

# PART I

## George Buchanan and the "De Jure Regni Apud Scotos"

*Chapter One. A Short Account of the life of George Buchanan*

[3] Of all forms of government, democratic nationalism has proved most conducive of human good. The modern, and by all odds the most developed, form of democratic government had its beginnings in the sixteenth century; and to those beginnings the Scottish humanist and reformer George Buchanan made a unique and weighty contribution. Before we attempt to describe that contribution, and to appraise it in detail, let see what manner of man Buchanan was.

George Buchanan was born not far from the City of Stirling, early in February, 1506, the third son of a poor laird, who died while George Buchanan was a small boy. Buchanan early showed such promise in school that his mother's brother, James Herriot, assisted him, and sent him, when he was about fourteen years of age, to the University of Paris. When Buchanan had been but two years in Paris, James Herriot died, and lack of funds forced the young student to return to Scotland. He served in the Scottish army for the duration of a short campaign in England — a venture which almost wrecked his health. In the spring of 1524 he went to St. Andrews, where he heard the lectures of the celebrated John Major, and received the degree of Bachelor of Arts in 1525. In 1527 he returned to Paris, where, the following year, he took the degree of Master of Arts.

Following the taking of his Paris degree, Buchanan entered upon a career of teaching and literary work. He taught at Paris, where he was a leading figure among the humanists who were just then effecting a revolution in the teaching of the classics;<sup>1</sup> was tutor to Gilbert, Earl of Cassillis; and eventually returned to Scotland. There, by certain satirical poems of his in which monks and friars were held up to ridicule, he incurred the resentment of the clergy.

The hierarchy of Scotland was aroused at the time by the rising tide of Protestant sentiment, and Buchanan, with others, was arrested and thrown into prison. He escaped, however, [4] and made his way first to London and then to Paris. The wrath of Cardinal Beaton pursued him there; so that he was glad to accept a professorship

of Latin at the College of Guienne, at Bordeaux. At Bordeaux he wrote his plays, *Baptistes* and *Jephthes*, both based on the Scriptures, and translated the *Medea* and the *Alcestis* of Euripides. Michael Montaigne was one of his pupils at the College of Guienne. The great essayist mentions his former teacher in his essays, "Of Presumption" and "Of the Institution and Education of Children," with respect and admiration. In the latter essay, Montaigne calls Buchanan "that famous Scottist poet." He attributes the fact that he gained anything from the College of Guienne but the "hate and contempt of books" to the encouragement which "a very discreet master" gave him to follow his own inclinations in his reading. Since the works Montaigne mentions are those of Virgil, Terence, Plautus, "and other Italian comedies," it seems likely that the "very discreet master" was George Buchanan, Professor of Latin in the college.

In 1547 Buchanan was once more in Paris as a regent of the College of Cardinal Le Moine, and later that year went to Portugal, where he was a member of the University of Coimbra, newly founded by John III. His stay in Portugal was unhappy. Andrew Gouvea, Principal of the University and close friend of Buchanan, died within a year of entering upon his work at Coimbra. Buchanan was attacked by ecclesiastical zealots on the ground of his theological opinions and other alleged religious irregularities, and denounced to the Inquisition. He was tried by this body, found guilty and sentenced to be confined in a monastery and to receive instruction from the monks there. During this period of confinement Buchanan composed a Latin paraphrase of the *Psalms of David* which added very greatly to his reputation as a poet. The treatment which he received from the monks during his imprisonment appears to have been, in view of the circumstances, quite kind.

After some months he was released, and made his way first to England and then to Paris, where he was for a time regent in the College of Boncourt. In 1555, he accepted a post as tutor to Timoleon de Cosse, son of Marshall Count de Brissac, and was for four years a member of de Brissac's household. [5] He found time for considerable literary work during those years and occupied much of his time in the study of theology.

Within a short time after the termination, in 1560, of his service as tutor to Timoleon de Cosse, Buchanan returned to Scotland. He had dedicated his paraphrase of the *Psalms to Mary, Queen of Scots*, and had written an ode in her honor on the occasion of her

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1. Alexander Morgan, *Maker of Scottish Education* (London, Longmans, Green, and Co., 1929), p. 25.

marriage with the Dauphin. For some time he read Livy regularly with the Queen. Buchanan adhered to the Church of Scotland, and from 1563 to 1567 was a member, as a "Doctor," of the General Assembly. He served on several of its important committees and, in 1567, was its Moderator — the first layman to be so distinguished. In 1566 he was appointed Principal of St. Leonard's College, at St. Andrews. Buchanan retained his principalship for four years, and led in the transformation of the University from a medieval to a renaissance institution.

The years 1566 and 1567 were fateful in the history of Scotland. On June 19, 1566, a son was born to Mary, Queen of Scots, and the following February, Darnley, her husband, was murdered. Mary married the Earl of Bothwell, who was suspected of complicity in the crime, in such haste that resentment rose high against both of them, and the Queen was forced to abdicate and her infant son crowned as James VI.

With these changes in the government, new responsibilities were quickly forced upon Buchanan. He was one of the Scottish commissioners charged with investigating the matter of Mary's complicity in the death of her husband. He was director of Chancery, one of the persons entrusted with the education of the young king, and lord privy seal. He held this last post, and the seat in Parliament which went with it, at the least until 1579. In 1579 his great political treatise, *De Jure Regni apud Scotos*, written, he tells us, some years before, was published. Buchanan's last years were spent in writing his great *History of Scotland*, which was in press during his last illness. He died on September 28, 1582.

There are facts about Buchanan's life which must be taken 'especially' into account in interpreting his political theory. The author was a Scot, writing at the time of the emergence of modern Scottish nationalism; he was a Lennox man, caught [6] in a civil war, an immediate occasion of which was the murder of the titular head of the Lennox faction; he was a pupil of the great Scottish patriot and historian, John Major; he was a layman, and a member of the Government of Scotland in high position for many years; and finally, he was a Protestant and a humanist. His Protestantism was of the Presbyterian variety; his humanism belonged to the movement so closely connected with Calvinism, Neo-Stoicism — Sir James Melville called him "that Stoic philosopher."

Buchanan is sometimes spoken of as less Protestant than humanist. His Presbyterianism was robust enough to satisfy his fellow reformers in Scotland, who chose him to sit in the General Assembly, to serve as its Moderator, and to hold other positions of trust at the very period of its history when the popular group in the Church had a degree of control which they were not to have again for more than half a century. It is important to notice that Buchanan did not break with the Roman Church until he was about fifty-five years of age, and not until the Council of Trent had made the victory of the party of the high papalists a certainty. He had anti-clerical and conciliarist convictions, but it will be noted that his strictures in the *De Jure* are directed rather against the bishops who abused their offices than against the Church itself, or against the clergy as a class.

Buchanan's role in the revolt which led to the abdication of Mary and her exile from Scotland also bears upon the interpretation of the *De Jure*. As one of the commissioners who investigated Mary's conduct in connection with the murder of Darnley and her marriage to Bothwell, he formed very definite convictions of Mary's guilt, and prepared a statement, the *Detectio*, designed to justify the course followed by the dominant party in the controversy. His statement accomplished its immediate purpose, but has been a principal reason for the detestation in which Buchanan's name has subsequently been held by all the champions of absolutism and obscurantism.

