

**ANGLO-SCOTTISH SUCCESSION TRACTS DURING THE LATE  
ELIZABETHAN PERIOD, 1595-1603**

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A thesis submitted to  
The University of Birmingham  
for the degree of  
MASTER OF PHILOSOPHY (B) in EARLY MODERN HISTORY

Department of History and Cultures  
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The University of Birmingham  
September 2010

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## **ACKNOWLEDGEMENTS**

I would like to thank my supervisor Dr Alex Gajda for her support, encouragement and invaluable guidance during this project, and Prof. Roger Mason for his input and advice. Thank you to Anna, for constantly reminding me how fascinating the sixteenth century is, and to those in Birmingham, Edinburgh and St Andrews who have been my sounding boards and helped to keep me motivated and enthusiastic throughout this year. Also thank you to the staff at the National Library of Scotland, The Shakespeare Institute, and the University libraries in Edinburgh and St Andrews, who have helped me gain access to my source material.

Finally thanks to my friends and family who continue to support and encourage my study.

RJE

## **ABSTRACT**

This study seeks to examine the way in which contemporaries of James VI defended his right to the English throne in succession literature, during the 'last decade' of Elizabeth I's reign.

Five succession tracts written or published in Scotland in the 1590's that discuss the right of James VI to the crown of England will be examined. Each has direct ties to James either through their authorship, publishing or production. It will be argued that there exists a body of Anglo-Scottish succession literature, and that there is a common thread of ideas throughout the tracts considered. It will be suggested that this literature was designed to promote and defend James' right to the English throne, and that he had influence over the content of all of the tracts. It is a content-based study rather than a materialist history of the book style work, which draws its methodology from literary analysis and the history of political thought. It contains a full discussion of the 'succession debate' in its widest sense, engaging with the debates on the nature of monarchy, the relationship between the law and monarchy and the role of Parliament.

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## INTRODUCTION

Historians have long been interested in the Elizabethan succession. Elizabeth I's refusal to recognise an heir during her lifetime is often considered a reflection of her own insecurity on the throne. She acknowledged that her own experiences during the reign of her sister Mary made it impossible for her to 'set [her] winding sheet before her eye'.<sup>1</sup> However it should also be recognised that there was no definitive method through which to ascertain who was her rightful heir, and whilst Wallace MacCaffrey suggests that Elizabeth assumed that James VI would succeed her, the vast majority of historians do not accept this, arguing that the succession was in doubt throughout the period.<sup>2</sup>

The succession debate was at the heart of Elizabethan politics from the start of the reign. Despite being declared illegitimate during the reign of her father Henry VIII along with her half sister Mary, due to the 1544 Succession Act and Henry VIII's Will, Elizabeth had a legal claim to the English throne after the death of her half siblings Edward VI and Mary Tudor.<sup>3</sup> However, the Will's dubious legitimacy cast a shadow over this legal right.<sup>4</sup> Unlike her sister, Elizabeth never legitimised herself, claiming her right as the lineal heir of Henry VIII in the proclamation she issued upon her accession.<sup>5</sup> As the King's

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<sup>1</sup> Queen Elizabeth to William Maitland 1561, in David Masson, (ed.) *Registers of the Privy Council of Scotland*, (Edinburgh, 1898), addenda, vol.14, pp.172-178.

<sup>2</sup> Wallace, MacCaffrey, *Elizabeth I*, (London, 1993) p.441.

<sup>3</sup> 1544 Succession Act in, Danby Pickering (ed.), *The Statutes at Large*, (Cambridge, 1763), Vol V, p.192 & Henry VIII's Last Will and Testament, in, *The Hereditary Right of the Crown of England asserted: The History of the Succession once the conquest cleared and the true English Constitution vindicated from the misrepresentations of Dr Higden's View and Defence*, (London, 1713), XLII Appendix, XLVIII.

<sup>4</sup> For further discussion of the issue of Henry VIII's Will see, Mortimer Levine, 'A Parliamentary Title to the Crown in Tudor England' in *The Huntington Library Quarterly*, Vol.24, No.2 (Feb, 1962) pp.121-127, Eric Ives, 'Henry VIII's Will: A Forensic Conundrum', in, *The Historical Journal*, Vol.35, No.4, (Dec, 1992) pp.779-804 and R A Houlbrooke, 'Henry VIII's Will: A Comment', in *The Historical Journal*, Vol.37, No.4 (Dec, 1994), pp.891-899.

<sup>5</sup> Proclamation on Accession of Elizabeth I, in, Pickering (ed.), *The Statutes at Large*, Vol VI, p.123.

illegitimate daughter her position was open to challenge, as English common law denied inheritance rights to illegitimate children.<sup>6</sup> Therefore during the early period of her reign Elizabeth was highly concerned over any challenges to her vulnerable position. There were several rival claimants within England in 1559, each of who commanded a degree of support amongst the nobility, and who were constantly under suspicion from the Queen.<sup>7</sup>

However, it was the Catholic Queen of France and Scotland, Mary Stewart, who posed the greatest threat. Descended from Henry VIII's eldest sister Margaret Tudor, Mary was considered by the majority of Catholic Europe to be the rightful heir to the English throne, despite being omitted from the line of succession outlined within Henry's Will.<sup>8</sup> In what was considered a direct challenge to Elizabeth's claim by the English Privy Council, in 1559 Mary had her arms quartered with those of England.<sup>9</sup>

Until Mary returned from France in 1561, there was little genuine fear that she would pursue her claims to Elizabeth's throne. However, the situation became more precarious in 1562 when Elizabeth fell dangerously ill with smallpox and no consensus could be reached on her successor. The crisis saw William Cecil's first suggestion of a conciliar

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<sup>6</sup> To compound this, many Catholics did not recognise the marriage between Henry and Anne was ever legal, and therefore it was not possible to argue that Elizabeth was conceived in good faith as had been argued over the birth of Mary Tudor to Henry and Katherine of Aragon.

<sup>7</sup> Most significant were Catherine Grey, the younger sister of the ill fated Lady Jane Grey, and the main claimant from the Protestant House of Suffolk, Margaret Douglas and her son Henry Darnley, Catholic claimants descended from Margaret Tudor, and the Puritan Henry Hastings, Earl of Huntingdon, the brother-in-law of Elizabeth's favourite Robert Dudley, whose claim descended from the Duke of Clarence. See Fig 1 and Fig 2.

<sup>8</sup> Henry VIII's Last Will and Testament, in, *The Hereditary Right of the Crown of England asserted*, XLII Appendix, XLVIII.

<sup>9</sup> This overt expression of Mary's claim to the throne was considered to be so dangerous that her renunciation of her claim to the English throne during the life of Elizabeth was a major aspect of the 1560 Treaty of Edinburgh between England, France and the Lords of the Congregation in Scotland. Mary's refusal to ratify the treat was supposedly due to the fact that she perceived this as prohibitive of her ever claiming the English throne. See: The Treaty of Edinburgh, July 1560, from R Keith, (ed.), *The History of the Affairs of Church and State in Scotland*, (Edinburgh, 1844), pp.134-146.

solution, whereby the heir would be chosen by the Privy Council after all the claims had been examined.<sup>10</sup> The incident was followed by a debate in Parliament on the very nature of the succession, and a request that Elizabeth recognise her heir. Even at this early stage it appears that contemporaries, whilst advocating a hereditary succession, were prepared to entertain the possibility of a form of elective monarchy.

Mary's deposition and flight to England in 1567 caused further complications, as Elizabeth could not allow a precedent for the deposition of an anointed monarch to be established. However, domestic and international politics, including the importance of maintaining a degree of amity with Protestant Scotland required her to accept the deposition of an anointed Queen. Once Mary arrived in England, the threat she posed to Elizabeth's position required her imprisonment, which continued until her death. The 1584 Act for the Surety of the Queen's Most Royal Person and Mary's involvement with the Babington Plot made her trial and execution in 1586/7 a necessary evil.

This study will consider what has been called the 'last decade' of Elizabeth's reign, between 1595-1603. During this period it was the debate over the claims of James VI of Scotland and the Infanta of Spain to the English throne, which was significant. Despite legislation forbidding the discussion of the succession in England, numerous works were produced throughout Europe debating the various claims as well as examining the very nature of monarchy. The publication of *A Conference About the Next Succession to the Crowne of Inghland* (1595) also encouraged the composition of works defending the

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<sup>10</sup> Stephen Alford, *The Early Elizabethan Polity: William Cecil and the British Succession Crisis, 1558-1569*, (Cambridge, 2002).



right of the Scottish King, and provided a framework within which to defend James' right.

Whilst numerous historians have examined the early Elizabethan succession question, and the literature connected to it at length, until recently there has been limited analysis of the later succession debate.<sup>11</sup> The new emphasis on the 'last decade' of Elizabeth's reign has provided a framework within which to consider the succession anew.<sup>12</sup>

Historians that have engaged with the literature of this period tend to focus on Catholic literature rather than the material that was appearing in Scotland, although the two volumes edited by Jean-Christophe Mayer have made significant progress.<sup>13</sup> Whilst offering valuable new analysis of the late Elizabethan succession debate, the volumes are limited as they are highly Anglo-centric and offer no thorough analysis of the different claimants who could have asserted their right to the English throne, nor much discussion on how the succession issue was considered outside England. The text is dominated by discussion of the succession within contemporary drama and popular literature, with only limited space given to analysis of political and religious polemics, and no discussion of the power or impact of printed material on broadening the spectrum of political debate.

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<sup>11</sup> See Mortimer Levine, *Tudor Dynastic Problems, 1460-1571* (London, 1973), *The Early Elizabethan Succession Question, 1558-1568* (California, 1966), 'A Letter on the Elizabethan Succession Question, 1566' in *The Huntington Library Quarterly*, Vol.19, No.1. (Nov, 1955) pp.13-38, 'Henry VIII's use of his Spiritual and Temporal Jurisdictions in his Great Causes of Matrimony, Legitimacy and Succession' in, *The Historical Journal*, Vol.10, No.1 (1967) p.3-10 and 'A Parliamentary Title to the Crown in Tudor England' in *The Huntington Library Quarterly*, Vol.24, No.2 (Feb, 1962) pp.121-127, Alford, *The Early Elizabethan Polity*, & J.E. Neale, 'Parliament and the Succession Question in 1562/3 and 1566', in, *The English Historical Review*, Vol.36, No.144 (Oct. 1921) pp.497-520.

<sup>12</sup> John Guy, (ed.) *The Reign of Elizabeth I: Court and Culture in the Last Decade* (Cambridge, 1995).

<sup>13</sup> Jean-Christophe Mayer, (ed.) *The Struggle for the Succession in Late Elizabethan England: Politics, Polemics and Cultural Representations* (Montpellier, 2004) & J-C Mayer (ed.) *Breaking the Silence on the Succession* (Montpellier, 2003).

The only substantial analysis of late Elizabethan succession literature has been undertaken by Susan Doran, who discusses the ideological content and various argument styles of tracts written or published in Scotland, with reference to works commissioned by James VI which had the sole purpose of supporting his claim.<sup>14</sup> This study will build upon this work, seeking to establish whether James' own writings influenced the content of the material he was later involved in either directly or indirectly.

The way in which contemporaries of James defended and promoted his right to the English throne will be examined, and this will require a full consideration of the way in which the authors contributed to the 'succession debate'. At its most narrow this deals with the way in which the crown should be passed on, but is not confined to this single consideration and by necessity encompasses the nature of authority, the nature of monarchy and the role of the people in recognising that monarchy, which in turn feeds into debates on the nature of the relationship between monarch and subject, and the reciprocal rights and duties of each. To consider the 'succession debate' therefore is to engage with all aspects of the sixteenth-century tussles over political ideology, which will be reflected in this study. Whilst it will not be possible to address all aspects of the debate, the areas that illustrate the influence of James and the ideological consistency of the texts, will be the dominant focus of the analysis. The tracts being examined are all 'Anglo-Scottish', in that they were all written and/or published in Scotland with a view

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<sup>14</sup> See: Susan Doran, 'Three Late-Elizabethan Succession Tracts', in Mayer, Jean-Christophe (ed.) *The Struggle for the Succession* (Montpellier, 2004) pp.91-117 & Susan Doran, 'James VI and the English Succession' in, RA Houlbrooke, (ed.), *James VI and I: Ideas, Authority and Government*, (London, 2006), pp. 25-60.

to being read in England. Consequently, various aspects of the succession debate will be considered in both English and Scottish contexts as appropriate.

Five succession tracts written or published in Scotland in the 1590s that discuss James' right to the crown of England will be examined. Although produced for different audiences, and with different initial motivations, all of the material has direct ties to James either through its authorship, publishing or production. By considering only these works it may be possible to trace the influence of the Scottish King within the ideological content.

*The Trew Law of Free Monarchies: Or The Reciproock and Mutual Duetie Betwixt A Free King and His Natural Subjects*, was written by James and published by his printer, Robert Waldegrave in 1598. Whilst *The Trew Law* has more traditionally been considered to be a response to the work of George Buchanan, it has recently been considered to also respond to *A Conference*, and consequently provides a suitable starting point for this examination of 'Anglo-Scottish' succession literature.<sup>15</sup> The second two tracts, Peter Wentworth's *A Pithie Exhortation to her Majestie for Establishing her Successor to the Crowne* written in 1587 and the accompanying *Discourse* written in 1595/6 (1598) and Irenicus Philodikaios' *A Treatise Declaring and confirming against all objections the just and right title of the moste excellent and worthie Prince, Iames the sixt, King of Scotland, to the succession of the crown of England* (1599) were also published by Waldegrave, who was reluctant to be involved

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<sup>15</sup> Peter Lake, 'The King (The Queen) and the Jesuit: James Stuart's True Law of Free Monarchies in Context', in, *Transactions of the Royal Historical Society*, Sixth Series, Vol.14, (2004) pp.248-260.

in their publication. As James' official printer, the king himself must have been involved in persuading him to do so.<sup>16</sup>

The final tracts considered are Alexander Dickson's *Of the Right of the Crowne efter hir Majesty, Three books where be occasione is refuted a treacherus libel intitling the house of Spagne to the succession therof* and the anonymous *An Apologie of the Scottische King* which only exist in manuscript. It will be suggested that these tracts remained unpublished because their content did not promote James' claim to the throne of England in an appropriate manner.

Other succession tracts, such as Thomas Craig's *The Right of Succession to the Kingdom of England* (1703) or John Hayward's *An Answer to the First Part of a Certain Conference* (1603) will not be considered as they were either not published within the time period under scrutiny, or no direct link to James can be established.

The history of the succession lends itself to interdisciplinary study, and a large number of literary studies have been undertaken on its role in contemporary literature such as poetry and drama.<sup>17</sup> Whilst these aspects of the debate are highly significant, as they illustrate how the matter permeated all areas of society during the period, they will contribute to the background, rather than the substantive material analysed here. A similar method of deconstruction and analysis of material will be used, as tracts

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<sup>16</sup> Calendars of Scottish Papers, Vol XIII Part 1, p.167.

<sup>17</sup> For examples of such work see, Marie Axton, *The Queen's two bodies: Drama and the Elizabethan Succession* (London, 1977), Jean E. Howard, *The Stage and Social Struggle in Early Modern England* (London, 1994), Gertrude Catherine Reese, 'The Question of the Succession in Elizabethan Drama' in, *Texas Studies in English*, No.22 (1942) pp.59-85 and David J Baker & Willy Maley, *British Identities and English Renaissance Literature*, (Cambridge, 2002).

concerning the succession are, like the popular literature of the period, rife with symbolism and implied meaning.

When examining the tracts it will be necessary to take the approach advocated by Quentin Skinner when dealing with the intellectual past.<sup>18</sup> Each individual tract will be considered within its own political and ideological context. Whilst the meanings of the tracts themselves are significant, the body of material is useful when considered together, as a great deal of historical value can be found when examining how the author was ideologically and politically influenced.

Three major political issues will be considered within this study, namely the debate over hereditary right, the relationship between fundamental, common and statute law and the monarchy, and the relationship between the monarchy and Parliament.

The discussion of the nature of hereditary succession is intrinsically linked to the debate over the relationship between monarchy and the law. Both in turn play into discussions over the nature of sixteenth-century monarchy, which has been examined at length.<sup>19</sup>

Whilst succession through primogeniture was nominally followed in both England and Scotland during this period, as many historians have discussed, the reality was quite different.<sup>20</sup> Throughout the fifteenth-century the succession in England appeared to depend upon which candidate enjoyed the support of the political elite, leading to a

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<sup>18</sup> Quentin Skinner, *The Foundations of Modern Political Thought: Vol. 2 The Age of Reformation*, 13<sup>th</sup> Edition (Cambridge, 1978).

<sup>19</sup> For example see J.H. Burns, *The True Law of Kingship: Concepts of Monarchy in Early Modern Scotland* (Oxford, 1996).

<sup>20</sup> See: Jean-Christophe Mayer, (ed.) *The Struggle for the Succession in Late Elizabethan England: Politics, Polemics and Cultural Representations* (Montpellier, 2004), pp.1-20 & Marcus Merriman, *The Rough Wooings: Mary Queen of Scots 1542-1551*, (East Linton, 2000), pp.16-20.

form of unofficial elective monarchy. As will be discussed, the reign and deposition of Mary Stewart threw the Scottish monarchy into theoretical chaos, which had a direct impact on ‘Anglo-Scottish’ discussion of the English succession.

A recent work by Harold Nenner examines how the relationship between the monarchy and all aspects of law changed over this period, arguing that statute law and Parliament eventually came to dominate the succession.<sup>21</sup> Although this study does not seek to trace such a shift, the nature of the relationship between law and the monarchy during the last decade of Elizabeth’s reign will be considered, and the debate over the role of statute and common law in the succession debate will be examined at length. There will be some discussion of the uncodified ‘ancient constitution’ in England, based upon customary or common law, and statute, which provided a series of ‘fundamental’ laws which governed English institutions such as Parliament and the monarchy. This will lead to a debate as to whether it was possible to change or adapt these ‘fundamental’ laws in regards to the succession, and whether hereditary succession was part of this body of laws. This analysis of where sovereignty lay within sixteenth-century society will lead to an examination of the constitutional role of Parliament within the tracts.

The issue of censorship is often the focus of historians concerned with the culture of print in the sixteenth-century. The primary discussion is whether censorship was centrally controlled by the state, or a more ad hoc affair.<sup>22</sup> Whilst these debates are both

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<sup>21</sup> Howard, Nenner, *The Right to be King: The Succession to the Crown of England 1603 -1714*, (London, 1995) p.250.

<sup>22</sup> Cyndia Susan Clegg, *Press Censorship in Elizabethan England* (Cambridge, 1997). & Fredrick Seaton Seibert, *Freedom of the Press in England 1476-1776: The Rise and Decline of Government Controls* (Urbana, 1952).

interesting and informative, this will not be considered too extensively in this study, beyond the way in which it impacted the content and form of the ‘Anglo-Scottish’ succession tracts under scrutiny.

