The coherent organisation of the state in this period was also sustained by a body of political literature, that came in the form of pamphlets, treatises, literary works, doctrinal documents etc. From a selection of this literature we attempt to delineate the concept of the contemporary state. This, for us, would also involve a survey of the predominant views of the state in the middle ages. In tracing the development of these central political concepts we hope to determine that they have evolved a non-monolithic tradition on the one hand, and that on the other have undergone major changes in the modern era. In the first case, select terms and configurations remain unchanged, only their emphasis alter through the ages. From the point of view of change undergone in the modern era, we propose to indicate that political theory in the sixteenth century had made a rupture with theories of the past in certain essentials; and that also some fundamental notions of the past if not obliterated, have at least been attenuated. We set out thereby to locate the dominant views. Though the state assumed different forms in the various
territorial units of Europe, the social and political arena was subject to the same historical forces throughout the continent and the questions and surmisest of thinkers were founded upon broadly uniform categories. Very often thinkers from the continent have worked out theory and ideas in a more sustained and effective manner and their writings have been widely enjoined as supplement to present arguments. This then is our proposition.

The non-monolithic tradition covers in broad outlines the Stoical, Legalist, Humanist and Christian traditions of views. In the middle ages Christianity had effectively absorbed all these traditions in its dogmatic renderings of the State and political society. Subsistence of the Legalist/Stoical views allow for some of these notions to resurface with pronounced significance in the sixteenth century. On the other hand, feudalism had developed its own peculiar political ideas.

Terms such as Reason, Nature, Providence, Natural Law, Degree, the Tyrant, Justice etc. denote concepts that describe the nature of political institutions and society. They continue to be expressive of political ideas in the sixteenth century. These configurations remain unaltered in the long period of the middle ages. The hegemony of Christianity render to these
concepts such an orientation, that for the most part, deliberations are focussed upon God, the other worldly, and the Church. The state was a convention devised by God (as opposed to the natural), and was consequent upon man's sinful nature. The natural was the primitive. If the thirteenth century saw a slight alteration of emphasis, (the State was natural in Aquinas) it was short-lived. Reason continued to unravel the meaning of God, and scholasticism prevailed.

In the period of our concern, that is the sixteenth to the early seventeenth century, a rupture with the past is seen with regard to certain views. Machiavelli and Calvin stand out by virtue of their radicalism. To them human nature is composed of unqualified wickedness, and State an answer to that. To Machiavelli the state was founded neither on natural law nor upon divine intervention.

Equally alien, but more widely and intensely persevered, was the notion of an absolute king. The theory of the Divine Right of kings, the notion of law as being created anew, the deliberations upon the king's prerogatives, and the surge of statutory laws give a decided indication of this new absolutism.
A novel addition to prevailing theory was an organic conception of authority. Drawn from the legalist tradition, it asserted that a power residing in the people as a whole, was irrevocably transferred to the ruler. This lent support to the idea of a national monarchy.

The development of representative institutions, hectic constitutional deliberations, and the growing body of statutes, familiarised the notion of laws as being formulated beyond those of custom. Not unknown to the middle ages, (in the thirteenth century an opinion was sounded briefly that the king's will was law) it was yet a novel assumption.

Subsisting with the tradition of conformity was also a tradition of protest. If the tyrant was defined in relation to his arbitrariness in legal matters, now the Infidel ruler too was a tyrant. (Non-conformity to the Roman Church, as much as to Puritanism). Contrary to the middle ages, resistance was vehemently discouraged. This question is however more complex than meets the eye. A growing protest from all ranks in society is discernible, (Jesuits, Puritans Anabaptists).

In the sixteenth century certain ideas are seen to be reduced in value. The preponderance of Faith upon all questions, was replaced by an increasingly secular morality. Simultaneously,
analytical methods have devised a scientific empiricism rather than resort to first principles, and especially to the idea of the prime mover (Bacon). Jarring radical assertions (Machiavelli) the concept of Natural Law follows a similar strain. It supports the national monarch.

Therefore, the assessment of a dominant body of literature gives the indication that such an opinion was willing to attribute to the central monarch a supremacy in ecclesiastical matters. In civil questions, this body of opinion in Tudor England, was slightly reticent about the arbitrary deployment of power. The appeal was largely to an absolutism to refrain from irrational tyranny, though it was largely acquiesced into. (Hooker, Ponet, Smith). The state is seen to rest on corrupt human nature, but the notion of the duality of human nature lends credence to their views.

TEXT

I. FOUNDATIONS OF THE STATE:

1. The Duality of Human Nature:

In a highly illuminating thesis of what has been titled 'The Renaissance Conflict', Theodore Spencer (1942), has framed and analysed the three orders of the Elizabethan world, i.e. the cosmological, the natural, and the politic. And has shown
how all these three orders have been punctured by radical ideas, thereby calling into doubt and conflict the inherited framework of the Elizabethans. 1 Spencer also summarily mentioned, with reference to a poem by Sir John Davies, 'Nosce Teipum', (1599) about the basic conflict inherited from the Christian view of the world, that is man's dignity confronted by man's wretchedness. 2 This short Elizabethan lyric however incorporates very important intellectual categories not mentioned by Spencer such that we may refer to it again: 4

*I know my body's of so frail a kind,  
As force without, fevers within can kill,  
I know the heavenly nature of my mind,  
But 'tis corrupted both in wit and will  

I know my soul hath power to know all things,  
Yet is she blind and ignorant in all,  
I know I am one of Nature's little kings,  
Yet to the least and vilest things am thrall.  
I know my life's a pain and but a span,  
I know my sense is mock'd with everything;  
And to conclude I know myself a MAN  
which is proud, and yet a wretched thing.*

2 ibid, p. 28.
The poem focusses on the dual nature of man, his 'heavenly' and his 'corrupt' nature, his kingly and his slavish nature. Man also has a 'soul' that can comprehend all things yet his 'Sense' has become inadequate. He discovers himself to be splendid and yet contemptible. These are the basic composites of a human being in the Elizabethan sense.

The duality of human nature, the divine Reason ('Soul'), the rational faculty now put to doubt ('Sense') are the very terms on which the basis of the State too has been apprehended. From the period of Greek classicism to the Roman Augustan age of the late Empire, down to the medieval feudal epoch and upto the modern era, the raison d'être of the state has been related to human nature. In order to embody the proposition we made at the very outset, we turn to the grand debate on human nature, thereby to perceive how influential opinion in the Tudor Age viewed the State in terms of human nature.

The best way to proceed would be to assess the changes in meaning ascribed to that theoretical construct of the state; which is known popularly as the myth of the Golden Age. We hope to show that over the ages, this myth, while retaining its inner core almost intact, had also undergone vital changes both in construction and in interpretation. Spanning over three
epochs, this myth can also be said to form the most crucial structure upon which the theory of the state rests.

Formulated in the late imperial period of Rome, in the world of a Hellenized culture, Seneca's version of the myth renders to man a primitive state of nature by virtue of which he lived in innocent goodness. Innocent virtue was however not to last forever. Man confronts his counter nature (his avarice and his ambition) thereby passing out of the blissful state of the golden age. The outcome of this was the political state. 3

We therefore gather that this theory makes three fundamental assertions: (i) that man had a pre-political existence of virtuous living (ii) that man has a dual nature (iii) presently man lives in a coercive state where the two opposed nature cohabit in express form.

This myth is fundamentally restructured in the Middle Ages. The myth of the Golden Age is obliterated and is replaced by another theoretical construction of the origin of the state.

This is afforded by Christianity in its legend of the Fall. This legend describes man's first transgression and the consequent forfeiture of the state of grace. What transpires is that man is doomed to live under coercive government. It is God's punishment for his sinful nature and is also a remedy for the ensuing chaos.

This Christian version of the myth has incorporated all the elements of the Senecan theory but assumes more authoritarian dictates. Transfigured to an anecdote it gives pictorial representation to those components inherent to the Senecan myth. The Senecan theory, resting upon man's quintessential nature for an explanation of civil society, distinguishes between man's corrupt nature and 'true nature'. The raison d'être of the state has to fulfill the requisites of both these natures in the Senecan theory. The state is established to curb man's avaricious nature and also provides the arena where his 'true nature' finds possible expression.

In the Christian version, the dictates of an authoritarian God establishes the state both as a remedial and punitive measure. Christianity establishes the major premise from which medieval political theory draws its inferences. More particularly it is the two distinct ideas relative to man -- (i) man's natural equality and (ii) man's corrupt selfish nature. Man has lost
both his pristine innocence and his social equality. While his innocence is lost forever (until a Christ redeems it) his natural equality will be restored in the 'civitas dei'. Meanwhile in the 'civitas terrena' he has to endure political authority. This insistence on man's corrupt nature justifies the state.

However there is scope of man's 'true nature' (in the Aristotelian sense) in Christian political theory. It is the divine enshrinement of Reason or his rational perception, that renders to man his 'true nature' and allows an otherwise wicked world to establish the good.

A major digression of the Senecan theory from Aristotelian deduction is the idea of the State as an imperative rather than as a manifestation of man's sociability (in the Aristotelian sense) whereby man gravitates naturally towards political society and the state. But Aristotle is not completely overhauled, for his rendition of man's 'true nature' which finds expression only in the state is carried forth by the Senecan model and enlisted in Medieval theory, both in its theological and legal currents of political speculations.

This requires certain qualifications. We had earlier mentioned about the non-monolithic character of tradition.
Medieval political theory incorporates essentially two traditions (i) the Christian Humanist tradition and (ii) the Stoical-Legalist tradition. In the first instance the hegemony of Christianity renders to speculation regarding the nature of authority (its origins, scope and organisation) a distinctly religious basis. Such deliberations come within the framework provided by the Christian faith, that is its basic tenets of God, Creation, the Incarnation/Redemption, and a mythical rendition of man's transgression or Fall. What Christianity has singularly absorbed in its dogmatic and philosophical renderings of man's social and political existence and his spiritual destiny, is the tradition of Stoicism. The principles of Stoicism, mainly expounded by the Roman lawyer Cicero (106 – 43 B.C.) in his 'De Republica', and the humanist philosopher Seneca (4 BC – 65 AD), have set a parallel tradition of thought running through the patristic and juristic literature of ancient Rome and medieval Europe surviving up to the seventeenth century. While Christianity proclaims its eternal verities, the legalist tradition refers to the rubrics of Natural Law, Reason, Degree, Order, The Great Chain of Being etc.

Jostling with these two main traditions of thought, namely the Christian Humanist tradition and the Stoical -
legalist tradition are the political thoughts of the Arabian
and Jewish thinkers of the tenth, eleventh, and twelfth
centuries, such as Averroes, Avicenna et al. Infused upon
concepts inherited from Teutonic tribal systems and early
feudal society, this body of thought formed the bulwark of
the state up to the modern era. Ideas mingle freely and such
divisions are for convenience. We are concerned with the value
system of a dominant group even while admitting that such
ideas work within a wider ideological field.

Political theory of the feudal epoch was produced in
a period of aristocratic domination. Contrary to general
opinion this period of 'feudal stagnation' actually produced

4 For this see: Gordon Leff, Medieval Thought, (London,
1965).

5 In the Marxist sense, this could be seen as the mental
production constituted of a fairly constant mode of material
production in the period of aristocratic domination. However
the notion of 'hegemony' (in the sense of Gramsci) and a wider
theory of domination comprising both 'infrastructural' and
'super-structural' elements, together with the notion of a
'polymorphous' nature of tradition has rendered those formula-
tions more sophisticated and challenges what could be deemed
diversifications. On the other hand these advances claim to
expose further complications for the revolutionary project
that Marxism proclaims. (See R. Miliband, Marxism and Politics
1977 DuP, p. 53 ff) More recently the cultural theories of
Raymond Williams have substantiated these formulations even
further and has also contributed greater clarity and precision
to analysis. However these formulations are suited to conditions
of advanced societies rather than the period of our concern.
a large body of relevant literature. This literature, in spite of its erudition, logic and precision, frequently turn out to be glosses to already written documents. The terms of reference we have just mentioned remain largely unaltered in their inner core of substance. Only their emphasis alters in this period.

Therefore we return, yet again, to this debate on human nature in order to perceive what shifts in meaning occur to the idea of the state relative to human nature. In the middle ages this took the form of an altercation between two dominant powers of feudal society, that is the Papacy and the Empire, powers that were in perpetual conflict. However the terms on which this polemic rested remained largely unchanged. They were briefly: (i) the state was conventional not natural, the natural was the primitive (ii) the state was of divine institution (iii) the state was a device to cure man's sinful nature.