Buchanan was appointed, with one Peter Young, to have the oversight of the education of James VI. The great humanist entertained high hopes that right education would render James the sort of king who would be a blessing to his people. When [7] James was about thirteen years of age, the *De Jure Regni apud Scotos* appeared, and was presented to the King in the "Letter" which serves as the foreword to the dialogue. The failure of the attempt to incline James's mind to liberal opinions is a matter of history; that the failure of the Stuarts to understand what are those arms which alone "make kings invincible" is also a matter of history. We turn now to the tract, itself.

### *Chapter Two. The Purpose and Content of Buchanan's De Jure Regni apud Scotos*

Buchanan's political treatise was written with an eye to a particular occasion and with a very definite

purpose in view. Although it was published, as the letter by which it was dedicated to James VI indicates, in 1579, it was written about twelve years earlier, at the time of the disturbances which led to the abdication of Mary, Queen of Scots. The treatise was written to show that the Scots, in the course they had taken, had acted in accordance with the laws of Scotland, of nature, and of God; and with the purpose of convincing foreigners of the legality of their proceeding, and of uniting the Scottish people. The work had, however, a much larger bearing, and the larger implications of the essay will be examined in considerable detail in a later chapter of this study. These two aspects of the *De Jure* are intimately related. The essay is concerned with abstract concepts of natural right, sovereignty, the teachings of the Scriptures respecting government and similar general questions; but, in its examination of them it draws upon history and upon Scottish history in particular — for facts, and it applies general principles from natural laws, political theory, and the Scriptures to the immediate issue in Scotland. An understanding of the controversy which divided Scotland and served as the occasion of the treatise will contribute a good deal to an understanding of Buchanan's political philosophy. Let us, then, examine the circumstances under which the *De Jure Regni apud Scotos* was written.

Mary Stuart, from her infancy Queen of Scotland and the Isles, assumed the active government of her realm in 1561, [8] just as Scotland had broken with the Papal Curia and was establishing the Church of Scotland. Educated in, France, a daughter of Mary of Guise who looked to her uncles for direction, and widow of the King of France, Mary gave her subjects considerable ground for alarm lest she subordinate the interests of Scotland to those of the French throne. Scottish leaders, however, took her youth and inexperience into account; and, fascinated by that very youth, by her accomplishments and by her very great charm, they set about bringing the Queen to a policy favorable to the interests of her country. These efforts failed: following her marriage to Darnley, Mary surrounded herself with advisors whom the Scots, with reason, distrusted. The influence of Mary's secretary, David Rizzio, was a matter of special concern to the Scottish nobles; so that in March, 1566, a group of the nobles dragged Rizzio from Mary's presence and killed him. Darnley had a part in the plot to kill Rizzio, but he deceived Mary with respect to his complicity, for a time. When she discovered, as she

eventually did, what his part had been, she became almost completely estranged from him — an estrangement which his vicious character made all but inevitable.

Following the birth of James, the breach between Mary and her husband was still wide, and Darnley's partisans found much to criticize in her treatment of him and in her evident partiality for James Hepburn, Earl of Bothwell — an able, ambitious, and completely unscrupulous adventurer. On February 9, 1567, Darnley was murdered. Bothwell was suspected of the crime and placed on trial, but the case against him was not strongly pressed and he was acquitted. A little more than three months later, Mary married Bothwell, the man generally thought to have been the chief agent in her husband's murder. A strong faction of the people of Scotland rose against the Queen, forced her to abdicate, and caused her infant son to be crowned as James VI.

This revolt gave rise to considerable controversy both in Scotland and abroad. It concerned the General Assembly in the year Buchanan was Moderator, divided the nobles, and was the occasion of hostility to Scotland in foreign courts. Buchanan attempted, in the *De Jure*, to deal with the [9] fundamental question at stake in the controversy. That question was: had the people of Scotland the right to call their rulers to account for their public acts? Buchanan develops the thesis, which became the central doctrine of Presbyterian and Puritan political theory — both in Great Britain and in America — that no person in a state is above the law which the people, through their representatives, enact.

The treatise is cast in the form of a dialogue between young Thomas Maitland, a brother of Sir William Maitland of Lethington, and Buchanan, himself. Maitland poses the questions which puzzled the loyal Scot who regards his king as sacred and so above being called to account by any human agency. Buchanan's speeches build up the case for limited and responsible government.

Maitland, we learn as the dialogue opens, had just returned to Scotland from France, where he had been pursuing his studies, and expressed himself as greatly disturbed by the situation in Scotland and by the unfavorable opinion which persons in foreign courts were forming of his native country. He was especially troubled by the fashion in which the Queen had been dealt with — a matter which would, he felt sure, bring upon the nation the censure of Europe. Buchanan pointed out

that if the murder of Darnley had been a crime, no exception could properly be taken to the effort to call the perpetrators of the deed to account. Maitland, however, was still unsatisfied — he questioned Buchanan's fundamental assumption — that kings are subject to the laws. With the issue thus brought into the open, the friends set themselves to the task of examining the reciprocal rights and duties of king and subjects in Scotland.

It was agreed that the study of the origins of governments should throw light upon the problem. Buchanan rejected the notion that utility or expediency is the first or most fundamental bond of social unity. Men are, by nature, made for society and the shared life, and governments are set up as providing the setting most favorable to the life conformable to the laws of nature. Men desire governments as the means of securing benefits and the maintenance of justice, which are essential to the development and maintenance of civilized society, for which they are formed. This position is essentially [10] the Stoic one, and Buchanan quotes Cicero and Seneca to illustrate his meaning. While society is natural, government is created as a people vest authority, by a contract, in a ruler or rulers. Since no man is perfect, rulers are not trusted with absolute power, to be exercised at their discretion; people safeguard their interests by defining, in the laws, the scope and limits of the powers of their government. A government, to employ the phrase of the constitution of the Commonwealth of Massachusetts, is, properly, "of laws and not of men." A tyrant is one who, no matter how he has come to power, is not bound by the law. Buchanan goes to great length to show the evil results of tyrannical rule — results even more disastrous for rulers than for the people.

Laws are made by the people, acting through their responsible representatives, and are to be interpreted by legal experts, the bench and bar. Lawyers, he maintained, serve, as they argue cases, to check each other, and the executive serves as some limitation upon judges: absolute power concentrated in the hands of the magistrate, on the other hand, is invariably abused.

It is no limitation of the power, dignity, or liberty of kings to rule in accordance with the laws. The power to do wrong is no source of strength to kings; while, on the other hand, it is by virtue of the laws that a king is powerful, for the laws place behind him the united strength of his people. Protected, not by ruffians clothed

in silk, but by his whole people, the ruler who maintains the laws is set free and raised to honor— he is even venerated and held sacred. Their own integrity and their people's love are the arms which "alone make kings invincible."

A ruler who, instead of maintaining justice and protecting his people against their foes, attacks the liberties and institutions of his own country is to be counted as a public enemy, and is to be called to account for his violations of laws. It is objected that no man ought to be called to account before his inferior in rank, and that the king cannot, therefore, be brought to trial for his deeds. Buchanan's answer to this argument is one of the noblest passages in the essay. He first shows that the man who appears in court as a defendant in a suit is there [11] in one capacity only, that of a person accused of a crime. He who stands in the prisoner's dock is there simply as a person charged — not as king or commoner. Members of classes other than the noble and royal feel no injury to their group if one from their order who is guilty of a crime is punished for it; they are glad, rather, that their order has been purified by the removal of one who disgraced it. Perhaps those who raise a clamor at this disgrace to their order are less concerned by this injury to it than for fear some of the privileges and immunities they enjoy may be lost to them. The judge, moreover, when he pronounces judgment, speaks the law, and, on this account, his voice is the voice of the people. The man who stands before a judge, therefore, stands before the representative of the people, from whom the authority of the law proceeds; so that, whatever the rank of the accused, he who stands before a judge stands before the very majesty of the people — he stands before his superior.