In summary, this study seeks to establish that there exists a body of ‘Anglo-Scottish’ succession literature, with a common thread of ideas. It will be suggested that this literature was designed to promote and defend James’ right to the English throne and that he had influence over the content of all of the tracts. Consequently this will be a content-based study rather than a materialist history of the book style work, which draws its methodology from literary analysis and the history of political thought as advocated by Skinner, which requires that texts be defined in context. There will be a full discussion of the ‘succession debate’ in its widest sense, engaging with debates on the nature of monarchy, the relationship between the law and monarchy and the role of Parliament.

This is not an exhaustive study, and there are many areas of the ‘succession debate’ that cannot be explored within it. Although the period 1595-1603, under scrutiny is significant, the ‘succession debate’ raged on throughout the sixteenth-century. The way in which the debate changed throughout the period is an area that is ripe for further study.

The tracts examined are but a small selection of the vast body of literature concerning the English succession, which were produced during the period. Works without links to

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Scotland, such as those written in England or on the continent are not considered, nor are all of those that do have links to Scotland. However, the material chosen is that which shows clear links to James VI and which therefore are of particular interest to this study. There is still work to do on the many foreign tracts, and on those that profess a particular religious motivation.

The ideological debates considered here also have significance in a wider European context as well as within a long term survey of the changing ideas on the nature of monarchy and the role of Parliament. This study however seeks to present a snapshot of how these debates were understood during the final years of Elizabeth's reign and the way in which they were used by James to promote and defend his right to the English throne.



**CHAPTER ONE: JAMES VI AND *THE TREW LAW OF FREE MONARCHIES:  
OR THE RECIPROCK AND MUTUAL DUETIE BETWIXT A FREE KING AND  
HIS NATURAL SUBJECTS***

The succession question was at the heart of a number of ideological debates on the nature and duty of the monarchy during the Elizabethan period. The most significant debate was whether the succession was governed by strict primogeniture or was in some ways elective. Whilst many considered hereditary right to be the ideal form of succession, in reality England appeared to be subscribe to a type of elective monarchy, as no claimant could hold the throne without the acceptance of the governing elites, raising questions about the location and limits of monarchical power in England.<sup>23</sup>

Was monarchical authority bestowed by ‘divine right’, or a gift of the people, who chose to be ruled by a king, yet retained the right to hold their princes accountable? Was the succession subject to any kind of legal definition or restriction?<sup>24</sup> By implication the nature of the succession debate defined the relationship between monarch, subject, and the law. Although it was accepted that a good monarch would govern by the laws of nature as well as those of the state, it was unclear whether this constituted a limit on monarchical power, against which a monarch could be held accountable.<sup>25</sup>

Debate raged over the process of monarchical succession, was it defined by fundamental, unwritten laws as part of England’s ‘ancient constitution’? Could it be

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<sup>23</sup> Merriman, *The Rough Wooings*, p.16. This was clearly demonstrated throughout the Wars of the Roses as the competing claimants won or lost the throne depending on the support of the nobility.

<sup>24</sup> As in the Salic law in France.

<sup>25</sup> See: Donald R. Kelly, ‘Elizabethan Political Thought’, in, J G A Pocock et al, *The Varieties of British Political Thought 1500-1800*, (Cambridge, 1996), Nenner, *The Right to be King*, & Alan Orr, ‘A Prospectus for a ‘New’ Constitutional History of Early Modern England’, in, *Albion: A Quarterly Journal concerned with British Studies*, Vol.36, No.3, (Autumn, 2004).

defined or amended by positive laws, made by parliament? Or did the general law of nature, rather than the positive laws of the kingdom define succession? Contemporaries were also concerned with the duty, role and accountability of the monarch. The religious upheaval caused by the Reformation led to a greater focus on the duty of the monarch to uphold the religious status quo, and gave the confessional identity of the existing or future monarch new significance. The ambiguity over where sovereignty lay allowed for the development of various theories of resistance, giving either the nobility, or the commonwealth the right and responsibility to resist a tyrannical or heretical monarch.<sup>26</sup>

Whilst these debates dealt with the succession in a broad manner, they had significant implications for James' claim to the English throne, which was rooted in hereditary right.<sup>27</sup> It was in his best interests for a succession governed by 'fundamental' laws, which could not be altered by new legislation, to be accepted, as he faced several legal impediments to his title, due to various statutes and prohibitions deriving from English common law. As a foreigner he was unable to inherit land or offices within England; Henry VIII's Will defined a line of succession which bypassed the claims of his house; and the 1585 Act for the Surety of the Queen's Most Royal Person further complicated the matter.<sup>28</sup> However, if there existed 'fundamental' laws governing the succession these legal obstacles were irrelevant.

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<sup>26</sup> Roger A. Mason, *John Knox: On Rebellion*, (Cambridge, 1994).

<sup>27</sup> See Fig. 1.

<sup>28</sup> Henry VIII's Last Will and Testament, in, *The Hereditary Right of the Crown of England asserted*, XLII Appendix, XLVIII, 1544 Succession Act in, Pickering, *The Statutes at Large*, Vol V, p.192, & 1585 Act for the Surety of the Queen's Most Royal Person, 27. Eliz. C.1, in, *The Statutes of the Realm*, Vol 4.1 Edward VI to Elizabeth I 1547-1585, (London, 1819).

During the period between 1595 and 1603 James pursued a number of different strategies to secure his place in the English succession. The issue had been given greater urgency by the publication of *A Conference about the Next Succession to the Crowne of Inghland* (1595), which challenged James' right and asserted that the Infanta of Spain, Isabella Clara Eugenia, had the strongest hereditary claim to the English throne.

In 1586 Elizabeth guaranteed not to obstruct James' claim, however there are numerous examples of him expressing concern about his position in the line of succession before 1595.<sup>29</sup> After this point he no longer limited his actions to correspondence with Elizabeth, although he continued requesting her to recognise his position either in through a Royal proclamation or in her Will.<sup>30</sup>

This shift in attitude is clearly demonstrated by his actions during the 1597 Scottish Parliament. In response to rumours that the English Parliament was moving against him, James delivered a 'great oraison' defending his right to the English throne and demanding the support of the three estates of Scotland. In response, Parliament suggested he should,

send Ambassadors to all his foreign friends and brother kings and princes to complain, that these kings and princes by their instigation may send their Ambassadors to England.<sup>31</sup>

The success of these embassies was limited, as no European prince was willing to commit military support to promote James' claim before, or after the death of

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<sup>29</sup> CSP, Vol XIII Part 1, pp.156-159.

<sup>30</sup> CSP, Vol XIII Part 1, p.159.

<sup>31</sup> CSP, Vol XIII Part 1, p.136.

Elizabeth.<sup>32</sup> The funding granted to James by the 1597 Parliament was given specifically for ambassadors and no other purpose, so James was unable to pursue a military strategy to secure his claim. In an attempt to change this James issued the General Band to the Scottish nobility in 1599, which required them to, ‘at our utmost power and strength to maintain and defend our sovereign in his undoubted right and title to the crown of England and Ireland against all other pretenders.’<sup>33</sup> Like James’ attempt to secure military funding, this was unsuccessful, with George Nicolson reporting to Robert Cecil that, ‘where one subscribes, 6 refuse.’<sup>34</sup> This episode illustrates the lack of support the nobility offered their monarch in his quest to be recognised as the heir to the English throne.

James also began covert discussions with the Catholic powers, including the Pope, in an attempt to establish himself as Elizabeth’s undisputed heir.<sup>35</sup> Rumours that he would be tolerant to Catholics within England, and the possibility that he, like his wife would convert, caused consternation amongst the Protestant English establishment, and potentially damaged his position within England yet did little to secure the support of European Catholics.<sup>36</sup>

This is perhaps why James was also actively involved in the writing and publication of numerous pieces of succession literature throughout the last decade of Elizabeth’s reign.

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<sup>32</sup> Susan Doran, ‘James VI and the English Succession’, pp.25-60.

<sup>33</sup> CSP, Vol XIII Part 1 pp.577-8

<sup>34</sup> CSP, Vol XIII Part 2, p.618.

<sup>35</sup> For further details see: Susan Doran, ‘James VI and the English Succession’, p.33.

<sup>36</sup> CSP, Vol XII, p.267.

Camden describes James' actions to secure his claim to the throne in the *Annals* (1634) implying his involvement in the,

bookes written and dispersed, that maintained his right of succession to the Realme of *England*; also to informe them, that the admittance of him would be beneficiall to both Kingdomes, and farre more good then any others intrusion.<sup>37</sup>

James' involvement in the commissioning of material defending his right, for example the works of Walter Quinn and Alexander Dickson, and his role in the publication of such works through the royal printer, Robert Waldegrave is the main focus of this study. However, James himself authored a succession tract in 1598, which provides an insight into his own attitudes towards the English succession and the nature of monarchy in both England and Scotland.

### ***THE TREW LAW AS A SUCCESSION TRACT***

Robert Waldegrave, James' royal printer, published *The Trew Law of Free Monarchies: Or The Reciproock and Mutual Duetie Betwixt A Free King and His Natural Subjects* in 1598. Although originally published anonymously, when reprinted after 1603, James was acknowledged to be the author. Written at the same time as *Basilikon Doran*, designed to be a private text to instruct the young prince, *The Trew Law* was intended for public consumption, and consequently is less outspoken on issues like clerical sedition.<sup>38</sup> Although addressed to a Scottish audience, some have argued that, given the

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<sup>37</sup> William, Camden, *The historie of the life and reigne of that famous princesse Elizabeth containing a briefe memoriall of the chiefest affaires of state that haue passed in these kingdomes of England, Scotland, France or Ireland since the yeare of the fatall Spanish invasion to that of her sad and ever to be deplored dissolution : wherevnto also is annexed an appendix of animadversions vpon severall passages, corrections of sundry errors, and additions of some remarkable matters of this history never before imprinted*, (London, 1634), pp.229-230.

<sup>38</sup> Maurice Lee Jr, *Great Britain's Solomon: James VI and I in His Three Kingdoms*, (Chicago, 1990), pp.84-5.

content of the work, it was intended to be read abroad, specifically in England.<sup>39</sup> It is also suggested that James wrote the tract primarily to clarify his own mind, and to exercise his powers of debate as opposed to targeting a specific audience.<sup>40</sup> It has long been the focus of historians, who have discussed both the content and the motivation behind it, often considered to be the challenges to monarchical authority made by the Melvillians and George Buchanan.<sup>41</sup>

However, Peter Lake argues that the Catholic polemic *A Conference*, (1595) was the catalyst and primary motivation for the composition of *The Trew Law* in 1598.<sup>42</sup> *The Trew Law*'s ideological content implies it is a piece of succession literature, as it denies the general political premise of *A Conference*; suggests that a monarch may govern subjects of a different confessional background; and implicitly dismisses English common and statute law obstacles to James' claim. *A Conference*, published under the pseudonym R. Doleman, was believed by contemporaries to be composed by the Jesuit Robert Parsons, alone or in collaboration with Cardinal William Allen or Sir Francis Englefield. Parsons denied authorship during his lifetime, presumably due to the tract's controversial reception by both Catholics and Protestants.<sup>43</sup> It consisted of two books, the first engaging with the nature of monarchical succession, and considering the right

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<sup>39</sup> James VI, 'The Trew Law of Free Monarchies: Or The Reciproock and Mutual Duetie Betwixt A Free King and His Natural Subjects', in J.P. Sommerville (ed.) *James VI & I Political Writings*, (Cambridge, 1994) pp.62-3.

<sup>40</sup> See: Pauline Croft, *King James*, (Hampshire, 2003), p.131 & Jenny Wormald, 'James VI and I, Basilikon Doran and The Trew Law of Free Monarchies: The Scottish Context and the English Translation', in Linda Levy Peck, (ed.), *The Mental World of the Jacobean Court*, (Cambridge, 2005), pp.48-49.

<sup>41</sup> Wormald, 'James VI and I, Basilikon Doran and The Trew Law of Free Monarchies, p.47, & Roger A Mason, *Kingship and the Commonweal: Political Thought in Renaissance and Reformation Scotland*, (East Linton, 1998), pp.215-241.

<sup>42</sup> Lake, 'The King (The Queen) and the Jesuit', pp.248-260.

<sup>43</sup> Peter Holmes, 'The Authorship and Early Reception of A Conference About the Next Succession to the Crown of England', in, *The Historical Journal*, Vol.23, No.2 (Jun, 1980), pp.415-429.

of resistance against a tyrannical monarch. The second, arguably more inflammatory book discussed the many competing claimants for the throne and promoted the rights of the Catholic Infanta of Spain on genealogical grounds, whilst seriously undermining the Scottish King's claim by emphasising the legal obstacles to his claim such as, the 'Act of Association', and Henry VIII's Will. Parsons, an exiled English Jesuit who resided in Spain, gained the support of the Pope for the text, which, after publication in Antwerp, was the swiftly disseminated across England, and continental Europe. James' displeasure at the text is well recorded, and he repeatedly used the work as a justification of his policy of sending ambassadors abroad to gain recognition of his claim.<sup>44</sup> Given his preoccupation with refuting the text, it seems likely that it was at the forefront of his mind when he composed *The Trew Law*. Recognising that *The Trew Law* was in some senses a response to *A Conference* also has an impact on how the work must be contextualised. Whilst often considered proof of James' misunderstanding of the English polity after 1603, many historians have pointed out that there is a specific focus on the nature of monarchy in Scotland. However, as a response to Parsons it takes on an 'Anglo-Scottish' significance promoting free monarchy in Scotland and England, developed from the theory of the divine right of Kings.<sup>45</sup>

James was highly engaged in contemporary intellectual debates, and would have been well aware of the ongoing discussions on the nature of monarchy, the succession, resistance theory and concepts of power, which dominated the intellectual climate of the

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<sup>44</sup> CSP, Vol XII, p.126 & p.196.

<sup>45</sup> James VI, 'The Trew Law', pp.74-76.

sixteenth-century.<sup>46</sup> Consequently *The Trew Law* engages with the ideas of both Buchanan and Parsons, being a product of its intellectual and political context. To assume that any of James' published works were a response to a single text is unrealistic. It is more accurate to consider *The Trew Law* as James' response to the general ideological climate, made more urgent by political circumstances.

## TEXTUAL ANALYSIS

*The Trew Law* is split into two distinct sections, the first examining the duty of a monarch and the second outlining the duty of the ruled. The first section details the responsibilities of a monarch as defined by God, and spends time examining the significance of the coronation oath as proof of the monarch's duty to the people. The second part contains a lengthy exegesis of 1 Samuel 8: 9-20, and includes a history of Scottish monarchy, arguing that it predated Parliament and consequently could not be limited by it. Given this format, it is understandable that historians have not traditionally considered the work to be a succession tract. Whilst James does not address the oppositions to his claim on a point-by-point basis, his concise and elegant text deals with specific obstacles only when they are required to develop his ideological position. His examination of the nature of kingship and the right of resistance are particularly relevant to the succession debate.

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<sup>46</sup> Wormald, 'James VI and I, Basilikon Doron and the Trew Law of Free Monarchies, Roger A Mason (ed.), *John Knox: On Rebellion*, (Cambridge, 1994), James Brodrick, *Robert Bellarmine, Saint and Scholar*, (London, 1961) & Roger A Mason & Martin Smith, (eds.) *George Buchanan's Law of Kingship among the Scots: De Juri Regni apud Scotos Dialogus*, (Edinburgh, 2006).



## ELECTIVE AND HEREDITARY MONARCHY

The key aspect of the *The Trew Law* is the definition of the duty of the monarch that it provides, namely that they

...maintaine the Religion presently professed within their countrie, according to their lawes ... to punish all those that should presse to alter, or disturbe the profession thereof ... to maintaine all the lowable and good Lawes ...to maintaine the whole country, and euery state therein, in all their ancient Priuiledges and Liberties, as well against all forreine enemies, as among themselues ...<sup>47</sup>

James argues that this traditional understanding of the defensive, juridical and paternal role of the monarch was defined by God, and if a monarch failed to fulfil it there could be no reprisals as the monarch was accountable only to God.

This position is challenged by those opposing James' claim, such as Parsons, who argued that if a monarch failed to carry out his responsibilities to protect and uphold the commonwealth then he could be justly removed from the throne, or in the case of the heir being deficient, succession rights could be denied regardless of blood lines, seriously undermining the concept of hereditary monarchy.<sup>48</sup> *A Conference* cites situations whereby the hereditary succession had been disregarded due to the dangers of

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<sup>47</sup> James VI, 'The Trew Law of Free Monarchies', pp.64-65.

<sup>48</sup> If the ideas within Parsons' work had been followed in 1567 James' unassailable hereditary claim to the Scottish throne, which according to Parsons' criteria was not in the best interests of the Scottish people, could have been legitimately ignored and the crown passed to a claimant who could better promote the wellbeing of the commonweal. See: R. Doleman, *A conference about the next succession to the crowne of Ingland diuided into tvvo partes. VVhere-of the first conteyneth the discourse of a ciuill lavvyer, hovv and in vvhath manner propinquity of blood is to be preferred. And the second the speech of a temporall lavvyer, about the particuler titles of all such as do or may pretende vvithin Ingland or vvithout, to the next succession. VVhere vnto is also added a new & perfect arbor or genealogie of the discentes of all the kinges and princes of Ingland, from the conquest vnto this day, whereby each mans pretence is made more plaine. Directed to the right honorable the earle of Essex of her Maiesties priuy councill, & of the noble order of the Garter*, (Antwerp, 1595), pp.1-3.

a long minority, and a more suitable individual given the throne.<sup>49</sup> Minority government was regularly followed a period of heightened tension within the nobility as they strove to hold the regency.<sup>50</sup>

The concept of elected monarchy was discussed widely during this period, and was often tied to ideas concerning the right of resistance.<sup>51</sup> *The Trew Law* suggests that monarchy originated from an elective process, in that the populace elected to ask God to provide them with a monarch. In his extensive exegesis of Samuel, James emphasises that the people demanded a King from God, despite the potential for tyranny that was graphically laid out for them, establishing a situation whereby the people chose to be governed by a potentially tyrannical monarch and acknowledged that God alone could hold the King accountable and remove him from power.<sup>52</sup> This gave no room for disobedience or rebellion amongst the people, as by choosing to be governed in such a manner they relinquished any authority over the monarchy. Although James concedes that,

...in the time of the first age, diuers commonwealths and societies of men choosed out one among themselues, who for his vertues and valour, being more eminent then the rest was chosen out by them, and set vp in that roome, to maintaine the weakest in their right, to throw downe oppressours, and to foster and continue the societie among men,<sup>53</sup>

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<sup>49</sup> Doleman, *A conference*, p.201.

