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# **Ancient Roman History as a Means for Legitimacy in the English Early Modern Political Thought**

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## **Abstract**

The paper examines how the Roman history as one relevant part of the Classical knowledge and history was used by Sir Robert Filmer as argumentation for the legitimacy in the debate concerning the best form of government. Filmer cited the examples in favour of the monarchs and more importantly against the popular or mixed form of government. Filmer was not aware of the forthcoming English civil war, however, he was frightened of one in the light of the Roman history. Therefore, he called for avoiding the popular rule because he could not imagine that it does not lead to was and massacre.

Keywords: Roman history, Sir Robert Filmer, legitimacy, early modern political thought

## **Introduction**

The humanist intellectuals endeavouring for universality found it obvious that the source of their knowledge, arguments and even inspirations should be acquired from the ancient times. It was no different for early modern English political philosophy and theory of the state. Moreover, if we examine only their quantity, we can find that the books of authority from Greek and Roman antiquity are dwarfed by the overwhelming arguments of the Old and, to a lesser extent, the New Testament. The Bible was a point of reference, an origin in early modern England; it was the frame in which the thoughts, arguments, theories or even their behaviour were adjusted. Quotations from the Bible basically overruled in quantity the legal and political philosophical works at the expense of authorities from Classical Greece

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and Rome. The causes of this phenomenon were the Reformation and printing and, as a result of them, the Bible became common property which, in the people's mother tongue, made itself to be the very first thoughtful reading experience.

Nevertheless, the early modern authors used their antique predecessors' works by naturally selecting those sources with which and whom they could justify their arguments. However, in the everyday discussions reflecting the public sphere, instead of the authors writing in Greek or Latin, the Biblical stories translated into the national language came to the fore. Thus, these resources of antiquity could be regarded as the coronation of the overwhelming Biblical quotations that gave the main theme and guidance of the discussions. Because, if not just the world of the Bible, but the ancient Greek and Roman civilization revealed social phenomena, the political thoughts and the deduced arguments on which early modern scholars relied, then the theses of such authors were entirely justifiable.<sup>1</sup>

Beyond the sheer citations, the literature of the Bible and antiquity became an instrument for legitimacy in the reasoning of the early modern discourse, because the authors in any side of the discourse were using and referring to their own arguments through those citations. Moreover, they came to completely different conclusions and interpretations from the same historical facts many times, which leads us to surmise that, besides showing off their historic knowledge, they had another aim when they recalled the achievements of ancient civilizations.<sup>2</sup>

## I The References to the Roman Civilization in the Early Modern English Literature

Examining the early modern English authors' works on the theory of the state, we can state that we can find reference to Roman history basically in three cases, namely (1) the general data on mythology and history on any theme; (2) the more specific references in their works, describing the universal knowledge of their own age encyclopaedically; (3) finally, references to the works in which the people and their behaviour were examined.

<sup>1</sup> We shall emphasise that the Athenian notion of democracy is far more relevant to 17<sup>th</sup> century England than the plebes of Rome, however this paper deals only with the Roman heritage as the theme of the conference.

<sup>2</sup> For the humanists, the most important objective were life-long learning and education. For the humanist mind and the wider world of the humanists and their religious disputes see Anthony Grafton, Lisa Jardine, *From Humanism to the Humanities. Education and the Liberal Arts in Fifteenth- and Sixteenth-century Europe* (Harvard University Press 1986, Cambridge, MA). Erika Rummel, *The Humanist-Scholastic Debate in the Renaissance & Reformation* (Harvard Historical Studies 120., Harvard University Press 1995, Cambridge, MA). Várkonyi Gábor, *Ünnepek és hétköznapiak. Művelődés és mentalitás a török kori Magyarországon* (General Press 2009, Budapest) 62–81 and 37–61; Martin Dzelzainis, 'Ideas in Conflict: Political and Religious Thought during the English Revolution' in Neil H. Keeble (ed), *The Cambridge Companion to Writing of the English Revolution* (Cambridge University Press 2001, Cambridge). <<https://doi.org/10.1017/CCOL0521642523.003>> accessed 19 October 2021.

From the amount of historical-mythological data, in the present paper we quote only those that serve as an instrument of legitimacy in the theories of the state; their enumeration ancient data for the sake of boasting and encyclopaedic works will be omitted.

If the authors were scrutinising the people in a general and broad level, they were doing this mainly with reference to the Romans. The reason for that is not difficult to answer. The attitude and behaviour of the people, either in the Greek polis or in the Roman republic, served as a great example even after a thousand years; however, this cannot be stated about the Bible so definitely.

Regarding the central element of this theme, popular rule, (i.e. democracy), Sir Robert Filmer played an important role in early modern English political thought with his critical survey of the nature of the power of the multitude, as Filmer put democracy. Although Filmer did not use the term social contract, he denied the natural and original right of the people to choose the form of government. He rejected parliamentarism, popular government and the supremacy of the law made by the Parliament as a consequence. Meanwhile, he defended the supreme power of the king, who rules from the will of God and by the right of prime lineal succession. The examination of Filmer's great opus, the *Patriarcha*, which gives the core of this paper, is a great example of how the facts and dates from the Roman history can be utilized to prove a whole theory of the state, besides that his whole theory is constituted from the interpretation and citation of the sequence of Biblical events and phenomena. Therefore, before his opinion about the people, we briefly outline Filmer's patriarchal theory of the state.<sup>3</sup>