The early church tended to overstate the sanctity of authority and this is echoed in St Paul's famous dictum: "Let every soul be in subjection to the higher powers, for there is no power out of God and the powers that be are ordained of God". But as it purported to evolve into a political power
vis-a-vis the secular state, its references altered. It once more turned to the notion of the corrupt nature of man. In its vice to acquire a separate political identity, the Church created its own sanction by promoting the view that Christ separated the two powers which were integrated in Him. And why Christ did so was because of man's weakness of nature. Thereby He created the two offices giving to each its particular functions and duties. In other words church was to officially look after man's sinful nature and his spiritual destiny.

Existence of a dual power viz the spiritual and the temporal was peculiar only to the Middle Ages. The gradual supremacy of the spiritual power and the eventual infringement upon the temporal power gives a new thrust to this polemic. This debate was carried out under the banner of the Galilean principle of the Two Swords of Christ.

The novel assumptions of the early church was its insistence on the necessity of a dual control over human life, corresponding to the dual nature of Man.\textsuperscript{6} St. Ambrose in the fifth century defines this position most clearly. Assuming

that all Christians belong to the church, the emperor included, they were subjected to a jurisdiction created by the church. In no uncertain terms he defines this position: "The emperor if he wishes to reign long, must be subject to God, and obey the rule to give to Caesar what is Caesar's and to God what is God's." 

In the twelfth century when this principle was repeated it was to a different tune. For in the meanwhile, the authority of the Church was more fully entrenched. But in the exercise of their respective authorities both State and Church often extended beyond the boundaries mapped out. At most times it was the Church which trespassed upon the State. Delimitation of these spheres was however easier said than done. Nevertheless, thinkers tried to work out the terms for a symbiotic relationship. Stephen of Tournai, an important canonist of the twelfth century Maintains: "In the one commonwealth and under the one king there are two peoples, two modes of life, two authorities and a two-fold jurisdiction. The Commonwealth is the Church; the two peoples are the two orders of the Church - that is the clergy and the laity; the two modes of life are the spiritual

7 Ibid., p. 188.
8 Carlyle & Carlyle, op. cit. p. 183.
and the carnal; the two authorities are the priesthood and the kingship; the two-fold jurisdiction is the Divine law and the human. Give each its due and all things will be brought into agreement. ⁹

For the Church, the chief warrant of its independent power, was the function of legislation that the self determining ecclesiastical body established for itself. It had this advantage over the secular authority in that it was centrally organised. Though feudal in practice, its administration and legislation emanated from the Papacy in Rome. It conducted its feudal overlordship through its bishoprics, and instituted the office of the Cardinal to serve as the intermediary for Rome. The idea of the Christain Commonwealth therefore best served its instrumentation.

This segregation of the two central powers, that is the 'sacerdotium' and the 'imperium', was however not to end matters. The conflict of these two contending powers reached its pinnacle over the issue of lay investiture of bishops. In the eleventh century, Pope Gregory VII's (1073 A.D.) vituperation against Emperor Henry IV degenerates into outright abuses. The nature

of secular authority is seen to emanate from corrupt human nature, prompted by Satanic forces:

Who does not know (said Gregory) that kings and rulers took their beginning from those who, being ignorant of God, have assumed, because of blind greed and intolerable presumption, to make themselves masters of their equals, namely men, by means of pride, violence, bad faith, murder and nearly every kind of crime, being incited thereto by the prince of this world, the devil. 10

Rejoinder to the papacy was in the form of that important document, the York tracts. In the assertion that "only the elect and the sons of God can rightly be called the Church of God", this tract not only claims to undermine the Bishop of Rome, it also seeks to limit the sacerdotium to spiritual supremacy alone. The point to note is that both Church and secular state do not deny each other's authority and share a common 'interest' on this score. It is only in defining their respective jurisdictions do they fall into disagreement. This disagreement is only particular and not essential.

10 Sabine, op. cit. p. 234.
A very important detour in the thirteenth century was made by the great Dominican of the mendicant orders, that is Thomas Aquinas. The state now assumes the form of a natural association, not convention. Here the Aristotelian concept of 'true nature' is reiterated. For the state in Aquinas becomes the arena to which social and political man gravitates naturally. To Aquinas it is also the theatre for man's expression of his good nature. These principles are repeated by another contemporary namely, Egidius of Colona, for whom the state is the embodiment of the moral character of human nature.

This is indeed a radical rupture in the notion of the origin of the state. To Aquinas, the state evolved not as the consequence of some catastrophic anarchy of the human condition (as in the Christian myth). Nor is there an insistence on the punitive nature of the state, relative to man's corrupt nature. Rather the state is the condition for the perfecting of essentially good human nature. The political state also has a practical purpose of working for the common good.

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2 ibid., p. 13.
3 See also D'Entremes, 'Medieval contribution to political Thought', WBP. 1939, p. 23-5.
Thomas Aquinas, of course, in no way undermines the theological significance of human existence. In fact, through this partial liberalisation, he seeks to accord an even greater penetration of God's essence in everything. On the other hand, this is definitively an exaltation of the human intellect and human nature.  

In traditional intellectual parley, this rendition of Aquinas would pre-figure as the notion of Reason. This particular configuration conveys the current of social and political thought more distinctly. It is therefore necessary to make a more detailed analysis of its development.

Of the two broad traditions mentioned, the Christian Humanist tradition has so far occupied our analysis. The other tradition, that is Stoical-Legalist tradition, and its subsequent amalgamation to Christian religious philosophy, is best understood as it stands incorporated within the terms: Nature, (Natural Law), 'Reason' and 'Providence'.

14 The thirteenth century gives expression to a new spirit of liberalism and learning. Urban middle class culture has arrived at a degree of expression. There is a reconsideration of a pantheistic nature. Clerical creeds and religious dogma in no way releases its stronghold. But an attempt has been made by a newly confident middle class spirit to establish an individualised understanding of eschatological mysteries. This is expressed by what Hauser calls 'the dualism of Gothic art' (See Arnold Hauser, The social History of Art, Vintage, 1985, Vol. I esp. p. 232-6). This particular spirit of the age is given systematic rendering by Aquinas and permeates his analysis of the various institutions of society.
The Stoics saw a moral order in nature, a oneness and perfection of God. The spirit that animates the world and the souls of men is the quality of reason and a compulsive moral sense. A life according to nature was the true submission of man to God. It was also a faith in the goodness and the reasonableness of the world. Thereby God, Nature, and man are linked by this spirit of reason and moral consciousness. Further, Stoical theory acknowledges a 'true' or 'social' nature of man. As a consequence, man has an innate reverence for the laws of God and of man. Based on these Stoical doctrines, Cicero affirms the equality of men and the naturalness of political authority. As we have seen, Christianity grafts unto its doctrines the primitivist view (that is Senecan-humanist view). It also acknowledges the idea of human equality. In the words of St. Paul:

"There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female, for ye are all one in Jesus Christ." 16

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15 See Sabine, op. cit., p. 149.
16 Ibid., p. 180.
The Stoics believed in the unerring benevolence of God. This was equated with the value of social purposes and man's duty to bear a share in them. In Christianity Providence is characterised as definitively participating in the affairs of men and directing it. Providence acts in a way understandable to man to some extent. This is attributed to man's rational faculty. Here Providence is also seen to act in a rational manner, equally emphatic in Christian doctrine are the Scriptural tenets of Revelation. Christianity here enlarges upon the dictates of an authoritarian God. From this aspect, doctrine dictates that man's reason can find only a secondary place in the scheme of things. It is confined to his social life rather than the cosmic. These are the tenets that Protestantism was to appropriate at a later date.

Here we have tried to discover the intellectual position occupied by that denomination, namely Reason. Its relevance in the history of ideas has been of tremendous import. Its subsequent history shall be analysed further on.

The notion of the state as natural and not conventional, was shortlived. Theory for the greater part of the later middle

\[^{17}\text{ibid., p. 149.}\]
ages abided by the more authoritarian notion. That is, the State was instituted by God and was an imperative upon man's sinful nature.

How does this debate fare in the sixteenth century? At this time a most radical perspective of man's nature is seen to surface. Two writers of formidable repute burst upon the intellectual scene, namely Nicolo Machiavelli and Jean Calvin, both had a different axe to grind. Machiavelli was eager to see Italy united into a secular nation state. He perceived the disintegrating tendencies of the fragmented Papal State as thwarting this purpose. Calvin on the other hand was bent upon organising a system of Protestant Churches all over Europe, over and against the Papal Church, that could neither be reformed nor destroyed. In their intellectual discourses, however, both proceeded from the common fundamental assumption of unqualified corrupt human nature.

Here, the telling point is that this wicked nature is seen as no longer requiring amelioration or protection by the Catholic Church. This unconfounded wickedness however requires an authoritarian state. To Calvin it is the 'Church

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of Geneva; to Machiavelli it is the uncompromising 'Prince'.

The other point of significance converges on the notion of duality. As we have seen, Man's good nature, apposit his wicked nature, vested on his Reason in the medieval tradition. To Machiavelli the notion of divine reason (or Natural Law) is of no practical significance. Calvin, on the other hand, required to find an alternative religious process to his alternative Church and State. Conformity to the divine will, could be established by coercion. But religion (that is Truth and Revelation) in the absence of divine inspiration called for a rational demonstration. In Calvin's authoritarian world this was, of course, a prerogative limited mainly to himself. The point we wish to make is that Reason, in Calvin's sense, in no way exalts wicked human nature. That form of dualism occurred in an earlier age. To Calvin man was outright wicked and the State rested purely on this particular trait of man.

To illustrate the above we turn to the text. In the 'Discourses' Machiavelli states: *Whoever desires to found a state and give it laws must start with assuming that all man are bad and ever ready to display their vicious nature,*

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20 The Supreme Council of burgesses ministers and pastors together ruled Geneva. In 1540 Calvin declared that there should be organs for the expression of the judgement of the Church and the exercise of the jurisdiction properly attached to it. In Berne and Zurich, Zwingly (Calvin's follower) declared that the secular government was in control of the Church and State.
whenever they find the occasion for it.\textsuperscript{21}

Here, not only does Machiavelli explicitly state that human nature is bad, he also infers that states are not of divine institution; rather they are founded by man.

Machiavelli eschews apriori judgements involving metaphysical and theological prejudices. Rather his empiricism is based on man's variously wicked nature; love of wealth, (Disc I. 27 (157)) fear and envy, are the chief motivating traits of human action. Ambition is a passion\textsuperscript{*} so powerful in the hearts of men that it never leaves them no matter to what height they may rise. The reason of this is that nature is created men so that they desire everything but are unable to attain it....

enemies and war are the consequences...\textsuperscript{22} again, "as human desires are insatiable (because the nature is to have and do everything, whilst fortune limits their possession and capacity of enjoyment) this gives rise to a discontentment in the human mind and the weariness of things they possess..."\textsuperscript{23}

\textsuperscript{21}Machiavelli, Discourses, book I ch. III.


\textsuperscript{23}ibid., p. 32.
Therefore "the only way to establish any kind of order... is to found a monarchial government; for where the body of the people is so thoroughly corrupt that laws are powerless for restraint it becomes necessary to establish some superior power with a royal hand and with full and absolute powers may put a curb upon the excessive ambition and corruption of the powerful".  

This is the kind of pragmatic advice Machiavelli confers upon the ruler. He makes endless suggestion of ruthless and artful measures that the executive of the state can successfully adopt. But he makes no pretensions to moral ends for the state.

The state as envisaged by Calvin has a programme not really far removed in spirit. The state exists, Calvin declared, that "idolatory, blasphemy of the name of God and against His truth and other scandals to religion, be not publicly set forth and broadcast among the people; that public peace be not troubled, that each be secured in what is his own, that man's intercourse may be without fraud and violence, in fine that among Christians there may be some public and visible form of religion and that humanity may be settled among men".  

\[24\text{ibid., p. 32.}\]

\[25\text{quoted from J.W. Allen,} \text{A History of Political Thought in the Sixteenth Century, Methuen, Lond. 1951, p. 60.}\]
Though Machiavelli and Calvin rejected outright the Medieval doctrine of Man's dual nature, their views in its entirety were not supported by a large body of influential opinion. Yet important deviations from traditional thought had been worked out in the sixteenth century, changing the intellectual climate inherited from the Middle Ages. As an instance we may turn to the writings of Agrippa Cornelius (1486-1555). Agrippa conceded to this important distinction about man's dual nature and even accedes to the Christian doctrine of the Fall, but with an important reservation. The State in his theory is not a convention instituted by a chastening God with a view to bringing order upon the world. This dogma was rejected outright by Agrippa. Sacriligious as it may have been Agrippa assails this gripping article of faith and asserts (in relation to civil and natural law):

1Hereof then we know that all the knowledge of the civil law dependeth upon the only opinion and will of men, without any other reason urging and enforcing to be so, than either the honesty of manners, or commodity of living, or the authority of the Prince, or the force of arms, which if it be the preserveresse of good menne and the revangeresse of wicked men it is good discipline ....... these Laws and Canons come not from God, not be addressed to God; but are derived from the corrupt nature and witte of men and are invented for gaine and
Therefore a comparison of these outstanding writers point towards an intellectual movement that makes a noticeable breach with the traditional currents of thought. Machiavelli disdains first principles and only harps upon an undiluted corrupt nature. Calvin reaffirms this one-sidedness of human nature to prop up a diametrically opposite viewpoint, that is to propound the theory of justification by faith alone. Agrippa accepts the religious theory of the Fall but rejects the persistent doctrine of the 'prime mover'.