<sup>50</sup> This had been the case during James' own eleven year minority, which had seen four successive regents, two of which had been murdered by their rivals.

<sup>51</sup> Mason & Smith, *George Buchanan's Law of Kingship among the Scots*, pp.100-107.

<sup>52</sup> James VI, 'The Trew Law of Free Monarchies', pp.66-67.

<sup>53</sup> James VI, 'The Trew Law of Free Monarchies', pp.72-73.

he explains that this had not been the case in Scotland, where Fergus, the Irish King had been accepted as King of Scotland after a successful conquest.<sup>54</sup> This led to the development of a ‘free monarchie’ in Scotland, which was not subject to the limitations incurred by elective monarchies.<sup>55</sup> In presenting a nuanced form of elective monarchy, James acknowledges that the office of monarch was given by God at the will of the people, but later explains that monarchy either existed in an elected or ‘free’ form, the latter denying subjects the right to challenge the monarch who was only accountable to God. Classing both Scotland and England as ‘free’ monarchies James dismissed all consideration of ‘just’ rebellion and presented an absolute rather than mixed form of monarchy that recognised no temporal restraints.

The idea that an individual required the consent of the people before they could claim the throne as advocated by Parsons, undermined the widely held belief that at the death of the monarch their heir became King regardless of any ceremony or outside recognition.<sup>56</sup> This idea was developed by counsellors who contemplated the possibility of royal authority being held by a council who would identify the most appropriate heir to the throne, a process that implied that royal authority did not seamlessly transfer from one monarch to the next. Cecil developed these ideas into a semi-coherent strategy for an interregnum in the event of Elizabeth’s early death, to avoid the disputed succession many feared.<sup>57</sup> The instability caused by a succession struggle loomed like a spectre in the minds of a nation that had a collective memory of the Wars of the Roses and was

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<sup>54</sup> James VI, ‘The Trew Law of Free Monarchies’, p.73.

<sup>55</sup> James VI, ‘The Trew Law of Free Monarchies’, p.76.

<sup>56</sup> Doleman, *A conference*, p.130.

<sup>57</sup> Alford, *The Early Elizabethan Polity*, pp.225-228.

aware of the religious wars in France, which were founded in a disputed succession. Much of the literature written on the subject refers to a desire to avoid such a similar situation.<sup>58</sup> *A Conference* claims to be trying to better inform the public so as to avoid the promotion of false claims at Elizabeth's death, whilst at the same time promoting confusion through its dedication to the Earl of Essex and its presentation of numerous potential claimants, arguably in an attempt to complicate the succession and the politics around it in order to make England more vulnerable to external, Catholic powers.<sup>59</sup> This is a credible argument, especially when the fear contemporaries felt over a disputed succession is recognised.

The debate over elective monarchy also seriously endangered James' claim to the English throne as it potentially made his right to rule subject to the decision of Elizabeth's councillors, some of whom he was highly suspicious of.<sup>60</sup> By rejecting the concept of elective monarchy and arguing for a hereditary succession ordained by God, James was attempting to avoid any challenge to his authority by the English elite and also protect himself to some extent from the criticism of the Scottish Presbyterians who had repeatedly sought to undermine his supreme authority in Scotland.<sup>61</sup>

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<sup>58</sup> See prefaces of Irenicus Philodikaaios, *A Treatise Declaring and Confirming against all objections the just title and right of the moste excellent and wortie Prince, Iames the sixt, King of Scotland, to the succession of the crowne of England* (Edinburgh, 1599) & Anon, *An Apologie of the Scottisch King*, Laing MS, III 245, (c.1600) & Peter Wentworth, *A Pithie Exhortation on to Her Majestie for Establishing her Successor to the Crowne. Whereunto is added a Discourse containing the Authors opinion of he true and lawful successor to he Majestie* (Edinburgh, 1598).

<sup>59</sup> J-C Mayer, *Breaking the Silence on the Succession*, (Montpellier, 2003), p.73.

<sup>60</sup> CSP, Vol XIII Part 2, pp.784-786

<sup>61</sup> See Jenny Wormald, 'Ecclesiastical vitriol: the kirk, the puritans and the future king of England' in, John Guy (ed.), *The Reign of Elizabeth I*, (Cambridge, 1995) for further discussion on Andrew Melville and the Scottish Presbyterians.

## LAW AND KINGSHIP

Some historians perceive the entire succession struggle in the sixteenth-century as a dispute over the power of law in relation to the monarchy.<sup>62</sup> Throughout the period the king-in-parliament, and the resulting statute law became more significant. James thoroughly examines the relationship between the King and the law, as it had significance not only in his battle for recognition of his rights, but also in the ongoing debates about the nature of royal authority which were occurring across Europe.

James ascribed to the monarch the responsibility to uphold the law, and cited as the basis of this duty the wording of the coronation oath.<sup>63</sup> Burns remarks on the differences between the coronation oath described within *The Trew Law* and the oath sworn on James' behalf in 1567, focusing specifically on the right of the King to make new laws as he should see fit, which appears only in *The Trew Law*.<sup>64</sup> James places emphasis on this right, labouring the authority of his office to those that sought to undermine the authority of the Scottish monarchy.<sup>65</sup>

*The Trew Law* presents the idea that King's are not bound by the laws of the nation, although, 'a good king will not onely delight to rule his subjects by the lawe, but euen will conforme himselfe in his own actions thervnto.' It is argued that a King who fails to rule by the law will have an unstable reign and fail in his duty to God to rule by his laws, as the law is given authority from the monarch who made it, who in turn gained

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<sup>62</sup> Nenner, *The Right to be King*, p.250.

<sup>63</sup> James VI, 'The Trew Law of Free Monarchies', pp.64-5.

<sup>64</sup> J H Burns, *The True Law of Kingship: Concepts of Monarchy in Early Modern Scotland*, (Oxford, 1996) p.235.

<sup>65</sup> Church leaders had challenged much of the legislation concerning the Church supported by James during the 1580's and the King's preoccupation with ensuring the undeniable supremacy of the monarch was likely influenced by this as much as by Buchanan and Parsons' challenges to monarchical authority.

his authority from God. In this sense all statute could be regarded as God's laws as the authority they were imbued with came from Him. This argument is accompanied by the caveat that the King may choose to act outside the law should he be better informed of a situation than his Parliament or people, or when it is in the best interests of the nation.

## FUNDAMENTAL LAWS

Within his examination of the relationship between the monarchy and the law James makes several references to the nation's 'fundamental' laws. Many historians discuss the notion of an uncodified English constitution defined by custom and 'fundamental' laws that laid out a framework for governing institutions such as the monarchy and parliament.<sup>66</sup> James appears to be arguing that hereditary succession was part of this 'ancient constitution' that was immune to 'private statute and laws,' and consequently no legal obstacles to his claim could be considered valid. The use of the notion of 'fundamental' law in *The Trew Law* gives the weight of history and precedence to the ideas expressed within it. It is significant that the references to these 'fundamental' laws are used to underpin the two most important arguments within the text. Firstly the 'allegeance, that the lieges owe to their natiue King, out of the fundamentall and ciuill Lawe'<sup>67</sup> and secondly, 'the lineall succession of crowns...established be the old fundamentall lawes of the kingdome'.<sup>68</sup> This in itself is interesting in a time where statute, as a demonstration of the power of the king-in-parliament, was being considered the greatest expression of authority. It suggests that James perceived Scotland, and as an

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<sup>66</sup> Nenner, *The Right to be King*, p.255.

<sup>67</sup> James VI, 'The Trew Law of Free Monarchies', p.72.

<sup>68</sup> James VI, 'The Trew Law of Free Monarchies', p.82.

extension, England, to be ancient polities which were founded upon unwritten laws that governed issues like the succession.

James' emphasis of 'fundamental' or ancient laws and the succession can come as no surprise, as in choosing to root the succession in such legislation he gives a sense of historic precedence to the notion of hereditary succession. The phrase reoccurs in the 1599 General Band, where James acknowledges his duty to maintain the 'ancient and allowed laws' of both England and Scotland, which governed the succession.<sup>69</sup> The implication of this is that should James not take the English throne then he would be failing in his duty, as he himself had laid out, to maintain and protect the ancient and fundamental law of his own nation.

The concept of hereditary succession is only given passing mention in *The Trew Law*, but with such a tone of finality that no form of compromise is possible. By arguing that authority belonged only to the monarch and,

...their lawfull heires and posterity, the lineall succession of crowns being begun among the people of God, and happily continues in diuers Christian commonwealths: So as no objection of heresie, or whatsoever priuate statute or law may free the people from their oath-giuing to their king, and his succession...for as he is their heritable over-lord, and so by birth not by any right in the coronation, commeth to his crowne...For at the very moment of the expiring of the king reigning, the nearest and lawful heire entreth in his place.<sup>70</sup>

James also laid aside the significant legal obstacles to his inheritance of the English throne, which had been laid out within *A Conference*, by asserting that the 'priuate

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<sup>69</sup> CSP, Vol XIII Part 1, pp.576-578.

<sup>70</sup> James VI, 'The Trew Law of Free Monarchies', p.82.

statute or law' could not amend the 'fundamental' laws. The legal obstacles included English common law, which denied inheritance of English lands or offices to those of foreign birth, a law that James consistently challenged by attempting to claim the income of the Lennox lands in England. When this strategy failed, James claimed that the annuity granted to him by Elizabeth was in lieu of this income, an assertion Elizabeth strenuously denied, as it could have been seen to set a precedent for foreign inheritance and her tacit approval of James' claim to her throne.<sup>71</sup> Due to her belief in the 'inconstancy of the people of England, how they ever dislike the present government and has their eyes fixed upon that person that is next to succeed,' this was something Elizabeth was not willing to provide, for fear of creating a situation similar to that which she faced during her sister's reign, when she was the focus of numerous plots.<sup>72</sup>

James' arguments for a 'fundamental' law of the crown successfully render the 1585 Act for the Surety of the Queen's Most Royal Person irrelevant. This gave the weight of law to the Bond of Association, which removed the succession rights of an individual involved in plots against Elizabeth in order to take the crown. Although Elizabeth guaranteed in 1586 that his mother's treason and execution did not impact his own claim, James clearly did not trust her word, having his Privy Council formally log the letter a decade later.<sup>73</sup> The 1598 Valentine Thomas affair, when an Englishman claimed to be working on James' orders to assassinate Elizabeth, caused consternation for

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<sup>71</sup> CSP, Vol XIII, Part 1. pp.298-300, & CSP Vol XIII, Part 2, pp.825-826. Discussed in Pauline Croft, *King James*, (Hampshire, 2003), p.43.

<sup>72</sup> Queen Elizabeth to William Maitland 1561, in Masson, *Registers of the Privy Council of Scotland*, addenda, vol.14, pp.172-178

<sup>73</sup> CSP Vol XIII Part 2, p.1120.



James, as is clear from the number of times he protested his innocence.<sup>74</sup> Some historians have argued that Elizabeth's failure to prosecute Thomas was an attempt on her part to avoid having James' claim damaged through the public announcement of Thomas' crimes, implying that in reality both of these monarchs believed that statute did have power over the succession, despite protestations to the contrary.<sup>75</sup> Indeed, James regularly emphasised his claim to the throne through his father, who was both English and untainted by treason, proving that despite his denial of the power of statute in *The Trew Law*, he was concerned about the legal obstacles to his accession to the English throne.<sup>76</sup>

## **ANCIENT LAWS AND LIBERTIES**

James expresses a sense of monarchical duty, 'to maintaine the whole country, and euery state therein, in all their ancient Priuiledges and Liberties.'<sup>77</sup> This reference to the 'ancient Priuiledges and Liberties' of the nation is reminiscent of language that reoccurs in the diplomatic documentation of the relationship between England and Scotland. Most notably, the marriage treaty that formalised the betrothal of Mary Stewart and Edward Tudor, a component of the 1543 Treaties of Greenwich contained the line,

Scotland shall continue to be called the kingdom of Scotland and retain its ancient laws and liberties<sup>78</sup>

This clause was significant as it guaranteed the preservation of the legal distinction between England and Scotland that had been challenged by Henry VIII's 1542

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<sup>74</sup> CSP Vol XIII Part 2, pp.815-818.

<sup>75</sup> Helen G Stafford, *James VI of Scotland and the Throne of England*, (New York, 1940) pp.193-195.

<sup>76</sup> CSP Vol XIII Part 1, p.299.

<sup>77</sup> James VI, 'The Trew Law of Free Monarchies', p.65.

<sup>78</sup> The Treaties of Greenwich 1 July 1543.

*Declaration* which had claimed ancient English over lordship of Scotland developed from the Brutus myth.<sup>79</sup> Consequently the clause gained a nationalistic significance as the Scottish lords involved in negotiating the treaty asserted their nations right to autonomy and demanded recognition of their independent legal system. It also protected the power of the nobility in Scotland, who enjoyed far greater autonomy than their English counterparts due to the decentralised nature of monarchical power in Scotland.

James' use of the idea of the 'ancient Priuiledges and Liberties' can therefore be seen as both an indication of his political awareness, and also as a way of appealing to a nobility who would likely be uneasy given the rest of *The Trew Law*'s content. In promising to maintain the 'ancient Priuiledges and Liberties' James implies that he will not challenge the power of the magnates, nor allow Scotland to be subsumed by England should he gain the English crown. This is an important consideration, as support for James' claim to the English throne within Scotland was strangely limited, perhaps because of the long standing enmity between the two nations, which had been so apparent during the so-called 'Rough Wooings' of the 1540's and the execution of Mary Stewart in 1587. Trouble on the borders became more frequent towards the end of Elizabeth's reign, and antagonism characterised the relationship between the two nations. James' request for support for his claim to the English throne, both through levies and the 1599 General Band were of only limited effect, and there is a clear sense that the Scots had little

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<sup>79</sup> Henry VIII, *A Declaration ontayning the just causes and considerations of theis present warre with the Scottis, wherin also appereth the trewe and right title that the kinge most royall majesty hath to the soverayntie of Scotlande*, 1542.

enthusiasm for his cause.<sup>80</sup> His implied promise to maintain the autonomy of Scotland and her nobility can therefore be seen as an attempt to mollify his uneasy subjects.

## RELIGION AND KINGSHIP

In dealing with the relationship between Kingship and religion James was faced with a myriad of historical and contemporary challenges to Scottish monarchical authority. As the Reformation had occurred through rebellion against a Catholic regent, and had endured regardless of the return of a Catholic monarch, the church in Scotland represented a huge challenge to monarchical authority.<sup>81</sup> One of James' aims for *The Trew Law*, was clearly to reclaim divine authority over the state, and to re-establish monarchical autonomy. Consequently he presents an understanding of monarchy whereby the King is God's lieutenant, accountable only to His divine judgement, as judgement can only come from a higher authority.<sup>82</sup> He also provides examples of idolatrous Kings whom commanded the obedience of their subjects regardless of their religious failings.<sup>83</sup>

This position is in sharp contrast to that of James' detractors, including Parsons, who discussed the duty of the monarch in regards to religion at length in *A Conference*. He argues that the monarch's first duty is to protect the spiritual aspects of the nation, so as to guarantee the eternal salvation of the people. He highlights that traditionally 'cuius

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<sup>80</sup> CSP Vol XIII Part 1, pp.576-578, & CSP Vol XIII Part 2, pp.612 & 618.

<sup>81</sup> Throughout the 1580's and 1590's James was under attack from Melville and the Presbyterian Kirk for his Episcopalian intentions, and his judicial authority was challenged in situations such as that involving David Black in 1596. See: Glenn Burgess, *British Political Thought 1500-1660* (London, 2009) p.142.

<sup>82</sup> James VI, 'The Trew Law of Free Monarchies', p.81.

<sup>83</sup> James VI, 'The Trew Law of Free Monarchies', p.71.

regio eius religio’, and that it had previously been unusual for the people and the monarch to be of different faiths.<sup>84</sup> Indeed it was James’ mother, Mary Stewart who first ruled a Protestant country as a Catholic, and arguably this had, hastened her towards deposition. Parsons examines at length the unstable nature of religion in Scotland, and alludes to James’ failure to maintain control implying that if he inherited the throne, as opposed to a strong, religious monarch such as Isabella of Spain, England would be thrown into the same religious uncertainty as Scotland.<sup>85</sup> Although there are no overt promotions of the Catholic faith within the text, the emphasis on the failure of the Scottish King to provide for his nation’s spiritual needs in comparison to other, Catholic claimants, undermines the possibility of a Protestant heir successfully claiming the English throne.

## **THE RIGHT TO RESIST**

James’ discussion of the relationship between the monarchy and religion is intrinsically linked to his discussion of rebellion and the right to resist. Given his mother’s experiences, and his own struggles with the Presbyterians it is unsurprising that he emphasises the danger of rebellion cloaked in terms of religion.<sup>86</sup> As has been discussed, the origins of monarchy drawn from Samuel establish a situation where there was no right to resist the monarch as he was God’s intermediary.

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<sup>84</sup> Doleman, *A conference*, pp.201-204.

<sup>85</sup> Doleman, *A conference*, Part 2 pp.122-123.

<sup>86</sup> James VI, ‘The Trew Law of Free Monarchies’, p.71.

Like many polemics of the period, including *A Conference*, *The Trew Law* utilises the imagery of the King as the head to the nation's body. The image was not an unusual one, and indeed Lake's use of it as evidence that James was responding to works by Parsons and Buchanan alone is limited.<sup>87</sup> As a political metaphor in widespread use, its inclusion in *The Trew Law* does not limit the text to a reaction against two specific works, but places it the wider context of ideological polemics of the period.

The image of a national or civic body is a powerful and effective metaphor for the relationship between the king and the people, as they are interdependent, and the head, whilst having supreme authority, can be thwarted by the failure of the body. Unlike many other possible metaphors for the nation it is effective due to its simplicity and coherence. However, Parsons warps the very nature of the national body metaphor arguing that unlike a natural body, the national body must have a succession of different heads. Therefore as the King or head of the nation's body must change on the death of each monarch, it would be possible to remove the head, if it were in the interests of the body, despite the fact that this could not be similarly tried on a natural body. He argues 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 civil may have divers heades, by succession.<sup>88</sup>

The idea of removing a diseased head for the well being of the body is the cornerstone of Parsons' views on resistance. However, this gory imagery paints an unnatural picture of the national or civic body, which would not have easily been accepted when

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<sup>87</sup> Lake, 'The King (The Queen) and the Jesuit', p.256.