<sup>3</sup> For the more detailed analysis of this theory and for the literature see Cesare Cuttica, 'Sir Robert Filmer (1588–1653) and the Condescension of Posterity: Historiographical Interpretations' (2011) 21 (2) *Intellectual History Review*, 195–208. <<https://doi.org/10.1080/17496977.2011.574345>> accessed 19 October 2021; Peter Laslett, 'Introduction' in S. Robert Filmer, *Patriarcha and Other Political Works* (1949, Oxford) ix–xxiv. Peter Laslett, 'Sir Robert Filmer: The Man versus the Whig Myth' (1948) 5 *The William and Mary Quarterly*, 523–546. <<https://doi.org/10.2307/1920638>> accessed 19 October 2021; Peter Laslett, 'The Gentry of Kent in 1640' (1948) 9 *Cambridge Historical Journal*, 148–164; Gordon Schochet, *Patriarchalism in Political Thought. The Authoritarian Family and Political Speculation and Attitudes Especially in Seventeenth-century England* (1975, Oxford). Balázs Rigó, 'Sir Robert Filmer patriarchális államelméletének gyökerei a kora újkori eszmeáramlatok tükrében' (2017) 72 (2) *Jogtudományi Közlöny*, 66–75. See further particularly Kontler László, *Az állam rejtelvei* (Atlantisz 1997, Budapest) 102–110; and Sashalmi Endre, 'Sir Robert Filmer (1588–1653) and the Patriotic Monarch: Patriarchalism in Seventeenth-Century Political Thought' (2013) 20 *European Review of History / Revue européenne d'histoire*, 914–915. <<https://doi.org/10.1080/13507486.2013.832874>> accessed 19 October 2021; The sources of Filmer's work are from Sir Robert Filmer: *Patriarcha and Other Writings* (ed. Johann P. Sommerville 1991, Cambridge). As far as I know, there is no literature dedicated specifically to Filmer's thoughts on ancient Roman history. The cause of it can be that, in the Filmerian body of works, his references to Roman history only mean his anti-thesis against the theses of natural law and contemporary parliamentarism. Nevertheless, the analysis of these chapters on ancient Roman history can enlighten us on the essence of the Filmerian synthesis, patriarchalism, more closely.

## II The Draft of Sir Robert Filmer's Patriarchal Theory in the Spotlight and in His Interpretation of the Roman History

The core of the theory is that the power of fathers is natural because it has existed since the creation of man. Man and nature were created by God, therefore Adam was the very first and sole head of the family, the patriarch, who since his creation and by his primary status, had an absolute fatherly authority over his progeny and all the other heads of families as successors inherited his absolute fatherly authority thus that derived by the right of fatherhood.<sup>4</sup> The family is identical to the civil (political) community, and, as a natural consequence, fatherly power is to civil (political) authority.<sup>5</sup> Apart from the obvious Biblical origin, Filmer refers to Julius Caesar in describing the birth of the English political authority.

Caesar found more kings in France than there be now provinces there, and at his sailing over into this island [England] he found four kings in our county of Kent. These heaps of kings in each nation are an argument that their territories were but small, and strongly confirm our assertion that erection of kingdoms came at first only by distinction of families. [...] The British names of *Danmonii*, *Durotriges*, *Belgae*, *Attrebatii*, *Trinobantes*, *Iceni*, *Silures* and the rest are plentiful testimonies of the several kingdoms of the Britons when the Romans became our lords.<sup>6</sup>

Thus, Adam was not just the head of the family, the patriarch, but the first monarch as well, from whom all the succeeding monarchs could derive their own power.<sup>7</sup>

The coalescence of role of the head of the family and the monarch is manifested in their names since

as long as the first fathers of families lived, the name of patriarchs did aptly belong unto them. But after a few descents, when the true fatherhood itself was extinct and only the right of the father descended to the true heir, then the title of prince or king was more significant to express the power of him who succeeds only to the right of that fatherhood which his ancestors did naturally enjoy. By this means it comes to pass what many a child, by succeeding a king, hath the right of a father over many a grey-headed multitude, and hath the title of *pater patriae* [father of the fatherland].<sup>8</sup>

Thus, the political, regal authority is natural and absolute from its beginning because Adam did not (have to) share it with anyone. Since the authority of the monarch was the manifestation of God's will through Adam, this authority was entirely legitimate. Unconditional obedience

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<sup>4</sup> Filmer (n 3) *Patriarcha* I/3. 6. Hereinafter, in the citations to the *Patriarcha*, we provide only the numbers of the chapters and pages.

<sup>5</sup> I/4. 7.

<sup>6</sup> I/7. 9. and III/13. 53. [Caesar: *De bello Gallico* 5, 22.].

<sup>7</sup> I/8. 10.

<sup>8</sup> I/8. 10.

was a moral obligation and command.<sup>9</sup> Therefore, resistance against the patriarch was equal to that against God, hence resistance and disobedience were sins. Nevertheless, the obedience and loyalty were moral obligations to the fatherly monarch. Sashalmi highlights that, besides the Bible and the theological arguments, the specific legal establishment of the certain countries was connected to the divine rights of kings, by which phenomenon the legal and theological arguments were inseparable.<sup>10</sup> Várkonyi, supplementing the theological and legal aspects, emphasises that, in the early modern age ‘in an allegorical form, the father’s person guaranteed and expressed the unity of the created world.’<sup>11</sup>

Filmer, analysing the characteristics of obedience, cites the Roman example on the fatherly power over their children from Bodin at some length.