But what if a king refuses to submit to the sentence of judges who find against him? Buchanan asserts, unequivocally, that any person who thus puts himself outside the law, obedience to which is the condition of membership in civilized society, becomes, by this act, a public enemy; so that citizens have not only the right but the duty to levy war against him. He is no less an enemy of the people and their country than is the foreign invader.

The basis of Buchanan's position is as follows: Kings do not exercise authority by divine or other inherent right, but are created kings by election at the hands of their people, and on condition of maintaining the laws. This contract does not create society, which is

man's "natural" state, but does create the machinery necessary for the maintenance of an ameliorated, stable, and civilized society. Failure on the part of a subject to obey the laws deprives him of their protections; and failure on the part of the ruler to maintain and observe them places him, likewise, outside the protection of the laws. Should the king violate his coronation oath, he abrogates the contract between himself and his subjects; so that his people revert, as respects their obedience, to the state they were in before — that is, free of obligation to obey him. the severance of the bond [12] between a ruler and his people does not affect, in the least, the character of the people as a nation; nothing is affected save the relation between the people and the man to whom they once entrusted powers which they now resume. It will be clear at once that this is precisely the line of argument of the American Declaration of Independence, and that Dugald Stewart's claim that Buchanan's political theory bears a particularly close resemblance "to the political philosophy of the eighteenth century" is fully justified.

It is important to keep in mind that although Buchanan holds that kings who do not maintain the laws may be resisted, even with force, he does not say that this course should be resorted to in every case. He maintains, instead, that armed resistance to tyrants is a desperate remedy to which resort should be had only in desperate cases. No man should set out on the dangerous course of an appeal to arms save in cases of the utmost urgency, and after thought which has satisfied him that this course is both necessary and likely to be successful. It must be remembered, further, that Buchanan's pamphlet was written for a specific occasion: he was maintaining the legality and justice of the course followed by the people of Scotland in the measures they had taken to force the abdication of Mary, Queen of Scots — he was not inciting to rebellion.

The problem of government which took precedence over every other in the mind of the devout man of the sixteenth century was this: Does the law of God permit a subject ever to disobey his rulers? Catholic and Protestant, alike, read Romans xiii. 1, 2, and found there the explicit command that Christians submit themselves to authority, and the explicit warning of divine wrath if they resisted "the higher powers." Maitland advanced just this objection to Buchanan's position: We are commanded to obey our rulers and to pray for them. How can we then, if we fear God, dare to call them to account

for their deeds and take up arms against them? Buchanan meets this question with an assertion of his readiness to accept the Scripture as the guide in such matters, but he interprets the Scripture in the light of reason and with the apparatus and arguments of historical criticism. He adopts the distinction made by St. John Chrysostom between government, which [13] God has ordained, and the men who exercise the powers of government. Chrysostom, arguing by analogy, had pointed out that God has ordained marriage, and marriage is to be honored among men, but God does not arrange particular marriages, husbands and wives choose each other. In like manner, God has ordained government, and he who resists a just and legal magistrate does, indeed, sin against God. But — and in this point Knox had anticipated Buchanan — he asserted that it is blasphemy to say that tyrants are doing God's will. Buchanan described the character of Nero, Caligula, and other Roman emperors, and ridiculed the idea that the persons of such monsters were sacred.

Having made this distinction, and called attention to the distinction made by high papalists — he might have cited John of Torquemado — between the papal office and the man who occupies it, Buchanan went on to examine the teaching of Paul in this matter. We are to pray for rulers "that we may live a quiet life." It is good government, then, that should have our support; not some ruffian who has grasped power which he is using for his own selfish advantage. God has, to be sure, permitted bad men to hold office, but this is not to say that he has granted them immunity for their crimes. The claim that tyrants have been brought upon us by our own sins proves too much: this argument cuts both ways — tyrants bring retribution, likewise, upon their own heads. Paul commands obedience to all the powers, and lesser officials, even hangmen, are representatives of the same majesty. Do all of these people enjoy immunity from punishment for their crimes? God has established government for human good, and we are obliged, as Christians, to obey just and legal government only.

The literalist still objects to Buchanan's position, and asks for an example from the Scripture which will furnish a warrant to subjects authorizing them to call their rulers to account. Ponet, in *A Shorte Treatise of Politicke Power*, meets this objection by saying that there is no need for a general command or example — we are told to punish murderers and other malefactors, and that this rule applies to all evil-doers, even royal

evil-doers. Buchanan, also, employs this argument, but goes further, and meets this problem in a much more rational spirit. [14] There are, he points out, many excellent laws of every nation for which no precedent in Scripture can be shown. One may not say that what the law does not mention it does not permit. He shows that Scotland has always held her kings to account for their public acts, and that history furnishes any number of examples of other nations whose people have acted upon this principle.

Scotland, Buchanan maintained, has always had a limited government. Her kings have never been above the law, and the laws are what the people, acting through the channels they have decreed, have enacted. There are some who do not trust the people. Buchanan, recognizing the limitations of the common man, still has faith that the majority, if properly led, will stand up for "liberty, integrity and security."

The dialogue closes with a ringing affirmation of faith in the strength and rightness of popular government under law. Its opponents may believe that popular government opens the way to civil disorder, but it actually provides the institutions which make governments stable. The ruling houses which have endured longest in Europe have not been those of the absolutisms, but those of nations who were governed under law.

The *De Jure* was written for an occasion, but the occasion was a momentous one, and its author spoke from a crucial place, not only in the Church and Commonwealth of Scotland, but in the intellectual tradition of Europe. His acts and his ideas were involved with the destinies of Scotland and of the development of government among all the English speaking peoples of the world. Let us examine, then, the wider setting and significance of the dialogue.

### *Chapter Three. The Significance Of Buchanan's Political Theory*

Buchanan's *De Jure Regni apud Scotos* exercised a great deal of influence upon the development of democratic nationalism in Great Britain and North America. This influence was due in part to the intrinsic value of the work itself, and in part to the fact that its author was the sixteenth century political philosopher of Scottish Presbyterianism and of English Puritanism.