<sup>88</sup> Doleman, *A conference*, p.38.

challenged. By using the traditional understanding of the metaphor James is able to communicate the contrary policy, to great effect, whilst at the same time pointing out the inevitable death of the body should it remove the head.<sup>89</sup> Emphasising the role the head plays in judging, guiding and protecting the body, James draws attention to the role played of other parts of the body in influencing the work of the head, and the necessity of removing any limb which proved infirm in order to prevent the infection of the rest. Although ruthless, this approach is far more plausible than the notion of the body's removal of the head in similar circumstances.<sup>90</sup> The development of the argument against rebellion in *The Trew Law* builds on this understanding of the national body, and uses the traditional image of the King as a father of his people to underline the argument.

James' use of paternal imagery, along with the national body metaphor, successfully shows the unnatural and ultimately dangerous consequences of rebellion, as well as reiterating both the duty of the people to their king, and the duty of that king to his subjects. He highlights how it would be considered unnatural for a man's children to,

...rise vp against him, to control him at their appetite, and when they thinke good to sleie him, or cut him off, and adopt to themselues and other they please in his roome...

and argues that if this could be considered appropriate behaviour towards a parent then rebellion against the monarch was equally appropriate. Given the strong emphasis on filial obedience in the sixteenth century, reinforced by traditional notions of Christian obedience, the argument proves the implausibility of any possible justification for rebellion.

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<sup>89</sup> James VI, 'The Trew Law of Free Monarchies', p.78.

<sup>90</sup> James VI, 'The Trew Law of Free Monarchies', pp.76-77.

## SIGNIFICANCE

It is evident that *The Trew Law* was not merely a response to a single, or a number of previous works, but a text with multiple uses and intentions within Scotland and beyond. Whilst it dealt with much of the material discussed by Parsons it was not mere rebuttal. As an independent work it presents a reading of monarchy that reclaimed supreme authority to the King at a point when Scottish monarchical authority was facing numerous challenges, from the militant Presbyterians and the long-term impacts of the Reformation and deposition of Mary Stewart. In denying the right of resistance to the people the work made some attempt to stem the tide of Scottish resistance polemic, characterised by the numerous works of Knox.<sup>91</sup> It also offers some level of nationalistic reassurance at a time when the Scottish nobility were concerned for the preservation of their autonomy and Scotland's independence, should there be a union with England.

In terms of the English succession James presents an understanding of monarchy and succession that could not be hampered by any law or limitation, and consequently removed the obstacles to his claim cited by his detractors. By giving the matter over to God and 'fundamental' law James also avoided criticising Elizabeth's handling of the issue. However James' tactful dealing with her refusal to name him her heir within *The Trew Law* is not carried on into their diplomatic communication, and it is clear through James' actions during the final years of the Elizabeth's reign that he was not as confident that his right would be recognised as *The Trew Law* implies. His consistent

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<sup>91</sup> Mason, *John Knox*.

demands that Elizabeth recognise his claim in Parliament or through royal proclamation, and his suggestion that he be designated heir in her Will suggests that regardless of his position within *The Trew Law*, he had no clear position on the power of statute or Parliament over the succession.<sup>92</sup> His unease can be seen clearly in his requests for funds from the Scottish Parliament to defend his claim militarily, and to furnish ambassadors to promote his claims throughout Europe.<sup>93</sup> Similarly his concern about the Valentine Thomas affair, and the emphasis he placed on his father's claim to the English throne implies a great concern over the implications of the 'Act of Association', regardless of the rhetoric employed in *The Trew Law*.<sup>94</sup>

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<sup>92</sup> CSP Vol XIII Part 1, pp.156-159.

<sup>93</sup> CSP Vol XIII Part 1, pp.136-137.

<sup>94</sup> CSP Vol XIII Part 2, pp.815-818.



## CHAPTER TWO: TWO ANGLO-SCOTTISH SUCCESSION TRACTS PUBLISHED BY ROBERT WALDEGRAVE : PETER WENTWORTH AND IRENICUS PHILODIKAIOS

By the 1590's Robert Waldegrave, James VI's royal printer, was based in Edinburgh, having fled from England after his involvement in the Marprelate controversy.<sup>95</sup> An integral part of James' propaganda machine in the wake of the publication of *A Conference*, he published several tracts that defended James' right to the English throne. *A Trew Law* was James' own contribution to the succession debate, but he also put pressure upon Waldegrave to publish works defending his title, including tracts by the Irishman Walter Quinn, a poet who gained James' favour for his oration defending James' succession claim, and who was later appointed as a tutor to the king's sons, and more well known material such as Peter Wentworth's *Pithie Exhortation*.<sup>96</sup> Waldegrave was apparently reluctant to publish the material concerning the English succession, as he perceived that by being involved in the debate he would damage his chances of being able to return to his native country. It was reported to Elizabeth that, 'he [Waldegrave] fears...printing it grieve his conscience, offend her Majesty and utterly lose his country.'<sup>97</sup> This concern was due to the 1571 English treason legislation, and the later 1581 censorship law, which made verbal or printed discussion of the succession illegal.<sup>98</sup> Consequently, Englishmen wishing to comment on the succession had to send

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<sup>95</sup> For more information on Scottish printing see: Katherine S Van Eerde, 'Robert Waldegrave: The Printer as Agent and Link Between Sixteenth-Century England and Scotland', in, *Renaissance Quarterly*, Vol 34, No.1 (Spring, 1981), pp.40-78 & F.S.Ferguson, 'Relations between London and Edinburgh Printers and Stationers (-1640)', in, *The Library*, Vol.VIII, No.2, September 1927.

<sup>96</sup> Calendar of Scottish Papers Vol XIII Part 1, p.167 & Sidney Lee, 'Quinn, Walter (c.1575-1641)', rev.J.K.McGinley, *Oxford Dictionary of National Biography*, (Oxford, 2004).

<sup>97</sup> CSP Vol XIII Part 1, p.167.

<sup>98</sup> 13 Eliz. C.1 (1571) and 23 Eliz. C.2 (1581) in, *The Statutes of the Realm* Vol.4.1.

their work abroad to be published, or weave the issue into innocuous plays or poems, which had a more obvious, legitimate focus.<sup>99</sup>

The first tract that will be considered here, *A Pithie Exhortation to her Majestie for Establishing her Successor to the Crowne*, and the accompanying *Discourse containing the Authors opinion of the true and lawfull successor to her Maiestie* (1598) was written in England by Peter Wentworth, a puritan MP who consistently promoted debate on the succession and religion in the English Parliament, and smuggled out of the Tower of London to Scotland. Wentworth's tract is split into two distinct parts. The first, *A Pithie Exhortation* decries Elizabeth's policy of silence on the succession, condemning her for failing to fulfil her duty to God and her people, and paints a picture of the chaos that would follow her death if the matter remained unresolved.<sup>100</sup> It outlines how Parliament should weigh the various claimants and declare an heir during the Queen's lifetime. This section of the tract was first drafted in 1587, and Wentworth unsuccessfully attempted to gain Lord Burghley's support for it until 1590, both in person and through correspondence. This failure led him to resort to approaching a Dr Moffatt who, Wentworth hoped, would be able to persuade the Earl of Essex to present the tract to the Queen. This proved to be a mistake, as Moffatt sent the tract to a tailor to be copied, and

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<sup>99</sup> See: Reese, 'The Question of the Succession in Elizabethan Drama' & Catherine Lisak, "'Succession' versus 'Usurpation': Politics and Rhetoric in Shakespeare's Richard II', in Jean-Christophe Mayer (ed.), *The Struggle for the Succession in Late Elizabethan England*, (Montpellier, 2004), pp.353-370.

<sup>100</sup> Peter Wentworth, *A Pithie Exhortation to her Maiestie for Establishing her successor to the crowne. Whereunto is added a Discourse containing the Authrs opinion of the true and lawfull successor to her Maiestie*, (Edinburgh, 1598) p.82.

extra copies began to circulate, leading to a short imprisonment in the Gatehouse for its author during 1591.<sup>101</sup>

Before the Parliament of 1592/3 Wentworth prepared a full set of documents with which to raise the issue of succession, including speeches, a bill and a petition to the Queen. This material, and a reprint of *A Pithie Exhortation*, was discussed by Wentworth and a number of associates at Lincoln's Inn between February 21 -24. These discussions became known to the Privy Council, who questioned those involved at length, and eventually led to the imprisonment of Wentworth in the Tower of London, and his colleague Richard Stephens in the Fleet.

Wentworth remained in the Tower for the rest of his life, continuing to write on the succession issue. The second section of the tract, *Discourse containing the Authors opinion of the true and lawfull successor to her Maiestie*, was written in 1595/6 and promotes James' claim and addresses the key objections to it, whilst at the same time limiting the power of parliament, which had been championed in *A Pithie Exhortation*. As Neale suggests, this shift was due to the fact that the *Discourse* was responding to *A Conference*, rather than laying out a coherent political agenda that had been the aim of *A Pithie Exhortation*.<sup>102</sup>

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<sup>101</sup> For a full discussion of this episode see: J E Neale, 'Peter Wentworth: Part II', in, *The English Historical Review*, Vol.39, No.154, (Apr.1924), pp.175-205.

<sup>102</sup> Neale, 'Peter Wentworth: Part II', p.200.

The *Discourse* and the section written during Wentworth's imprisonment in 1591, which argues that the Scottish king would not challenge a succession settlement that proved unfavourable to his claim, are remarkably supportive of James in comparison to *A Pithie Exhortation*, which refrained from expressing support for any claimant. The marginal notes added by Wentworth's friends to *A Pithie Exhortation* also suggest a more pro-Stewart position than exists within the main body of the text. This shift in position will be considered further, but perhaps was due to the need to repudiate *A Conference* in 1596, and Wentworth's imprisonment, which made support for James a strategic decision.

The second tract considered is a lesser known work published under the pseudonym Irenicus Philodikaios, entitled *A Treatise Declaring and confirming against all objections the just and right title of the moste excellent and worthie Prince, Iames the sixt, King of Scotland, to the succession of the croun of England* (1599). This text is split into two sections, the first rebutting the various legal obstacles to James' accession to the English throne, including the issues of foreign birth, hereditary right, Henry VIII's Will and the 'Act of Association'. The second half presents the reasons why it was necessary and beneficial for England to recognise James' claim.

Doran argues that the content of *A Treatise* has in fact been modified from the original manuscript version so as to better answer some of the obstacles laid out within *A Conference*, with several of these changes covering material answered by other

polemics.<sup>103</sup> These changes between the manuscript and printed versions are intriguing, but as the focus of this chapter is on the material printed by Waldegrave, which presumably had James' tacit support, only the printed version will be analysed here.

Unlike Wentworth, and *The Trew Law*, Philodikaïos' work does not focus on either on a theory of Kingship, or the power of the English Parliament over the succession. Instead it outlines a strong rebuttal of the objections to James' claim, which is dominated by a discussion of the benefits to England, which made the acceptance of the Scottish claim imperative. As will be discussed, the *Discourse* and *A Treatise* present a long history of amity between England and Scotland, and emphasise the religious and political benefits of a formal union.

Both tracts were purported to be written by Englishmen, Philodikaïos declaring after a discussion of the 'ruine of this noble Kingdome' which would occur should the succession question remain unresolved, that his intention was to inform and aid his 'deare countrie-men...procuring thereby...the peace, honour, & prosperitie of this your native countrie'.<sup>104</sup> However, it is impossible to prove that Philodikaïos, like Wentworth, was English. Both tracts were published in Scotland, presumably with the support of the King, as Waldegrave was his official printer and therefore James must have tacitly supported them. Unlike *The Trew Law* both tracts directly address the

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<sup>103</sup> Susan Doran, 'Three Late-Elizabethan Succession Tracts,' pp.109-111.

<sup>104</sup> Irenicus Philodikaïos, *A Treatise Declaring and confirming against all objections the just and right title of the moste excellent and worthie Prince, James the sixt, King of Scotland, to the succession of the crown of England*, (Edinburgh, 1599), pp.3-4.

matter of the English succession and argue for the acceptance and acknowledgement of James' right, although Wentworth does not declare his support until the *Discourse*.

Before considering the ideological contribution these two works make to the succession debate, the issues of Henry VIII's will, the supposed 'Act of Association' and hereditary succession will be examined. In *The Trew Law*, these legal obstacles to James' inheritance of the English throne are nullified by his theory of monarchy derived from divine right and immutable 'fundamental' laws, and consequently there is no discussion of these issues. However, Wentworth and Philodikaos address the issue of James' foreign birth, and in doing so reinforce the idea that the succession was immune to statute or common law. More significant perhaps is their response to the issue of censorship in England, and the role of Parliament in the settling of the succession. Both authors also engage with Anglo-Scottish relations and the fear of the consequences of an unsettled succession to strengthen the argument that James must be acknowledged as heir for England's benefit.

### **HENRY VIII'S WILL**

Both authors examine the issue of Henry VIII's Will. According to the 1544 Act of Succession, the King had the authority to designate the succession in his Will, and a *Conference* had emphasised the omission of the Stewart line from this document.

Although James dismissed the issue in *The Trew Law* by rejecting the authority of statute to limit the succession, many considered it a significant obstacle to his accession.

Whilst numerous modern historians have examined the legitimacy and authenticity of

the Will, it was also the subject of heated debate amongst contemporaries. Wentworth seems to be internally conflicted on the subject, presenting a microcosm of the debate. Praising Henry for attempting to secure the succession and encouraging his daughter to emulate this, Wentworth later argues that Elizabeth should not designate her successor in her Will else it appear she had, ‘forgotten the fruit of such pretended willes of her noble brother and father’.<sup>105</sup> This refers to Edward VI’s device for the succession, which dismissed the rights of his sisters and gave the throne instead to Lady Jane Grey, the Suffolk heir and new daughter-in-law of his primary councillor, the Duke of Northumberland, which had been rejected by the people of England, who perceived it as an attempt by the Duke to usurp royal power for his own benefit.<sup>106</sup> Similarly, Henry’s Will was shrouded in mystery and its promotion of the relatively insignificant Thomas Seymour to the council of the new king, and the open-ended ‘unfulfilled gifts’ clause, which was roundly abused by all those named, had been queried.<sup>107</sup> Wentworth implies that as the Will was ‘pretended’ it was invalid due to interference or manipulation, although he does not deny that in principle the Will of a monarch could designate the succession.

In contrast, Philodikaios lists the practical reasons why the authenticity of the Will is dubious: the lack of witnesses from the Privy Council; the apparent disappearance of the

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<sup>105</sup> Peter Wentworth, *A Treatise Containing M. Wentworthhis Iugement of the heire apparent*, in *A Pithie Exhortation to her Maiestie for Establishing her successor to the crowne. Whereunto is added a Discourse containing the Authrs opinion of the true and lawfull successor to her Maiestie*, (Edinburgh, 1598) p.37.

<sup>106</sup> Edward VI’s Letter Patent for the Limitation of the Crown, in Mortimer Levine, *Tudor Dynastic Problems, 1460-1571*, (London, 1973), pp. 167-169.

<sup>107</sup> For further discussion of the issue of Henry VIII’s Will see, Levine, ‘A Parliamentary Title to the Crown in Tudor England’, pp.121-127, Ives, ‘Henry VIII’s Will’, pp.779-804 and Houlbrooke, ‘Henry VIII’s Will’, pp.891-899.

original document; and the fact that the Will was not signed, ‘but his stamp was set thereto by others, either after his death, or when he was past remembrance’, implying that it was not the genuine last wishes of the King.<sup>108</sup> He states that Lord Paget and Edward Montague had confessed during Mary I’s reign that the Will had been stamped after the King’s death,

Upon which discoverie Queen Marie, & her counsel caused presentlie the said inrolment lying the Chancerie to be cancelled, deface, and abolished.<sup>109</sup>

Consequently the Will, which Philodikaïos suggests never had sufficient authority to dictate the succession, was thoroughly repudiated during Mary I’s reign.

However, more significantly, Philodikaïos also argues that the unwise and unnatural nature of the succession as laid out in the Will proved that it could not be the product of a wise King, such as Henry VIII. He argues that the omission of Frances and Eleanor’s own claims, which were passed to their children, though the mothers still lived and the lack of marriage restrictions shows an inconsistency which cast doubt on the veracity of the document.<sup>110</sup>

## **THE ‘ACT OF ASSOCIATION’**

In much of the material challenging James’ right to the English throne, it was argued that the so-called ‘Act of Association’ deprived him of his right on the basis that his mother had been convicted for plotting against Elizabeth, and therefore her right, and

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<sup>108</sup> Philodikaïos, *A Treatise*, p.16.

<sup>109</sup> Philodikaïos, *A Treatise*, pp.16-17.

<sup>110</sup> Philodikaïos, *A Treatise*, p.15.



the right of her descendents to the throne was forfeit. This was based upon the 1584 Bond of Association, signed by some of the English nobility and common people, which stated that in the event that Elizabeth was assassinated they would

never (to) accept, avow, or fauour, any such pretended successors, by whom, or for whom any such detestable act shall be committed to attempted, or any that may any way claime by or from such a person or pretended successor.<sup>111</sup>

Had this been codified in statute, then James would have been faced with a significant legal hurdle. However, both tracts highlight that there was a widespread misunderstanding and that the document referred to by James' opposition, was in fact the Bond of Association, which held no legal weight and that the 1585 Act for the Surety of the Queen's Most Royal Person posed no obstacle to James' claim. As Wentworth explains, the 1585 Act was differently worded from the original Bond upon which it was based, with the clause concerning the forfeiture of the rights to the throne subtly changed so as to leave the claims of the traitor's line untouched. He argues that the majority of the people who refused to sign the Bond did so due to its excessively harsh terms on this matter, implying that the monarchical republic asserted by Collinson was not as developed in England as has been suggested.<sup>112</sup> However there is no evidence to support Wentworth's claims on this matter. *The Pithie Exhortation* includes the wording of both the Bond and the Act, with the changed clause in the Act highlighted for the reader with the caveat that the issue of a traitor only forfeited their right if they were aiding or aware of the venture,

every such person by or for whome, anie such act shall be executed and their issue beeing in anie wise assenting & privie to the same, shall by vertue of this

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<sup>111</sup> Peter Wentworth, *A Treatise Containing M. Wentworthhis Iugement of the heire apparent*, in *A Pithie Exhortation to her Maiestie for Establishing her successor to the crowne. Whereunto is added a Discourse containing the Authrs opinion of the true and lawfull successor to her Maiestie*, (Edinburgh, 1598) p.20.

