainly St. Thomas Aquinas.

At the beginning of his argumentation Hooker writes about “law eternal” which rules all of God’s creation, which is a set of unchangeable and rational norms that “God hath eternally purposed himself in all his works to observe”³³ and through which he reveals his wisdom and benevolence.³⁴ It is an order which “God himself hath made to himself, and thereby worketh all things whereof he is the cause and author”.³⁵ It is at the top of the hierarchy of laws, “the highest wellspring and fountain”,³⁶ from which all other laws originate. However, within this order Hooker makes an important distinction, which we will not find in Augustine or Aquinas; he writes about “the first eternal law”, which governs the actions of God, and “the second” one, to which all creation conforms. This is related in Hooker’s theory to separating the Creator’s “internal” and “external” activity.³⁷ The application of the concept of law not only to the external, but also to the internal activity of God is possible precisely because of its innovative definition. The former comes down to the natural and necessary activity of the divine being and his voluntary actions. They are immanently related to the divine *creatio* and at the same time bound by the law “which God himself hath made to himself, and thereby worketh all things whereof he is the cause and author”.³⁸ Hence, God is a law unto himself; his law and his actions are one and the same. In the oneness of his substance he is both the creator and the law according to which he creates his works. Just as the Trinity is one, so God, by his nature and the principle of indivisibility, is his own creator, the model of creation and the actual act of creation. In the case of all other beings these moments are ontologically separate.³⁹ God’s “external” activity involves *gubernatio*, i.e. governing the beings created earlier. Therefore, all the universe is ultimately subject to rational rules of divine

²⁸ J.W. Allen, *A History of Political Thought in the Sixteenth Century*, London 1941, p. 189.

²⁹ III, 8, p. 377.

³⁰ L. Strauss, J. Cropsey, *Historia filozofii politycznej* [History of Political Philosophy], eds. P. Nowak, M. Wiśniewski (Polish edition), Warszawa 2010, p. 359.

³¹ B.M. Berry, *Process of Speech. Puritan Religious Writing & Paradise lost*, Baltimore 1976, p. 146.

³² Cited in: A.S. Rosenthal, *Crown under Law, Richard Hooker, John Locke, and the Ascent of Modern Constitutionalism*, Lanham 2008, p. 15.

³³ I, 3, p. 204.

³⁴ B. Szlachta, *Monarchia prawa?...*, p. 601.

³⁵ I, 2, p. 198.

³⁶ I, 1, p. 197.

³⁷ T. Kirby, *Richard Hooker; Reformer and Platonist...*, pp. 46–47.

³⁸ I, 2, s. 200.

³⁹ T. Kirby, *Richard Hooker; Reformer and Platonist...*, p. 48.

origin.⁴⁰ The second type of eternal law is, accordingly, a set of principles governing all of God's creation; rules unknowingly respected by all beings; rules according to which both the inorganic world and living creatures function. Each thing and being is therefore subject to specific laws, appropriate for their nature, rooted in God's wisdom and love. These laws are instilled by the Creator in all his works, "set down as expedient to be kept by all his creatures",⁴¹ and they are part of the natural order of things in God's universe.

These invariable laws which govern the universe make the first subcategory of eternal law distinguished by Hooker – Nature's law, which is non-intellectual and non-voluntary. Contrary to the position of St. Thomas Aquinas, who sees Nature's law as the participation of rational beings in eternal law, Hooker defines it as rules which its addressees obey unknowingly. In this way, he makes them equal to the laws of physical nature and the physical regularity of the universe. Apart from the law of nature, Hooker also names celestial law, which "Angels do clearly behold and without any swerving observe", and the law of reason, which "bindeth creatures reasonable in this world, and with which by reason they may most plainly perceive themselves bound".⁴² The latter in particular, which he sometimes refers to as the natural law, is the subject of Hooker's interest. Humans, like other rational beings, actively search for the highest good, i.e. God.⁴³ It is due to their reason that they can distinguish between right and wrong, truth and falsity, and search for a goal beyond their physical nature, which they share with animals.⁴⁴ Therefore, reason and the revelation are not in conflict but create a harmonious whole, and Scripture does not thwart nature but improves it.⁴⁵ It helps reason to become an effective tool of discovering the truth⁴⁶ and to be able to interpret the revelation correctly.⁴⁷