[15] British authors leave us in no doubt as to the importance of Buchanan's treatise in Presbyterian and

Puritan thought. David Irving cites Archbishop Spotswood as his authority for the statement that, shortly after the publication of the work, theological students at St. Andrews were devoting more attention to it than to Calvin's *Institutes*.<sup>2</sup> Aenaes Mackay, in a short biography of George Buchanan which he contributed to the *Dictionary of National Biography*, tells us that Buchanan's political tract "was long the textbook of opponents of absolutism," and says further, "The *De Jure Regni apud Scotos* was a standard work in the hands of the men of the long parliament." Milton, in his *Defense of the People of England*, says to those who question the legality and justice of limited and responsible government: "For Scotland I refer you to Buchanan." That he should say this is not at all surprising, for Milton's debt to the Scottish humanist is so great and so obvious that Dryden, in the "Letter to the Whigs" which he prefaces to *The Medal*, charges that the *Defense* is ". . . stolen" from Buchanan's *De Jure Regni apud Scotos*. Dugald Stewart, whose appreciation of Buchanan's political thought is one of the most astute ever penned, wrote:

The dialogue of our illustrious countryman, Buchanan, *De Jure Regni apud Scotos* . . . bears . . . in its general spirit, a closer resemblance to the political philosophy of the eighteenth century, than any composition which had previously appeared. The ethical paradoxes, afterwards inculcated by Hobbs, as the groundwork of his slavish theory of government, are anticipated and refuted; and a powerful argument is urged against the doctrine of utility which has attracted so much notice in other times.<sup>3</sup>

In the light of the influence exercised by the book, it is not surprising that Mr. Harold Laski has said, ". . . it

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2. David Irving, *Memoir of the Life and Writings of George Buchanan* (Edinburgh, Bell, Bradfute and A. Laurie, 1806), p. 236.
  3. Dugald Stewart, *Dissertation on the Progress of Metaphysical, Ethical and Political Philosophy*, in *Works* (Edinburgh, T. and T. Clarke, 1877), I, 61- 62.

is possible that Buchanan's famous dialogue was the most influential, political essay of the sixteenth century."<sup>4</sup>

[16]The detestation in which the champions of absolutism held Buchanan furnishes proof of the importance of his political views no less convincing than that supplied by the use made of his work by those who share his opinions. In 1584, the Parliament of Scotland condemned the *De Jure Regni* and ordered all copies of, the work confiscated. The Privy Council of Scotland, in 1664, forbade the circulation of the work and renewed this prohibition in 1688. In 1683, Buchanan's *De Jure Regni* and *History* were burned, along with political writings of Milton, Languet, and others by Oxford University.

These latter measures were a mere locking the stable after the horse had been stolen. Milton, Sidney, and Coke had familiarized the people of Great Britain and the British colonists in North America with the principles of Buchanan's political philosophy, and the Declaration of Rights, which epitomized those principles, was then about to be enacted into law.

This last may explain in part why the *De Jure* is not more generally known to students of political theory. It was written in Latin; the prohibition of it prevented its free circulation in an English translation for more than a century; and throughout that century the book was studied by the leaders of a party which made them central to the British constitution. Men knew the principles of the *De Jure* from the writings of Milton and Locke, and neglected the *De Jure*. A striking instance of this is furnished by a passage in a letter written by Thomas Jefferson, February 12, 1810, to the Reverend Samuel Knox. Knox proposed to translate a tract by Buchanan and had written to Jefferson about the matter. Jefferson said that he owned the work, but had not looked into it, and adds, "I shall certainly, after what you say of it, give it a serious reading." Paradoxically enough, the completeness of the assimilation of Buchanan's ideas into the body of British political thought may have contributed to the neglect of his own statement of them.

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4. Harold Laski, "Introduction" to *A Defense of Liberty Against Tyrants*—the translation by Junius Brutus of H. Languet's *Vindiciae Contra Tyrannos* (London, G. Bell and Sons, Ltd., 1924), p. 5.

The idea is fairly widespread that there was nothing particularly original in the *De Jure*. It has been said that the work contains no idea that cannot be found in some predecessor of Buchanan's. If his book and the books of his predecessors were, respectively, aggregates, instead of being systems, of ideas, this would be true. Buchanan teaches that legitimate rulers [17] hold their offices by virtue of election; that their exercise of powers, properly, is limited by the laws; that rulers are accountable for their acts; and that tyrants may be justly put to death. Nothing is easier than to show that he has been anticipated in each of those principles. It is easy to show, however, that each of these predecessors, and each of Buchanan's contemporaries, too, said a great deal more; and that, in consequence, the impact of the writings of no one of them is precisely that of the *De Jure*. Buchanan was very much the man of his age. The continuity of his thought with the conciliar movement, his relation to renaissance humanism, to early Protestant theory of government, to the Scottish tradition—particularly as represented by his teacher, John Major—and the points of agreement and difference between his political theory and that of the French Huguenot theorists, and of Knox and Ponet, must all be taken into very careful account.

Paul Janet asserts that the religious and reformation element was almost absent from Buchanan's political theory, and that one found in it instead the literary and philosophic spirit of the renaissance.<sup>5</sup> Buchanan is not, he continues, "the disciple of Calvin and Knox, but of Plato, Aristotle, and Cicero "

Buchanan was not, to be sure, the disciple of his younger contemporary Calvin, nor of his colleague and friend Knox, but there is no conflict in the explicitly stated political ideas of the two Scots. Neither Knox nor Buchanan agreed with Calvin in his teaching respecting the obedience due to magistrates. Calvin taught obedience as a Christian duty, while Knox taught the citizen's duty to resist an oppressor; and, as is well known, he and Knox engaged in a sharp exchange over the matter. Buchanan was the disciple of Plato and Aristotle to no greater extent than every Christian humanist is. The two passages in the *De Jure* which have a definitely Platonic

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5. Paul Janet, *Histoire de la Science Politique dans ses Rapports avec Morale* (Paris, Felix Alcan, 1913), II, pp. 46- 48.



flavor, (1) the reference to ideas in the mind of the artists being the perfect type to which the concrete work of art corresponds, though incompletely, and (2) the references to governments being of law, had been current in western Christendom long before Buchanan wrote. Since Aristotle's ethical and political [18] theory completely permeates the political theory of Western Christendom to the end of the Eighteenth Century, it furnishes, of course, the basis of Buchanan's theory. Buchanan holds a doctrine of the shared life very like that encountered in the first section of Aristotle's *Politics*, but his position is more nearly the Stoic one. Cicero and Seneca,<sup>6</sup> the historians of Greek and Roman antiquity, and St. John Chrysostom are in a different case. They furnish Buchanan with major concepts, and with fully developed lines of exposition and argumentation.

Buchanan was a Christian humanist, of the Neo-Stoic school of humanism; he was a Scot, for all that he lived for many years in France; and he was, as was said before, so typically a Protestant as to be chosen Moderator of the General Assembly of the Church of Scotland in 1567. With respect to his protestantism, it may be added that Andrew Melville, third of the trio who led in the organization of the Church of Scotland, said that Buchanan "was of good religion for a poet." The great service of Buchanan to political theory and practice was his statement of a political philosophy, a central tenet of which was the doctrine that the source of political authority is the community. His total system, however, is essentially different from that of either St. Thomas or of Marsilius of Padua, who, long before him, taught the derivation of political power from the community.