The Romans, even in their most popular estate, had this law in force, and this power of parents was ratified and amplified by the laws of the twelve tables, to the enabling of parents to sell their children two or three times over. By the help of this fatherly power Rome long flourished, and oftentimes was freed from great dangers. The fathers have drawn out of the very assemblies their own sons, when, being tribunes, they have published laws tending to sedition. Memorable is the example of Cassius, who ‘threw his son headlong out of the consistory, publishing the law *agraria* for the division of lands in the behoof of the people. And afterwards, by his own private judgment, put him to death’ by throwing him down from the Tarpeian rock, the magistrates and people standing threat amazed and not daring to resist his fatherly authority, although they would win all their hearts have had that law for the division of land. By which it appears it was lawful for the father to dispose of the life of his child contrary to the will of the magistrates or people. The Romans also had a law that what the children got was not their own but their father’s, although Solon made a law which acquitted the son from the nourishing of his father if his father had taught him no trade whereby to get his living.<sup>12</sup>

In this citation, the rights of the *pater familias*, the content of the *patria potestas* and even the right of coercion of the *pater familias* (*coercitio*) is revealed. However, it is to be emphasised that Filmer took this quote from Bodin, who (i.e. Bodin) used the terminology of Roman law and history in his great work ‘The Six Books of the Republic’ (*Les Six livres de la République*)

<sup>9</sup> I/10. 11–12.

<sup>10</sup> Sashalmi Endre, ‘Abszolutizmus és isteni jogalap’ in Kiss Gergely, Radó Bálint, Sashalmi Endre, *Abszolutizmus és isteni jogalap. Szöveggyűjtemény* (Historia Ecclesiastica Hungarica Alapítvány / Magyar Egyháztörténeti Enciklopédia Munkaközösség 2006, Budapest) 11–38, 34. See further Kontler (n 3) 91–99. For the theory of absolutism, see further Kistelegi Károly, ‘Az abszolút monarchia teoretikus gyökerei’ and Sashalmi Endre, ‘Az abszolutizmus: az abszolút monarchia elmélete’ and Stipta István, ‘Az abszolutizmus fogalma, változatai és alkotmánytörténeti jellemzői’; all three articles are found in Képes György (ed), *Az abszolút monarchia* (2011, Budapest).

<sup>11</sup> Várkonyi (n 2) 87. Várkonyi, in his chapter on the authority of fathers, recalls the opus of Antonio de Guevara, the confessor of the Holy Roman Emperor Charles V, s, the Dial of the Princes (*Reloj de Principes*) in which Guevara compares the father with Marcus Aurelius.

<sup>12</sup> II/4. 18.



deliberately. Moreover, it was far more unhistorical and anachronistic, and we fell into the trap of unsubstantiated retrospection of the phenomena, if we saw the *pater familias* of Roman law in Filmer's theory! As it is argued so far, Filmer just like all his contemporaries, referred to the Bible as the origin of all scientific and social-political development. Filmer himself writes in many chapters that Adam is regarded to be the first father, the patriarch, and he deduces his theory from this fact. For him, the elements of ancient Roman history serve only as an affirmation.<sup>13</sup> However, in his discourse on the people, Filmer regards Roman history in set terms, as the key argument to justify his theory. Why did the people become so significant to Filmer and in the early modern theory of the state? What did the role of the people mean in the political discourses? What was the monarch's attitude towards the people?

### III The Role of the People in Early Modern Political Discourses

From the aspect of the early modern king, the people had several functions. On the one hand, on the theories of the sovereignty of the people, and on the primacy of the parliament, the basis of the power was the people itself. As a consequence, the monarch had limited power, whose limit was the people. On the theories of social contract, the monarch made a contract with the people, in which the people designated some or all of its rights to the monarch. Therefore, the form of the government was parliamentary, hence the interest and the will of the people were represented in the general assemblies i.e. parliaments or other particular assemblies of the estates.<sup>14</sup>

The opposite pole of the popular sovereignty; parliamentary governance and social contracts were in the absolute power of the monarchs who rule by the Grace of God, where the people were not the active subjects, but the passive objects of power. In this theory, the people were damned to obedience, even if the absolute monarch regarded his very task to defend and maintain the prime aim or the supreme law that was the salvation of the people. In Cicero's words *salus populi suprema lex esto*. In this context, it was irrelevant whether the kings had a true, ideal type of absolute power or they had just a demand for it. The cause of this irrelevance was that the monarch had either total or limited power over the people or the estates, if he lost his sense of reality and soundness or he ruled without the full range of political tactics, the king would reject the limits of his power by his putative absolute authority. Moreover, by the concept of Grace of God, the people had no other obligation

<sup>13</sup> 'Property and community of goods did follow originally from him, and it is the duty of a father to provide as well for the common good of his children as for their particular.' II/4. 19.

<sup>14</sup> For the theories of social contract, natural law and the antagonistic debate between Filmer and Locke see Kontler László, 'Locke és a liberális természetjogi hagyomány' in John Locke, *Értekezés a polgári kormányzatról* (Gondolat 1986, Budapest) 7–37. John Spurr, 'Style, Wit and Religion in Restoration England' in Stephen Taylor, Grant Tapsell, (ed), *The Nature of the English Revolution Revisited* (Boydell&Brewer 2013, Woodbridge, Rochester, NY) 233.

than the admiration of the monarch. Thus, the monarchs wanted to have both divine and civil authority on the divine anointing of the kings and on their absolute power.