And to conclude, the general principles thereof are such, as it is not easy to find men ignorant of them, Law rational therefore, which men commonly use to call the Law of Nature, meaning thereby the Law which human Nature knoweth itself in reason universally bound unto, which also for that cause may be termed most fitly the Law of Reason; this Law, I say, comprehendeth all those things which men by the light of their natural understanding evidently know, or at leastwise may know, to be beseeching or unbeseeching, virtuous or vicious, good or evil for them to do.⁴⁸

It is universal and enables even non-Christians to learn God's will, but it is particularly important to Christians, because Scripture is not sufficient as the only guidebook to salvation but it assumes the knowledge of the natural law. An obstacle to learning this law may be original sin, which prevents man from fully using reason, making him resist

⁴⁰ I, 2, p. 197.

⁴¹ I, 3, p. 204.

⁴² I, 3, p. 205.

⁴³ T. Kirby, *Richard Hooker's Theory of Natural Law in the Context of Reformation Theology*, "The Sixteenth Century Journal" 1999, vol. 30, no. 3 (Autumn), pp. 688–690.

⁴⁴ A.P. Monahan, *Consent, Coercion and Limit. The Medieval Origins of Parliamentary Democracy*, Kingston 1987 [in:] *Richard Hooker and the Construction...*, p. 208.

⁴⁵ W.D. Neelands, *Hooker on Scripture, Reason, and "Tradition"* [in:] *Richard Hooker and the Construction...*, p. 76.

⁴⁶ W.P. Haugeard, *The Scriptural Hermeneutics of Richard Hooker. Historical Contextualization and Teleology*, [in:] *This Sacred History. Anglican Reflections for John Booty*, ed. D.S. Armentrout, Cambridge 1990, pp. 161–174.

⁴⁷ S.L. Bethell, *The Cultural Revolution of the Seventeenth Century*, London 1963, p. 22.

⁴⁸ I, 8, p. 234.

the correct understanding of what is right. Other times, it can be hindered by laziness or ignorance, but generally Hooker's outlook on human nature is optimistic in the sense that he believes that it can distinguish between truth and lies, virtue and vice; it can restrain its desires and make moral choices based on reason. Although he and his opponents share the conviction about the depravation of human nature, in Hooker's thought it is not absolute. It cannot be any other way, because his reflections on the law of reason would otherwise make no sense. Human reason has a natural propensity and capacity for discovering universal laws.⁴⁹ However, Hooker rejects the medieval and Stoic point of view, according to which the knowledge of these laws was common in humankind since God instilled their content in people's hearts and minds.⁵⁰ Instead, he claims that this capacity develops gradually in people, through contemplating God's works.⁵¹ Just as all nature is bound by law, there are rules related to man, and their content are natural obligations, recognisable by human reason even without the Creator's help.

Laws of Reason have these marks to be known by. [...] The works of Nature are all behoveful, beautiful, without superfluity or defect; even so theirs, if they be framed according to that which the Law of Reason teacheth. Secondly, those Laws are investigable by Reason, without the help of Revelation supernatural and divine.⁵²

Therefore, by following the natural, inherent inclinations given to people by God, we involuntarily follow the rules of the natural law. Hooker identifies two natural ways of knowing the rules given to man by God. The first, harder and less often applied one, is a return to the original principles and deducing from them what the reasons for goodness are; the second way is by empirically discovering signs of goodness, out of which "universal consent of men is the perfectest and strongest in this kind" because "the general and perpetual voice of men is as the sentence of God himself".⁵³ This universal consent of humankind is based on an obvious intuition, which is the basis of a proposal considered and accepted by individual people.