Into this throbbing intellectual scene, when the myth of the Golden Age re-emerges in the 16th century its implications are various and changed. By 1564, Arthur Golding's translation of Ovid's 'Metamorphosis' had already made popular this myth, for it vivified the stories of the New World regarding the Tartaric tribes. This myth also finds mellifluous expression in Spenser's 'The Fairie Queen' (1592-96). Commenting upon man's avarice in the Cave of Mammon, Sir Guyon recites:

> For Agrippa's views on this point see Hiram Hayyim, The Counter Renaissance, Massachusetts, 1966. p. 147-48.
The antique world, in his first flouring youth,
Found no defect in his Creators grace,
But with glad thankes, and unprooved truth,
The gifts of sovereign grace did embrace;
Like Angels life was then mans happy case;
But later ages price, like corn-fed steed,
Abused her plenty, and fat swolne encresse
To all licentious lust, and gan exceed
The measure of her meane, and natural first need.

Then gan a cursed hand the quiet wombe
Of this great Grandmother with steele to wound,
And the hid treasures in her sacred tonome,
With Sacriledge to dig. Therein he found
Fountains of gold and silver to abound,
Of which the matter of his huge desire
And pompous pride eftsoones he did compound;
Then avarice gan through his veinnes inspire
His greedy flames, and kindled life-devouring fire. 27

What has Machiavelli to say about the origin of the
State? We quote Machiavelli again:

For in the beginning of the world, when the inhabitants
were lone, they were scattered abroad for a time like wild
beasts. Afterwards mankind increasing, they gathered
together, and that they might be able to defend themselves,
they began to cast their eyes upon him who had the most
strength and courage among them, and made them their head.

27 Edmund Spenser, The Fairie Queene, II. VII. 16-17.
and obeyed him. Hereupon began the discerning of things good and honest, from bad and hurtful; for seeing that anyone hurt his benefactor, it caused hatred and pity among men, blaming the ungrateful and honouring the thankful, and thinking withal that the same injuries might as well be done to themselves, to avoid the like evil, they betook them to make laws and to make punishments against the offenders. Hence came the knowledge of justice, which was the occasion that when they were to choose a prince they sought not after him that was the lustiest but the wisest and justest.

Machiavelli notes that it was only when man formed a social unit that political questions arose and needed to be settled. And why man did so was related to sheer practicality. Here was indeed a very changed conception of the origin of the state, in comparison to the traditional version.

Taking Spenser's version as the standard Elizabethan view (we shall explain later why we take this as a the standard measure) we make a brief analysis of those outstanding writers we have

28 From Machiavelli, Discourses.
just mentioned and their position vis-à-vis the myth of
the origin of state. To the pure religionist (Calvin),
this myth, as it was now presented, would not be of any
doctrinal relevance. Divested of its religious trappings,
it is however an allusion to the kind of rejection of
scholastic rationalising, here advocated by doctrinaire
Revelation. To the radical empiricism of Machiavelli the
myth renders a pragmatic origin to the State. He seems to
anticipate the self preservationist nature (a view to be
endorsed in a later age) of the state. It partially agrees
with the kind of scepticism displayed by Agrippa in that it
accounts for man's dual nature consequent to his Fall; though
to Agrippa, the state was non-Providential, rather it was of
a volitional character. To the humanist (Spenser), the dual
nature of man is not denied, nor is their any explicit
rejection of Providence. In the same vein Sicyon donates;

Neither let it deemed too saucy a comparison to balance
the highest point of man's wit with the efficacy of nature, but
rather give right honour to the Maker of that maker, who, having
made man in his own likeness, set him beyond and over all works
of that second nature; which in nothing he showeth so much as
in poetry, when with the force of a divine breath he bringeth
things forth far surpassing her doings, with no small argument
to the incredulous of that first accursed fall of Adam, sith
our erected wit maketh us know what perfection is and yet our
infected will keepeth us from reaching unto it". 29

We therefore surmise, that this simplified re-secularised version of the myth makes a teleological advance in the modern era. 30 Its implication regarding the state founded upon human nature is evident to us. It asserts on the one hand, the necessity of the state and allows for its authoritarianism. On the other it theoretically defeats the states' absolutist potential. At the same time it rejects clerical interference.

29 Philip Sidney, From An Apology of Poetry

We would like to mention that Hooker too refers to the myth as the "original conveyance" of an authority transferred to the ruler. This was a contract, of mutual dependency, the terms of which were seen to be revalued through the ages. Hooker does not mention in this connection the dual nature of man. But his negligence of the theory of the Fall is what is of marked significance.

What is even more of an eye opener is the total de-mystification of the Christsain myth in the following lines attributed to Sir Walter Raleigh dated 1603, and termed, "Certaine hellish verses":

"Then war was not nor ritches was not knowne
And no man said then this or that ys my owne...
(After war was introduced)
"Then first the sacred name of king began
And things that were as common as the day
Did yeeld themselves and lykewise did obey....
Then some sage man....
Knowing that lawes could not in quiet dwell
Unless they were observed, did first evyse
The name of God, religion, heaven and hell"
(And posthumous rewards and penalties)
"....to keape the worlde in feare
And make them quietely the yoke to bear
So that religion of it self is a fable"

(See Christopher Hill, Puritanism and Revolution, (1958), Penguin, 1990, p. 50.)
It is founded on man's wickedness, but there remains a memory of the goodness of the past. One last question arises to the mind: was it also the expression for desire to escape to a 'state of nature'?^31

Through an analysis of the historical development of this myth we have so far tried to show how the state was viewed in this prolonged period of the middle ages and how it was received in the sixteenth century and finally in Tudor England. These views were of course, by the very nature of the myth itself, related to human nature. Besides, the theory of the

^31 It has been pointed out that the age's reflection upon nature (in the primitive sense) refers to the civilising attributes of 'art' as working upon 'nature'. Nature in this sense becomes an artifact. Where it was innocent goodness in the pre-political stage, it becomes the practice of virtue in subsequent ages. The middle ages proclaimed a moral virtue, now it is civilised goodness. As the Elizabethan courtier and poet Sidney announces in his Apology for Poetry that the poet has a duty of "making things either better than Nature bringeth forth or quite anew forms such as never were in Nature". To him nature is brazen, poets render it a golden. This is also reflected in George Puttenham's, The Art of English Poesy (1589). See also R.H. Wells Op cit p. 17. Refering to Machiavelli again, 'virtue' is transformed in his estimate to qualities of actuteness and military strength, the character of the 'lion' and the 'fox'. See The Prince (16-18). For an enlightening discussion on this quality, namely 'virtue', see L. Strauss, Thoughts on Machiavelli p. 47, (Illinois, 1958).
state basically rested on this theme. Those views that actually circumscribed the myth, have been enlisted for analysis to illuminate the basic theme. As it transpires, the debate on human nature requires further adaptation to render more graphic the intellectual atmosphere of the Tudor times, as much as to substantiate their views of the state. Before commenting upon other political concepts we wish to see this debate in its total light. However, before continuing with this main line of argument we wish to return briefly to the notion of reason that we have already partly analysed.

We have tried to show that medieval scholasticism (in Aquinas) had tried to make a separation of that happy binding of Reason and Faith. This severance was shortlived, and Reason had been employed into the service of Faith. Hiram Haydn's seminal work[^32] has categorised the intellectual drift from the fourteenth to the mid-seventeenth century into three distinct intellectual movements: (i) the Humanist Revival (ii) The Counter-Reformation (iii) The Scientific Reformation. The datum of inference is the notion of reason. Hadyn demonstrates that in the intellectual terminology of the

Humanists Revival, Reason is applied as 'right reason'. Where earlier Faith had occupied a position of prominence in the Union of Reason and Faith now Reason is the 'dominant partner'. Humanism professes to render an ethical education that involves the application of 'right reason' for virtuous action, on this earth. Haydn shows that the Counter Renaissance challenges the notion of Reason. It does so both in terms of the abstract intellectualism of the scholastics as well as the humanists' 'right reason'. But the Counter Renaissance was also a revolutionary movement.33 This unconditional break with the apparatus of transcendental reason was therefore very effectual to theorising, but limited to only a smaller group. It ran counter to even those with progressive leanings in this period. This radicalism gets tempered only with the subsequent movement, that is 'The Scientific Reformation'.

The debate on human nature follows a similar drift. At this point let us turn to the Tudor official viewpoint and glance at the 'judicious' Hooker. Hooker too rejected the

33The counter Renaissance after Haydn, was the iconoclastic group whose breach with the datum for philosophical and social studies, in the traditional mould, was total. To this group belonged dominantly Machiavelli, Calvin, Luther, Montaigne et al.
Puritan/Machiavellian insistence on man’s total depravity. Nor does Scripture constitute for him a set of arbitrary and final dictum. His orthodoxy places tradition and authority on an equal footing with Scripture. And yet authority did not call for blind acceptance in him. 'For man to be tied and led by authority, as it were with a kind of captivity of judgement, and though there be reason to the contrary not to listen unto it, but to follow like beasts the first in the herd they know not nor care not whether this were brutish'. It is only man’s bestial nature that follows authority without question. For man also had a divine nature enshrined in his faculty of Reason that redeems man from his brutish nature. The commonplaces of ideas are repeated in Hooker. It is this Reason that also makes Revelation perceptible. It is not simply scholastic quibbling but his assertions are at once individualist and anti-authoritarian even though the immediate purpose of his exhortation was to maintain the status quo of the ruling regime. 'The Laws of Ecclesiastical polity'

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35 *ibid.* , p. 178.
36 *ibid.*, p. 178.
was a large-scale pamphlet for government propaganda, but his arguments are lucid. More importantly for us, Hooker, (like Spenser and Sidney) constitute in large measure the body of a dominant viewpoint.

This mainstream of opinion is intellectually enhanced by the programme of systematic and scientific research envisioned by one of the most brilliant thinkers of the age, namely, Francis Bacon. Grandiose though his designs were, they sought to arrive at common-places of maxims that serve a moral purpose in the secular and political life rather than the religious. In this, Hooker is not far removed from Bacon, though indeed in Bacon's terminology and in his spirit of enquiry there is an avowed purpose of establishing older methods of enquiry and establishing a new empiricism.

Direction of this method leads to a criticism of Aristotle. Bacon incorporates Aristotle's two-fold distinction of goodness: 'the one, as everything is a total or substantive in itself; the other as it is a part or member of greater body'.

(A II XX 7.134) This distinction when applied to man becomes, for Bacon, the normative principle: 'The conservation of duty

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37 C.F. Reab, _The English Face of Machiavelli_, 1964, p. 73-6.

38 Bacon's style of eliminative induction, as he claims, follows. By the utilization of negative instances, it can arrive at certain and irrefutable laws where enumerative induction is dependent constantly on a counter example. See Anthony Quentin, _Francis Bacon_, O.U.P. 1980, p. 53-69.

to the public ought to be much more precious than the conservation of life and being. Here Bacon unremittingly accepts the public authority. Though Bacon does not directly link this public authority to human nature, his estimate of human nature counters the good against the vile. In the essay 'Of Goodness of Nature' he comments:

Neither is there only a habit of goodness, directed by right reason; but there is in some men, even in nature, a disposition towards it; as on the other side there is a natural malignity, for there are that in their nature do not effect the good of others. The lighter sort of malignity turneth but to a crossness, or frowoness, or aptness to oppose, or difficulties, or the like; but the deeper sort, to envy and mere mischief. Such men in other men's calamities are, as it were, in season, and are ever on the leading part; not so good as the dogs that licked Lazarus' sores but like flies that are still buzzing upon anything that is raw; misanthropi, that make it their practice to bring men to the bough, and yet have never a tree for the purpose in their gardens, as Timon had. Such disposition are the very errors of human nature; and yet they are the fittest timber to make great politics of; .........The parts and sign of goodness are

40Ibid., p. 52.
many. If a man be gracious and courteous to strangers, it shows he is a citizen of the world,......If he be compassionate towards the afflictions of others, it shows that his heart is like a noble tree,......etc. But above all, if he have Saint Paul's perfection, that he would wish to be an anathema from Christ for the salvation of his brethren, it shows much of a divine nature, and a kind of conformity with Christ Himself.41

The dynamics of human nature is brought under scrutiny and analysed to prescribe axioms that enlarge knowledge and consequently power.42

Like Hooker, Bacon too refuses to succumb to the dictates of an uncompromising Revelation. The severance of Faith from knowledge is complete :

(It) is especially necessary, with an enlightened and sober mind to distinguish the interpretations of things divine and things natural, and not to suffer these in any way to be mingled together. Errors enough there are


42 The purpose of Bacon's method inscribed in his own words are: 'I am labouring to lay the foundation, not of a sect or doctrine, but of human utility and power' (Quentin, op.cit., p. 16) Taking the cue perhaps from Machiavelli, whose method he praises in the famous observation, that Machiavelli enlarges upon human beings as they are not as they ought to be. This is an echo of what Aristotle had said of Euripides.
in this kind. Nothing is learnt here unless by the similitudes of things to each other; which though they seem most dissimilar, do yet contain a genuine similitude known to the interpreter. But God is as similar to me and without a figure. Wherefore expect from hence no sufficient light for the knowledge of him. Give faith to what is of faith.  