Why did the monarchs fear the people? Why did they want to condemn them to unconditional obedience, if the monarchs' main principle was to provide them happiness and to protect the people during their whole reign? What did they think of the people indeed, if they despised them so much?

#### **IV The Adjudication of the People by the Experiences of Ancient Roman History – The Development of the Popular Rule and Its Defects**

In connection with the examination of the best government, Filmer dedicated almost the entire second chapter of *Patriarcha* to the examples of popular government in the history of antiquity, especially that of the Roman republic. He started his train of thoughts with the comparison of Aristotle's *Politics* and *Nicomachean Ethics*; according to the previous one, he held it against Aristotle that he had not made any conclusion about the best form of government. However, by a citation from the *Nicomachean Ethics*, Filmer was contented to quote the Greek author that the 'monarchy is the best form of government, and a popular estate the worst'.<sup>15</sup> Moreover, Aristotle added that the monarchy was 'the first, the natural, and the divinest form of government'.<sup>16</sup>

In his following arguments, Filmer took the side of the conservative standpoint, by arguing that the reasons for the continuous existence of socio-political establishments were their effectiveness and acceptance, and that the more ancient an establishment was, the better it was for the people. Thus, the conservative point of view attributed the power of legitimacy to time and history. Moreover, in conservative ideas, time was completed by permanency and order, the connection of which meant legal certainty and tranquillity. 'Indeed, the world for a long time knew no other sort of government but only monarchy. The best order, the greatest strength, the most stability and easiest government were to be found all in monarchy, and in no other form of government.'<sup>17</sup> And if the people subverted the ruling regime by 'wantonness, ambition or factions', the only chance was that these 'bloody and miserable' 'mutations' were limited to a short period.<sup>18</sup>

After that, Filmer referred to the negative critics of democratic governments. He again recalled their temporality by arguing that Roman democracy, which was 'the most flourishing democracy that the world hath ever known'<sup>19</sup> lasted for only 480 years, while monarchies

<sup>15</sup> II/10. 24. [*Nicomachean Ethics* 1160a36].

<sup>16</sup> Ibid. [*Nicomachean Ethics* 1289a39–40].

<sup>17</sup> II/10. 24.

<sup>18</sup> Ibid.

<sup>19</sup> II/11. 25.

were much more long-standing, even for a millennium. The main peculiarity in this almost half millennium were the variability and instability that Filmer proved by the enumeration of the form of governments from the Tarquiniis to Augustus. The two consuls after the king, the tribunes of the people, the council of ten men, the temporary dictators, the military tribunes and the changeability of these gave the evidence to Filmer that ‘for after they had once lost the natural power of kings, they could not find upon what form of government to rest. Their fickleness is an evidence that they found things amiss in every change.’<sup>20</sup>

Filmer did not or did not want to realise the progress that the history of the ancient Rome went from monarchy to democracy. He highlighted only the two endpoints, the monarchy and the empire. The transition between the two poles was regarded only as deflection, deviation or an impasse, which, knowing the events, was a reasonable argument in retrospect. After this, it was not surprising that the description of the terror and bloodshed of the civil wars and the rebellions of slaves, the deterrent examples of the popular government, or in Filmer’s terms, the power of the multitude, was following in a detailed way. Gracchus, Apulius, Drusus, Marius, Sulla, Catilina, Caesar, Pompey, Augustus, Lepidus, Antonius were all the harmful consequences of the democratic regimes, who ruined not just the city of Rome, but the whole Italian peninsula as well.<sup>21</sup> We should not forget that Filmer wrote the *Patriarcha* before the civil war, so he did not put down his own experiences of being dragged through the mire, of plunder and imprisonment.<sup>22</sup>

Regarding democracy, Filmer tended to concede some parts of it, since he recognised that it was for some time very popular; even so, he put restraint on this popularity to the city of Rome and not to the entire empire. ‘For no democracy can extend further than to one city. It is impossible to govern a kingdom, much less many kingdoms, by the whole people, or by the greatest part of them.’<sup>23</sup> Filmer’s argument implied that he could accept democracy, but only in city-states, while in the realms of England, Scotland and Ireland with the personal union of the Stuarts i.e. in Great Britain<sup>24</sup> popular government is inapplicable.

Filmer was truly aware of the expansion of the Roman Empire under the republic; even so, he considered it only as an extension in quantity and not quality. Rome became the

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> There are some signs that the first version of the *Patriarcha* was written prior to the beginning of the 1630’s. More precisely, according to the literature, the first two chapters were written earlier than the third, which last is not in direct connection with the previous two, either in structure or in content. In the most recent research, Cuttica dates the completion of the *Patriarcha* between 1628 and 1631; however, according to the arguments by Tuck and Sommerville, he holds the hypothesis as well that there had been a very first version that was created between 1606 and 1614. Sommerville (n 3). Introduction xxxii-xxxiv, and Richard Tuck, ‘A new date for Filmer’s *Patriarcha*’ (1986) 29 *Historical Journal*, 183–186. <<https://doi.org/10.1017/S0018246X00018677>> accessed 19 October 2021; Cesare Cuttica, *Sir Robert Filmer (1588–1653) and the patriotic monarch. Patriarchalism in seventeenth-century political thought* (MUP 2012, Manchester) 86. <<https://doi.org/10.7228/manchester/9780719083747.001.0001>> accessed 19 October 2021.

<sup>23</sup> II/11. 25.