Hooker then goes on to discuss Divine law, which "is not known but by special revelation from God".⁵⁴ To Hooker, it is the gift of grace through which the Creator enters the sphere of the law of reason by improving it. He defends reason as the proper tool of knowledge, but not as the tool of acquiring the ultimate knowledge, because God gave man a mind which cannot, after all, know all the mysteries of salvation.⁵⁵ Like St. Thomas Aquinas, Hooker claims that God gave man two lights, through which laws are discovered. Through the supernatural light of faith man is capable of perceiving and accepting the law revealed in Scripture, and through the natural light of reason man can

⁴⁹ I, 8, p. 224.

⁵⁰ R.K. Faulkner, *Richard Hooker and the Politics of a Christian England*, Berkeley-London 1981, pp. 85–86.

⁵¹ L.W. Gibbs, *Introduction, Book I* [in:] *The Works of Richard Hooker*, vol. VI, part. I, p. 106; W.D. Neelands, *Hooker on Scripture, Reason, and "Tradition"* [in:] *Richard Hooker and the Construction...*, p. 79.

⁵² I, 8, p. 233.

⁵³ I, 8, p. 226.

⁵⁴ I, 3, p. 205.

⁵⁵ J.R. Parris, *Hooker's Doctrine of the Eucharist*, "Scottish Journal of Theology" 1963, vol. 16, p. 163; J. Hunt, *Religious Thought in England in the Nineteenth Century*, London 1896, p. 60.

get to know the natural law.⁵⁶ Hooker explains, in the Aristotelian-Thomist spirit, that through revelation God communicates such laws to his creation which man would be unable to discover on his own.⁵⁷ All beings want to achieve perfection specific to their nature, while distinguishing the good which is desirable as a means of achieving that which is desirable in and of itself. Hooker concludes, following in Thomas' footsteps, that God as the only infinite and perfect good is the ultimate goal desired by human beings and it is the only source of happiness. Therefore, the perfection desired by human beings can be achieved beyond the mortal world. Only there does the infinite good exist, which can satisfy the boundless human longing that cannot be satisfied on earth. Hooker claims that reason itself, tainted by original sin, may, apart from the imperative to do good deeds, not identify sufficient means to attain this most important goal. This leads to the conclusion that either there is no God, which is obviously absurd, or the Creator himself must show people the way to achieving eternal happiness. He does indeed do so, by showing not only the most important principles of the law of reason and their practical applications, but also the mystical and supernatural ways of achieving the salvation of the soul through obeying the commands of faith, hope and love, which can only be found in Holy Scripture. However, it obviously has a special status to Hooker, as God's voice directly aimed at man, and as such it precedes and surpasses the law of reason and human laws, which are potentially impeded by flawed human reason. "For many inducements besides Scripture may lead me to that, which if Scripture be against, they all give place and are of no value, yet otherwise are strong and effectual to persuade".⁵⁸

Finally, Hooker's reflections focus on the Human law, derived from the law of reason and the benefits it brings. He makes a preliminary classification, dividing it into the "mixedly human law" and the "merely human law". The former specifies the obligations which man is bound to fulfil according to God's law and the law of reason, and as such constitutes participation in the law of nature. The mixedly human law explains why we owe obedience to God's law and the natural law or it associates rewards and punishments with the obligations following from it. The case is different for the other kind of human laws, which are made only due to the usefulness they have for society; their character is purely conventional. They create obligations previously not described in the categories of God's law or the law of reason. Human law, which in the context of the purpose of the treatise was a point of particular interest to the author, is very clearly separated by Hooker from the law of reason on three levels. Firstly, it is compulsory, because it is sanctioned by the state; secondly, it only has a local range covering a specific political community (apart from national laws); thirdly, it is changeable over time, which is a feature important for our further reflections.⁵⁹ The historical perspective on humankind's past experience indicates that various nations at various times are governed by different laws, depending on the circumstances. Contrary to the Puritans, who looked at the legal system statically and holistically, Hooker only relates these features to God's law, which specifies the way to salvation, and to the law of nature, leaving the rest to man's choice,

⁵⁶ A.S. Rosenthal, *Crown under Law...*, p. 59.