Bacon of course purports to lay the path of social duty in these words. The establishment of a secular morality in place of the confines of the traditional religious ethics was underway. Bacon chiefly contributes to it in Tudor England. Relativism in government and in morals was by now well defined. The debate on human nature converging on the myth of the golden age is a clear pointer in this direction.

2. Natural Law

The legitimation of the state and the various institutions of society, from the Middle Ages to the modern, has been

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seen to rest upon that ideological form namely the philosophical apparatus of Natural Law. Here we seek to trace the development of this concept as it occurred in that period.

What does Natural Law imply? And what are its commitments as a rationale of the State and society? Though the finer implications were susceptible to variations, as happened to the Christian metaphysical school in its application to the Roman legalist tradition, its basic proposition remain unchanged through this period. Common to all variations is the notion of Reason, the divine faculty that permeates the essence of individual man and extends to the sublime and even to the Infinite. What it propounds is a philosophy or legalist theory that seeks to mediate between the divine and universal essence and the human political organisation. The conclusion it draws are threefold:

(i) All human legal institutions were seen to be founded upon Natural Law namely the Church, state, slavery, private property etc. It follows that these institutions are also of a moral character.

(ii) That Natural Law is synonymous with Reason and ultimately with Divine Law.
Under the common manner of reason, all mankind forms a single organisation. It also hints at the individualistic nature of its application.  

It was an offshoot of the theory of the state relative to human nature. Accordingly, it was noted that the struggle that resulted with the passing of the Golden Age sought to be alleviated in the forms of authority with its concomitants of law, force, and private property. It was achieved through the application of Reason. Though inadequate by itself these forces sought to be organised with a rational ideal, that is Natural Law, compatible with natural rights and dignity of man. That the institutions of society did not conform to the Natural Justice was because of the imperfect condition of men. Its imperfection is attributed to sin in Christianity. Thus the institutions of society were set up by Natural Law and supported by its rational ideal. The characteristic expression was in the gospel: 'do unto others what you wish others to do unto thee'.

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Society, and its organizations were justified largely in the ideological garb of (i) universal principles (ii) doctrinaire, sacred verities (iii) the new ruling idea of national interest. In the feudal set-up of the Middle Ages, serving the ruling interest of both Church and secular state, down to the early modern age of feudal predominance and of an increasingly influential bourgeoisie, these principles were reiterated. How does the theory of Natural Law apply itself to these principles? In its operation of universal reason and universal justice, the social and political constitution finds a fitting explication and justification. In the second case, Christianity affirms the unerring operation of Natural Law in the institutions of society, but where Natural Law failed, the Decalogue and the Mosaic Law sought to take over. It largely accepted the notion of Natural Law as seeking to make accessible the Divine knowledge. Thirdly, the national monarchy was seen to come under Natural Law. Typical of the religious spirit of the age, the monarchial form of government was seen as the mirror of the divine government of the world.

This version, of what may be called the Christian Natural Law, covering the panorama of theistic, rational and pantheistic order, largely alienated the empirical world and
was concentrated on the other worldly. Within this system of Natural Law, the notion of individual rights and individual self-realisation subsisted, though these views were attenuated in the Middle Ages, (though not the conception of individual eschatology). These very elements, suppressed for the time being were however to emerge later, (mid-seventeenth century) under the aegis of a Natural Law that operated per se.

A brief glance at the development of this concept clarifies the notion for us. The Roman lawyers of the 'Digest' and the 'Institute' of Justinian, in the 6th century, the Church Fathers (St. Ambrose, St. Paul etc.) and the later civil lawyers of the 'Corpus Juris Civilis' all maintain that the institutions of society, that is government, law, slavery, private property all come under Natural Law. Though early lawyers (following Ulpian) seem to distinguish between the primitive ('jus natural') and those permanent principles of justice and humanity ('jus gentium'), later civilians in the wake of Christain influence refer to 'jus natural' as those moral principles which is recognised by man's reason as binding and which is immutable. Canonists ( Gratian) see the practical necessity of adjusting these permanent principles to the needs
of a community under the terms and circumstances and
traditions of that community. 45

All are agreed that it is a body of principles,
governing life and conduct, principles which are recognised
as always just and good and apprehended by the human reason.

But what happened when Natural Law could not rationally
answer for the discrepancy of life and social organisation? Critics were sometimes sceptic about the plausibility of this
argumentation of Natural Law. Slavery and private property
could be reasoned as arising from unusual human nature by
Aristotle but medieval political theory did not for the most
past advise by this observation. To the medieval thinker,
when these institutions were perceived as actually denying
the commands or prohibitions of Natural Law, they were explained
as belonging 'demonstrations'. That is to say these institu-
tions were seen as conditions required to bring men to his
perfection, whereby Natural Law will be fulfilled. In the
thirteenth century Thomas Aquinas resorts to this distinction.
Private property indicates acquisition and distribution of
things by virtue of efficiency and is therefore lawful to
the logics of Natural Law.

45 Carlyle & Carlyle, op. cit., Vol. I, II (MCMXXVII;MCML)
passim.
45(a) Carlyle & Carlyle, op. cit., Vol. II, MCMXXVII,
p. 120ff.
Aquinas in the thirteenth century also defines the hierarchal concepts of Natural Law. To him it is the co-relate of a consummate system that places God at the summit & extends down to the lowest being. This notion of hierarchy of laws (the eternal, the divine, the natural, the human) is repeated in the 16th century by St. Germans (1539) and Hooker (1594) in England. It can be said to be constituted of a renewed social mobility and classified gradation of society common to both these periods, and also serves the ideological function of informing the social process itself. By and large, in the Middle Ages prominent thinkers like Fortesque and Whitgift refer to the institutions of society as falling under Natural law. The function of Natural Law was to reach eternal justice and to guide the affairs of the lower world.

It follows that Natural Law also includes social relationships which are a consequence of the social system thus organised between parents and children, the State and the individual, master and slave, is there a binding association, that follows naturally from the social and political organisation. This was to be later analysed by Grotius as the kinds of rights inclusive in the Natural Law theory (though of a later age).  

46 Grotius's analysis of these rights has been standardized by Gierke as consisting of the (i) procrational, (ii) contractual and (iii) the delict types constituting of the associations described above (O. Gierke op. cit., p. 85).
We are therefore led to enquire what the position was in the sixteenth century. Natural Law was interpreted in divers forms. Let us take Hooker's definition: 'And the law of reason of humane nature is that which men by discourse of natural reason have rightly found out themselves to be all forever bound into their actions'.

Hooker's 'reason' relates back to man's action in this world, rather than form the mediation that a scholastic like Fortesque, for instance, describes. Hooker does not make a complete severance with tradition. Rather, he introduces a constructive ethics upon which later writers were to elaborate. By contrast the Humanist and Oxford Reformer Thomas More's reactions to the Reforming party was: 'And so must reason not resist faith but work with her, and as her handmaid so wait upon her, that as contrary as ye take her, yet of a truth faith goeth never without her...... And therefore are in mine opinions Lutherans in a mad mind that would now have all learning save scripture only clean cast away......' Like Luther, More would turn the discussion upon religion. Unlike Luther, More would have none of the discrediting of reason (Natural Law) that the Reformers


48See D'Entreves, op.cit. p190.

49Thomas More, Dialogue Concerning Tyndale in D'Entreves op.cit. p. 92.
were set upon. Though it must be mentioned that even Luther maintains by the 'natueich recht'. To the Puritans, it was the unquestionable imposition of the will of God upon all earthly matter, rather than any rationalising of God's purpose or Natural Law that could divine his meaning.

Machiavelli's radicalism is not far behind in spirit. Natural Law does not feature in his estimate of the establishment of States:

All States and dominions which hold or have held sway over mankind are either republics or monarchies. Monarchies are either hereditary in which the rulers have been for many years of the same family, or else they are of recent foundation. The newly formed ones are either entirely new, as was Milan to Francesco Sforza, or else they are, as it were, new members grafted on to the hereditary possessions of the prince that annexes them, as is the kingdom of Naples to the King of Spain. The dominions thus acquired have either been previously accustomed to the rule of another prince, or else have been free states, and they are annexed either by force of arms of the prince himself or of others, or else fall to him by good fortune.

50 Allen, op. cit., p. 22.
Natural Law in its traditional sense, trafficking largely within the canon law, serves the purposes of Roman Catholicism than any other in the sectarian controversies of the period. 52

The balance between the conservatism and a newer spirit of enquiry is best struck in St. Germans' (1539) version of law. It has been pointed out by Vine Gradoff and by D'Entreves that St. Germans' work is an attempt to justify the body of English law in name of its reasonableness and contains the very important recognition that this reason is drawn from its traditional source. 53 Hooker's constructive ethics is seen to be of a similar temper. Orthodox, and yet showing signs of a heterodoxy, serious writers in the Elizabethan age compose a changing consciousness.

Yet the idea of reason as expedient to particular circumstances, though initiated by Hooker and others of his ilk, was to be more fully developed in Bacon. Bacon sometimes

52 See C. Norris, op.cit., p. 131.
53 D'Entreves, op.cit., p. 93.
retains the old terminology, but his spirit of enquiry is markedly different. Like Machiavelli, Bacon disdains to find metaphysical and theological insights with the help of Reason. Indeed for them it is an inversion of the order defined by Aquinas and the scholastics:

Of the Interpretations of Nature
- Of the Conditions of Man.

1. Man, the servant and the interpreter of nature, does and understands as much, as he shall really or mentally observe of the order of nature, himself meanwhile enclosed around by the laws of nature.

2. The limit, therefore, of human power and knowledge, is in the faculties with which man is endowed by nature for moving and perceiving, as well as in the state of present things. For beyond these basis, those instruments avail not.

3. These faculties, though of themselves weak and inept, are yet capable when properly and regularly managed, of setting before the judgement and use things most remote from sense and action, and of overcoming greater difficulty of works and obscurity of knowledge, than anyone hath yet learnt to wish.

4. Truth is one, interpretation one, but sense is oblique, the mind alien, the matter urgent, yet the work itself of inter-
pretation is devious rather than difficult.\textsuperscript{54}

The question arises, has the sixteenth century made its final severance with providence in its theoretical formulations regarding the formation of states and source of authority? Dodin makes a decisive break, and his advances are tremendous. Largely in support of an absolute ruler Dodin formulates his theory of sovereignty. He assumes that an absolute and perpetual power\textsuperscript{55} exist in the state which he terms "sovereignty". He sees this power residing in the Prince, a power bestowed upon a ruler whosoever he may be, the chief mark of which is to make or abrogate laws.\textsuperscript{56} But Dodin's theory falls back upon the moral commonplaces of mediaval theory when he defines a sovereign as not just any person who brings order upon a weak and simple people - Adam having st.warded the first transgression - \textsuperscript{57} but one who obeys the laws of nature - that is he governs his subjects and guides their actions in accordance with natural justice which he sees and recognizes

\textsuperscript{54} Basil Montagu, op.cit.,Vol. XV.
\textsuperscript{55} J. Dodin, Six Books concerning the State I, 8 quoted from W.T. Jones op.cit.,p. 57.
\textsuperscript{56}ibid.,p. 58
\textsuperscript{57}ibid., p. 59.
clearly and distinctly like the orillience of the sun. Thus, in Bodin the whole social and political organisation is seen to rest on Natural Law after all.

However, at a later date, Chapman’s diiron was to flout orthodoxy with an increasing confidence in the individual self:

"There is no danger to a man that knows what life and death is; there’s not any law Exceeds his knowledge; neither is it lawful That he should stoop to any other law, He goes before them, and commands them all, That to himself is a law rational."