<sup>24</sup> The term Great Britain was used in common talk but was not official until the Act of Union in 1707.

mistress of the world in vain, because the foundation of the empire was laid down under the kings, and the perfection of the empire was the achievement of the emperors. The greatest conquerors were under Trajan, and the longest period of peace, the *pax romana*, was under Augustus, hence they were the merits of the emperors.<sup>25</sup>

Regarding the analysis of ancient Roman history, it is inevitable to examine the role of generals in the early modern age as well. Thomas More highlighted in his *Utopia* Sallust's remark on soldiers, in whose training regular drilling was essential: 'hand and spirit grow dull in lack of practice'. More wanted to achieve this goal by an army of veterans and by regular or even constant warfare which was the opposite to the early modern wars waged by mercenaries.<sup>26</sup>

Rome, even having the most capable soldiers, had to nominate by necessity a military dictator though, 'thereby giving this honourable testimony of monarchy, that the last refuge in perils of states is to fly to regal authority'.<sup>27</sup> The lack of the dictator would tinge the picture; although the army of the republic defeated the aggressors, Filmer nonetheless attributed this success only to a superhuman miracle<sup>28</sup> and not to the form of government. Moreover, he quoted the last phase of the wars as a lesson. '*Suis et ipsa Roma viribus ruit* [Rome fell by her own might] for the arms she had prepared to conquer other nations were turned upon herself, and civil contentions at last settled the government again into a monarchy.'<sup>29</sup>

Filmer proved the development of the democracy of Athens; in Filmer's words, the popular estate of Athens, by a smart and creative though weak argument, that we cite only to show the ingenuity. The constitution of democracy in Athens<sup>30</sup> was 'not because of the vices of their last king, but for that his virtuous deserts were such as the people thought no man worthy enough to succeed him – a pretty wanton quarrel to monarchy!'<sup>31</sup> Further, contrary to the citation, Filmer mentioned king Codrus's self-sacrifice, because, due to the prediction, Codrus could only protect Athens if he fell in battle. Filmer deduced from this fact that Athens changed the form of government out of her love and respect towards king Codrus.

On the contrary, the overthrow of the Roman kingdom was 'out of the hatred to their Tarquin'.<sup>32</sup> According to Filmer, neither Athens nor Rome 'thought it fit to change their state into a democrac'.<sup>33</sup> To testify his statement, Filmer argued that the archons and consuls were close to monarchs, i.e. to a single person's personal rule. Mathematically Filmer was right, yet, he deliberately or unknowingly ignored that the archons' and consuls' authority was not in their rights that were hardly limited by the people, and it was therefore very similar to that

<sup>25</sup> II/12. 26.

<sup>26</sup> Thomas More, *Utopia* (ed. G. M. Logan; trans. R. M. Adams, 2016, Cambridge) 18.

<sup>27</sup> II/13. 26.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> NB. After the monarchy, Athens became an aristocratic republic at first, and only after that followed democracy.

<sup>31</sup> II/14. 26.

<sup>32</sup> Ibid.

<sup>33</sup> II/14. 27.

of the monarch's. The main characteristics of these offices was that they were exchangeable in person and their official function was limited in time.

Filmer uncovered the nature of the liberty of the antiquity in *Observations Concerning the Originall of Government...*, his work of about one and a half decade later.

For the liberty of the Athenians and Romans is a liberty only to be found in popular estates, and not in monarchies. [...] meaning every particular citizen to be free. Not that every particular man had a liberty to resist his government or do what he list, but a liberty only for particular men to govern and to be governed by turns [...] This was a liberty not to be found in hereditary monarchies. So Tacitus mentioning the several governments of Rome, joins the consulship and liberty to be brought in by Brutus, because by the annual election on consuls particular citizens came in their course to govern and to be governed [Tacitus: *Annales* 1, 1].<sup>34</sup>

However, from Roman history, Filmer did not alter the past in the *Patriarcha* when he argued that 'the people by lessening the authority of their magistrates, did by degrees and stealth bring in their popular government'.<sup>35</sup> He did not alter in his final conclusion, but became very enraptured by his closing remarks, 'I verily believe never any democratical state showed itself at first fairly to the world by any elective entrance, but they all secretly crept in by the back door of sedition and faction'.<sup>36</sup>

As a consequence of popular rule, not only could monarchs live in bitter exile, but honest, meritorious and fair politicians, generals and leaders. Rutilius, Metellus, Coriolanus, the two Scipios and Tully lived in exile as well. In which situation, the mob and the rump succeeded and Rome 'was a sanctuary for all turbulent, discontented and seditious spirits'.<sup>37</sup> The corruption, the struggle of the factions, the purchase of the voice of the people, the murders from political interests made Rome a backdrop for bloodshed.

## **V The Premonition of the Course of the Events of the Revolutions – According to Filmer's Opinion of the People**

Filmer found the above mentioned phenomena as inevitable and necessary compounds of popular rule, and the cause of this was that

the nature of all people is to desire liberty without restraint, which cannot be but where the wicked bear rule. And if the people should be so indiscreet as to advance virtuous men, they lose their power, for that good men would favour none but the good, which are always the fewer in number;

<sup>34</sup> 'Observations Concerning the Originall of Government' in Filmer (n 3) X. cap. 190–191.