⁵⁷ L.W. Gibbs, *Introduction, Book I* [in:] *The Works of Richard Hooker*, vol. VI, part. I, p. 117.

⁵⁸ II, 5, p. 317.

⁵⁹ W.D.J. Cargill Thompson, *The Philosopher of the "Politic Society". Richard Hooker as a Political Thinker* [in:] *Studies in Richard Hooker...*, p. 33.

reason and experience.⁶⁰ Since human laws are part of an entire normative system, their relation to the laws higher up in the hierarchy is important. “[...] human laws are measures in respect of men whose actions they must direct; howbeit such measures they are, as have also their higher rules to be measured by, which rules are two, the law of God, and the law of nature. So that laws human must be made according to the general laws of nature, and without contradiction unto any positive law in Scripture. Otherwise they are ill made”.⁶¹

II

Although human law is at the bottom of the hierarchy of laws, it seems that it is of most importance to Hooker in the context of specific social roles, for which he tries to find justification. The existence of this justification is immanently related to the existence of political power, which is why the argument must begin with identifying the reasons for the necessity of its existence. For Hooker,

two foundations there are which bear up public societies; the one, a natural inclination, whereby all men desire sociable life and fellowship; the other, an order expressly or secretly agreed upon touching the manner of their union in living together.⁶²

In this respect he is not original, as he reaches, firstly (through St. Thomas), for Aristotle's argument, according to which man is a social animal by nature. This reference to a pagan thinker has for Hooker the important benefit of enabling him to explicate the genesis of political society without having to invoke the revelation or Christian morality. The propensity for living in a community is an element of the law of nature, which people obey unthinkingly and involuntarily, regardless of their views on religion and God. It is this propensity that satisfies basic human needs, emerging as a necessary consequence of the natural human constitution, not a conventional construct.⁶³

But forasmuch as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our nature doth desire, a life fit for the dignity of man; therefore to supply those defects and imperfections which are in us living single and solely by ourselves, we are naturally induced to seek communion and fellowship with others. This was the cause of men's uniting themselves at the first in politic Societies, which societies could not be without Government, nor Government without a distinct kind of Law from that which hath been already declared.⁶⁴

The natural social instinct instilled in humans by God drives them towards social unification. If it is possible to define the moment, even stretched out in time, of the creation of society, there must also be a “before” state. Although Hooker does not use the term

⁶⁰ S.L. Collins, *From Divine Cosmos to Sovereign State. An Intellectual History of the Idea of Order in Renaissance England*, New York 1989, p. 91 and later.

⁶¹ III, 9, p. 394.

⁶² I, 10, p. 240

⁶³ J.W. Gough, *The Social Contract. A Critical Study of its Development*, Oxford 1957, p. 72.

⁶⁴ I, 10, p. 240

“the state of nature”, assuming that all humans are free, equal and independent in it is the only way to justify its origin without referring to direct divine interference. It should be remembered, however, that Hooker does not think in the categories of an individual; what he makes the subject of his thought is not the individual but the community, which is the only reality to him. The topic of his reflection is only the state of natural society. In this state the rules of the law of nature are to be directly obeyed, which “bind men absolutely even as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do or not to do”.⁶⁵ Theoretically, therefore, Hooker allows a situation in which natural society functions without political authorities. However, this possibility was ultimately thwarted by original sin, which is why the state of natural society is not the subject of Hooker’s deeper analysis. After the Fall, recognising and obeying the law of nature is not, due to human depravation, common and unquestionable.