The paradox of the age, that is the struggle of two opposed world views, is no longer seen as strife by John Donne. By this time, the world had transformed, out the older stability based on Natural Law is exchanged for a chaotic order. Donne of course does not reconcile to it personally, but he perceives it clearly.

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58 Sabine, op. cit., p. 390-1.


'Tis all in pieces, all coherence gone,
All just supply, and all relation.
Prince, subject, father, son, are things forgot,
For every man alone thinks he hath got
To be a phoenix, and that then can be
None of that kind of which he is but he. 61

The process of releasing Natural Law from its religious deliberations was to continue into the seventeenth century (Suarez, Althusser, for example) but its final secularised and rationalised form would evolve fully only with Grotius ('De belli ac pacis' pub in 1625).

The two separate discussions that we have made so far (Natural Law and The Debate on Human Nature) are related both in content and implication. The chronological pattern we have adopted focuses this involvement onto clearer light. Perhaps the whole debate on Natural Law and human nature is thrown into better perspective by a summary consideration of the theory of Hobbes (1558-1679), for in him, (and in a period of greatly changed circumstances), the arguments initiated by Machiavelli have reached a consummated disquisition. Human nature forms the basis for the conduct of all social and

political existence and nowhere is this so summarily recorded as in Hobbes's theory of Natural Law. Rejecting all metaphysical speculations, Hobbes reasserts the prescriptions of the medieval argument of human nature, that is Man's equality and his selfish nature.

Nature had made man so equal, in the faculties of body and mind ......... yet when all is reckoned together the difference between man and man is not so considerable, as that one man can thereupon claim to himself any benefit, to which another pretend, as well as he.62

......... from this equality of ability, arises equality of hope in attaining of our Ends. And therefore if two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in their way to their End, .... .endeavour to destroy or subdue one another.63

Hobbes defines Natural Law thus:

A law of nature (Lex Naturalis) is a Precept, or general Rule, found out by Reason, by which a man is

62 Thomas Hobbes, Leviathan, Part I, Ch. 13, quoted from Jones, op. cit., p. 95.

63 ibid., p. 96.
forbidden to do that which is destructive to his life or taken away the means of preserving the same; and to omit that by which he thinketh it may be best preserved.  

This materialist and self preservationist nature of the individual is further supported:

And because the condition of Man is a condition of warre of everyone against everyone; in which case everyone is governed by his own Reason; and there is nothing he can make use of, that may not be of help unto him in preserving his life against his enemies.

Such fierce competitiveness and utilitarian motives are accorded to the age of Hobbes. Influential opinion of the Tudor era sought to legitimise society and state with a less harsher tone and with more traditional arguments.

64 _ibid._, p. 102.

65 True to the new atomism of the age, Hobbes's scientific materialism applies a geometric procedure to social and political analysis but was yet a deductive method rather than the kind of empirical inductivity laid out by Bacon. Embroiled in the jery days of the civil war, Hobbes typifies fear and self-preservation as the leading motives of man.

66 _ibid._, p. 102.
II. THE SOVEREIGN MONARCH:

In the first Act of succession of Henry VIII it was stated that:

and if it shall happen your said dear and entirely beloved wife Queen Anne to decease without issue male of the body of your highness to be begotten (which God defend), then the same imperial crown, and all other the premises, to be to your majesty, as is aforesaid, and to the son and heir male of your body lawfully begotten, and to the heirs of the body of the same son and heir male lawfully begotten; and for default of such issue, then to your second son of your body lawfully begotten, and to the heirs of the body of the same second son lawfully begotten, and so from son and heir male to son and heir male, and to the heirs of the several bodies of every such son and heir male to be begotten, according to the course of inheritance, in like manner and form as is above said.

And for default of such sons of your body begotten, and of the heirs of the several bodies of such sons lawfully begotten, that then the said imperial crown, and other the premises, shall be to the issue female between your majesty and your said most dear and entirely beloved wife, Queen Anne, begotten, that is to say; first to the eldest issue
female, which is the Lady Elizabeth, now princess, and to the heirs of her body lawfully begotten, and for default of such issue, then to the second issue female, and to the heirs of her body lawfully begotten, and so from issue female to issue female, and to the heir of their bodies one after another, by course of inheritance, according to their ages, as the Crown of England has been accustomed, and ought to go, in cases where there be heirs female to the same; and for default of such issue, then the said imperial crown, and all other the premises, shall be in right heirs of your highness forever.

XIII. And for the more sure establishment of the succession of your most royal majesty, according to tenor and form of this Act, be it further enacted by authority aforesaid, that as well all the nobles of your realm spiritual and temporal, as all other your subjects now living and being, or which hereafter shall be, at their full ages, by the commandment of your majesty or of your heirs, at all times hereafter from time to time, when it shall please your highness or your heirs, or before such others as your majesty or your heirs will depute for the same, that they shall truly, firmly and constantly, without fraud or guile, observe, fulfil, maintain, defend and keep, to their
cunning wit, and uttermost of their powers, the whole effects and contents of this present Act. And that all manner your subjects, as well spiritual as temporal, suing livery, restitutions, or ouster le main out of the hands of your Highness or of your heirs, by reason of tenure of their lands going any fealty to your highness, shall swear a like corporal oath, that they and every of them, without fraud or guile, to their cunning wit and uttermost of their powers, shall truly, firmly, and constantly observe, fulfil, maintain, defend and keep the effects and contents they, nor any of them, shall hereafter have any liversies, ouster le main, or restitution out of your hands, nor out of the hands of your heirs, till they have made the said corporal oath in form above rehearsed. And if any persons or person, being commanded by authority of this Act to make the said oath afore limited, obstinately refuse that to do, in contempt of this Act, that then every such person so doing, to be taken and accepted for offender in misprision of high treason; and that every such refusal shall be deemed and adjudged misprision of high treason; and the offender therein to suffer such pains and imprisonment, losses and forfeitures, and also lose privilege of sanctuaries in like manner and form as is above mentioned for the
misprisons of treasons afore limited by this Act. 67

What is evident from this Act is that the monarch (Henry VIII) was a supreme ruler of a realm, which was to be bequeathed like any piece of inherited property to his progenitors. The line of succession was laid down in no uncertain terms. As an Act it was incumbent on every member of the realm and its rejection would be tantamount to treason. What it implies is that England was a political unit ruled by a hereditary monarch; such claims to inheritance had however to be constitutionally ratified; but it also incorporates the central definition of an absolutist monarch in explicit terms. When Wycliffe had designated the government of England 'dominium politicum et regale' he spoke for the 14th century, but it could also be appropriated to Tudor England.

That the monarch was the supreme head of the realm was unquestioned. (Whether it was an absolutist state would require a more detailed analysis.) In those views that sought to exalt the monarch, or conversely, to censure him, and in those that

sought to set a limitation upon him, the absolutist orientation of the monarch is implicitly expressed. In the following section we hope to show how, in a phased manner, opinion flitted between the two camps or viewpoints always overtly conscious of the behaviour of the sovereign monarch. These political views always bespeak of an absolutist monarch, whether articulating in favour of a status quo of the regime or alternately, expressing misgivings about it. We hope to establish whether there was an uniformity of viewpoint or whether extreme views were barricaded by more moderate opinions. The social origins of opinion and their instrumentality in informing the political and therefore the social process is acknowledged. In order to perceive the significance of this debate relative to the sovereign monarch, we shall analyse it under the following rubrics: (i) Divine Kingship (ii) The Lawmaker (iii) The Tyrant (iv) Resistance and Deposition.

As in the earlier sections we hope to show how these forms were viewed in the Middle Ages, thereby bringing their development into further prominence.

(i) Divine Kingship

Both in the legalist and the Patristic traditions, the divine nature of kingship is maintained. We have already noted
that Cicero's conception of the state was that which was founded on justice. Here justice is the expression of a universal principle, of a law of nature, and will of God, that existed before all states and positive law. Social justice was a constant endeavour by man to establish that perfection in an imperfect world aided by natural reason. For all its axiomatic character justice called upon a just ruler for its mitigation. The onus of unburdening it fell upon the ruler. Therefore the king's function as mediator of justice, in the Middle Ages, rendered a divine nature upon him. Under the Christian dispensation, a just state was possible only where true religion was preached (here Christianity). Therefore, the ruler also had a theocratic function which rendered him divine. In the polemical exchanges between the Papacy and the Empire the divine nature of kingship is always set forth.

The organisation of society within the feudal prospectus of 'comitatus', 'commendatio', and 'beneficium', was concerned with immediate overlordship. Normally, within this arrangement the King's prominence is overshadowed by local allegiance. However records of political theory denote that the supremacy of the highest overlord, or the king, is from time to time recalled. This also implies that the idea of a nation even
when vaguely conceived, existed in the Middle Ages. In the 9th century formal treatises on kingship is very largely made up of admonitions to the king to follow after justice and mercy, to seek wisdom, and to fear God. 68 Combining Civilian and Patristic notions of kingship the feudal lawyer dracton refers to the king as God's Vicar on earth, situated on earth by God to carry out justice and had therefore to reign well, not arbitrarily. The King's duty of enforcing laws which is but the distribution of the judgement of God renders to his authority a moral and sacred character. 69

What did justice actually imply to the writers of the Middle Ages? For both the Civilians and the Church divines, justice was the will to render every man his due and to give each his own. Justice when embodied in a command is law or 'jus'. The just ruler therefore acts according to law. Justice acts as a limiting principle for it restrains the ruler from following his caprice. Therefore the ruler in preserving the principle is willingly obeyed by his people for he represents their own just desires. As guardian and mitigator of the law, the king had a very important function in the eyes of society.

To them it was sanctioned of God. To the Fathers there was the additional clause, that they relate justice in a state to the proper worship of God. St. Augustine in his 'De civitas dei' proclaims: "There can be no true state without justice; when there is no justice there can be no 'just'". But, he continues "how can you speak of justice among men who do not serve God? What sort of justice is this to take men from the service of God and to subject them to demons? There is no justice in men who do such things and there can therefore be no justice in a society formed of such men". 70

What do these two traditions of theory ultimately assert? That it devolved upon the ruler to maintain justice and support true religion. In terms such as 'Vicar of God' (Sedulus Scottus circa 800) and 'Pro Vice Christi' - meaning the king is God's representative, (Smaragdus circa 800) this notion is carried forth by that body of Canonical and Civilian literature of the Middle Ages. The extreme version of this construct finds expression in the theory of "The Divine Right of Kings". In the political debates of the

sixteenth century, their reappearance and with renewed
vigour, bolstered a newly adapted absolutism converging
upon a sovereign monarch.

The theory of the Divine Right of Kings has a restricted
history. The early Church had stated this in Gregory the Great.
It was mentioned during the Investiture controversy and some­
times the phrase of Christ 'by me kings reign' had been employed.
Let us quote at length and Pauline principle of divine right
that views of the Middle Ages enlisted whenever it was found
necessary, though, as we have mentioned, it was very occasional.

Let every soul be in subjection to the higher powers
for there is no power but of God; and that powers that be
are ordained of God. Therefore he that resisteth the power
withstanding the ordinance of God and they that withstand
will receive to themselves judgement. For rulers are not
a terror to the good work, but to the evil. And wouldest
thou have no fear of the power? do that which is good,
and thou shalt have praise from the same; for he is the
minister of God to thee for good, but if thou do which
is evil, be afraid; for he beareth not the sword in vain;
for he is the minister of God an avenger for wrath to
him that doeth evil wherefore ye must needs be in
suojection, not only because of the wrath but also
for conscience's sake.... Render to all their dues;
Tribute to whom tribute is due; custom to whom custom;
fear to whom fear; honour to whom honour;\textsuperscript{71}

Therefore, the selection of the theory of divine right
and its enlistment to political views in the 16th century is
of paramount significance.