<sup>35</sup> II/14. 27.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

and the wicked and vicious (which is still the greatest part of the people) should be excluded from all preferment, and in the end, by little and little, wise men should seize upon the state and take it from the people.<sup>38</sup>

Filmer's departure from Roman history concentrates several social principles on popular government. First of all, Filmer argued that, in democracies, politics was inevitably reduced and simplified into two sides. The logic of it was that there were the good and the bad. The good were evidently their own party, while the other could be only the bad. This confrontation made the frame of democracy, in Filmer's point of view. Filmer's other thesis was that, from the distortion of this confrontation, the immoral, wicked people as a consequence of the discordance gained power; however, paradoxically, the state of affairs became beyond control, so that finally the vicious people became fewer in number and the wise seized power.

This paradoxical situation, when bad times creates good people, and thereby it brings good times, supplemented by the unlimited liberty of the people, explains the phenomenon that Filmer could only forebode but not experience. This thesis is nothing else but revolution, which is the most radical and threatening form of popular power, that 'devours its own children', as created by Jacques Mallet du Pan (1749–1800), a French journalist. This thesis was revealed for the first time in the English revolution. The explanation of it is that, in turbulent times, the people, as a result of their unlimited liberty, feel the possibility of getting closer to power. By getting the power, the new rank or party directly under or out of the previous rank in power, wants to stop making changes, while the ranks under them want to continue the changes. The term being out of power is important in this explanation because this model is able to describe either the linear or concentric motion of the ranks, without using the old Marxist terminology of the struggle of the classes. In this interpretation, it is irrelevant whether the ranks having no power are under the top rank, or out of the centre rank, so whether we use the vertical or the horizontal point of view. However, the vertical usage implies some suppression, while the horizontal has some competitive characteristics, such as the political parties in parliaments.

The essence of the model is that, in turbulent times, all ranks move towards the centre, i.e. to seize power. From the contrast or antagonism between the ranks, it follows that if the conflicts cannot be solved by negotiations, sooner or later weapons will provide the solution,<sup>39</sup> until the time of consolidation comes. The English civil war gives an excellent example of this phenomenon. Charles I was first deposed then beheaded, later on the Presbyterian majority in Parliament seized the power. However, they came into conflict with the independents and the levellers. The levellers were heavily beaten and oppressed by Oliver Cromwell, thus he hindered the levellers from seizing power, so the rank demanding full social equality lost in the progress of the revolution. After Cromwell's military dictatorship, the consolidation of the Stuart's followed, known as the

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<sup>38</sup> II/15. 28.

<sup>39</sup> For the details of the civil wars see further an excellent concise summary by Blair Worden, *The English Civil Wars 1640–1660* (2009, London). For the execution of the king see further Charles Spencer, *Killers of the King. The Men Who Dared to Execute Charles I.* (2014, London).

Restoration. The Glorious Revolution after the Restoration, was a further return to the previous state, which was apparent in the regained position of the landowner gentry, and the Stuart dynasty's succession in the female line. This sequence of the events is an apparent example that, after some radicalization, the revolutions reach the final stage of consolidation, in which by expelling the radical elements from power, there would be chance of achieving changes by compromises.<sup>40</sup>

The concept of revolution meaning radical socio-political changes became clear only in the 19<sup>th</sup> century. Until that time, it meant circulation, return to the original state. (From the compounds of 're' = 'back' and 'volvo, volvere' = 'turn, rotate'.) The Glorious Revolution ending the civil war and the Restoration was regarded in this original sense as a revolution,<sup>41</sup> which strengthens Filmer's foreboding about the emergence of the moral people from the quarrels generated by bad times and people.

After this, it is not surprising, that Filmer, recalling Thucydides, Xenophon, Livy, Tacitus, Cicero and Sallust, described the imponderability, fallibility, frailty and inconsequence of the people.

They are not led by wisdom to judge of anything, but by violence and by rashness. [...] After the manner of cattle they follow the herd that goes before. With envious eyes they behold the felicity of others. [...] They are most prone to suspicions, and use to condemn men for guilty upon any false suggestion. [...] When there is no author, they fear those evils which themselves have feigned.<sup>42</sup> Therefore, prior to Hobbes *Leviathan* Filmer called the people as a 'beast of many heads'.<sup>43</sup>

Moreover, Filmer again described the future events of not only the Cromwellian period, when he analysed the nature of popular government or the power of the multitude.<sup>44</sup>

As it is begot by sedition, so it is nourished by arms; it can never stand without wars, either with an enemy abroad, or with friends at home. The only means to preserve it is to have some powerful enemy near, who may serve instead of a king to govern it, that so, though they have not a king among them, yet they may have as good as a king over them, for the common danger of an enemy keeps them in better unity than the laws they make themselves.<sup>45</sup>

Thus, according to Filmer, the mutual enemy was the essential component for democracy because the monarch's personality as a binding element did not exist. From another point of view, and from Filmer's terminology, it was apparent that this binding component was

<sup>40</sup> The traditional whig interpretation is debated in the work of Edward Vallance, *The Glorious Revolution. 1688 – Britain's Fight for Liberty* (Little, Brown & Company 2006, London).

<sup>41</sup> Reinhart Koselleck: *Az elmúlt jövő. A történelmi idők szemantikája* (Atlantisz 2003, Budapest, 75–97) 80.

<sup>42</sup> II/15. 28.

<sup>43</sup> *Ibid.*

<sup>44</sup> For the events and the interregnum see further A. A. Hillary, *Oliver Cromwell and the Challenge to the Monarchy* (Pergamen 1969, London) and Szántó György T., *Oliver Cromwell. Egy katonaszent élete és kora* (Maecenas 2005, Budapest).