<sup>112</sup> Patrick Collinson, 'The Monarchical Republic of Elizabeth I' in, *Elizabethan Essays*, (London, 1994).

act bee excluded and disabled for ever to haue or claime or to pretend to haue or claime the said crowne of this Realme.<sup>113</sup>

The importance of avoiding chaos at Elizabeth's death by informing the commonwealth of the genuine heir is emphasised throughout *The Pithie Exhortation*. Consequently much of the argumentation, especially of the later *Discourse* is couched these terms.<sup>114</sup> *A Treatise* takes the same attitude, pointing out the significant differences between the Bond and the Act, and claiming that Parsons wilfully misrepresents the facts in order to damage James' claim, highlighting that even if the Act had been worded in that way, then James' claim would remain, through his father's right to the English throne.<sup>115</sup>

## **HEREDITARY RIGHT**

The theme of hereditary right is developed by both authors' discussion of the Act of Association and Henry's Will. Whilst neither tract advocates the divine right of the monarchy as vehemently as *The Trew Law*, both imply that the succession could be recognised but not changed through legislation. Both authors invoke the examples of Edward IV and Henry VI who,

Were by Parliaments attainted, and holden convicte of high treason,  
notwithstanding this was no impediment or hinderance to them to barr them  
from enjoying the crowne when their time came.<sup>116</sup>

This argument is striking as Edward IV deposed Henry VI, and yet both at some point held the crown despite having been attainted by Parliament. Wentworth highlights the fact that despite the ancestors of the Earl of Huntingdon being attainted by Henry VIII,

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<sup>113</sup> Wentworth, *A Treatise*, p.35.

<sup>114</sup> Wentworth, *A Treatise*, p.29. For situations in which James VI expressed concern on this matter see: CSP Vol XIII Part 2, pp. 815-818 & 1120, CSP Vol XIII Part 1, p.299.

<sup>115</sup> Philodikaos, *A Treatise*, p.19, & Wentworth, *A Treatise*, p.29. See Fig.1.

<sup>116</sup> Wentworth, *A Treatise*, p.33.

his claim to the throne was still considered valid and he had enjoyed influential support in the early years of Elizabeth's reign.<sup>117</sup> Philodikaios argues that even Parliament does not enjoy sufficient authority to deny the rightful heir the throne, which is 'due to him by inheritance'. He goes on to express an ideological position not dissimilar to that expressed within *The Trew Law*, that,

right of succession by blood is accounted among al nations, subject to this kind of Monarchie, a thing sacred, and in no wise to be violated.<sup>118</sup>

The rhetoric used here is reminiscent of James' arguments about the succession in free monarchies, presenting a polity that enjoys an unassailable system of hereditary succession.<sup>119</sup> Even Wentworth, who makes a strong case for the role of Parliament to consider different claimants and publically declare an heir, argues in the *Discourse* that whosoever should be declared will not be King because Parliament has declared him to be so, but due to his indisputable right.<sup>120</sup> There is an extended examination of how the Act of Attainder proved to be no obstacle to the hereditary heirs throughout the Wars of the Roses.<sup>121</sup> Wentworth even damages the standing of the institution he promoted throughout his life, by highlighting that those usurpers who were declared King by Parliament who did not also have strong hereditary right, often plunged the country into turmoil, or suffered assassination. Finally he makes a strong point in favour of hereditary succession by discussing Richard III, pointing out that Richard disposed of his young nephews, thereby establishing himself as the hereditary heir, rather than

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<sup>117</sup> Wentworth, *A Treatise*, p.34.

<sup>118</sup> Philodikaios, *A Treatise*, p.22.

<sup>119</sup> James VI, 'The Trew Law', p.82 & p.76.

<sup>120</sup> Wentworth, *A Treatise*, p.54.

<sup>121</sup> Wentworth, *A Treatise*, p.56.

simply having his position declared by Parliament implying the greater value of succession by hereditary right.<sup>122</sup>

## **ROLE OF PARLIAMENT**

Perhaps the most well known ideological contribution made by either of these tracts is Wentworth's position on the role of Parliament, which varies between *A Pithie Exhortation* and the *Discourse* due to the changing circumstances. His stated aim of *A Pithie Exhortation* was to persuade Elizabeth to,

speed in Parliament, to cause all titles and claimes to the Crowne of England after your Maiesties decease, throughlie to be tried and examined: And then forthwith (by sufficient authoritie thereof) to declare and make knowne to your subjects, in whom the tigt to succede you resteth.<sup>123</sup>

The involvement of Parliament in the succession was not a new concept, as parliamentarians had been discussing the matter since the start of the Queen's reign, and indeed Wentworth was an advocate of parliamentary debate on this issue.<sup>124</sup> Despite the protestations made in *The Trew Law*, the right of the monarch to settle the succession in Parliament was enshrined in the 1571 Treasons Act.<sup>125</sup> Wentworth argues however that Parliament could only declare the heir during the lifetime and with the support of the reigning monarch, denying Parliament the right to act autonomously in this matter. He uses traditional head and body imagery to illustrate this, stating,

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<sup>122</sup> Wentworth, *A Treatise*, p.55.

<sup>123</sup> Wentworth, *A Pithie Exhortation*, p.5.

<sup>124</sup> Thomas Norton, & Thomas Sackville, 'Gorboduc', in, A Thorndike (ed.), *The Minor Elizabethan Drama (1) Pre-Shakespearean Tragedies*, (London, 1929).

<sup>125</sup> 13 Eliz. C.1, in, *The Statutes of the Realm*, Vol 4.1.

the act of the rest of the members without the head & against it, be of the power & force that the ioined act of the head and whole members together is,<sup>126</sup>

implying that supreme authority over the succession rests with the monarch in parliament, as opposed to purely with Parliament.

However the *Discourse* places a further caveat on Parliament's right to declare the heir to the throne, arguing that the institution could not limit or bind the succession, only recognise the true heir, as opposed to choosing a preferred candidate.<sup>127</sup> Wentworth argues that Parliament, as representative of the people of the nation, could not limit the rightful monarch as in choosing to have a monarch they had relinquished the authority to do so.<sup>128</sup> *A Treatise* echoes this, arguing that the Henry's Will was invalid on the basis that,

It is not agreeable to the minde and meaning of the Parliament, which intended onlie to give authoritie for the declaration of the true title, and not for donation or intricating therof.<sup>129</sup>

Philodikaïos' concludes that the monarch cannot remove an individual's right to the crown through statute or other legal means, implying, as James had in *The Trew Law*, that the succession was grounded in the customary, 'fundamental' laws and could therefore not be limited or changed by statute. Therefore Philodikaïos presents a strong argument for unassailable hereditary succession, which gave James' claim to the

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<sup>126</sup> Wentworth, *A Treatise*, p.50.

<sup>127</sup> Wentworth, *A Treatise*, pp.46-50.

<sup>128</sup> Wentworth, *A Treatise*, p.50.

<sup>129</sup> Philodikaïos, *A Treatise*, pp.15-16.

English throne superiority and indirectly supports Wentworth's caveat on Parliamentary authority.<sup>130</sup>

## FOREIGN BIRTH

The issue of foreign birth was often used to hinder James' title, although it was not included in *A Conference* as it would have also hindered the Infanta's claim. However, as has been mentioned, foreigners were barred from inheriting land or title in England due to common law.<sup>131</sup> This was highlighted in a speech made in the 1563 Parliament by Ralph Sadler, in regards to the claim of James' mother to the English throne during a debate over the succession. He stated that,

the Quene of Scottes, though she were indeed next heire in bloodde to the Quene's Majeste, yet being a straungier, by the laws of the realme, ...she can not inherite in Englonde, which is a good argument to me that the nature of English men hath always so moche detested the regiment of straungiers that they have made lawes to bare all tytles which any straungier may clayme of inheritaunce within the realme.<sup>132</sup>

This implies that in the early part of Elizabeth's reign it was understood by some that the hereditary succession could in fact be influenced by statute or common law. The 'laws of the realme' referred to by Sadler include custom and statute, specifically the 1351 legislation, *A Statute for those who are born in Parts beyond Sea*. Wentworth and Philodikaios discuss this statute at length, despite also arguing that legislation could not limit the succession. As with James, who claimed to believe in unassailable hereditary monarchy, yet consistently sought to promote his right through diplomatic and military

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<sup>130</sup> This argument was also present within Sackville and Norton's 1561 play *Gorboduc*, suggesting that this idea of the nature of Parliamentary power existed throughout Elizabeth's reign.

<sup>131</sup> CSP Vol XIII, Part 1, pp.298-300, & CSP Vol XIII, Part 2, pp.825-826.

<sup>132</sup> Sir Ralph Sadler's speech on the Succession, in T.E Hartley, (ed.), *Proceedings in the Parliaments of Elizabeth I: Volume I 1558-1581* (Leicester, 1981), pp.87-89.

means, both Wentworth and Philodikaïos seem intent upon answering every possible challenge to James' claim, regardless as to whether it was rendered irrelevant by their position regarding the nature of the succession.

Philodikaïos answers the problem of foreign birth by providing legal precedence that a stranger can buy land in England or gain it through marrying an English woman. He also offers numerous points of rebuttal to the Edward III's statute, which argues,

that no person borne out of alleageance of the King of England, whose father and mother were not of the same alleageance at the time of his birth, shal be able to haue, or demand anie heritage within the same alleageance, as heire to anie person.<sup>133</sup>

He argues that 'no rule or maxime of the law, be it never so generall, can touche or be understood of matters concerning the croun...[as] the croun is privileged in manie points above private inheritance.'<sup>134</sup> He states that the crown could not be termed an inheritance as it was given by God, and could be held by one who was underage, unlike other inheritances. He argues that had the statute been intended to abridge the 'ancient libertie' of the crown then it would have explicitly stated such, but otherwise it did not have the authority to infringe upon this 'ancient libertie'.<sup>135</sup> Reference is made to the exception of the *Infants du Roy* in the statute, which exempt the children of the King of England from the exclusion of those born abroad. Philodikaïos argues that this exemption cannot simply apply to children in the first degree, but their offspring as well.<sup>136</sup> The final argument cites the decision of Henry VII over the marriage of

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<sup>133</sup> Philodikaïos, *A Treatise*, p.9.

<sup>134</sup> Philodikaïos, *A Treatise*, p.10.

<sup>135</sup> Philodikaïos, *A Treatise*, p.12.

<sup>136</sup> Philodikaïos, *A Treatise*, p.11.

Margaret Tudor to James IV, that should the English dynasty fail, and the heirs of Scotland be entitled to the English throne, that

England, being the cheef and principall parte of the Iland, should thereby receave no damage, but rather great advantage, for that it would draw to it self the kingdome of Scotland.<sup>137</sup>

The fact that this reasoning had been accepted by both nations lends some weight to the controversial notion of English suzerainty.

Wentworth's response to the objection foreign birth is similar, with an added example of legal precedent, which established that Scots were to be considered English subjects.

The case involved a Scot called Dyer who denied an accusation of rape in England and demanded that therefore the jury for his case must be made up of half English and half Scottish subjects. This was rejected due to the decision that, 'a scot was not to be accompted in England for a stranger, but rather a subject'.<sup>138</sup> The inclusion of this line of argumentation highlights that Wentworth's tracts must have been designed for an English audience, as the idea of English suzerainty was anathema to the Scots.<sup>139</sup>

## TREASON LEGISLATION

Despite being aimed at an English audience, *A Pithie Exhortation* and *A Treatise* could not be published there due to the 1571 treason law and the 1581 Act Against Seditious Wordes and Rumours. The former expanded the scope of what was considered treason

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<sup>137</sup> Philodikaios, *A Treatise*, pp.12-13.

<sup>138</sup> Wentworth, *A Treatise*, p.11.

<sup>139</sup> See: Merriman, *The Rough Wooings & Henry VIII, A Declaration ontayning the just causes and considerations of theis present warre with the Scottis, wherin also appereth the trewe and right title that the kinge most royall majesty hath to the soverayntie of Scotlande*, 1542.



to include expressing doubt over the Queen's ability to direct the succession through Parliament. It is ideologically significant as it presents an ambiguous reading of the nature of the succession, simultaneously condemning those who suggested,

that the common Lawes of this Relame not altered by Plyament, ought not to directe the Ryght of the Crowne of England or that our said Sovayne Ladye Elizabeth the Quenes Majestie that nowe is, with and by the auctoritye of the Parlyament of England is not able to make Lawes and Statutes of suffycyent force and valyditie to lymite and bynde the Crowne.<sup>140</sup>

This simultaneously implies that the crown is governed by the 'fundamental' law of the realm, and that this could be defined or supplemented by statute, put in place by the Queen and Parliament, denying the idea that the 'fundamental law' of the crown was immune to Parliamentary statute, and implies that the authority of Parliament, together with the Queen was capable of limiting the succession, despite its basis in customary, 'fundamental' law. In practical terms, this legislation also made the writing, printing or disseminating of material declaring the rightful successor of Elizabeth an act of treason, and therefore drove discussion underground.<sup>141</sup> The 1581, so called 'Statute of Silence' further limited the freedom of speech in this area, making the 'malicious' printing, writing or in any other manner expressing anything about the succession, the Queen's right to the throne, or the right of any other individual to be her heir, an act punishable by imprisonment, forfeiture and eventually execution.<sup>142</sup> Consequently succession literature was frequently sent abroad to be published.

The censorship and treason legislation in England directly impacted the content of the tracts, illustrated by the constant denials of malice towards Elizabeth or England, and

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<sup>140</sup> 13. Eliz. C.1. *The Statues of the Realm*, Vol 4.1.

<sup>141</sup> 13. Eliz. C.1, *The Statues of the Realm*, Vol 4.1.

<sup>142</sup> 23. Eliz. C.2, *The Statues of the Realm*, Vol 4.1.

the emphasis on the duty of those aware of the genuine heir to inform the people so as to avoid chaos and instability.<sup>143</sup> Both of these positions can be traced back to the text of the legislation, the first to the 1581 Act which made repeated use of the phrase, ‘with a maliciouse intente againste our sayd Sovereaigne Lady’ when referring to people discussing the succession in verbal or written form, and the second to both statutes, which condemned the unsettling of the peace through the publication of succession literature, or the incitement of uprising in favour of a candidate.<sup>144</sup>

One method of attempting to circumvent this legislation was to emphasise that any discussion of the succession was not malicious, and was instead intended to help preserve stability both during and after Elizabeth’s reign. The pseudonym utilised by the author of *A Treatise* was clearly chosen with this in mind. Irenicus Philodikaïos is derived from several ancient Greek words that would have highlighted to the more educated readers, especially the Queen and those close to her, the benign intentions of the author.<sup>145</sup> Irenicus comes from the word ‘eirenikos’, meaning ‘of peace’, whilst ‘philo’ was the compound of several words, and came to mean ‘loving’ or ‘dear’. Finally, the term ‘dikaïos’ was used in Old Testament Eastern Christianity to refer to the righteous or just, who were not included in the canon of saints. The author of the *A Treatise* therefore chose a name that emphasised his peaceful intentions, and his position as a loving subject, whilst at the same time establishing himself a prophetic, religious role.

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<sup>143</sup> Philodikaïos, *A Treatise*, pp.3-4 & Wentworth, *A Pithie Exhortation*, pp.1, 34.

<sup>144</sup> 23. Eliz. C.2. & 13 Eliz. C.1, *The Statues of the Realm*, Vol 4.1.

<sup>145</sup> Elizabeth’s linguistic ability is well known.

Unlike *A Pithie Exhortation*, *A Treatise* is addressed to the people of England, and the author stresses his ‘good meaning and honest endeouour’ in publishing a tract to preserve and promote the commonweal of England, and to avoid a bloody conflict.<sup>146</sup> The final section goes into detail on the potential negative impacts on the nation should the succession remain unresolved. In sharp contrast, *A Pithie Exhortation* is peppered with assertions of Wentworth’s love for, and loyalty to the Queen. Addressed to Elizabeth, the tract opens with ‘a loyall and dutifull affection towards your highness person, & preservation,’ second only to the author’s loyalty to God.<sup>147</sup> Historians have implied that Wentworth had an overoptimistic expectation of Elizabeth’s reaction to the text, given his inclusion of numerous condemnations of her attitude towards the succession and neglect of her duty, claiming that she could do nothing to, ‘greeve, daunt, & alienate the harts of all [her] subjects,’ more than to continue to refuse to name her successor.<sup>148</sup> At the same time, adhering to the rhetorical conventions of the period, and attempting to utilise the loophole concerning malice within the 1581 legislation, Wentworth addresses the tract to the ‘most high, and mightie Prince, out deare soveraigne & liege lady’, entreating the, ‘most gracious Ladie’ to heed his advice.<sup>149</sup>

## **FEAR OF INSTABILITY**

Despite both authors stressing the absence of malice in their work, they consistently emphasise the chaos that would result in England should the succession remain unresolved. Both tracts express an intention to inform the common people of the

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<sup>146</sup> Philodikaios, *A Treatise*, pp.3-4.

<sup>147</sup> Wentworth, *A Pithie Exhortation*, p.1.

<sup>148</sup> Wentworth, *A Pithie Exhortation*, p.34.

<sup>149</sup> Wentworth, *A Pithie Exhortation*, p.27.

rightful heir, to avoid the potential chaos and bloodshed of civil war or a foreign invasion, which could be caused by an unresolved succession, suggesting that the censorship imposed by Elizabeth endangered the country by leaving it ignorant and vulnerable to manipulation.<sup>150</sup> *A Pithie Exhortation* states that ‘a man halfe warned, is wholly armed’ and the *Discourse* argues that by informing the people of the facts, despite the various legislation barring discussion, it will be possible to gain recognition of James’ claim, which would prevent the development of competing noble factions in England, that could cause to civil war, and leave the nation at the mercy of foreign enemies as,

all the mischiefes that the mischievous wit of man can devise will be practiced amongst your louing subjectes by one towards another without conrolment.<sup>151</sup>

The vivid pictures of the potential destruction and loss of order would have struck a chord in a country that had a collective memory of the instability and bloodshed of the ‘Wars of the Roses’, which was also based on a disputed succession and had an awareness of the French religious wars which were also defined by a contested succession.

These scaremongering tactics were not limited to evoking the fears of the past.

Elizabeth’s fear of naming her heir due to the tendency of people to, ‘honor the Sunne rising, then the setting thereof,’ is considered and dismissed by Wentworth, who argues that even the heathen honours the sun until it is set, in recognition of the services it has rendered him.<sup>152</sup> He argues that rather than secure her own position, the Queen’s refusal

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<sup>150</sup> Philodikaaios, *A Treatise*, p.3, & Wentworth, *A Treatise*, p.5.

<sup>151</sup> Wentworth, *A Treatise*, p.94 & *A Pithie Exhortation*, p.26.