Feudal decadence brought about a strong central monarchy.
However that citadel of feudalism, that is the Roman Catholic
Church, with its tentacles spread over western Europe remained
to be dislodged. The central rulers of these states were
enlisted to the execution of this programme. To a substantially
strengthened monarchy of this period, was incumbent the task
of disestablishing the ecclesiastical nobility and instituting
National Churches. This additional task required a refurbishment
of the aura of divinity that has always been seen to reside in
the ruler. Here a godly prince has to carry out godly reformation.
In the words of Tyndale;

\textsuperscript{71} \textit{Romans XIII, 1-7.}
He that judgeth the king, judgeth God; and he that resisteth the king resisteth God, and damneth God's law and ordinance. The king is, in the world, without law, and may at his lust do write or wrong and shall give accounts but to God only. 72

Though this sounded as if Tyndale would accord a divine absolutism to the Prince, Tudor England would have a prince carry out a godly reformation, but would not concede absolute civil powers. 73

"The office of a magistrate is the ordinance of God" Hooper had maintained, but he goes on to qualify that the powers referred to by St. Paul in the Thirteenth Chapter of Romans, "be not only kings and emperiors but all such as be appointed to any public office and common regiment either for a king, where as is a kingdom or in a place of a king, where as the state of the commonwealth is no monarchy". 74

What most writers were willing to impart to the Magistrate was a supremacy in ecclesiastical questions. In

73 Morris, op. cit., p. 36.
74 From Annotations to the XIII Chapter of the Romans cited in Allen, op. cit., p. 127.
the history play 'King John' written by John Bale, (1538 revised in 1561) England's speech in typical morality fashion describes the ruler as of God's installation:

 Truly of the devil they are that do anything
To the subduing of any Christian King;
For be he good or bad, he is of God's appointing;
The good for the good; the bad is for ill doing 75

Obedience to the divinely ordained ruler and his theocratic function are voiced in no uncertain terms;

Imperial Majesty: No man is exempt from this, God's Ordinance Bishop, Monk, canon, priest, cardinal nor Pope All they by God's law, to King's owe their allegiance 76

Thus Civil Order promises Imperial Majesty: 'We will obey you, as our governor in God's stead'77

In the words of King John:

To declare the powers and their force to enlarge,
The Scripture of God doth flow in most abundance;


76 ibid., p. 77-8.

77 ibid., p. 79.
And of sophisters, the cantels to discharge both
Peter and Paul make them plenteous utterance,
How that all people should shew their true allegiance
To their lawful King, Christ Jesus doth consent;
Which to the high powers was over obedient 78

The Elizabethan settlement saw the need to officially
reiterate that announcement regarding the monarch's divine
derivation of powers. The Homilies echoed the words of St.
Paul to be compulsorily preached in the Churches. Indeed the
Elizabethan era was by and large inclined to impute a divinity
to Kingship and enhance it absolute powers. This was more
evident in relation to threats of popular rebellion, real or
imagined. The enhancement of this divinity by virtue of the
ruler's theocratic function is not denied, but here stress
is laid on obedience to a divinely ordained ruler.

Tillyard has illustrated this principle of divine
ordination as belonging to the Elizabethan age and sees the
'Mirror for Magistrates' (between 1555-1587) as exemplifying
this theme. 79 Here we wish to state that while admitting of
this illustrative reference argued by Tillyard, we disagree
with him in certain essentials. 'The Mirror for Magistrates'
was a self proclaimed didactic piece. To Tillyard, its re-invokement of the 'ethics' of a bygone era, to be ingratiated into contemporary politics, was the cause of its sustained popularity. Our view is that, as it chronicled the historical issues of another era its resemblance with contemporary politics was deliberately drawn. But as far as the 'ethics' was concerned, they were the expression of values of the age in which the work was produced. That these views were in dialectical tension is noted.

'The Mirror for Magistrates' also defines the rulers position as divine by virtue of his judicial function. The office of Magistrate "is God's own office, yea his chief office. For as justice is the chief virtue, so is the ministration thereof the chiefest office. And therefore had God established it with the chiefest name, honouring and calling kings and all officers under them by his own name, gods. Ye be all gods, as many as have in your charge any ministration of justice". 80

80 quoted from Tillyard, ibid., p. 84.
With James I we find a very strong defence of the theory of Divine Right. James wrote his 'The True Laws of Free Monarchies' (first reprinted in 1663, reprinted again in 1673) when he was the King of Scotland. Kings, James wrote, "are breathing images of God upon earth". "The State of monarchy is the supremest thing upon earth; for kings are not only God's lieutenants upon earth and sit upon God's throne, but even by God Himself they are called God".\textsuperscript{31}

James cites the example of David's conduct to Saul as Gregory the Great had done, and concludes: "Shortly, then, to take up in two or three sentences, grounded upon all these arguments out of the law of God, the duty and allegiance of the people to their lawfull king, that obedience, I say, ought to be to him, as to God's lieutenant in earth obeying his commands in all things, except directly against God as the commands of God's minister acknowledging him a Judge set by God over them, but to be judged only by God, whom to only we must give count of his judgement..... following and obeying his lawful commands, eschewing and flying his furie in his

\textsuperscript{31}"Sabine op. cit., p. 396."
unlawfull, without resistance, but by sobs and tears to God.\footnote{82}

But in 1615, James unveils to his judges in Star Chamber the utilitarian purpose of this theory; and discloses its mystifying purpose "that which concerns the mystery of the King's power is not lawful to be disputed; for that is to weigh into the weakness of princes, and to take away the mystical reverence that belongs onto them that sit in the throne of God".\footnote{83}

Here the theory was a reaction to an attempt at brief curtailment of monarchical power (of which we hope to show further evidence), which was however not a threat of civil disruption, as it had occurred in France.\footnote{84}

Therefore the theory of a divine right as belonging to the ruler was more or less acclaimed in the zealous utterances of the Reforming Party during Henry VIII's reign. In Elizabeth's dominium, the ruler was vested with an absolutism that sought

\footnote{82} quoted from Carlyle, op.cit., Vol. VI. 40MXXXVI. p. 433.

\footnote{83} quoted from Sabine, op.cit. p. 396.

\footnote{84} In France, this theory was to render the King absolute as he had never been earlier. This was as a counter to all reaction against the monarchy, and to the civil chaos that threatened to destroy French society. The absolute monarchy, fortified by divine right, was the only solution. (See Sabine, op.cit. p. 391-2)
to exhort against rebellion. In James I's reign, theory operated in the same absolutist ambiance, but here the rulers own voice lends to these principles a defensive note.

(ii) The Law-giver:

This discussion purports to define the function of the King in relation to law. Primarily we are concerned with describing the powers of the ruler and the degree to which the ruler may legally stretch them. This is incumbent upon the question of legislation, whether there was a law-making authority, whether the ruler had a part in it, and if so to what extent, and lastly the most fundamental question of all, was law conceived of as being created at all? In the Marxist perspective, law is seen to provide the basic norms and sanctions under which the encounter between groups and classes of society occur. State intervention in the legal sphere is likewise defined by the nature of class domination of civil society. In more authoritarian regimes this intervention is enhanced, either for maintaining the existing system of domination or allowing new forms to develop. Making allowance for this summation, we turn to that discussion which defines the rulers position vis a vis law and to the definition of law itself in the period of our concern. This should, for us,
bring the ruler's absolutist powers into clearer perspective, and more importantly for the purpose of this thesis, define the Tudor viewpoint on this important question.

In feudal practice, law was primarily custom. In England, the common law, or customary law which has been encoded over the ages, finds its guardian in the king. The king is the enforcer of this law and he is also subject to it. The dispensing power of the ruler is sometimes seen as allowing the king a superiority over law. This could degenerate into capricious tyranny. Therefore law or 'just' was always construed to mean justice which had these precepts: (i) to live honourably (ii) not to injure anyone (iii) to give everyone his due. Because law was conceived to be solely custom, in feudal definition, promulgations of laws would mean the locating of particular customs, and abrogation of laws as disuse of customs. Even in these customary practices the rulers part becomes evident.85

In the thirteenth century, a novel conception of law was for a brief while entertained. That is the idea of law as being created. But then who was the law-giver? The feudal

lawyer Beaumont was willing to concede a free hand to the king. The king's will was seen to perform as law. However this was an exceptional viewpoint. For the most part law was seen to be rooted in the constitutional practice of those societies. Prior to this it was acknowledged that kings had been entrusted with authority by the community and he was to have a significant part in the defining of laws. If the ruler was ever seen in authoritarian (absoluta) light it was for the most part denied. The jurist Bracton conclusively denied that the king's will could be law. Law was a bridle to his power and in fact the King was unquestionably subject to law. However both lawyers have initiated a discussion, that is the notion of law as being promulgated over and above custom and that the ruler's part in it was of prime significance. Its conclusions were that law also involved legislation; the king had a significant though restricted part in it; and that no writ ran against the king. On the other hand, law was regarded as a restraint to the undiscionary power a king may chose to wield. 86

86 ibid., p. 30-74.
It would be worthwhile to mention that there was a debate running parallel to the feudal views. The fact of an unconstrained power residing in the ruler was the subject of argumentation for the Civilian lawyers. Perhaps this discussion was limited to academic circles but the fact remains that the tradition of an absolute power irrevocably transferred from the people to the Emperor was kept alive in the debates of the civilians. This was not an one-sided viewpoint is evident. Maintaining that an authority resides in the people and that it was transferred to the ruler, civilians like Azo were prompt to assert that this transference was not absolute. To them the ruler's was a delegated authority, that the people never really parted with their authority, that through custom they were the legislators of all law, and that they could reclaim this authority entrusted upon the ruler. This debate was to have great significance in the views of the 16th century.\textsuperscript{87}

What is noticeable is the new significance that legislation had acquired in the later middle ages, and a marked concomitant development of conciliar and representative institutions. These developments were to play a distinct role

\textsuperscript{87} Carlyle & Carlyle, op.cit., Vol. II, GÜNL, p. 64-5.
both in advancing the powers of a national monarch and in curbing them.

In the sixteenth century, during the first phase of the Reformation, the monarchy was inculcated with novel powers. Whether in restricting or subverting the medieval church's autonomy, or whether in setting up an alternative national Church to the Papal one, the national Prince was called upon to assume novel powers. That this directly involved economic interests and had bearings on the social ramifications is unquestioned. Here we concern ourselves with how influential opinion views these powers of the ruler especially in his legislative capacity and whether these opinions were of a uniform nature. That this involved both the question of doctrine of law itself as also the legislative capacity of the ruler is quite evident.

Tyndale, as we have seen, made the unqualified assertion of the divine right of kings and he proceeds to establish, that by virtue of this, the king had an absolute authority and he was above the law, and all appeal to constitutional traditions was null and void.88

Constitutional tradition had never afforded unlimited power, but constitutions were subject to amendment and this was what happened in Tudor England. The Acts of Supremacy of Henry VIII and Elizabeth accorded unlimited powers to the ruler in matters of Church government:

Albeit the King's majesty justly and rightfully is and ought to be the supreme head of the Church of England, and so is recognized by the clergy of this realm in their conversations, yet nevertheless for corroboration and confirmation thereof, and for increase of virtue in Christ's religion within this realm of England, and to repress and extrip all errors, heresies, and other enormities and abuses heretofore used in the same; be it enacted by authority of this present Parliament, that the King our sovereign lord, his heirs and successors, kings of this realm shall be taken, accepted, and reputed the only supreme head in earth of the Church of England, called Anglicana Ecclesia; and shall have and enjoy annexed and united to the Imperial crown of this realm, as well the title and style thereof, as all honours dignities preeminences etc. 89

89 Adams and Stephens, op.cit., p. 239.
And:

... may it please your highness that it may be further enacted by the authority aforesaid, that no foreign prince, person, prelate, state or potentate, spiritual or temporal, shall at any time after the last day of this session of Parliament use, enjoy or exercise any manner of power, jurisdiction, superiority, authority, pre-eminence or privilege, spiritual or ecclesiastical, within this realm, or within any other your majesty's dominion, or countries that now be......