Therefore Hooker, describing how political society was created, leaves behind Aristotle’s optimism and turns to the Christian tradition, which sees it as the remedy for human nature, fallen as a result of original sin. Following in St. Thomas’ footsteps, he attempts to reconcile the idea of natural society with Augustine’s perspective (continued by Luther and Calvin), in which power is a necessity following from the Fall.⁶⁶ While natural society is created as a result of realising tendencies which are part of the human condition, it cannot function without authorities moderating egoistic behaviours in the community. Original sin, which prevents agreeable and peaceful coexistence, makes the institution of government necessary. For Hooker, in the state of natural society, due to human depravation, the injustice and uncertainty of existence increase, since there is no authority to keep people law-abiding. Such a situation is also contrary to the human pursuit of God, and only in a political society do people have a chance to be truly moral beings.⁶⁷ A lack of government leads to problems with managing public affairs, solving conflicts, and protecting property, which is why the “most behoof and security”⁶⁸ are the government’s purpose, and “the end whereunto all government was instituted was *bonum publicum*, the universal or common good”.⁶⁹ This is why Hooker argues:

To take away all such mutual grievances, injuries, and wrongs, there was no way but only by growing unto composition and agreement amongst themselves, by ordaining some kind of government public, and by yielding themselves subject thereunto; that unto whom they granted authority to rule and govern, by them the peace, tranquillity, and happy estate of the rest might be procured.⁷⁰

The creation of political society, according to Hooker, takes place through a direct or implied contract concerning the original consent, which gives a subject or subjects political power. The agreement pertains to the form of government and the establishment of a political power, which is ultimately legitimised by such an agreement.⁷¹ There is no contradiction with the naturalistic view of society here, because the law of na-

⁶⁵ I, 10, p. 240.

⁶⁶ A. Quinton, *The Politics of Imperfection*, Boston 1976, p. 26.

⁶⁷ J.W. Allen, *A History of Political Thought...*, p. 190.

⁶⁸ VIII, 2, p. 303.

⁶⁹ VIII, 2, pp. 312–313.

⁷⁰ I, 10, p. 243.

⁷¹ I, 10, p. 240.

ture does not determine or define the form of social unification. What is needed is an act of will of a rational being, which will actualise and concretise natural inclinations, and to Hooker the only rational reason for such an act is an agreement or consent. Mutual disagreements and conflicts can only be overcome by the power which they “gave their common consent all to be ordered by some whom they should agree upon: without which consent there were no reason that one man should take upon him to be lord or judge over another”.⁷² Importantly, at this point Hooker notes that “God creating mankind did endue it naturally with all power to guide itself in what kind of societies soever it should choose to live”.⁷³ It should be remembered, however, that this volitional aspect of appointing a government is much weaker than in the later theories of the contract, and appointing a government is more of a reflection of the necessity stemming from the law of reason.⁷⁴ Unlike in Hobbes’ thought, government is not a remedy against the state of permanent chaos, but a necessary tool to overcome the imperfections of coexistence in natural society and ensuring its endurance. It is the government that ultimately introduces the *ordo*, putting all elements in their proper places. Naturally, it must use force, restrict freedom, but without it there would be disorder and chaos, rather than a shared and fruitful life.

We all make complaint of the iniquity of our times: not unjustly; for the days are evil. But compare them with those times wherein there were no civil societies, with those times wherein there was as yet no manner of public regiment established, with those times wherein there were not above eight persons righteous living upon the face of the earth; and we have surely good cause to think that God hath blessed us exceedingly, and hath made us behold most happy days.⁷⁵

Nature itself provides a model of organising communities, namely the family; although Hooker rejects patriarchalism, which will later become an important element of the doctrines explicating the divine origin of regal power, he cannot ignore the obvious fact that the father of a family has natural power and authority. The monarchy is, therefore, the most obvious system, although not a necessary one. Analysing the historical sources of royal power, Hooker notes that it comes from conquest, direct divine nomination or the choice of subjects, and focusing on the latter two he writes:

They which in this sort receive power immediately from God, have it by mere divine right; they by human, on whom the same is bestowed according to men’s discretion, when they are left free by God to make choice of their own governor. By which of these means soever it happen that kings or governors be advanced unto their estates, we must acknowledge, both their lawful choice to be approved of God, and themselves to be God’s lieutenants, and confess their power.⁷⁶

Although election, unlike God’s nomination, is a purely human act, to Hooker it is approvable by God and has God’s sanction, as it is derived from the law of reason. Hooker goes even further, accepting the legitimacy of the principle of hereditary power, which is immanently linked to this kind of nomination. As such, he categorically rejects demands for electing a ruler, which can be found in *Vindiciae Contra Tyrannos* or Hotman’s

⁷² I, 10, p. 243

⁷³ VIII, 2, p. 301.