<sup>152</sup> Wentworth, *A Pithie Exhortation*, pp.87-88.

to recognise her heir will cause her people to distrust her and malign her upon her death; cause her to face the wrath of God on the day of judgment for failing in her duty; encourage Catholics to plot to promote their own candidates; and cause those with a strong right to ready themselves to defend their claim by force, or seek to claim the throne during her lifetime.<sup>153</sup> Wentworth implies a number of other threats towards Elizabeth herself, which play off her own, originally unstable, place on the throne. He challenges Elizabeth to be Henry VIII's, 'naturall daughter and true heir,' and attempt to secure the succession through legislation.<sup>154</sup> Whilst illustrating his conflicted attitude towards the power of legislation in the matter of the succession, this comment appears relatively innocuous. However, given Elizabeth's tenuous legal right to the throne of England due to her illegitimacy, the language is controversial and draws attention to the fact that Elizabeth's claim to the throne is defined by the legislation of her father.<sup>155</sup> Wentworth threatens the Queen with the wrath of God, arguing that the settlement of the succession is the monarch's duty to God and therefore failure to fulfil this may result in the withdrawal of His support, upon which she relied.<sup>156</sup>

*A Treatise*, to a far greater extent, focuses on the threat of foreign invasion, particularly the danger posed by Spain, which was at the forefront of many Englishmen's minds in light of the 1588 Armada and continuing tensions. Philodikaios examines the menace of Spain at great length, suggesting it will only be increased if Elizabeth continued with her policy of silence, as traitors such as Parsons will have the opportunity to encourage

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<sup>153</sup> Wentworth, *A Pithie Exhortation*, pp.41, 60-1, 85-6 & 101.

<sup>154</sup> Wentworth, *A Pithie Exhortation*, p.22.

<sup>155</sup> It also maybe a coded reference to the questions over Elizabeth's paternity in light of her mother's alleged indiscretions.

<sup>156</sup> Wentworth, *A Pithie Exhortation*, pp.52-60.

an invasion in support of their claim to the English throne.<sup>157</sup> Innovatively, Philodikaïos attempts to dissuade English Catholics from supporting any Spanish invasion, arguing they could expect to be treated with greater contempt for betraying their nation, and would therefore be worse off under a Spanish, Catholic monarch, than a Protestant one.<sup>158</sup> The so-called ‘Black Legend’ of Spain has two distinct functions in this context, as it not only warns English Catholics against allying with Spain, but also makes alliance with Scotland more palatable in comparison.<sup>159</sup>

Both tracts consider the historic animosity between England and Scotland in light of James’ claim to the throne, using rhetorical questions to address the most common objections to a union of the two nations. The positive benefits are presented, many of which concerning the stability that would be assured by acknowledging James as Elizabeth’s heir.<sup>160</sup> Philodikaïos points out that James already had numerous children and therefore the long-term English succession would be assured. The support of other Protestant nations, securing of the back door of England, and the neutralising of the Irish threat are also presented as the consequence of unifying England and Scotland.<sup>161</sup> Philodikaïos emphasises the long history of attempted union of the nations through marriage and suggests that the ‘ancient friendship’ between them had only been compromised because these attempts had not been fully realised.<sup>162</sup> Wentworth argues that as the two nations shared a common religion, there would be stronger and more lasting amity between them than had previously existed. Both of these arguments are

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<sup>157</sup> Philodikaïos, *A Treatise*, p.32.

<sup>158</sup> Philodikaïos, *A Treatise*, pp.33-35.

<sup>159</sup> Philodikaïos, *A Treatise*, pp.37-38.

<sup>160</sup> Philodikaïos, *A Treatise*, pp.29-45 & Wentworth, *A Treatise*.

<sup>161</sup> Philodikaïos, *A Treatise*, pp.39-45, & Wentworth, *A Pithie Exhortation*, pp.112-121.

<sup>162</sup> Philodikaïos, *A Treatise*, p.42.

reminiscent of the propaganda of the ‘Rough Wooings’ especially that of Protector Somerset, who consistently emphasised the necessity of a union between the two nations on grounds of shared religion.<sup>163</sup> Although first suggested before the Scottish Reformation of 1560, the Scottish monarchy had long had more autonomy over the Catholic Church within Scotland than other European monarchies, and after Henry VIII’s break from Rome he consistently encouraged his nephew to take the opportunity to throw off the ‘popish yoke’ and embrace Protestantism.<sup>164</sup> Somerset’s *Proclamation*, which emphasised the potential for a united Protestant Isle built upon the ideas originally suggested by the late King Henry, appealing both the Protestant faction in Scotland and the nation in general.<sup>165</sup>

There is a sense of menace in both tracts as they suggest that James could promote his claim by force, and might utilise his friendship with other nations to do so, should he not be recognised as heir. Indeed the threat from Ireland given the Scottish King’s contact with Tyrone and the potential for invasion of England via Scotland, places the extended analysis of the benefits for England in a more sinister light.<sup>166</sup>

## SIGNIFICANCE

Both of these tracts are designed to support James’ claim, and therefore are less concerned with promoting a coherent concept of monarchy and succession than they are

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<sup>163</sup> Edward Seymour, *An epistle or exhortacion, to vnitie [and] peace, sent fro[m] the Lorde Protector, [and] others the kynges moste honorable counsaill of England: to the nobilitie, gentlemen, and commons, and al others the inhabitauntes of the realme of Scotlande*, (1548).

<sup>164</sup> Jane E.A. Dawson, *Scotland Re-formed: 1488-1587*, (Edinburgh, 2007), p.167-8.

<sup>165</sup> Merriman, *The Rough Wooings*, pp.50-100.

<sup>166</sup> Philodikaaios, *A Treatise*, p.30-4.

with protesting his right. *A Treatise*, which exists in manuscript in a subtly different form, was clearly adapted to answer more fully the obstacles to James' accession to the English throne. It offers a detailed analysis on why the acceptance of his claim was imperative, as well as addressing the many challenges to it. *A Pithie Exhortation*, presents a clear theory for settling the succession through Parliament, albeit in a manner which is anything other than pithy and, when considered with the *Discourse*, the tract is fraught with internal contradictions due to the changing circumstances of its author. The primary goal of promoting James' right to the English throne, does however lead to a degree of unnecessary argumentation and excessive discussion of issues such as Henry VIII's Will and the 'Act of Association', which are elegantly dismissed by *The Trew Law*. Whilst *A Pithie Exhortation* did not originate in Scotland and had been in existence long before *A Conference* was published, it seems evident that the composition of the *Discourse* in 1595/6, potentially due to the pressure of those in favour of James' claim, made it perfect for publication in Scotland in the wake of the urgency *A Conference* gave to the succession question. The tract was not smuggled to Scotland until 1596/7, which delayed the publication of this work.



**CHAPTER THREE: TWO SCOTTISH SUCCESSION TRACTS : ALEXANDER  
DICKSON'S *OF THE RIGHT OF THE CROWNE EFTER HIR MAJESTY AND  
AN APOLOGIE OF THE SCOTTISCH KING***

Not all of the succession tracts supporting James VI were published, and the focus of this chapter is on two that only exist in manuscript form. The first is Alexander Dickson's, *Of the Right of the Crowne efter hir Majesty, Three books where be occasione is refuted a treacherus libel intitling the house of Spagne to the succession therof* and the second is the anonymous *An Apologie of the Scottische King*. It is unclear why these tracts were never printed, but remained only in manuscript form. In 1598 George Nicolson wrote to Robert Cecil that,

Dixson that taught the Art of Memory in England is I hear answering Doleman and in his answer advancing the King's title, yea by the very words of her Majesty's letters to the King which in any construction may fit the same and which letters are delivered I hear to Mr Dixson for that purpose. These are also to be done and printed with expedition.<sup>167</sup>

It is strange therefore that Dickson's tract was never published, especially considering that Waldegrave printed several pieces of succession literature in 1598 and 1599. It is unclear whether this was due to a saturation of similar works appearing at the time, or whether the length or content of the tracts were contributing factors to this. As will be examined, the content of the manuscripts is markedly different to that of the works previously considered, and this could potentially have contributed to any decision not to publish them. However, as there are no records specifically pertaining to this issue it is impossible to do more than speculate.

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<sup>167</sup> CSP Vol XII Part 1, pp.167-8.

## AUTHORSHIP

It is unsurprising that James utilised the abilities of Dickson, a moderate Catholic Scot who had gained a controversial reputation in England for his philosophical publications, and had ties with the circle that had surrounded the late Earl of Leicester and Sir Philip Sidney.<sup>168</sup> Although returned to the Scottish court and playing the role of spy and courtier, his reputation in England would have added weight to any tract he wrote. As will be explored, these two, distinctly Scottish tracts, spend an inordinate amount of time attempting to reconcile the English to a Scottish monarch and by encouraging Dickson to write in support of his rights, James was improving his chances of having the English people accept his claim to the throne.

Although anonymous, *An Apologie* purports to be the work of a loyal Englishman.<sup>169</sup> However, the linguistic style is strikingly similar to that of Dickson, and this, coupled with the limited detail of English matters, and other content implies that the author was Scottish.<sup>170</sup> Internal references to recent gatherings of the nobility, and tensions with Ireland and Spain date the tract to the period between November 1599 and the end of 1601.<sup>171</sup> The lengthy condemnation of the Catholic Church, the refutation of any possible conversion by James, and several references to Wentworth, imply the author was Protestant.<sup>172</sup> Given the similarities in content to tracts that were printed during this period, it is possible that *An Apologie* was not published because there was a surplus of

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<sup>168</sup> Peter Beal, 'Alexander Dicson: Elizabethan philosopher, propagandist, spy: a checklist of his writings', in, *The Library*, 7th ser., 2:2 (2001) 120-30.

<sup>169</sup> *An Apologie Of The Scottische King*, Laing MS, III 245, pp. 7(=9)- 8 (=10). This text has two sets of page numbers, so to avoid confusion both are included here.

<sup>170</sup> J-C Mayer, *Breaking the Silence on the Succession*, (Montpellier, 2003), p.203.

<sup>171</sup> Doran, 'Three Late Elizabethan Succession Tracts', p.111.

<sup>172</sup> *An Apologie Of The Scottische King*, pp. 20 (=22)- 22 (=24) and pp. 61(=63).

similar material. Although there is no evidence that James commissioned, or was aware of the tract, it could have been written to appeal to him, or gain the author his favour.

Both tracts engage with the obstacles outlined by Parsons against James' claim, specifically the issues of his foreign birth; the attainder of his mother; the dubious legitimacy of Henry VIII's Will; and the supremacy of the Infanta's claim. However, there are no new lines of argumentation added to the strong case already outlined by Wentworth, Philodikaios and James VI. Indeed, *An Apologie* gives little time to the issues of foreign birth and Henry's Will, and completely ignores the implications of the so-called 'Act of Association' focusing instead on reconciling the English to a Scottish King. Dickson offers strong rebuttal, but adds little new material to the debate. However, his treatment of the 'Act of Association' is significant, as he focused on the fact that, as Mary Stewart 'was no subject but an absolute and free princesse not acknowledging anie superior but God' no English law held sufficient weight to execute her or remove her line's right to the throne.<sup>173</sup> This argument was used by contemporaries publishing in the wake of Mary's trial and execution in 1587, but it seems that Dickson was the first to utilise them in support of James' claim to the English throne.<sup>174</sup>

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<sup>173</sup> Alexander Dickson, *Of the Right of the Crowne efter hir Majesty, Three books where be occasione is refuted a treacherus libel intitling the house of Spagne to the succession therof*, Advocates MS, ff.62-63.

<sup>174</sup> For example John Leslie, *A defence of the honour of the right highe, mightue and noble Princesse Marie Quene of Scotlande and dowager of France, with a declaration aswell of her right, title and intereste to the succession of the crowne of Englande, as that the regimente of women ys conformable to the lawe of God and nature*, (London, 1569).

## HENRY VIII'S WILL

The treatment of Henry VIII's Will in both *An Apologie* and *Of the Right* is consistent with the attitudes of their contemporaries.<sup>175</sup> What is interesting is the use of this issue as an argument against Elizabeth naming her heir in her will, as the authenticity and integrity of its contents could easily be compromised.<sup>176</sup> Doran argues that this was a veiled expression of distrust of the Queen's counsellors, especially Robert Cecil, of whom James was highly suspicious.<sup>177</sup> As will be shown, both tracts, more than the other material considered, discuss the power of evil counsel on a monarch, arguing that Elizabeth's dangerous policy of not naming an heir originated from her advisors. This debate is intrinsically linked with the impact Mary Stewart's imprisonment and execution in England had upon the succession issue and Anglo-Scottish relations.

## GENEALOGICAL DEBATE

Neither Wentworth, Philodikaios nor James VI challenged the genealogical argument of James' detractors, as characterised by *A Conference*, focusing instead on proving the validity of James' claim, as opposed to disproving other claims. Whilst it could be suggested that this was less important than establishing the way in which the succession should be governed, it is surprising that none of the other authors perceived the political significance in engaging with this issue. The importance of the matter can be clearly seen once Parsons' position is made clear. He argues that the Infanta was descended from both William the Conqueror, and John of Gaunt, the Duke of Lancaster, and his

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<sup>175</sup> For a full examination of the various challenges to the Will see Chapter 2.

<sup>176</sup> *An Apologie Of The Scottische King*, pp.17(=19)-20 (=21).

<sup>177</sup> Doran, 'Three Late Elizabethan Succession Tracts', p.112.

first wife Blanche, whereas James' claim stemmed from John of Gaunt's illegitimate children, reinforced with the supposedly lesser claim of the House of York through the marriage of Henry Tudor and Elizabeth Woodville. If these grounds were accepted as proving the supremacy of the Infanta's claim, then Elizabeth's own place in the line of the succession required her to relinquish the throne in favour of the superior Spanish claim. After an extensive examination of the genealogical background, fellow Catholic Dickson concludes that as the Spanish King, along with the rest of Europe, had acknowledged the legitimacy of the Tudor dynasty, and had supported Mary Stewart's claim to the English throne during her life time, that Parsons' genealogical argument could not be upheld, having been summarily disproved by the actions of other monarchs.<sup>178</sup>

## **FOREIGN BIRTH**

Both manuscripts consider the issue of foreign birth, reiterating the idea that law could not limit the succession of the crown, and therefore dismissing any notion that James' nationality barred him from the succession. Whilst the handling of the issue in *An Apologie* is fairly unremarkable, it is interesting that Dickson revisits the idea of English suzerainty, emphasising that as the English claimed lordship over Scotland, James could not be considered an 'alien' having being born in a nation which was subject to the English crown.<sup>179</sup> The inclusion of this argument, also seen in *A Pithie Exhortation*,

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<sup>178</sup> Dickson, *Of the Right*, ff.68-110.

<sup>179</sup> Dickson, *Of the Right*, ff.53-56.

strongly suggests that this tract was intended for English consumption, as Scots understandably resented the idea of English suzerainty.<sup>180</sup>

However, when considering the intended audience of the material, these two manuscripts raise interesting questions. Whilst it appears apparent on reading Dickson's use of arguments in favour of English over-lordship that *Of the Right* was intended for English consumption, other arguments imply a wider intended readership. The protracted condemnation of the execution of Mary Stewart, and the implication that unwise counsel brought it about, would have caused further confusion in England, by bringing the complicated issue of Mary's place in the succession to the forefront of the debate.<sup>181</sup>

## **MARY QUEEN OF SCOTS**

Mary Stewart was intertwined in the English succession from infancy when she was betrothed to the young Prince Edward as part of the Treaties of Greenwich.<sup>182</sup>

Throughout her life Mary posed a massive threat to Elizabeth's position. As has been discussed, the English succession had been highly unsettled in the century preceding the reign of Henry VIII, and his succession statutes had further complicated the issue. The religious turmoil of the sixteenth century also created a situation whereby heirs to the throne were discarded by some on the grounds of religion. Consequently, upon the death of Mary I, Europe was divided over who was her rightful heir. For those who

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<sup>180</sup> Wentworth, *A Treatise*, p.11.

<sup>181</sup> Dickson, *Of the Right*, ff.22-23, 62-65.

<sup>182</sup> The Treaties of Greenwich 1543.

accepted the Will of Henry VIII, his legally illegitimate, Protestant daughter Elizabeth was the next heir. However if the Will was disregarded then Elizabeth had no legal claim to the throne and therefore, Margaret Tudor's granddaughter, Mary, Queen of Scots, the Catholic wife of the Dauphin was considered by much of Catholic Europe to be the rightful heir. However it is the deposition of Mary in 1567, and her flight to England that makes the discussion of her in *Of the Right* so controversial. As a female monarch deposed by her subjects, she could have reasonably expected Elizabeth's support, as Elizabeth could not allow a precedent for the deposition of an anointed monarch to be established. However, regardless of Elizabeth's support for her cousin whilst she remained in Scotland, once Mary was in England Elizabeth ceased to offer military support to her cause, and refused to receive her at court, tacitly accepting the Queen's deposition due to domestic and international considerations.<sup>183</sup>

Dickson's argument that Mary was not subject to the laws of England, being an anointed sovereign accountable only to God, is reflected in Elizabeth's refusal to allow Mary to attend the Conferences in York and Westminster, which passed judgment over Mary's role in the death of her husband.<sup>184</sup> However, regardless of this indication that Mary was not subject to trial by English peers, in October 1586 Mary was brought to trial for her involvement in the Babington Plot and sentenced to death, by a commission of English lords. In language strikingly similar to that used by Dickson she rejected the authority of the court, as she was,

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<sup>183</sup> Alison Plowden, *Two Queens in One Ile: The Deadly Relationship of Elizabeth I and Mary Queen of Scots*, (London, 1984) p.141.

<sup>184</sup> Dickson, *Of the Right*, ff.62-65.

no subject of the queen's, but had been and was a free and absolute queen, and not to be constrained to appear before commissioners or any other Judge whatsoever, for any cause whatsoever, save before God.<sup>185</sup>

Elizabeth was infamously reluctant to put her cousin to death, and it is almost certain that her reluctance was rooted in the fact that such an action would endanger the position of all other monarchs, undermining the notion that they were accountable only to God. Regardless of the manifold political and religious benefits that were brought about by it, Mary's deposition would also have been difficult for Elizabeth to accept, as it undermined the notion of Christian obedience established in Romans 13, which denied the right of the people to resist their monarch. It was also dangerous in respect of the English succession as it narrowed the field of available successors, and made each claimant that remained more prominent.

In attempting to garner a mutually beneficial solution, Elizabeth suggested several situations for restoring Mary to her Scottish throne, either as joint monarch with her infant son, or under the control of a council of nobles, which undermined the notion of monarchical authority to which both Elizabeth and Mary subscribed, and gave weight to ideas of elective or constitutional monarchy.<sup>186</sup> Through the actions that resulted in her deposition, and these attempts to return her to her throne, Mary was greatly responsible for denigrating the authority of the monarchy in Scotland, which her son attempted to restore in *The Trew Law*.<sup>187</sup>

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<sup>185</sup> Record of the State Trial of Mary Queen of Scots, in Jayne Elizabeth Lewis, *The trial of Mary Queen of Scots: A Brief history with documents*, (Boston, 1999), p.100.

<sup>186</sup> Roger A Mason, *Scots and Britons: Scottish Political thought and the Union of 1603*, (Cambridge, 1994) p.9.