And that it may likewise please your highness, that it may be established and enacted by the authority aforesaid, that such jurisdictions, privileges, superiorities, pre-eminences, spiritual and ecclesiastical, as by any spiritual and ecclesiastical power or authority that heretofore been, or may lawfully be exercised or used for the visitation of the ecclesiastical state persons, and for reformation, order, and correction of the same, and of all manner of errors, heresies, schism, abuses, offences, contempts and enormities, shall for ever, by authority of this present Parliament, be united and annexed to the imperial crown of this realm. 30

30 Iud., p. 237.
Given this supreme authority, could the Crown devise its own laws? Could the ruler act out of his own will? Was he in any sense absolute? We have already seen in Tynan's zeal. But opinion was more balanced for the most part. If we turn to Hooker we find him observing:

"Touching the supremacy of power which our kings have in the case of making laws it rested principally in the strength of a negative voice, which not to give them, were to deny them that without which they were but kings by mere title, and not in exercise of dominion". 92

Neither willing to render the king an absolute power in making laws, nor wishing to detract any portion of the power

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91 in Armstrong, op. cit., p. 30.

that a king in his opinion should rightfully possess, Hooker goes on to qualify:

...... which laws, being made amongst us, are not by any of us so taken or interpreted, as if they did receive their force from the power which the prince both communicates unto the Parliament, or to any other court under him, but from the power which the whole body of the realm, being naturally possessed with, hath by free and deliberate assent derived unto him that ruleth over them, so far forth as had been declared. 93

Thinkers were actually conscious of this absolute power that rulers professed though they were not willing to impute unconditional authority. The chief restraint to such a power was seen to reside in Parliament. For though the law was seen as belonging to the king (there was no jurisdiction great or small except the king's) yet the king could not make laws by himself. The very notion of laws as being created, not unknown, as we have seen to the Middle Ages, was being freshly defined as the spurt of statutory laws testified. Laws were

93 ibid., VIII, 6, 11.
however made constitutionally and for all his prerogatives the King had only a part, though the chief part, in promulgating laws. Constitutionalists like Sir Thomas Smith were always eager to prove this. 94

Hooker was no less desirious to show the stringency of representative institutions and the nullity of laws that have not been approved by the people, even if this was through representation:

Laws they are not therefore which public approbation hath not made so, but approbation not only they gave who personally declare their assent by voice, sign or act, but also when others do it in their names by right originally at least derived from them. As in Parliaments, councils, and the like assemblies, although we be not personally ourselves present, notwithstanding our assent is by reason of others, agents their in our behalf. 93

what we wish to specifically point out here is that writers were overtly conscious of the absolutist model of the

94 see C. Morris, op.cit., p. 81-3.
95 Hooker, op.cit. I, 10, 8.
State. If some writers were willing to impute such an absolutism upon the ruler, moderate thinkers were by and large cautious of the repercussions such an absolutism could have. They rather discourage it as likely to be of precarious consequences. Thus Stephen Gardiner, the expert on Roman law, recalls his encounter with Henry VIII in the presence of Thomas Cromwell. Cromwell had queried, "Is not that that pleaseth the King a law? Have ye not this in the Civil law.......?" Gardiner replied that he had read of "Kings that had their will always received for a law cut... the form of his reign, to make the laws his will was more sure and quiet." Therefore Gardiner told him, "And by this form of Government ye be established and it is agreeable with the nature of your people. If ye begin a new manner of policy, how it will frame no man can tell."96 In a similar vein Sir Thomas Smith expresses the intractable and the disturbing nature of monarchy: "Certain it is that it is always a doubtful and hazardous matter to meddle with the changing of the laws and government or to disobey the orders of the rule of govern-

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96 Morris, op.cit., p. 82.
However Bishop Ponet does not mince his words when he states: "Ye have heard also how state, bodies politic, and Commonwealth have authority to make laws for the maintenance of the Policie, so that they be not contrary to God's law, and the laws of Nature which if ye note well the question before propounded whether kings and princes have an absolute power, shall appear not doubtful, or if any wold affirme it that he shall not be able to maintain it".\(^9\)

Let us return to Hooker once more. The same kind of doubts plague him as he too reflects upon the possibilities of a degenerating supremacy of rule:

"Such things therefore must be thought upon before hand that power may be limited ere it be granted. "If the ruler should disregard the law then Hooker thinks it would "not long be safe for him to do so". yet he observes that "I do not see how the body should be able by any just means to help itself".

\(^9\)Morris, op.cit., p. 82.

To these thinkers of the 15th century the possibility of the monarch over-reaching himself always loomed large. Given the powers both constitutional and extra-constitutional, the ruler's merit depended largely upon himself. As Hooker tries to define, government rested on a "compact" and required the "consent" of the people. It was necessary that kings should keep a happy balance; "Happier that people whose law is their king in the greatest things, than that whose king is himself their law".99

If serious thinkers were willing to resign to the unquestioned legislative powers of the ruler, albeit with caution, a growing protest against royal authoritarianism could be felt. Elizabeth had her share of recusancy, but with James I recrudescence of that protest made in the interest of the rising bourgeoisie, takes the form of an insubordination in the common law courts. Protests against legal absolutism was made with vigour by Edward Coke and his colleagues. In a letter to the lawyers James was to defend his position:

...... you might very well have spared your labour in informing us of the nature of your oath, for although we studied the common law of England, yet are we not ignorant of any points which belong to a king to know. We are

99 Morris, op.cit., p. 186.
therefore to inform you hereby that we are far from crossing or delaying anything which may belong to the interest of any private party in this case; but we cannot be contented to suffer the prerogative royal of our crown to be wounded through the sides of a private person..... we have reason to foresee that nothing be done in this case which may wound our prerogative in general; and therefore so that we may be sure that nothing shall be debated amongst you which may concern our general power of giving commendams we desire not parties to have one hour's delay of justice; but that our prerogative should not be wounded in that regard for all times hereafter, upon pretext of private persons interest,.... and we are therefore to admonish you that since the prerogative of our crown hath been more boldly dealt withal in Westminster Hall, during the time of our reign than ever it was before in the reigns of diverse princes immediately preceding us, that we shall no longer endure that popular and unlawful liberty;....... our pleasure therefore is, who is the hand and fountain of justice under God in our dominions, and we out of our absolute power and authority royal do command you, that you do forbear to meddle any further in this plea....... which we do out of the care we have, that
whatever professional rift there may have been between francis bacon and coke, bacon's argumentation in support of the king always veered around the question of prerogatives. as lord chancellor he was to admonish the courts; "....... that were the case concerned high powers and prerogatives of the crown, he would not endure to have them wounded through the sides of a private person; admonishing them also, lastly, of a custom lately entertained, of a greater boldness to dispute the high points of his majesty's prerogative in a popular and unlawful liberty of argument more than in former times etc........ 

at another time bacon was to reaffirm this position; first therefore, above all you ought to maintain the king's prerogative and to set down with yourself, that the king's prerogative is law, and the principal part of the law, the first-born or "pars prima" of the law, and therefore in conserving or maintaining

101 ibid., p. 324.
that, you conserve and maintain the law. There is
not in the body of man one law of the head and
another of the body, but all in one entire law. However, the constitutional documents of the period
disprove James's prerogative, and efforts were on to reduce
them to impotency. As James and Bacon were themselves quick
to point out, this questioning of the King's prerogative, in
other words, his extra-constitutional absolute powers, did
not feature in the Tudor reign. Now Parliament asserted with
vehemence:

Note the king by his proclamation or otherwise
cannot change any part of the common law or statute laws
or the customs of the realm 11 Hen. 4.37. also
the king cannot create any offence by his prohibition
or proclamation, which was not an offence before, for
that was to change the law and to make an offence which
was not; that which cannot be punished without
proclamation, cannot be punished with it. 31 Hen. 8. cap 8 which act gives more power to the king than
he had before and yet there it is declared that procla-
mation shall not alter the law statutes, or customs of the

102 "The Lord Keeper's speech in the Exchequer to Sir
realm, or impeach any in his inheritance, goods, body, life etc. But if a man shall be indicted for contempt against a proclamation, he shall be fined and imprisoned, and so impeached in his body and goods........ but he by proclamation cannot make a thing unlawful which was permitted by the law before........ also the law of England is divided into three parts, common law, statute law, and custom; but the King's proclamation is none of them ;........ that which is against common law... is such an offence as is prohibited by act of Parliament, and not by proclamation.

Also it was resolved that the king had no prerogative but that which the law of the land allows him.

Lastly, if the offence be not punishable in the Star Chamber the prohibition of it by proclamation cannot make it punishable there; and after this resolution, no proclamation imposing fine and imprisonment was afterwards made, etc. 103

In a bid to infuse absolute powers upon the ruler Bacon (as well as Starkey and Spenser) were enthusiastic about introducing Roman Law and would liked to have seen it operative in England. Its centralised powers were well comprehended.

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What we have seen so far is that there was a general support of absolutism in the Tudor period though liberal minded thinkers (e.g. Hooker Smith, Ponet et. al) saw fit that a degree of restraint be exercised on the part of rulers. They also perceived that a representation of the people, institutionalised in Council and Parliament, act as a moderation to absolute monarchy and also bear the weight of government. The rulers discretion was however always urged. Nicholas Bacon drives home this point most clearly in his declaration in Parliament as the Lord Keeper: "Although divers things that are to be done here in Parliament, might by means be reformed without Parliament; yet the Queen's Majesty... meaneth not at this time to make any resolutions in any matter of weight before it shall be by you sufficiently and fully debated, examined and... considered". 104

If at a later date (during James I) there was positive reaction against these powers of the ruler, the king could claim not without conviction: "the laws are but craved by his subjects and only made by him at their ragotion and their advice. For albeit the king make daily statutes and ordinances in joining such pains thereto, as he thinks meet, without any advise of Parliament or Estates, yet it lyes in the power of

104 Morris, op.cit., p. 83.
no Parliament to make any kind of laws or statute, without his sceptre be put to it for giving it the force of a Law". 105

We may surmise that though protests were lodged and curbs to the king's despotic powers incurred, his essential absolutism remains intact throughout this period.

(iii) The Tyrant:

If the monarch could therefore exercise unbounded authority it was left largely to his peculiar choice to govern in the manner ultimately suited to himself. Given the armoury of the prerogative (to chose his councillors, to summon parliament, to make proclamations, to enjoin arbitrary power in times of war and in questions of foreign policy), the sovereign monarch could always degenerate into the tyrant. But what exactly was the tyrant?

The ruler who arrogated to himself powers anti thetical to the notion of the just ruler was a tyrant. Cicero's tirade against such a ruler was that, "the evil ruler is no king out a tyrant, a wild beast, most terrible and loathsome known

to the world. Judgement of God awaits them both in this world and in the next*.

The tyrant is defined by virtue of his actions relative upon two grounds: (i) the legal (ii) the theological. All important tracts whether in the middle ages or in the modern period relate to the prince's function of upholding the law and following its dictates in governance. The prince who chose to act arbitrarily defying the law was the tyrant. This is classically stated in John of Salisbury (Policraticus-1159):

Between a tyrant and a prince there is this single or chief difference that the latter obeys the law and rules the people by its dictates, accounting himself as but their servant...... let the whitewashers of rulers trumpet abroad that the prince is not subject to the law and that whatsoever is his will and pleasure, not merely in establishing law according to the model of equity but absolutely and free from all restrictions, has the force of law. Still I will maintain that kings are bound by this law.106

106 Sabine, op.cit., p. 247.
The tradition of Civilian writers however point to an absolutism in the ruler. To them the ruler's was an unconditional power by whom law could be freely discharged. Time to time there is a reference to Code I 14.8, whence the arbitrary rule of the emperor is discouraged. In the middle ages, the true prince also had to maintain true religion, that using Roman Catholicism.

In the sixteenth century the references are the same. The tyrant was the one who followed his own dictates without the counsel of the Council and the representative authorities. It was always good policy to earn the acquiescence of the people. The notion of consent is imputed in the views of Hooker and Smith. The 'Mirror for Magistrates' makes the distinction explicit: "A good prince, unlike the tyrant does not make his lust or will stand for law. He rules by divine sanction but also rules constitutionally. He accepts and observes the fixed, known, fundamental laws and customs of the realm". 107

If this was a standard deduction of the monarch who choses not to assume autocratic rule, he could very well be

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107 Morris, op. cit., p. 70.
deemed a tyrant if he did not allow 'true religion' to foster. This was, of course, defined from partisan viewpoints. In 1570, Pope Pius I declared Elizabeth an infidel by the bull 'Regnans in excelsis', which in fact stigmatized her as a tyrant. The Jesuit Parsons could claim that the tyrant could be located by conscience as whose religious concurrence went against a person's own 108 though the Catholics received the right for such declaration to the Pope. The Marian purge of Protestant Reformers urged men like the exiled John Ponet (once Cranmer's chaplain and bishop of Winchester under Edward VI) to argue with similar terms of 'conscience' and the 'Infidel' to locate the tyrant though through a very different religious allegiance. Enlarging upon the legalist idea of the state, Ponet believes that governors are only the agents that men employ to carry out the law and tyrant departs this very purpose. He perceives a classic world order:

"What equality.... should there be which the subject should do to his ruler all the ruler would, and the ruler to the subject that (what) the ruler lustetch?" 109


Bodin distinguishes between the obvious tyrant and the legitimate prince who becomes a tyrant.

The greatest difference between a (just and good) king and a tyrant is simply this; the king conforms to laws of nature, the tyrant tramples them under foot. The one respects piety, justice, and faith; the other knows neither God, nor faith nor law. The one only thinks only of the public good and the well being of his subjects; the other does nothing except for his private profit for vengeance or for pleasure...... The one founds his state on subject's love; the other on their fear. The one is honoured during his life......

To summarise all this we may say that the ruler should not be judged to be a tyrant by his severity but by his violation of the laws of God and of nature.

A tyrant, once more, is he who has taken sovereignty upon himself on his own authority, without election, inheritance, lot, just war, or the special calling of God.

So much for the tyrant. But what if a legitimate prince - one who has come to his estate by inheritance or election or lot or just war of divine vocation - become cruel, exacting, and beyond all measure wicked?
May he be killed like a tyrant?\textsuperscript{110}

To Bodin there is also the important question of the tyrant who may be subdued by a foreign prince.