⁷⁴ R.K. Faulkner, *Richard Hooker and the Politics...*, p. 111.

⁷⁵ I, 10, p. 243.

⁷⁶ VIII, 3, p. 334.

Franco-Galli, calling their supporters “seedsmen of rebellion”.⁷⁷ In a hereditary monarchy it would mean that after the ruler’s death power would each time return to the entire political community, making it the primary wielder of power not only in the philosophical, but also political, sense. This is only a step away from claiming that the king is only a temporary and conditional wielder of power on specific terms, which if broken would justify dethroning the king or even killing the tyrant. Hooker was very well aware of this, which is why the only instance when power returns to the political community is if the king dies heirless; however, considering this to be the absolute exception, he prudently does not explore this idea further.

Hooker’s argumentation does not, therefore, mean, as his Puritan opponents would have it, that such an origin of power enables the community, which is its primary caretaker, to make arbitrary, volitional changes to the form of power and the agents that wield it. On the contrary, Hooker attempts to show the absurdity and anarchic connotations of such claims. There is no *pactum societatis* in his thought, and the *pactum subjectionis* is present in a rudimentary form only. Conferring power on the basis of the original consent is irrevocable to Hooker; it happens only once, through the first appointment of power, since “the act of a public society of men done five hundred years sithence standeth as theirs who presently are of the same societies, because corporations are immortal; we were then alive in our predecessors, and they in their successors do live still”.⁷⁸ The express consent of witnesses evolves into “silent allowance famously notified through custom, reaching beyond the memory of man”.⁷⁹ This is why Hooker’s theory is not contractual in the sense we ascribe to the theory of the social contract, or the *pactum subjectionis*, which see the genesis of government in a contract that defines the mutual rights and obligations of both parties. Although his genesis of government is conventional, Hooker never claims that permission creates some sort of contractual relations between the sovereign and his subjects.⁸⁰ His argumentation, however, builds a connection between philosophical permission, which is the basis for the legitimisation of government, and the lawfulness of its current practical actions. This is why the rehabilitation of reason is so important for Hooker’s entire reasoning. To negate reason and to refer only to God’s unfathomable will consequently leads to the conviction that man is unable to know good and evil other than through God’s word, God’s law, or direct revelation. As a result, man would be incapable of establishing government and law for himself in an autonomous (at least to some extent) manner, and justice on earth would be impossible. This, in turn, would make it possible to evaluate human laws from the point of view of their conformity to the revelation in the conscience of each human, making political power subject to theological evaluation, with all the potentially subversive consequences of this. Hooker, meanwhile, shortens the distance between human and God’s kingdoms by emphasising the role of human law and its partial autonomisation. It is partial, because Hooker does not pit them against each other, but makes them part of a great normative system as two elements which do not compete against each other. Therefore, a Christian, despite the Fall, rather than being in

⁷⁷ VIII, 3, p. 304.

⁷⁸ I, 10, p. 248.

⁷⁹ VIII, 3, p. 307.

⁸⁰ W.D.J. Cargill Thompson, *The Philosopher of the “Politic Society”*. *Richard Hooker as a Political Thinker* [in:] *Studies in Richard Hooker...*, pp. 41–42.

opposition to the state and its law on the basis of God's law, can become an active part of the community, an integral part of its religious existence; he or she can become part of a truly Christian state.⁸¹

Disagreeing openly with his Puritan and Huguenot opponents, Hooker claims that people should not judge from the point of view of conformity to Scripture whether they are obliged to obey the authority, because:

Those things which the law of God leaveth arbitrary and at liberty are all subject unto positive laws of men, which laws for the common benefit abridge particular men's liberty in such things as far as the rules of equity will suffer. This we must either maintain, or else overturn the world and make every man his own commander.⁸²