<sup>45</sup> II/15. 29.

positive in monarchy, and negative in democracy. Adding to Filmer's argument, we have to emphasise that not only did republic governments solved their internal problems by external means, i.e. with wars, but the kings at any age lived with this method as well. Yet, we accept in Filmer's argument that in republics it is more difficult to be align oneself with any person who could keep the whole of society together through his/her own person.

## VI The Comparison of the Regal and Popular Form of Governments

Filmer's judgement, having empirical grounds about the two forms of government was and still is unquestionable. '[The way] to examine what proportion the mischiefs of sedition and tyranny have one another, is to enquire in which kind of government most subjects have lost their lives.'<sup>46</sup> This statement is so eternal that it has to win the admiration of all people. The question was which form of government can bring the greatest peace. Filmer resorted to Roman history again. He compared the civil wars of the last century of the admired popular rule with the ferocity and cruelty of the tyrant despotic emperors. Unsurprisingly, recalling Sulla's biography by Plutarch, he reached the argument that 'the murders by Tiberius, Caligula, Nero, Domitian and Commodus, put all together, cannot match that civil tragedy which was acted in that one sedition between Marius and Sulla.'<sup>47</sup>

To resolve this problem, Filmer, on the one hand, quoted James I's arguments from *The Trew Law of Free Monarchies*. 'A king can never be so notoriously vicious but he will generally favour justice, and maintain some order, except in the particulars wherein his inordinate lust carries him away.'<sup>48</sup> This argument is improper theoretically, because the difference between a tyrant and a king is only in the latter's intention, i.e. that he does not want to be a tyrant. Moreover, the king is great because he is the king, so the king's greatness comes from the concept of the king, thus the king is great, because he is the king. This tautology appeared in Erasmus's *The Education of a Christian Prince*.<sup>49</sup> Erasmus considered the king to be a great king according to his education. If the king's educator was great, the king would become great as well. To stop this circular arguments, we have to qualify a king as great, if he achieved this qualification by his deeds. Thus, a king can achieve the adjective great during or especially after his reign; until his death he can only aim to be great.

However, we have to agree with Filmer that, during a civil war, the whole of society wages a war against each other, where neither life, nor property is taboo. Since the aim is to seize power and to defeat the other part of the nation, being defeated is equal to high treason when the rebels pay with their life. However, in a kingdom, the monarch cannot afford to impose life sentences and to acquire the property of the citizens, because that would make his own realm weaker.<sup>50</sup>

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<sup>46</sup> II/16. 29.

<sup>47</sup> Ibid.

<sup>48</sup> II/16. 30.

<sup>49</sup> Erasmus, *The Education of a Christian Prince*.

<sup>50</sup> II/16. 29–31.



This reasoning is in contrast with More's *Utopia*, in which he quotes and interprets the example of Crassus:

[A] king can never have enough gold, because he must maintain an army. Further, that a king, even if he wants to, can do no wrong, for all property belongs to the king, and so do his subjects themselves; a man owns nothing but what the king, in his goodness, sees fit not to take from him. It is important for the king to leave his subjects as little as possible, because his own safety depends on keeping them from getting too frisky with wealth and freedom. For riches and liberty make people less patient to endure harsh and unjust commands, whereas poverty and want blunt their spirits, make them docile, and grind out of the oppressed the lofty spirit of rebellion.<sup>51</sup>

## VII The Critics of the Mixed Form of Government of Monarchy and Popular Government

In fortunate cases, the advantages of monarchy and democracy, are united in a mixed form of government. Yet, according to Filmer's opinion, it was impossible.

For if a king but once admit the people to be his companions, he leaves to be a king, and the state becomes a democracy. At least, he is but a titular and no real king, that hath not the sovereignty to himself. For the having of this alone, and nothing but this, makes a king to be a king. [...] For if [...] the king, the nobility, and people have equal shares in the sovereignty, then the king hath but one voice, the nobility likewise one, and the people one, and then any of two of these voices should have power to overrule the third. Thus the nobility and commons together should have power to make a law bind the king, [...] but if could, the state must needs be popular and not regal.<sup>52</sup>

It is detectable that Filmer overreached himself and cannot imagine the real significance of the mixed form of government that Cicero also held as optimal; namely, that the mutual overlapping of the authorities in the separation of powers, in this case the authority of the monarch and the people, would hinder one and the other. The mixed form of government demanded compromises be made so that both sides would be satisfied in the governance.

Filmer dedicated a separate volume to the question of the mixed form of government, the title was telling: *The Anarchy of a Limited or Mixed Monarchy* [...]. This work was written in 1644, but was published only in 1648. In this work, Filmer criticized sentence by sentence the parliamentarian Philip Hunton's *Treatise of Monarchy* published in 1643. Filmer, as we have seen, shared his opinion on the mixed form of government in the *Patriarcha*. To make his point of view legitimate, he referred to the Roman civilization with two Latin mottos.

<sup>51</sup> More (n 26) 34.

<sup>52</sup> II/17. 32.