Any extensive exploration of the relation of Buchanan's thought to that of particular theorists is precluded by the limits which must be imposed by the length of this paper. It should be said, however, that there is clear indication of the influence of Marsilius of Padua. The reference to Lewis the Bavarian in Chapter Forty-five points in this direction. The sixteenth century displayed considerable interest in Marsilius. An edition, somewhat abridged, of his *Defensor pacis* was pub-

lished at Basel in 1522, and an English translation of the work appeared in 1535. He has even been regarded as an advocate of majority rule and popular sovereignty. Professor D'Entreves points out that the omission from the text of the 1522 edition [19] of all reference to the quality of the persons who legislate in a state leaves the way open to an interpretation of Marsilius as an exponent of popular sovereignty, the law being what the majority decrees.<sup>7</sup> Since, as Professor D'Entreves further points out, Marsilius clearly says that the quality of persons legislating must be taken into account, his is not a philosophy of popular sovereignty or of the rule of the majority. Buchanan, on the other hand, is quite explicit in favoring popular government. He says: "A majority of the people may decree a law or create a ruler."<sup>8</sup> He, further, expresses confidence in the plain people, and goes on to declare that those are to be accounted citizens who uphold the laws and support organized society. He asserts his confidence that with proper leadership the majority of the people will stand up for "liberty, integrity and security."<sup>9</sup>

In the main, Buchanan is combating two theories of government which, in the sixteenth century, came into sudden prominence, and which were quite as hateful to high papalists as to him; these theories were the opportunism and utilitarianism of Machiavelli's writings and the dogma of royal absolutism; Buchanan's argument against both of these positions is based upon the conception of natural law — a conception which he held in much its Catholic form. That conception is, briefly, as follows. There is an order of all things; this order is embodied in man's nature as a sort of natural "rude of life. It is discoverable to reason, so that reason never says one thing and nature another. Since it is an order created by the author of nature, it is never contrary to the will of God. The summary of the law found in Luke x.27 is an epitome of the law of nature. In opposing the position of Machiavelli, Buchanan appealed to this law of nature. Machiavelli discerned no interests save those which were supplied by a man's own egoism. Since

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6. Buchanan wrote a poem, "Rex Stoicus ex Seneca," which is printed as a foot piece to the *De Jure* in the *Omnia Opera*, as edited by Rudiman Edinburgh, 1715.

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7. Alexander Passervin D'Entreves, *The Medieval Contribution to Political Thought* (Oxford, Oxford University Press, 1939), pp. 55- 56.

8. Chapter 43.

9. Chapter 44.

there are no motives save those of selfish self-interest, governments depend principally on craft and force. Political expediency, not moral right, is the guiding principle of all statecraft.<sup>10</sup>

[20] It is against this type of theory that a part of Buchanan's essay is addressed. There can be no question of his detestation of Machiavelli's principles. In his *An Admonition to the True Lords* (1571), Buchanan concludes a list of "godless persons" whose pretensions he calls to the notice of his readers with a reference to "Machiavellian mockers of all religion and virtue, bloody butchers and fortifiers of thieves and maintainers of traitors."<sup>11</sup>

Buchanan flatly denies the dogma that man is, by nature, anti-social. He is, on the contrary, formed for the shared life and attains his highest development and felicity in organized society. Even at the lowest social level, he lives in groups — no compact is necessary for the formation of a society. The compact is merely the agreement embodied in the laws which a people enact, as furnishing the conditions under which they vest power. The only compacts which Buchanan is willing to regard as at all binding are those historic ones, by which kings, at their coronations, agree to maintain the laws, and their people agree to obey them.

The theory of the state which Buchanan is most concerned to combat was, however, the doctrine that sovereignty is inherent in rulers — the doctrine of the divine right of kings to rule, with its corollary that they are accountable to God alone. St. Thomas had cited the words of the Psalm Fifty-five, "against Thee, Thee only have I sinned," as proof that kings are responsible only to God. The Roman Catholic Church, however, provided a spiritual authority, which decided, in specific cases, questions affecting the faith and conduct of rulers, an authority; which served to limit the power of secular governments. The dogma of the sovereignty of the hierarchy had, however, been repudiated in Protestant lands. The Protestant principle, moreover, that the Scriptures, understood in their plain sense, affords sup-

port for the theory that princes are to be obeyed. Paul had written, Romans xiii.1, 2:

Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever, therefore, resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation.

[21] This clear prescription settled the matter for the great early reformers. They had repudiated the spiritual authority of the Pope and had appealed to the letter of the Scriptures.

Tyndale, in his *The Obedience of a Christian Man*, said:

God . . . hath given laws unto all nations, and in all lands hath put kings, governors, and rulers in his own stead to rule the world through them.... Whosoever resisteth them [*i.e.*, rulers] resisteth God (for they are in the room of God) and they that resist shall receive damnation.

Such obedience unto father, mother, master, husband, emperor, kings, lords and ruler requireth God of all nations....

...Neither may any inferior person avenge himself on the superior, or violently resist him for whatsoever wrong it be. If he do, he is condemned in the deed doing; inasmuch as he taketh upon him that which belongeth to God only.<sup>12</sup>

Tyndale goes on to argue that the inferior may not resist his superior, and having cited the sparing of Saul's life by David, concludes,

. . . hereby seest thou that the king is in this world without law, and may at his lust do right or wrong, and shall give accounts, but to God only.<sup>13</sup>

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10. See G. Machiavelli, *The Prince*, translated by W. K. Marriott (New York, E. P. Dutton and Co., 1908), p. 97.

11. Quoted by David Calderwood, *The History of the Kirk of Scotland* (Edinburgh, Printed for the Wodrow Society, 1843), III, p. 118.

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12. William Tyndale, *The Obedience of a Christian Man*, in *Works* (London; Ebenezer Palmer, 1831), pp. 210-211.

13. *Ibid.* p. 214.

In the Middle Ages, some restraint had been exercised over parents, barons, and monarchs by the Roman Church. Tyndale allowed of no restraint on secular rulers. He said:

One king, one law is God's ordinance in every realm. Therefore ought not the king to suffer them [the priests] to have a several law by themselves, and to draw his subjects thither.<sup>14</sup>

Tyrants are the instruments to do God's will upon a sinning people. Just as a father punishes an erring child, "so hath God all tyrants in his hand, and letteth them not to do whatsoever they would, but as much only as he appointeth them to do, and so far as is necessary for us."<sup>15</sup>

Elsewhere Tyndale writes:

As the law is a terrible thing; even so is the king. For he is ordained to take vengeance, and hath a sword and not peacocks' feathers. [22] Fear him, therefore, and look on him as thou wouldest a sharp sword that hangeth over thy head by a hair.

Heads or governors are ordained of God, whether they be good or bad. And whatsoever is done to us by them, that cloth God, be it good or bad. If it be evil, why are they evil? Verily, for our wickedness' sake are they evil... wherefore cloth God make us an scourge of them, and turn them to wild beasts, contrary to the nature of their names and offices; . . . to avenge himself of our unnatural and blind unkindness, and of our rebellious disobedience.

Evil rulers are a sign that God is angry and wrath with us.<sup>16</sup>

This revolting conception of authority holds even in the parental relation. Tyndale says:

Let us receive all thing of God,

14. *Ibid.* p. 272.

15. *Ibid.* p. 178.

16. *Ibid.*, pp. 228- 229, *passim*.

whether it be good or bad; let us humble ourselves under his mighty hand, and submit ourselves to his nurture arid chastening, and not withdraw ourselves from his correction.... The child, as long as he seeketh to avenge himself upon the rod, hath an evil heart. For he thinketh not that the correction is right, or that he hath deserved it, neither repenteth, but rejoiceth in his wickedness. And so long shall never be without the rod: Yea, so long shall the rod be made sharper and sharper. If he knoweth his fault and take correction meekly, and even kiss the rod, and amend himself with the learning and nurture of his father and mother, then is the rod taken away and burnt.