Additionally, to Hooker, defining God as a rational being who chooses to obey the law of his own internal nature leads to the conclusion that civic disobedience and rebellion are not only an objection against the rightly established social order, but also a rebellion against the metaphysical order.⁸³ By analogy, people who object to society's laws seem similar to the greatest example of disobedience, the fallen angels, who owing to their pride fell into the abyss and have since ceaselessly been plotting to "effect an universal rebellion against the laws, and as far as in them lieth utter destruction of the works of God".⁸⁴ It can be seen, therefore, that Hooker is aware of the consequences of his reasoning, but he cannot go one step further because he would then find himself in the position of his adversaries and negate the obligation to obey the authority. He tries to solve this dilemma by showing that most people cannot, through individual reflection, learn the commands of the natural law, and therefore cannot identify the content of natural obligations. An individual evaluation of the content of a law is therefore unreliable and uncertain. For the majority of people, the source of political obligation is simply positive law as such, without referring it to the content of the natural law, so ultimately obeying the law stems from a habit formed by this attitude. Individual reason must with time surrender to collective reason, shaped by the wisdom and experience of past generations.⁸⁵ His reflections on this subject are to show the evolutionary nature of society, its laws and constitutional order, as well as the durability of its institutions.

For the world will not endure to hear that we are wiser than any have been which went before. In which consideration there is cause why we should be slow and unwilling to change, without very urgent necessity, the ancient ordinances, rites, and long approved customs, of our venerable predecessors.⁸⁶

Their continued existence and effectiveness are reason enough to defend them against those who would like to overturn the world. His opponents look at history in a static way, in the sense that by ignoring it, they want to return to the laws and institutions which had

⁸¹ A.S. Mcgrade, *Introduction I* [in:] R. Hooker, *Of the Laws of Ecclesiastical Polity*, New York 1975, pp. 22–23.

⁸² V, 71, p. 372.

⁸³ L.W. Gibbs, *Introduction, Book I* [in:] *The Works of Richard Hooker*, vol. VI, part. I, p. 98.

⁸⁴ I, 4, p. 214.

⁸⁵ S. Wolin, *Richard Hooker and English Conservatism*, "The Western Political Quarterly" 1953, vol. 6, no. 1 (March), p. 36.

⁸⁶ V, 7, p. 27.

existed in the beginning and were revealed *expressis verbis* in the Word of God. Striving for their restitution leads to negating the *status quo* and justifying overthrowing it, at the same time rejecting the wisdom of generations and evaluating and negating institutions established by countless previous generations. Meanwhile, different systems have various disadvantages which have been and always will be evil and which no human effort will be able to eliminate,⁸⁷ while order is not the work of holy ignoramuses but “it is settled amongst the persons that shall by office be conversant about [things]”.⁸⁸

Recapitulation

These theoretical reflections enable Hooker to go on to analyse English political institutions and to defend them against the attacks of Puritan fanatics, when he adds that “the King alone hath no right to do without consent of the lords and commons assembled in Parliament”.⁸⁹ It must be admitted, however, that his vision is not altogether consistent with the Tudors’ political practice and idea of power, especially when he describes the role of the Parliament; nevertheless, it generally legitimises the existing legal system. It follows from his analysis of law and the sources of political obligation that English laws are consistent with the natural law, and the source of their legitimisation is the original consent. Since specific political solutions are the result of choice based on this original consent, the English monarchy is, on this basis and by God’s will, sufficiently legitimised. In Hooker’s thought specific constitutional solutions are not defined only by the original consent, but also by positive laws (as well as the law of reason) based on this consent. In order to learn about a system, one must examine

not only the articles of compact at the first beginning, which for the most part are either clean worn out of knowledge, or else known to very few, but whatsoever hath been after in free and voluntary manner condescended unto, whether by express consent (whereof positive laws are witnesses), or else by silent allowance famously notified through custom, reaching beyond the memory of man.⁹⁰

The evolutionary development of state institutions ultimately leads to the laws of nature being replaced by positive laws, which become the main source defining the rights of the monarch and the people. The political system of each community may, therefore, evolve in a different direction, broadly or narrowly defining, by means of positive laws, the monarch’s specific powers which follow from the original consent.