<sup>187</sup> See Chapter 1.



James' attitude towards his mother also muddied the waters of the succession issue. In the months preceding Mary's execution, the defensive Treaty of Berwick was signed between James and Elizabeth, and Elizabeth began providing him with an annuity.<sup>188</sup> On hearing of his mother's sentence, James sent several ambassadors to Elizabeth, grieved that she had let matters 'procede so farre to my dishonour'.<sup>189</sup>

As well as the obvious slight of executing Mary, by claiming the right to try her in England, Elizabeth implied that Scotland, its people and its monarch, were subject to English laws. Dickson argues that Mary, 'was no subject but an absolute and free princesse not acknowledging anie superior but God' and therefore, for Elizabeth to believe that she had the power to condemn Mary, she implicitly claimed English suzerainty, undermining James' authority.<sup>190</sup> Despite these concerns, during this period James received a letter from Elizabeth, which he later had recorded by his Privy Council, that promised,

There shall be nothing done by us or any other with our assent that may tend to prejudice, hinder, or impeach any title that you may after our time pretend to this crown, which promise of ours we do mean for our part inviolably to keep, with condition that you for your part will attempt nothing during our life neither directly or indirectly nor assent that any other shall attempt anything that may either breed peril to our person or trouble to our estate.<sup>191</sup>

By promising not to impede James' claim to the throne, unless he attempted to claim it prematurely, Elizabeth signals that Mary's attainder would not impact the claim of her son. Given how much time was spent by James' supporters refuting this 'Act of

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<sup>188</sup> Croft, *King James*, pp.44-45.

<sup>189</sup> Letter of James VI to William Keith, 27 Nov 1586, in Robert S Rait, and Anne I Cameron, *King James' Secret: Negotiations between Elizabeth and James VI Relating to the Execution of Mary Queen of Scots from the Warrender Papers*, (London, 1927), pp.60-62.

<sup>190</sup> Dickson, *Of the Right*, ff.62-63.

<sup>191</sup> CSP Vol. VIII Part 2, p.1120.

Association' it is not surprising that James had Elizabeth's letter officially recorded in 1596.

In light of this situation, the limited Scottish response to Mary's death is understandable. Despite the nobility's demands that James respond militarily, doing so would have allowed Elizabeth to renege on her promise to leave his claim unhindered. Although little was done to stem the increase in border skirmishes, James refused to engage in organised military action. Although he reopened negotiations with the French about renewing the Auld Alliance, and refused to communicate with Elizabeth for months, James began to make overtures to her once he realised he could not gain the financial or military strength to respond decisively to his mother's execution.<sup>192</sup> For the rest of Elizabeth's reign James repeated asked for her recognition of his position, and her guarantee that she would not impede his claim to the English throne after her death.<sup>193</sup>

As well as the direct impact of Mary Stewart on the English succession, the work of her supporters further contributed to the confusion that surrounded the succession. Dickson condemns,

sum of hir awin in their setting owt of buiks intitling hir to the crown, and untymelie inculcating the unities of the hole isle...the Scottish title had

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<sup>192</sup> Susan Doran, 'Revenge her Foul and Most Unnatural Murder? The Impact of Mary Stewart's Execution on Anglo-Scottish Relations' in *The Historical Society* (Oxford, 2000), pp.589-612.

<sup>193</sup> CSP Vol XII pp. 99, 126, 256, 337, Vol XIII Part 1, pp.136,140, 158, 196, Vol XIII Part 2, p.612, 769, 784.

undoubtedlie susteynit such foyle and wounds as a rytfull caus (which can not be sullit) is capable of.<sup>194</sup>

Dickson argues that by proclaiming Mary's right to the throne of England, even above Elizabeth's, Mary's supporters had created a situation where if Elizabeth acknowledged James' claim openly, she was also admitting to the execution of either her heir, or the rightful Queen of England. However, he also emphatically declares that, as 'a rytfull caus' the Scottish title could not be dismissed, as it was the dominant hereditary claim. He argues that it was Elizabeth's own experiences under Mary Tudor which restrained her from acting against Mary Stewart earlier, pointing out that she refused to declare an heir in Mary's stead, or deny her right to the English throne during her lifetime, implying that Elizabeth accepted the concept of hereditary right, regardless of political and religious considerations which made Mary's succession undesirable.<sup>195</sup>

It is clear that the discussion of Mary Stewart in *Of the Right* raised numerous issues that were impossible to reconcile between Elizabeth and James. His mother's treatment seriously undermined the independence of the Scottish monarchy, as it damaged his authority and implied English suzerainty. Significantly, the only way to justify the trial and execution of Mary was to highlight the fact that she was no longer an anointed queen, an argument that could not be utilised by the English government, as it would have been anathema to Elizabeth. Surprisingly, Elizabeth's proposals for returning Mary to Scotland undermined the absolute imperial monarchy that both she and James professed to believe in. Perhaps it was this content, not previously utilised in the succession debate, which prevented the publication of the tract, as James may have felt

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<sup>194</sup> Dickson, *Of the Right*, ff.22.

<sup>195</sup> Dickson, *Of the Right*, ff.22-23.

it was excessively antagonistic towards Elizabeth, and would have raised an issue where both monarchs' behaviour was questionable.

## **ROLE OF COUNSELORS**

One of the major debates tied to the succession that Dickson emphasises is that of counsel. The issue was highly debated throughout the sixteenth-century, with humanist texts such as *The Boke of Governor* discussing the duty of the elite to offer advice to the monarch. There was a sense that the monarch must accept counsel and allow it to inform their actions, otherwise be considered tyrannical. This was a problematic concept as it implied that the monarch was not infallible, undermining the idea that the monarch was directed by the will of God. At the start of Elizabeth's reign there was a body of opinion led by Aylmer, which argued that any disadvantage the nation faced from having a female monarch would be assuaged by the counsel she would receive from learned men.<sup>196</sup> This idea of England as a 'mixed polity', whilst neutralising the potential limitations of female rule, was problematic as it challenged absolute monarchical authority. Philodikaios uses the argument that as King of England, James would receive, 'the sage advise of moste wise and expert Counsellours', in an attempt to reconcile the English readership to his elevation.<sup>197</sup> Evidently the influence wielded by counsellors was deemed to limit any possible damage caused by a monarch who was not considered ideal.

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<sup>196</sup> John Aylmer, 'An Harborowe for Faithfull Subjects', in, *The English Experience: Its Record in Early Printed Books Published in Facsimile* (Amsterdam, 1972), H2/3.

<sup>197</sup> Philodikaios, *A Treatise*, p.44.

In some ways, the emphasis on the role of counsellors aided the monarch, as it provided them with a scapegoat for unpopular or unsuccessful policies.<sup>198</sup> Similarly, it offered polemicists a figure to hold responsible for unwise actions. Indeed, many of the authors who dismissed Henry's Will did so on the grounds that it was so unwise that it must have been unduly influenced by evil counsel, had the King had any involvement with it at all.<sup>199</sup> Dickson utilises this opportunity, and is highly critical of several English policies, although ascribing the blame to Elizabeth's counsellors, avoiding, to some extent direct criticism of her. He suggests the worse misfortune for a monarch is to have bad counsellors, as the monarch is reliant upon the information they provide. However his argument that,

a great nead hath the prence to be wyse, righteous, and weill inclynit of him self,  
or els he shalbe wondfullie led owt of the way be the deseavable counsels,

implies that Elizabeth herself was lacking in the qualities to be a truly great monarch.<sup>200</sup>

Dickson revisits the notion, used by Catholic polemicists that it was those who counselled Elizabeth who had promoted the policy of not naming an heir, nor marrying to secure the succession, suggesting that they sought, 'to kill her alyve' by blocking every potential husband and deprive her of a legal heir by forbidding discussion of the succession. He points out the numerous occasions when counsellors or Parliament

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<sup>198</sup> For example, Henry VIII's execution of his father's tax collectors Empson and Dudley when he first took the throne.

<sup>199</sup> See: Ives, 'Henry VIII's Will', pp.779-804 & Houlbrooke, 'Henry VIII's Will', pp.891-899.

<sup>200</sup> Dickson, *Of the Right*, ff.20.

requested Elizabeth, ‘set the Scottish queyne and hir sone besyd the cusheon’ and deny their right to the throne of England.<sup>201</sup>

Dickson suggests that Elizabeth’s fear of naming an heir stemmed from her bad counsel, as the actions of true heirs would have actually been, ‘more calme and moderat then of usurpers’, therefore it would be safer to name an heir than to leave the matter unresolved.<sup>202</sup> This was not dissimilar to the arguments made by Wentworth and Philodikaos, who argued that by failing to name an heir, Elizabeth maintained the hopes of those whose claims had not been refuted, and encouraged claimants to raise forces to promote themselves.<sup>203</sup> Both *An Apologie* and *Of the Right* reiterate the danger of continued silence on the succession, but Dickson is the only author to suggest that Elizabeth’s counsellors were deliberately attempting to sabotage the succession.

This argument is possibly designed to reflect the fact James was highly suspicious of Elizabeth’s counsellors, specifically Lord Burghley, and later his son Robert Cecil, due to their involvement with the Catholic Earls in Scotland, and their immense influence with Elizabeth.<sup>204</sup> Many historians have remarked upon James’ distrust of the Cecil’s, and his resultant relationship with their rival, the Earl of Essex.<sup>205</sup> Hurstfield suggests that Essex deliberately encouraged James in the belief that Cecil preferred the claim of

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<sup>201</sup> This had occurred after the failure of the Throckmorton Plot in 1572, and had also been discussed in the 1563 Parliament which followed Elizabeth’s near fatal attack of smallpox. See also: Dickson, *Of the Right*, ff.24.

<sup>202</sup> Dickson, *Of the Right*, ff.22.

<sup>203</sup> Wentworth, *A Pithie Exhortation*, pp.82-3 & Philodikaos, *A Treatise*, 29-31.

<sup>204</sup> CSP Vol XI, p.493.

<sup>205</sup> For more detail on this subject see, Doran, ‘James VI and the English Succession’, pp.38-42, John Hurstfield, *Freedom, Corruption and Government in Elizabethan England* (London, 1973), pp.104-134. & Stafford, *James VI of Scotland*, pp.200-218.

the Infanta above that of James towards the end of the 1590's, so as to secure his own position as James' main contact in England.<sup>206</sup> James' deep-rooted suspicions against the Cecil's are evident on reading the details of some of the correspondence between James and Essex, where nine proofs of their collusion with Spain to place the Infanta on the throne on the death of Elizabeth are detailed.<sup>207</sup> It seems credible that Dickson's condemnation of evil counsellors was heavily influenced by James' concerns over the influence of Burghley and Cecil enjoyed with Elizabeth, and the blame he ascribed Burghley for the persecution and execution of Mary Stewart.

## **CRITICISM OF ELIZABETH I**

*Of the Right* implies that Elizabeth was deficient as a monarch as she allowed herself to be overly influenced by bad counsel. Like the works of Wentworth and Philodikioas it also criticises her for failing to fulfil her duty to her people and God by ensuring the succession after her death. *An Apologie* echoes the criticism used by Wentworth, highlighting that by refusing to name an heir due to the perceived danger to her own position, she was assuming that God would no longer seek to protect her. The author argues that it is the duty of a monarch, given by God, to name their heir so as to protect their people.<sup>208</sup>

Both manuscripts similarly decry the policy of silence, reiterating that this would encourage the development of competing factions that would lead to conflict upon

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<sup>206</sup> Hurstfield, *Freedom, Corruption and Government*, p.111.

<sup>207</sup> CSP Vol VIII Part 2, pp.784-787.

<sup>208</sup> *An Apologie Of The Scottische King*, pp.24(=26)-25 (=27).

Elizabeth's death.<sup>209</sup> On the nature of the succession however, neither makes a significant case for a particular theory. Dickson argues that the Queen alone had the ability to declare a successor, although he also discusses the power of parliament to limit the succession through statute, with the consent of the monarch, contrary to the many authors who claimed the crown was governed by immutable 'fundamental' laws.<sup>210</sup> *An Apologie* argues that the most effective manner of avoiding confusion over the true successor to Elizabeth was,

the publication of the Scottish King right, the establishing thereof by parliament and ratification by the othes of obedience taiken of all the nobilitie and comuns,<sup>211</sup>

implying support for the role of Parliament in declaring the succession, although they did not have the autonomy to select the heir, merely to recognise the person with the strongest right. There is no clarification over whether Parliament could undertake this action independently of the Queen. This omission is strange, but perhaps unsurprising when considered in the context of a work that recognises no claimant other than James, who would be selected by default.

Both authors also examine the consequences for a nation taken by conquest, focusing on the invasion of William the Conqueror, but this is more an illustration of the dangers of leaving the succession uncertain than the articulation of a particular theory of succession, implying the potential threat of a Spanish conquest.<sup>212</sup> Indeed, the author of *An Apologie* expresses a desire to have a constant reminder of the conquest, 'sett over

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<sup>209</sup> *An Apologie Of The Scottische King*, pp.22(=24) & Dickson, *Of the Right*, ff.29.

<sup>210</sup> Dickson, *Of the Right*, ff.28-29.

<sup>211</sup> *An Apologie Of The Scottische King*, pp.37(=39).

<sup>212</sup> Dickson, *Of the Right*, ff.30-31 & *An Apologie Of The Scottische King*, pp. 12 (=14)- 14 (=16).



against us wheresoever we rested, that it might mak suche a deip impression in our herte that the terrour,' to encourage people to demand a resolution of the succession.<sup>213</sup>

## DEFENCE OF JAMES VI

The dominant focus of *An Apologie of the Scottish King* is the refutation of rumours against James, which were supposedly circulating in England. Other works such as *A Pithie Exhortation* and *A Treatise* made some attempt to reconcile the English to the prospect of a Scottish monarch. This reconciliation was necessary due to the historically antagonistic relationship between the countries, which had been exacerbated in recent years by Mary Stewart's imprisonment and execution. The natural tendency of Englishmen was to consider Scots uncivilized and barbaric, and the traditional alliance between France and Scotland further undermined any ties between England and Scotland. *An Apologie* highlights this mutual dislike, stating,

some evill advised persones do rashellie uter amongst there cups of the basnes and povertie of the Scottish, and the ould injureies and enemities betwene us: which is not yet buried in the hartes of most of our cuntrie men.<sup>214</sup>

Given that the author of this manuscript was most probably Scottish, the inclusion of these lines is interesting. It illustrates that Anglo-Scottish relations, though relatively strong diplomatically, were not much changed amongst the commonality, which retained the antagonistic attitudes of the generations that preceded them.

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<sup>213</sup> *An Apologie Of The Scottische King*, p.14 (=16).

<sup>214</sup> *An Apologie Of The Scottische King*, p.38 (=40).

James was highly concerned that negative rumours and ‘evil words spoken’ about him in England, would impede his ability to claim the throne on Elizabeth’s death, as he would not enjoy the support of the English commonality, who might instead support an English candidate with a lesser right.<sup>215</sup> Many of these rumours showed concern over James’ ties with foreign nations, implying that he would unite with foreign powers to take the English throne.<sup>216</sup> These rumours fed off the English fear of foreign rule, rather than James’ position as a Scot, which was also a major focus of discontent.

Statements challenging his right to the English throne, both in Parliament and in general discourse, caused great consternation for James, but murmurs that he intended to convert to Catholicism were particularly dangerous. This long-term rumour, having gained credibility when James treated the rebellious Catholic lords tolerantly in the early 1590’s was clearly a cause for concern amongst the English Protestant elite.<sup>217</sup> James refused to openly display his religious credentials so as to court Catholic support for his claim to the English throne. Indeed there is evidence to suggest that James was attempting to gain the support of the Pope for his claim, so as to gain an edge over the Spanish claimant.<sup>218</sup> The matter is decisively dealt with in *An Apologie*, as James’ Protestant credentials are emphasised. This is achieved by discussion of *Basilikon Doran*, a work written by James to instruct his son in the role of a King, which whilst not intended for wide circulation, was published in 1599. As the author of *An Apologie* points out, the first section of *Basilikon Doran*,

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<sup>215</sup> CSP Vol XIII Part 1 p.562.

<sup>216</sup> Which may indeed have come to pass, had any of James’ foreign allies been willing to do so.

<sup>217</sup> CSP Vol XII p.267.

<sup>218</sup> Stafford, *James VI of Scotland*, pp.231-238.

Commendeth unto him the studie and protexion of the trewth well professed,  
free from the dregs of all poperie and superstition above all thingis whuhat  
soever.<sup>219</sup>

As it is unlikely that James would advise his son to continue in heresy, this is effective proof against one of the more dangerous rumours circulating about him. *An Apologie* compounds this by discussing the favour the Pope supposed showed James in the struggle for the English succession. It is argued that this support was designed to,

commend him to ther owne faction opinlie to disgrace him to the other  
cunningly, in tending therby in tyme of need to make him destitute of both.<sup>220</sup>

The implied deceit and underhanded maliciousness of the Church would have been quite credible in a nation where some referred to the Bishop of Rome as the Anti-Christ. The argument also exonerated James from any apparent Catholic sympathies, and the supposed deception implied that his Catholic enemies considered his claim to the English throne to be superior. Indeed it is argued that the sole objective of publishing *A Conference* was to weaken James' claim and encourage sufficient confusion to allow for the promotion of a Catholic claimant.<sup>221</sup>

The large amount of time *An Apologie* spends refuting various rumours against James emphasises the significance that he, and those who supported him, put on the opinion of the common people. As, unlike *A Pithie Exhortation* or *A Treatise*, which highlighted the benefits for England of having the Scottish King on the English throne, the focus of *An Apologie* was on rebutting rumours against James, it may be assumed that the work

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<sup>219</sup> *An Apologie Of The Scottische King*, p.53 (=55).

<sup>220</sup> *An Apologie Of The Scottische King*, pp.61(=63)- 62(=64).

<sup>221</sup> *An Apologie Of The Scottische King*, pp.35 (=37)-37(=39).

was more of a reaction against the negative attitude of the English against James himself, as opposed to the Scots in general.

## **SIGNIFICANCE**

These two manuscripts bring significant new debates to the forefront of the succession issue, offering new approaches to refuting objections to James' claim. As Scottish responses to the English succession debate, with ties to James, they are examples of material that was blatantly motivated by the need to promote James' claim and not to preserve peace or religion in England. The refutation of the various rumours against James reflect his concern that they could impede his accession on the death of Elizabeth, but the arguments concerning Mary Stewart and the power of counsel are as inflammatory as they are interesting. It seems highly likely that it is the inclusion of these lines of argumentation that made *Of the Right* unsuitable for publication.