So, if we resist evil rulers, seeking to set ourselves at liberty, we shall, no doubt, bring ourselves into more evil bondage, and wrap ourselves in much more evil and wretchedness.<sup>17</sup>

Luther, in a letter to his Elector, commands unqualified obedience of subjects to rulers and declares that the subject who rebels against or resists his government is a rebel against God<sup>18</sup>

Calvin, advocating the rule of the Church by elected elders, did contribute in a substantial way to the growth of human freedom. He wrote:

All nations are left. at liberty to [observe] such laws as they shall find respectively expedient for them, provided they be framed according to that perpetual rule of love, so that, though they vary in form, they may have the same end.<sup>19</sup>

17. *Ibid.*, pp. 230- 231

18. See Lord Eustace Percy, *John Knox* (London, Hodder and Stoughton, 1939), p. 169 f.

19. John Calvin, *Institutes of the Christian Religion*, Bk. IV, Chap. XX, par. 15.

The promise of this paragraph is not, however, fulfilled; for Calvin slipped into the morass of obedience to tyrants, just as [23] Luther and Tyndale had done before him. He states the duty of political servility without any sort of qualification, saying, "It is our duty to be obedient to any governors whom God hath established over the places in which we reside."<sup>20</sup>

Calvin does, however, concede this liberty to the oppressed subject: he allows him to pray about the matter. He writes

... if we are inhumanly harrassed by a cruel prince; if we are rapaciously plundered by an avaricious or luxurious one,—let us first call to mind our transgressions against God, which he undoubtedly chastises by these scourges. Let us, in the next place, consider that it is not our province to remedy, these evils; and that nothing remains for us, but to implore the aid of the Lord, in whose hand are the hearts of kings and the revolutions of kingdoms.<sup>21</sup>

In his opinion, however, nothing can justify resistance to rulers:

For though the correction of tyrannical domination is the vengeance of God, we are not, therefore, to conclude that it is committed to us, who have received no other command than to obey and suffer.<sup>22</sup>

The mid- point of the sixteenth century witnessed a complete about- face of Protestant theory as respects this doctrine. There can be no doubt that the reverses which the movement suffered from about 1546 onward shook the faith of many Protestants in the efficacy of passive obedience. Mary followed Edward on the throne of England, and severe measures were resorted to in an effort to restore England to the Roman fold. Protestantism was all but stamped out in Italy, Spain and Portugal. The Queen Regent and Primate of Scotland took vigor-

ous measures against the innovators. The Protestant forces within the empire were beaten at Mülberg, and the Catholic authorities took a strong line. Protestants resisted, and in 1548 the clergy of Magdeburg issued a statement declaring that Christians are bound equally to obey Christian rulers and to resist any order contrary to God's law.

The Marian exiles developed the principle that a Godless and tyrannical ruler ought to be resisted. John Knox developed this doctrine fully. He and Christopher Goodman, writing from [24] Geneva, taught that rulers who command evil are not to be obeyed. King and peasant are equal before God. Knox writes:

Of the Prince cloth God require, that he refuse [deny] himself, and that he follow Christ Jesus; of the subject he requireth the same.... And this is the equality which is betwixt Kings and subjects, the most rich or noble and betwixt the poorest and men of the lowest estate; . . .<sup>23</sup>

This statement laid the basis for the central principle of Knox's theory of church government, which is that the church is, properly, governed, neither by a clerical hierarchy nor by secular rulers, but by elders — ministers and ruling elders — elected by Christian laymen. Knox, writing to the plain people of Scotland, says:

. . . I affirm, that to you it cloth no less appertain, then [than] to your Kings or Princes, to provide that Christ Jesus be truly preached amongst you.... And this is the point wherein, I say, all man is [all men are] equal.<sup>24</sup>

The equality of noble and commoner is not with respect to. privilege only, but is also with respect to duty and responsibility. Knox says, further:

Be not deceived, dear Brethern. God hath punished not only the proud tyrants, filthy persons, and cruel mur-

20.*Ibid.*, Bk. IV, Chap. XX, par. 8.

21.*Ibid.*, Bk. IV, Chap. XX par. 29.

22.*Ibid.*, Bk. IV, Chap. XX par. 31.

23.John Knox "A Letter to the Commonalty of Scotland," in *Works* edited by David Laing (Edinburgh, Johnstone and Hunter, 1855), IV, 531

24.23 *Ibid.*, p. 528.

derers, but also such as with them did draw the yoke of iniquity, was it by flattering their offenses, obeying their unjust commandments, or in winking at their manifest iniquities.<sup>25</sup>

From this statement of the equality of men in God's sight and in responsibility, it is but a step to the position that a people may hold their rulers to account for their deeds. While Mary of Guise was still regent, certain Scottish ministers had been charged with sedition because they had criticized her. Knox defended them, saying:

In open audience they [the accused ministers] declare the authority of Princes and Magistrates to be of God: and therefore they affirm that they [civil rulers] ought to be honored, feared, obeyed, and even for conscience sake, provided they command nothing repugnant [contrary] to God's Commandment and plain will, revealed in His Holy Word. Moreover they affirm that if wicked persons, abusing the authority established by God, command things manifestly wicked, that such as may and do bridle [25]the inordinate appetite of Princes, cannot be accused as resistors of God's good ordinance. To bridle the fury and rage of Princes in free kingdoms and realms, they affirm, it pertains to the Nobilitie, sworn and born to be Councillors of the same, and also to the Barons and People, whose votes and consent are to be required in all great and weighty matters of the commonwealth, which if they do not, they declare themselves criminal with their Princes.<sup>26</sup>

Knox declares that the preservation of the commonwealth is the common responsibility. "Think not,"

he writes, "that you dwell in safety when your neighbor's house burns." He gave to the commons of Scotland the same human dignity and rights that he allowed to king and nobles. Office conferred special dignity and authority, but these were held simply as necessary to the service of the commonwealth.

One of Knox's noblest statements respecting the political independence and competence for government of the common man was uttered in a debate in the General Assembly of 1564. The issue being debated had to do with the right of the people to resist injustice at the hands of their rulers. Knox asserted that not only is it allowed to Christian people to resist the criminal acts of their rulers, but, where they have power to do so, they are morally obligated to resist aggressors against the rights and liberties of themselves and their fellow citizens. Lethington, Knox's opponent in the debate, answered this assertion, saying:

"Well, I think ye shall not have many learned men of your opinion "

My Lord," Knox answered, "the truth ceases not to be the truth, howsoever it may be that men misknow it or yet gainstand [oppose] it. And yet (said he) I praise my God, I lack not the consent of God's servants on that head."

Knox then handed to the Secretary of the General Assembly a copy of the defense which the ministers of Magdeburg, in Saxony, had made of the right of the people of the Duchy to resist the troops of the Holy Roman Empire. Knox explained the paper and its purpose to the assembly, and added:

To resist a tyrant is not to resist God, nor yet His ordinance." Lethington contemptuously exclaimed, "Nobodies" (*Homines obscuri*).

[26] To which Knox replied, "God's Ministers, never- the- less" (*Dei tamen servi*).<sup>27</sup>

Knox insisted on the people's right of free assembly. He was accused of sedition and summoned for trial, in 1563, because he had called the people together for political action. He frankly acknowledged that he had

25.24 *Ibid.*, p. 539.

26. John Knox, *The History of the Reformation in Scotland*, in *Works*, I, 410.

27. John Knox, *The History of the Reformation in Scotland*, in *Works* II, 453- 454, Edinburgh, The Wodrow Society, 1848.

convoked the Queen's subjects, and stoutly defended what he had done as right. It is no wonder that Mary complained of Knox that he had "taught the people to receive another religion than their princes can allow."<sup>28</sup>

John Ponet, an Edwardian bishop and Marian exile, pub. fished, in 1556, an exposition and defense of the doctrine of limited monarchy entitled *A Shorte Treatise of Politicke Power*. This book not only developed most of the lines of thought of] the *De Jure*, but contains a great number of literary allusions and minor arguments which appear in Buchanan's later treatise. We shall see that the two authors differ on a crucial point, but in the main, they are in agreement.