This is how Hooker sees the genesis of the English monarchy of law, praising the wisdom of ancestors, who established a realm

⁸⁷ I, 1, pp. 196–197.

⁸⁸ VIII, 2, p. 298.

⁸⁹ VIII, 2, p. 299.

⁹⁰ VIII, 2, p. 307.

wherein though no manner person or cause be unsubjects to the king's power, yet so is the power of the king over all, and in all limited, that unto all his proceedings the law itself is a rule. The axioms of our regal government are these, *Lex facit regem*: the king's grant of any favour made contrary to the law is void; *Rex nihil potest nisi quod jure potest*.⁹¹

When Hooker writes about the law, he does not refer only to God's law and the natural law but, most importantly, also to human laws. There is a king, subject both to the vague, after all, law of nature and to the specific laws of the realm, which he cannot change on his own,⁹² "because the law is a bar unto him; the positive laws of the realm have a privilege therein, and restrain the king's power".⁹³ This is possible because in the English system law-making, Hooker argues, cannot happen without the consent of the Parliament, which on the basis of historical custom represents the entire political community. The community existed before human laws were created and before monarchs assumed power. Although the general legitimisation of the monarch is a result of the original consent, Hooker makes each of his law-making activities dependent on the approval of representatives of the current commonwealth when he writes that "kings, even inheritors, do hold their right in the power of dominion, with dependency upon the whole body politic over which they have rule as kings".⁹⁴ He clearly fears the lawless power of an individual, so like his great predecessors⁹⁵ he attempts to give it a framework and restrictions, when he writes that kings must be subject to strict rules in their activity as overlords. Hooker thus emphasises the two fundamental principles of a constitutional monarchy: the prohibition against the king creating law arbitrarily and the subjection of the king to the laws of the commonwealth. "Where the king doth guide the state, and the law the king, that commonwealth is like a harp or melodious instrument, the strings whereof are tuned and handled all by one hand, following as laws the rules and canons of musical science".⁹⁶ The king has the supreme power but it is dependent on the entire political body over which he has dominion; therefore, Hooker concludes, the king is *major singulis universis minor*.⁹⁷ While the supreme dominion belongs to the king, the consent of the political body is required for the king to perform law-making activities and the supreme power in secular and ecclesiastical matters does not belong to either body separately, but to the king in the Parliament. The king's subjection to the law and giving the law-making capacity to the entire community follows from Hooker's conviction that the process of creating and changing laws cannot be left to one person but must be subject to the collective wisdom of reasonable and experienced people, who know the delicate tissue of the community, its history and customs, whose knowledge will enable them to choose the right means. In this way, Hooker drafts a sophisticated and insightful theory of the monarchy of law, equipping it with a strong theological and rational argument, which together create a system that can easily repel the claims of the radi-

⁹¹ VIII, 2, p. 308.

⁹² G.R. Elton, *The Tudor Constitution. Documents and Commentary*, Cambridge 1982, pp. 13–14.

⁹³ VIII, 1, pp. 299–300.

⁹⁴ VIII, 3, p. 305.

⁹⁵ R. Eccleshall, *Richard Hooker and the Peculiarities of English. The Reception of the "Ecclesiastical Polity" in the Seventeenth and Eighteenth Centuries*, "History of Political Thought" 1982, vol. 2, p. 85.

⁹⁶ VIII, 2, p. 308.

⁹⁷ VIII, 3, p. 304.

cals, regardless of whether they would like to cite the religious or historical argument. Ultimately, Hooker's reasoning leads to conclusions which are similar to those of the great English theorists of the monarchy of law, Fortescue, Bracton and Smith, but it also gives the theory a strong theological foundation and refutes the arguments of his Puritan adversaries. Indeed, following *Of the Laws of Ecclesiastical Polity* there was nothing left of their theological argumentation, and under the new dynasty the struggle against the monarchy would continue not with the help of a narrative derived from the Bible, but mainly a legal argumentation dressed as the myth of an ancient constitution.

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