Although the text offers support of James' claim, the criticism of Elizabeth's policies and the denigration of her counsellors, coupled with the controversial reintroduction of Mary to the debate would have merely antagonised the English queen and potentially caused greater harm than benefit to James' chances of being recognised as Elizabeth's heir, especially due to the involvement of many of the English counsellors in the downfall of the Scottish queen. Although far less inflammatory, *An Apologie* was perhaps written too late to be considered for publication, as it has been suggested that it was penned in the year preceding Essex's abortive coup, which threw the succession into further turmoil. As the events of 1601 left James without a trusted ally in England, it is likely that his focus at this point was on establishing a cordial relationship with

Robert Cecil to enable the promotion his claim, as opposed to facilitating the publication of more literature supporting it.

## CONCLUSION

Despite the potential for chaos and conflict discussed within the tracts examined here, James VI successfully took the English throne after the death of Elizabeth, without bloodshed or confusion. Whilst some historians have suggested that this was an inevitable occurrence, this is clearly proved false once the plethora of Anglo-Scottish succession tracts are considered.<sup>222</sup> With hindsight we know that the Spanish were disinclined to pursue the Infanta's claim, and that none of the English claimants could have commanded sufficient weight within England to take and hold the throne. However, amongst contemporaries the succession was an issue both complex and unpredictable, perhaps because it encompassed so many different ideological debates.

As was mentioned at the start of this study, the five 'Anglo-Scottish' succession tracts that have been considered here were chosen because of their ties to James VI, although they are by no means the only tracts to have such links.<sup>223</sup> Although produced for different audiences, and with different initial motivations, *The Trew Law, A Pithie Exhortation, A Treatise* and *Of the Right* have direct links to James through their authorship, publishing or production. The final manuscript, *An Apologie*, whilst not having proven links with the Scottish King, was arguably written by a Scot and reflects James' recorded concerns over rumours circulating in England in such a way that some input on his part is distinctly possible.

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<sup>222</sup> MacCaffrey, *Elizabeth I*, p.441.

<sup>223</sup> Other examples include, Thomas Craig's *Right of Succession to the Kingdom of England*, which was written in Latin in 1603 and published in translation in 1703 and the works of Walter Quinn commissioned by James VI, which have been lost.

The very existence of these tracts reflects the concern James felt over the issue of the English succession. His correspondence with Elizabeth, and the various tracts he commissioned, facilitated or wrote prove that he was not secure in his rights. As has been mentioned previously, much of what he professed to believe in *The Trew Law* about the nature of the succession and monarchy in general is undermined by his repeated request for recognition and guarantees that his mother's actions did not prejudice his own claim from Elizabeth, his embassies to foreign rulers and his attempts to reinforce his military capabilities by securing the support of his nobility through the General Band of 1599.<sup>224</sup> It is clear that although he advocated a strictly hereditary succession founded in unassailable 'fundamental law', he was not confident that this would be sufficient to ensure his success in gaining the English crown after Elizabeth's death. Despite arguing the contrary, there is a definite implication that James believed England to favour a semi-elective monarchy, where the hereditary heir required the support of the political elite to prevail. It seems clear that his strong and consistent arguments in favour of hereditary succession influenced only by God were not merely an attempt to repair the damage caused to the Scottish monarchy during the reign of Mary Stewart, but also a response to this perceived reality in England.

Through the analysis of the tracts it has become clear that a large proportion of their ideological content was dictated by the arguments employed by material that challenged James' claim, specifically *A Conference*. Consequently, some of the ideological

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<sup>224</sup> CSP, Vol XIII Part 1, pp.576-578.

consistency between the texts must be ascribed to the fact that they were responding to the same body of literature. However *The Trew Law* answered the same concerns as the later material, but does so in a more nuanced manner, which means that it does not immediately appear to be part of a body of ‘Anglo-Scottish’ succession literature. However it does deal with the main obstacles raised against James, namely the nature of monarchy and the relationship between the monarchy and the law. The two texts published by Waldegrave offer a less sophisticated refutation of Parsons’ arguments, although Wentworth’s *A Pithie Exhortation*, written before *A Conference* has a different focus, the second part of Wentworth’s work, and *A Treatise* deal with the specific objections such as the misnamed ‘Act of Association’, Henry VIII’s Will and various common and statute laws in England that impeded James’ rights, along with certain genealogical considerations. Both Wentworth’s *Discourse* and *A Treatise* also deal decisively with the issue of foreign birth and the English succession, a topic avoided by Parsons as it damaged the claim of his preferred candidate. As has been argued, these specifics were not directly answered in *The Trew Law*, as they were rendered unimportant by James’ theory of monarchy and succession that was governed only by ‘fundamental’ laws and God. The final two tracts, which exist only in manuscript, engage with the same objections to James’ claim, but include controversial argumentation which would have potentially been counter productive in promoting James’ right to the English throne, possibly contributing to why they were never circulated in print.

Regardless of the fact that all of the succession tracts considered here were provided a framework by *A Conference*, they share a number of consistent ideological positions.



Each subscribes to the notion that the succession in England was hereditary and ordained by God, and as part of the ‘fundamental’ laws that made up the English ‘ancient constitution’, was immune to any legal or religious restrictions.<sup>225</sup> The role of Parliament is also discussed extensively by Wentworth in *A Pithie Exhortation*, however his conclusion in the additional *Discourse* is that although Parliament may declare the heir, they cannot gift the crown, merely recognise the individual with the best hereditary claim.<sup>226</sup> It is possible that this volte face, along with his support for the claim of James VI in the *Discourse* was as a result of the Scottish King’s involvement in the publication of the work, but the caveat on the power of Parliament is not an aberration in a period when the monarch-in-parliament was beginning to be considered the ultimate authority, as opposed to either Parliament or the monarch acting alone.

There is also an emphasis in the last four tracts, of the importance of the current monarch naming an heir to avoid chaos and bloodshed on their death. The consistent focus on the dangers that faced a nation that had been deprived of a clear heir must be considered to be a dual attack of Elizabeth’s policy of silence. On one hand it demanded that she announce her successor for the good of her people, and on the other it attempted to provide the English people with the impetus to demand resolution from their sovereign. Whilst not an ideological position, the consistent emphasis on the duty of the monarch and the dangers posed to England by Spain must be acknowledged to be a true reflection of contemporary attitudes.

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<sup>225</sup> See: Glenn Burgess, ‘The Divine Right of Kings Reconsidered’, in *The English Historical Review*, Vol.107, No.425 (Oct, 1992), pp.837-861 & Donald R Kelly, ‘Elizabethan Political Thought’, in, J G A Pocock et al, *The Varieties of British Political Thought 1500-1800*, (Cambridge, 1996), pp.47-79.

<sup>226</sup> Wentworth, *A Treatise*, pp.46-50.

This level of consistency is significant because the authors of the various works could not all have had access to each other's material and consequently the tracts offer an insight into a particular attitude towards the English succession during the period. The original draft of *A Pithie Discourse* was written nearly a decade before *The Trew Law*, and yet, as discussed there are some interesting similarities in their discussions of elective monarchy. Due to internal references we know that the author of *A Treatise* was aware of other, unnamed works on the succession, but whilst there is some evidence to suggest that this work was amended before publication by Waldegrave, only a limited amount of the content was changed, and the majority of the ideological content was independent from any specific outside influence.<sup>227</sup> However, due to the fact that both *A Pithie Discourse* and *A Treatise* were printed by Waldegrave, presumably at James' request, it is impossible to know exactly how much input the Scottish King had in either of these works.

In contrast the two manuscript sources considered which were written slightly after the other material was published, make specific reference to Wentworth's work and to the plethora of other succession literature that was circulating at the time.<sup>228</sup> It is clear that both Dickson and the author of *An Apologie* were aware of the arguments utilised by others in response to *A Conference*, which perhaps accounts for why they spend comparatively little time repeating the same material. What is very different about these two tracts, which are both believed to be written by Scots, for an English audience, is

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<sup>227</sup> Doran, 'Three Late-Elizabethan Succession Tracts,' pp.109-111. & Philodikaos, *A Treatise*, p.3.

<sup>228</sup> *An Apologie Of The Scottische King*, pp. 211(=213)-212(=214) & Dickson, *Of the Right*, ff.31-32.

the amount of time they spend promoting James and defending him against negative rumours. Although both Wentworth and Philodikaios discuss the benefits for England should James become King, neither specifically answers individual objections against his rule.

However, it is the new facets of the succession debate that these tracts engage with that makes them particularly interesting within this discussion. It appears that James himself was able to influence in some way the content of the different tracts, either directly in the case of *Of the Right*, which he commissioned and *The Trew Law*, which he wrote, or through his printer, Waldegrave, who published works by Wentworth and Philodikaios. Consequently all of the published material was designed to promote James' right to the English throne to the English people, without causing offence to Elizabeth. Naturally the very production of the texts in light of the English censorship legislation would have been controversial, which is perhaps why none of the printed texts contain references to the more inflammatory areas of the succession debate, such as the role played by Mary Stewart, or the influence of Elizabeth's counsellors. The manuscript sources in comparison do contain extensive discussion of issues of counsel and condemnation of the treatment of James' mother and it seems possible that the inclusion of these inflammatory issues, especially in *Of the Right*, caused the works not to be circulated in print, despite James' direct involvement.<sup>229</sup> Although *An Apologie* contains less controversial material, it was perhaps surplus to requirements, being written around the time that the Earl of Essex's coup threw the succession issue into further turmoil, and

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<sup>229</sup> CSP, Vol XII Part 1, pp.167-8.

made the re-establishment of links between James and the English elite the primary concern.

After examining even a small number of the political polemics that were circulating around England and Scotland in the late sixteenth-century it is evident that printed media had an impact on the way in which political discourse was conducted. As one of the major motivating factors behind the writing of the five texts examined was the publication of *A Conference* in 1595 it is clear that printed media made political debates more accessible and easier to influence. The consternation expressed in all of the tracts other than *The Trew Law* on the impact of the 'Statute of Silence' in England succinctly highlights that contemporaries believed printed media was an important tool in influencing the way in which common people understood complex political issues. This work has not considered how this censorship was implemented, but it is clear that the legislation had an impact on where the tracts were published as well as the content. Specifically there was a loophole left in the 1581 act that made only 'malicious' expression on the succession illegal.<sup>230</sup> As has been discussed, all of the succession tracts considered denied any malicious intent and even the two tracts written by Scotsmen declare their loyalty to the English Queen.<sup>231</sup>

Of course, the great irony of the tracts discussed here, is how peacefully James VI took up the throne of England in 1603. Despite the numerous warning from the authors

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<sup>230</sup> 23. Eliz. C.2, *The Statutes of the Realm*, Vol 4.1.

<sup>231</sup> Philodikaios, *A Treatise*, pp.3-4 & Wentworth, *A Pithie Exhortation*, pp.1, 34 & *An Apologie Of The Scottische King*, pp. 7(=9)- 8 (=10).

discussed here, Elizabeth's failure to do her duty to God and her people did not plunge England into chaos, nor lead to a brutal Spanish invasion. Instead, on the day of the Queen's death, James' accession was proclaimed in London, at the orders of Robert Cecil and the Privy Council, who later claimed that Elizabeth had indicated that the Scottish King was indeed her rightful successor.<sup>232</sup>

This could not have been predicted a mere two years previously, when the rivalry between Cecil and Essex divided the English court, and James remained unsure of his position. However, the fall of Essex and the scandal of Arabella Stewart's scheme to marry the grandson of Catherine Grey, thereby uniting the lesser Stewart claim with that of the house of Suffolk, meant that by the time Elizabeth fell into her last illness in 1603, James Stewart was truly the only viable candidate within the British Isles. Had Spain been more inclined to pursue the claim of the Infanta the circumstances might have been different.

It was not merely this happy turn of events that enabled James to successfully assert the claim to the English throne he had so desperately petitioned to have recognised. His correspondence with Robert Cecil during the final years of Elizabeth's reign allowed the able statesman to advise James on his future role in England, and begin to make

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<sup>232</sup> William, Camden, *The historie of the life and reigne of that famous princesse Elizabeth containing a briefe memoriall of the chiefest affaires of state that haue passed in these kingdomes of England, Scotland, France or Ireland since the yeare of the fatall Spanish invasion to that of her sad and ever to be deplored dissolution: wherevnto also is annexed an appendix of animadversions vpon severall passages, corrections of sundry errorrs, and additions of some remarkable matters of this history never before imprinted*, (London, 1634), pp.215-6, claimed Elizabeth verbally declared James to be her successor. This account was written several years after the event. F H Mares (ed.) *The Memoirs of Robert Carey*, (Oxford, 1972) p.59, this eyewitness account claims she only signaled with her hand.

preparations for his entry into the country as its King.<sup>233</sup> Interestingly the system of monarchy and succession promoted by all the Anglo-Scottish succession tracts considered here was ignored upon the death of Elizabeth. Instead, James, the hereditary heir, was recognised by the late Queen's Privy Council, implying that, there was indeed a type of elective monarchy in England, albeit one guided by the principles of hereditary succession, but which was ultimately reliant upon the consent of the political elite. The idea that Elizabeth indicated James to be her successor was only mentioned after the event with different accounts claiming she verbally acknowledged James' position, and others suggesting that she indicated it with her hand, being unable to speak, implying that it was merely a fantasy that endowed the Privy Council with the authority to declare James' accession.<sup>234</sup>

In the end there appears to be a distinct divide between how those involved wished the succession to appear to the general populace and the reality. James' work on the succession and the literature he was involved with, present an understanding of monarchy that negates the need for his political and diplomatic actions to secure his succession rights. Similarly, it appears that Elizabeth's Privy Council were not comfortable with appearing to supplant her authority in acknowledging her heir and therefore claimed that she had in fact signalled her approval for James before her death.<sup>235</sup>

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<sup>233</sup> Croft, *King James*, pp.48-49, & Mares, *The Memoirs of Robert Carey*, p.58-9.

<sup>234</sup> Jasper Ridley, *Elizabeth I: The Shrewdness of Virtue*, (New York, 1989), p.333.

<sup>235</sup> There is no consistency within modern accounts of Elizabeth's death, which vary from a physical or verbal indication to none at all. The eyewitness account written by Robert Carey explicitly states that Elizabeth calling for her council 'by signs' and indicated James as her heir 'by putting her hand to her head'. It is only the later account written by William Camden during the reign of James I that claims that

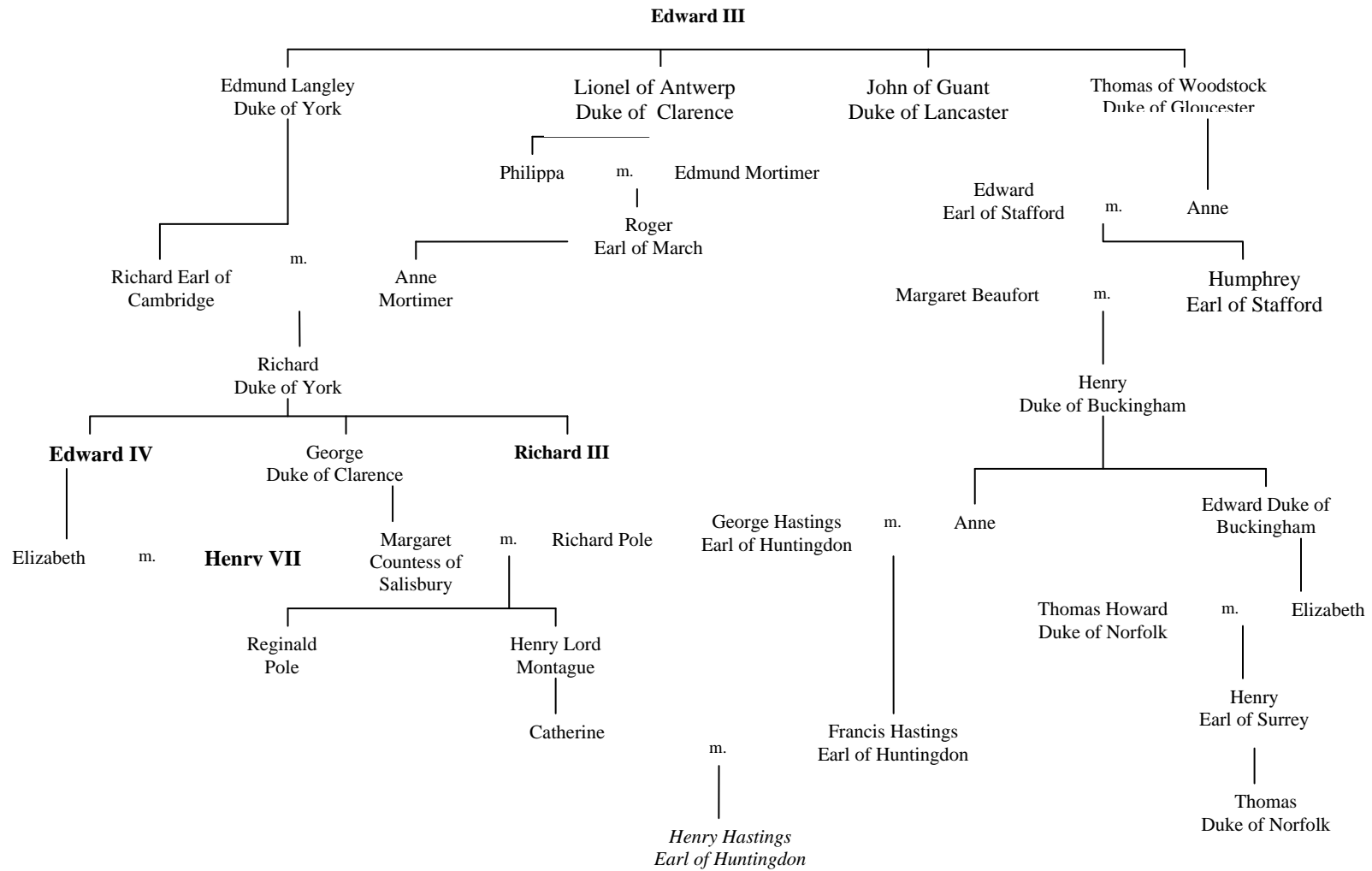
However there can be no doubt that in the wake of *A Conference*, James was highly concerned that his succession rights were under threat and that his consternation led to the production of a body of Anglo-Scottish succession literature. The content of both the printed and the manuscript material shows that there was an ideological consensus amongst some sections of society, and the manuscript material specifically provides an insight into James' personal concerns on the matter. There is also clear evidence that James avoided publishing material in his defence that could provoke a negative response from Elizabeth. What is equally clear, however, is that the succession issue in the late Elizabethan period was intrinsically linked to many of the major political debates of the century and therefore has a far broader significance than may have previously been understood.

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she had verbally designated James to be her heir. William, Camden, *The historie of the life and reigne*, pp.215-6 & Mares, *The Memoirs of Robert Carey*, p.59.

Fig. 2

### THE EARL OF HUNTINGDON AND THE SUCCESSION





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