A crucial matter with respect to which Ponet and Buchanan agree is in their doctrine that authority is derived from the community and of the nature of the limitation placed upon government. This limitation consists in the insistence of both authors upon the right of individual conscience. Mr. Harold Laski points out that any adequate conception of the state rests upon the recognition that man is no less "a solitary creature" than a social one.<sup>29</sup> It is precisely this insistence upon the unique and particular character of man, coupled with equal insistence upon his capacity for the shared life in which he attains full human stature and happiness, that is a principal strength of the American Declaration of Independence and of the Constitution of the United States.

Buchanan's insistence that the individual conscience is a final court of appeal is a main cause of offence to defenders of royal privilege. In insisting upon the importance of keeping alive the spirit of independence and of resistance to the [27] encroachments of governments upon their liberties,<sup>30</sup> Buchanan anticipates the position as respects this matter of Thomas Jefferson, who urged the importance of keeping alive the spirit of resistance in a people. That the independence and integrity of the individual is the last and most important line of defense of free and just institutions is a truth which

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28. Lord Eustace Percy, *John Knox*, p. 375.

29. Harold Laski, "Introduction" to *A Defense of Liberty Against Tyrants* p.56

30. Chapter 51. See Thomas Jefferson's letter of 1787 to James Madison: "A little rebellion now and then is a good thing.... It is a medicine necessary for the sound health of government."

history illustrates by many examples. The history of the way in which liberty as preserved in Denmark, Norway, and France by the underground movements of those countries furnishes the latest proof of this ancient maxim. Bodin, who had a great part in developing the modern conception of the State, defined sovereignty as incapable of legal limitation. This doctrine opens the way to acceptance of totalitarianism, and there is no way to meet this argument save by the principle that the legislative power be kept representative of the people. In the last analysis, this can be done only as the individual citizen is constantly watchful and alert to maintain human rights, and insistent that the ruler act only within the pattern of the laws and that the judiciary does not usurp the lawmaking power.

The crux of Buchanan's argument is just here. The right of the people to correct abuses is never alienated. He writes: "We are agreed, then, that once the defects of the laws have been detected, they can be corrected and wiped out by the lawgivers."<sup>31</sup> He goes on to indicate who lawmakers are. He writes:

I believe that you [Maitland] now agree that those who are born to be our kings are made so by the laws and by the suffrages of the people, no less than those who were elected first, and that there are measures of relief provided to the people, who are the lawgivers, not only against fraud and trickery, but also against negligence in interpreting the laws.<sup>32</sup>

In this position Buchanan had been anticipated time and again by writers of the latter Middle Ages and of the Renaissance, and notably by Gerson, who had asserted that where a tyrant persists in doing evil, a people may apply the law of [28] nature and meet force with force.<sup>33</sup> John Major had stated the doctrine of the inalienable character of popular sovereignty as clearly as can be done. He had said:

A people may deprive their king

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31. Chapter 37.

32. Ibid.

33. Constable, translator, *John Major's Greater Britain* (Edinburgh, T. and A. Constable, 1892), pp. 213- 216 n.

and his posterity of all authority, when the king's worthlessness calls for such a course, just as it first had power to appoint him king.<sup>34</sup>

The peculiar interest which attaches to Buchanan's treatment of this topic is due to his account of the nature of the compact between a king and his people. In Catholic theory, a divinely guided and commissioned church, charged with authority to pronounce upon all matters of faith and morals, is ever in the background. This position the Protestant Buchanan has explicitly repudiated. The argument of both the *Vindiciae contra Tyrannos* and of Ponet's *A Shorte Treatise* depends upon a covenant between God and the community which is antecedent to the compact between ruler and people. Not only is this position essentially obscurantist, it also tends to commit those who hold it to the most serious error which any branch of Calvinist political theory ever embraced — the dogma that the State should make itself responsible for purity of faith and worship. Buchanan does not deal with this question, and his silence on the point is surely significant. Even more significant is his doctrine of the compact, a doctrine in which the principles of human liberty, dignity and right is implicit. The *Vindiciae contra Tyrannos*, for all its defense of the subjects' right to resist, is not a defense of "popular government and the rights, of man."<sup>35</sup> Knox, by insisting upon the duty of government to maintain the purity of religion, opened the way to new invasions of right. These pitfalls are not present in Buchanan's statement of the origin and nature of government.

The basis of right, in Buchanan's theory, is to be sought in the nature of man and of the universe. The statement of the vested liberties and rights of subjects and of the powers and rights of rulers — which are never natural but invariably vested — are set down in the laws which define the obedience of a [29] people and vest authority in rulers. This approach to the problems of government leaves the way open for the full development of a political theory, the fundamental assumptions of which are the principle of the unique dignity and worth of the individual, and so of the inalienable char-

acter of natural rights and of popular sovereignty; the conception of legislation is the creative activity of the state, and the further assumption that a government can be a just one only as legislation is directed in the interest of the general welfare. The elaboration of these principles and the creation of the governmental devices and procedures by which they can become effective was the great concern of political theorists, legislators, and makers of constitutions to the end of the eighteenth century.

Buchanan's peculiar importance as a political theorist is due principally to the synthesis he achieves of ideas from classical antiquity, the later Middle Ages, Scottish history, the Italian Renaissance, and the second, or Calvinist, phase of the Reformation. The *De Jure* contains no single idea which can be said to be wholly new; yet, since a political philosophy is not an aggregate of separate notions, but a system of ideas, each of which is to be understood in terms of its context, Buchanan's system affords a new orientation.

Two examples will make clear the nature of this re-orientation by virtue of a recombination of ideas. From the days of the primitive church, as Buchanan points out, Roman Catholic theory had maintained the supremacy of God's law over the authority of the secular state. Authority to pass upon the moral and religious character of the acts of rulers and to impose sanctions had been vested, according to Roman Catholic dogma, in the hierarchy of the Church. While the Eastern Church had become the docile servant of the Byzantine emperors, the Roman Church had stoutly maintained the religious and more independence and sovereignty of the hierarchy. In Presbyterian theory, the independence of the Church is maintained, but the idea of an authoritative priesthood is repudiated, and a lay-controlled church established. Calvinists who accepted the doctrine of the limitation of the powers of secular rulers had still the problem of the scope and nature of this limitation; and individual theorists, agreeing at many points, differed at [30] others — differences so fundamental that they provided bases for quite different assumptions as between Calvinist groups. The nature of such divisions may be illustrated by contrasting the views expressed in Ponet's *A Shorte Treatise* with those of Buchanan's *De Jure*. There are very many points of similarity between the two tracts. Both argue from the position that if a Pope may be deposed, much more may a people depose its rulers; both cite the rebuke administered by St.

34. *Ibid.*, pp. 213- 214.