One of the motto was '*Libertas populi quem regna cohercent / Libertate perit* – The liberty of a people which is subject to royal government is lost if they gain too great liberty'.<sup>53</sup> If we consider this statement formally and mathematically, we have to agree that the thing that is everyone's is, worth less than if it were the property of the few. However, the value of liberty is just the opposite; the more people have it, the broader it is, and thus it makes a greater control on the power. This contradiction was exactly the point between the Stuarts and the Parliament in the civil war. Filmer's concept of liberty reflected the principles of the *ancien regime*,<sup>54</sup> and it appeared in the other Latin motto: '*Neque enim libertate gratior ulla est / Quam domino servire bono* – Nor is there any more welcome liberty than to be subject to a good master'.<sup>55</sup> In this sentence, beyond the obvious obedience, we can observe another phenomenon that lasts until today. This is the trust of people towards professionals, the master or the expert, to whom, because of their professionalism, the people transfers the power and thus the responsibility. The expert in this case was the monarch who had the exclusive right for the secret knowledge (*arcana imperii*) to govern and rule.<sup>56</sup>

It is similar in *The Free-Holders Grand Inquest*, which is regarded as the continuation of *Patriarcha* in the literature, in which Filmer gives the royalist interpretation of English constitutional history. Beyond the motto, we cannot find any explicit reference to the Romans, yet, the motto speaks for itself. '*Fallitur egregio quisquis sub Principe credit / Servitium: Nunquam Libertas gratior extat, / Quam sub rege pio*. Anyone who believes that it is servitude to live under a prince is badly mistaken: there is no more welcome liberty than to be under a righteous king'.<sup>57</sup> We can observe the return of unconditional obedience in this motto. Righteousness as a criterion generates legal certainty, and at the same time general sense of safety, which should be the measure for both the monarchy and popular government.

It is undeniable that, by mixing the forms of government, the legal principle that no one can be judge in his/her own case is violated. If the monarch and the people make a contract about the power, and then a quarrel emerges, one party would be a prosecutor as well. This authority and role of the people, caused the death of several good emperors in Roman history (such as Pertinax, Alexander Severus, Gordianus, Gallus, Aemilianus, Quintilius,

<sup>53</sup> [Lucanus: Lib. 3, Pharsalia III. 145–146.] *The Anarchy of a Limited or Mixed Monarchy*. In Filmer (n 3) 131.

<sup>54</sup> As for the the traditional whig interpretation of the historical context, we shall recall that Charles I wanted to rule as a continental-style absolutist monarch but he was unable to do so because, ever since Magna Carta was signed in 1215, kings had to rely on Parliament to make and pass laws – including those relating to taxation, and he constantly needed more money to fund his lifestyle and enable him to get more involved in the 30 Years War. For much of his reign he summoned Parliament, submitted a bill to raise taxes and Parliament voted it down and used their time to criticise him instead. He then prorogued Parliament for years at a stretch and this routine ultimately led to civil war. Yet, the revisionist historiography e.x. Kenyon heavily argues contrary, and denies the Stuart monarch's willingness to build absolutism. Moreover, Filmer wrote the *Patriarcha* in the second half of the 1620's, so he could have not known that Charles I would prorogue the Parliament for 11 years.

<sup>55</sup> [Claudianus: De Consulatu Stilichonis III. 114–115.] 'The Anarchy of a Limited or Mixed Monarchy' in Filmer (n 3) 131.

<sup>56</sup> I/1. 3–4.

<sup>57</sup> [Claudianus De Consulatu Stilichonis III 113–115] 'The Free-Holders Grand Inquest' in Filmer (n 3) 69.

Aurelianus, Tacitus, Probus and Numerianus), while, at the same time, it caused the election of several bad ones (such as Nero, Heliogabalus, Otho and Vitellius).<sup>58</sup>

## Conclusions

In the early modern theory of the state, as a consequence of their views based on the equality of the citizens, the theoreticians of social contract and parliamentarism could quote only the tyrant emperors as examples from antique Roman history. However, as a consequence of the theory of the law of nature, it was not necessary for them. There cannot be found any explicit reference to Roman history in Locke's *Two Treatises of Government*. Yet, Cicero had a great influence on his theories.<sup>59</sup> The conservative, royalist authors used Roman history as a deterring example. Robert Filmer was an outspoken and excellent author of this type. He quoted the Roman examples of the civil war at great length, and he reached several conclusions that are still valid to this day. According to him, the people have been and will be unpredictable, suggestible, irresponsible, selfish etc. From these facts, it is self-evident that the people cannot participate in the secret profession (*arcana imperii*) of the monarchs, i.e. the governance of the people.

Filmer could not live under the rule of Cromwell and the independents or even in the leveller's movement entirely. However, after the execution of Charles I, the people could present that though its attitude, it can build up a great democracy. The people could not live with the settlement of institutional guarantees of the power. Moreover, its power collapsed as a house of cards at the very time of the commanding presence of the army, i. e. when Cromwell's military administration was in effect enforcing the will of the Protector. Thus, Filmer's argument got a true testimony about the nature of popular rule of our c. 450 years of hindsight. When the conservative tory politicians published Filmer's *Patriarcha* during the exclusion crisis (1679–1681), they undertook to legitimize the future James II, at that time the Duke of York in the eyes of the public. According to this work, the title for James's reign from the Grace of God were James's succession in Adam's power, his fatherly power over the people, and the people's unconditional obedience towards the king. Thus, the grounds of the power derived from the thousands years of tradition mentioned in the Bible, i.e. from the respect of the role and the head of the family, which are mostly emotional arguments.

The question is still to be answered. How can the unpredictable, impressionable, so the people led by emotions be governed with the due obedience to the rigorous father? What can James II do with the people that had already tasted the Marloweian sweetness of a crown?

<sup>58</sup> II/18. 32–33.

<sup>59</sup> Hamza Gábor, 'Cicero De re publicá-ja és az antik jogbölcselet' in Cicero, *Az állam* (trans. G. Hamza; 2007, Budapest) 7–56.

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