35. G. H. Savine, *History of Political Theory* (New York, Henry Holt and Company, 1937), p. 383.

Ambrose to Theodosius as evidence that rulers can be held to account; both argue that he who betrays a whole people is the enemy of society; both cite the treatment accorded Christian of Denmark and Chilperic, King of the Franks, as examples of kings justly punished for their deeds; Ponet cites Edward II and Richard II as examples of unworthy English kings who were "thrust out," and Buchanan cites a long list of Scottish monarchs who were held to account by their people; both employ the distinction made by the papalists — it had been developed especially by John of Torquemada and Augustinus Triumphus — between the Pope and the man who is pope; both refer to the law of nature as that rule of conduct written upon man's heart, and quote the summary of the law given by Christ as a statement of it; both refer to slayers of tyrants of antiquity who were rewarded by a grateful people; both show that a king's power of doing evil is a source of weakness, not of strength to the monarch who has it. One might cite very many more parallels and similarities between the treatises. Both belong to the later tradition of Calvinist political theory.

Ponet and Buchanan differ, however, in important respects. Ponet finds the origin of political power, as does the author of the *Vindiciae contra Tyrannos*, in a covenant between God and a people. Buchanan finds the basis of government in man's social nature and finds government nonetheless sacred from this fact. Ponet proposed, as a recourse against tyrants, that a people appeal to their nobility and, failing of relief, to "ministers of the Word of God," who could exercise the dread power of excommunication. Buchanan makes no reference to any appeal to ecclesiastical sanctions. He proposes instead judicial process — laying especial emphasis upon the power of judicial [31] review<sup>36</sup> — as the ordinary remedy; and proposes to keep the legislative power representative of the people. He maintains the right of armed resistance as the final safeguard of a people's rights. His failure to list the maintaining of orthodox faith and worship as one of the responsibilities

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36. Chapter 27. "Tyranni enim et Graecis et Latinis vocabantur, penes quos erat libera omnium rerum potestas, nullis legum vinculis adstricta, aut judicium cognitionibus obnoxia."

of civil government set him sharply apart from Calvin, Knox, the *Vindiciae contra Tyrannos*, and Ponet.

Ponet strains after direct Scriptural support of his political theories. In Buchanan's view, the absence of any Scriptural example which serves as a basis for judgment respecting a proposed law is quite unimportant. Reason should be our guide in most matters. Buchanan avoids completely the morass into which many reformers fell, of regarding only that for which Scriptural precept or precedent could be shown as allowable.

Even more significant is the spirit and method with which Buchanan approaches the Scriptures. He is completely free from the rigid literalness of some Protestant students and from the allegorizing which had characterized biblical studies in the Middle Ages. Instead, he approaches the interpretation of the Bible in the spirit and with the apparatus, so far as it was then available, of historical criticism.

Nothing in Buchanan's *De Jure Regni apud Scotos* is wiser than his view of the state. He does not hold the view, so common among Calvinists of his time, that the one lawful government is a theocracy. Instead, he refuses, at one point, to argue from the history of Israel, holding that Israel was unique in that God had chosen its kings.<sup>37</sup> Buchanan does not even entertain the theory of the patriarchal origin of kingship; and he expressly attacks the notion that kings are kings because of any natural superiority, or that they can establish lawful kingship by conquest. In his view the government which is in accordance with nature is a royal and political government, which is a leadership of free men by a free man.<sup>38</sup> He rejects, also, the Machiavellian conception of the state as the creation of force and craft, acting upon the fears, greed and ambition of men.[32] He shows that such forces are disruptive, and do not give rise to civilized society.

A government, according to the theory of the *De Jure*, is an agency by means of which men, made for the shared life and for reciprocal benefits, attain the sort of life for which their creator intended them and it is this sense that God has ordained governments — not that He has chosen particular men to be kings. Government is simply an arrangement which provides a channel by

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37. Chapter 40.

38. Chapter 29.



means of which men confer and receive benefits and add strength to strength, actions which are the fruit of mutual confidence.

This arrangement is effected by means of a compact or agreement between the ruler and his people. Recent writers have attacked the theory of the contract, and so long as this theory has the form which it takes in the writings of Hobbes and Rousseau, such attacks are with good reason. In the theories of Hobbes and Rousseau, it is held that compact creates a legal person, a sort of mystical entity, in which sovereignty, as the theory appears in the *Leviathan*, or the general will, as the *Social Contract* has it, inheres. The contract, as these books describe it, moreover, is not to be thought of as a historic event at all. In Buchanan's view, however, the claim of a king to power stands or falls by virtue of the historic evidence that can be produced in support of those claims.<sup>39</sup>

Buchanan refines his theory of the state by an argument from the principles of the law. The law, as defined by the jurists, is that "which the people ordain." As the people find defects in their laws, moreover, they have the right and power to change them. To the doctrine of the unlimited powers of the state, Buchanan opposes the doctrine that save as a government has powers defined by law, it has not the character of a government, and hence no rightful authority. An unlimited government is a contradiction in terms. The sources of government are those moral springs of men, the aspiration after liberty, integrity, and security. So far from it being impossible to limit the state legally, legality is, by its very nature, limitation, and the state is the creation of the laws.

[33] A peculiar importance attaches to the *De Jure* because of its place in the development of Puritan, Huguenot, and Presbyterian political theory, a place indicated at the beginning of this chapter. Historians assign to the political philosophy of sixteenth-century Calvinism a place of particular importance in the struggle for civil and religious liberty. David Hume, who was surely no great admirer of the followers of Knox and Cartwright, says:

[It appears] that the republican ideas of the origin of power from the people were at that time [about 1607]

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39. Chapter 36.

esteemed as Puritan novelties.<sup>40</sup>

Professor Trevelyan writes of the "democracy of laymen" which arose in the parishes of Presbyterian Scotland, and of the national organization effected through the General Assembly of the Church of Scotland which became the organ of the national life and "the focus of resistance to the crown."<sup>41</sup> J.R. Green declares, "no Church constitution has proved in practice so democratic as that of Scotland."<sup>42</sup> Lord Eustace Percy calls the political philosophy and convictions of the Calvinist political theorists of the sixteenth century, in spite of tendencies in them which were productive of much harm, "the parent of the liberal movement in Holland, Great Britain, and America."<sup>43</sup> Mr. R.H. Tawney, a severe critic of certain tendencies in Scottish Presbyterianism and English Puritanism, notes one strain of British Calvinism which "was to leave, alike in the old world and the new, an imperishable heritage of civil and religious liberty."<sup>44</sup>

Buchanan was certainly one of the most liberalizing and ameliorating forces in the entire reformation movement. He did not fall into the error of making purity of faith and worship an aim of government, an error into which Calvin, Ponet, the author of the *Vindiciae contra Tyrannos*, and Knox, along with their opponents, all fell. He met the new obscurantism of the [34] divine right of kings boldly, with the arguments of reason — being equally emancipated from the allegorizing methods and dependence upon authority of medieval scholars, and from slavish literalism in the interpretation of the Scriptures which hampered many of his fellow reformers. But the reformed leaders read and prized his ideas. Buchanan, moreover, brought to political philosophy as finished and lucid a Latin style — as the sixteenth century can show. In content and in style, and in the

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40. David Hume, *The History of England* (Philadelphia, Lewis and Baker, 1810), V, 469.

41. A. M. Trevelyan, *The History of England* (New York, Longmans, Green and Co., 1933), p. 335.

42. J. R. Green, *A Short History of the English People* (New York, American Book Company, 1916), p. 523.

43. Lord Eustace Percy, *John Knox*, p. 111.

44. R. H. Tawney, *Religion and the Rise of Capitalism*, Pelican Edition, p. 165.

contribution which it made to the theory and development of political democracy, Buchanan's *De Jure Regni apud Scotos* ranks as one of the most important political treatises ever written.