This brings us to the important question of resistance and deposition of tyrants.

(iv) Resistance and Deposition;

We have so far noticed that even in feudal practice, with its fragmentation of power and particular allegiances, the notion of the commonwealth or "respublica" survived. The king as the titular head of the commonwealth was the chief bearer of a public authority, and the guardian of a law under which the commonwealth was organised. Therefore his relation to law was twofold. As an overlord of a feudal property he was subject to the law courts, as the head of a realm no writ ran against him. The growing importance of Conciliar and parliamentary forms in the later middle ages define more clearly the King's position, relative to the commonwealth. In other words the king was solidly backed as the head of a developing

\textsuperscript{110} quoted in Jones, op.cit., p. 68.
national monarchy.

In the newly harrowed absolutism of the 16th century, the questions regarding his relation to law, his divine immunity, and prospects of tyranny loomed large. This brought in the crucial question of resistance to the tyrant. In feudal practice, as an overlord, the king's position was quite clear at least theoretically. The courts were to decide whatever action against the tyrannical ruler. And there was little doubt that the ruler who exceeded the norms of such overlordship would be duly punished. Even in his capacity as the ruler of the realm, the king could always be resisted and deposed, as most of the important political literature testifies. John of Salisbury supplemented his ideas of tyranny with the practical solution of tyrannicide. With Aquinas we find a similar prescription for the tyrant. Aquinas does not subscribe to the extreme measures suggested by Salisbury, but to him sedition is not a moral sin when it was justifiable. And it was justifiable when it could be shown to contribute to the public good. 111 To Mangegold of Lauterbach the tyrant loses his right to obedience from the people and their

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111 See op. cit., p. 250
allegiance to him can be withdrawn.\footnote{112}

Thinkers were preoccupied with this debate on resistance to the tyrant with greater acumen than ever in the 16th Century. Besides political treatises and pamphlets, the employment of a renewed genre, namely the History play, testifies to this intense preoccupation. Shakespeare is of course the consummate artist whose critical genius and immaculate aestheticism requires a more detailed analysis, but those writers who subscribed to this category have dealt with this question of resistance with equal meaningfulness. Therefore we shall turn to some Elizabethan History plays to find out what this intellectual discussion expressed.

Tyndale had not minced his words: "He that judgeth the King, judgeth God, and he that resisteth the King resisteth God and damneth God's law and ordinance...."\footnote{112} In the early sixteenth century German Lutheranism, Genevan Calvinism and their English renditions forbade resistance to rulers on any
ground whatsoever. Latimer and Tyndale supported non-
resistance upon the assertion that the tyrant was
installed to execute God's wrath upon a sinful people. Sher-
ry (1534) was more equivocal as to the raison-de-etre of
the tyrant, but admits freely that the tyrant too is of God's
installation: "All power is of God, but it is a very noisome
error to put no difference between power given of God and
tyranny permitted of God". 114

In Hale's King John', the Christian king ought to be
resisted on no account:

Truly of the devil they are that do anything
To the subduing of any Christian king
For be he good or bad, he is of God's appointing;
The good for the good, the bad is for ill doing. 115

In a conspicuously didactic vein the Mirror for Magistrate
proclaims:

For kings by God are strong and stoutly hearted
That they of sujets will not be subverted. 116

114 Morris op. cit., p. 41-2.
115 Armstrong, op. cit., p. 6.
116 Tillyard, op. cit., p. 84.
Let us look at another History play "Cambyses King of Persia" by Thomas Preston (1569-1585). Structured on the lines of the Morality play and incorporating the type of gimmickry of the Interludes, the play portrays in King Cambyses, the tyrant who had no redeeming trace of goodness. Thus 'Shame' defines Cambyses:

Unseemly Shame of sooth, I am, procured to make plain
The odious facts and shameless deeds Cambyses King doth use
All piety and virtuous life he doth it clean refuse;
Lechery and drunkenness he doth it much frequent
The tiger's kind to imitate he hath given full consent
He nought esteems his counsel grave, ne virtuous bringing up
But daily still receives the drink of damned vice's cup
He can bide no instruction, he takes so great delight
In working of iniquity for to frequent his spite
Of Fame doth sound the royal trump of worthy men and trim
So shame doth blow with strained blast the trump of shame on him.' 117

Though the author depicts the crimes of a protagonist who is a pagan king, yet obnoxious tyranny is the play's particular theme. Cambyses takes maniacal delight in killing the child of his good counsellor, and double pleasure at tearing

apart its heart all because of good counsel that was not invited; who orders his brother's death with joy upon false reports; he marries the lady who is his kin, against all dictates of nature and afterwards has her murdered; by the bare logic of events he is portrayed as the unmitigated tyrant. He proceeded neither upon law nor upon reason, yet the tyrant is not resisted.

As in the Mirror for Magistrates the idea put forth by the writer is that the bad king will come to a bad end:

What a king was he that hath used such tyranny!
He was akin to Bishop Bonner, I think verily!
For both their delight was to shed blood,
But never intended to do any good.
Cambyses put a judge to death, - that was a good deed,
But to kill the young child was worse to proceed,
To murder his brother and then his own wife,
So help me God and holida'm, it is pity of his life!
Hear ye? I will lay twenty thousand pound
That the king himself doth die by some wound.
He hath shed so much blood that his will be shed,
If it come (thus) to pass, in faith, then is he sped.

118. Ibid., p. 315.
This is exactly what happens. The king dies of a fatal accident. The responsibility of the government is at once assumed by the nobility. The king finds a burial fit for his office while his misdeeds are not to be harped upon:

First Lord: 'A just reward for his misdeeds the God's above has wrought, for certainly the life he led was to be counted nought.

Second Lord: Yet a princely burial he shall have according his estate and more of him at this time we shall have not to dictate

Was this the standard opinion of the Tudor era or were there alternative ideas with regard to resistance of the tyrant? Let us turn to the more popular play 'Coriolanus' written by Norton and Sackville (1562).

Coriolanus, an otherwise perfect ruler, commits one last act of tyranny. In flaunting the laws of primogeniture and property by dividing the realm between his sons, the king brings destruction on self, annihilation of family and turmoil in the state. The play sets in debate the question of natural law operating in the state and in the family, but it is to the question of tyranny that we turn;

Kings are certainly given a lot of leeway:

Know ye, that lust of kingdoms hath no law
The Gods do bear, and will allow in kings,
The things that they do achor in rascal rout
When kings on slender quarrels run to wars
And then in cruel and unkindly wise,
Commands thefts, rapes, murders of innocents
Spoil of towns, ruins of mighty realms;
Think you such princes to suffer themselves
Subject to laws of kind and fear of Gods?
Murders and violent thefts in private men
Are heinous crimes, and full of foul, reproach.
Yet none offence, but decked with glorious names
Of noole conquests in the hands of kings. 120

The chorus echoes this point:

The lust of kingdom knows no sacred faith,
No rule of reason, no regard of right
No kindly love, no fear of heaven's wrath,
But with contempt of God's and man's despite,
Through bloody slaughter doth prepare the ways
To fatal sceptre and accursed reign.
The son so loathes the fathers lingering days,
No dreads his hand in brother's blood to stain. 121

The play makes no concession to rebellion against the king.

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121 ibid., p. 29-30.
whatsoever. The multitude that surges headlong against the ruler and the government is seen to be fickle and forgetful of the punishment that awaits them. But the authors are more acutely concerned about that vegetable question of resistance by people of greater responsibility:

'A righteous case, that those, whom duty's bond, whom gratified law by nature, truth and faith, bound to preserve their country and their king, Born to defend their commonwealth and prince, even they should give consent thus to subvert, Thee bring in love, and from thy same should spring, O nature soil, those that will needs destroy And ruin thee, and she themselves in fire. 122

Therefore the responsibility of those in office is urged if the state is not to be thus subverted. Yet the play has very meaningfully deleted a portion which was later published in an unauthorised edition of 1565. Those people of responsibility ('the hand') could not resist the king, as portrayed in these lines. And yet their omission raises the question whether non-resistance was much a commonly accepted idea after all. We here quote those lines:

122 i hid., p. 47.
That no cause serves, whereby the subject may
Call to account the doings of his prince,
Much less in blood by sword to work revenge
No more than may the hand cut off the head;
In act nor speech, no not in secret thought
The subject may rebel against his lord
Of judge of him that seats in Caesar's seat
With grudging mind to damn those he mislikes

Tillyard has shown that Elizabethans were eager to devote
themselves to their ruler but were careful not to go over-
board in their loyalty. 124

when we turn to Hooker, we find that he, like most other influential
opinion would not advise the ruler to act arbitrarily, but
would under no circumstances encourage resistance to him. We
have so far seen that Hooker's position in the history of
thought is crucial to encouraging a civic consciousness rather
than induce that medieval orientation to the other worldly.
It was largely the task of accomplishing an entrusted order
that made such an assessment necessary, but that such an
orientation was ultimately related to non-religious activity
as well must be admitted. The monarch's position in the state
in accomplishing social and political changes was evidently
of crucial importance. Consequently, the ruler's authority

123 Ibid., Footnote p. 43.
124 Tillyard, op. cit., p. 86.
in his political and legal capacity was always a subject occupying intense debate. This also renewed the speculations regarding the source of authority of the ruler.

We have mentioned in the previous sections that the notion of authority as emanating from the people was seen to survive in Civilian literature in the middle ages. Speculations were centered around the question whether authority was irrevocably surrendered or partly retained by the people, or whether that which was surrendered could be retrieved. In the feudal political consciousness the ruler's authority was always seen to be derived ultimately from God, sanctioned by the principle of heredity, while the consent of the people always backed this authority. When Hooker re-evaluates this fundamental question, it presents a novel picture, hitherto unexplored. That is a picture of a society or people constituting a whole or single unit, and a power is seen to be manifested in this unit, which it can transfer to the ruler. In doing so the people also make a 'compact' with the ruler. This gives rise to the notion of an organic body politic. It also logically focusses reflection on the question of resistance. In more engrossed consideration it is the question of transference.

This 'compact' is not the original or the primitive agreement. Here it is neither the feudal contract of mutual allegiance and support. D'Entres points out that this belongs to 'pactum sujectionis' as opposed to 'pactum unionis'. In the second case the pactum is between the individuals of a society to obey. This form of contract involving the will of its component parts was to form the later day theory (in Hobbes) of contract of society. D'Entres refutes what Gough and others state, that in Hooker is present this form of contract. The 16th century contract is a far more rigid avowal to obey. To Hooker it is the common purpose of acceptance of 'some kind of government public, and (of) yielding themselves subject thereunto' (Ec. Pol. 1 X 4) (D'Entres op.cit. p. 130). To Hooker consent is also a necessary prescription of political society. It is seen to be expressed in positive laws, and in custom it is silently avowed. (Carlyle op.cit. Vol. VI p. 391 to 3). The contract theory of the 16th century was developed in the 'Vindiciae Contra Tyrannos' to mean a double contract. This French pamphlet showed that the contract was between King and God on one hand, and King and people on the other. The ruler who broke his contract was therefore doubly at fault. This pamphlet was to serve important ideological function in the Civil War.
of authority and its possible revocation. Hooker gives his reasoned opinion:

........ original influence power from the body into the king is the cause of the king's dependency in power upon the body .......... May then a body politic in all times withdraw in whole or in part that influence of dominion which passeth from it if inconvenience doth grow thereby? it must be presumed that supreme governors will not in such case oppose themselves and be stiff in detaining that, the use whereof is with public detriment but surely without their consent I see not how this body should be able to by any just means to help itself saving when dominion doth escheat. Such things must, therefore, be thought upon beforehand, that power must be limited ere it be granted, etc.... 126

We have already noted what Thomas Smith observed in this connection. It was neither politic for the king to change the laws nor would it be practical to challenge the authority of the ruler who was tyrannical.

We have so far tried to show that there was a stream of opinion which conceded unconditional powers to the ruler

126 Hooker, op.cit., VIII 2, 9, 10.
and allowed no resistance to his authority even on grounds of severe misdeeds on the part of the ruler. Literature (here the History play) has a more subtle and widespread role in the dissemination of culture. Therefore its potential is seen to be exploited at this time in favour of a conformity to an absolutism, where there is evidence to the contrary ---- that is a challenge to the monarch's person and his right to rule ---- it in no way makes an essential assault upon that same absolutism. We may take a look at that sampling of denunciatory literature which seeks to confirm resistance against the ruler.

From their respective partisan standpoints, religious groups have challenged the authority of the king and sought his deposition. For the Roman Catholic followers of the Pope the tyrannical or the infidel ruler must be deposed. Cardinal Pole appeals to a tradition that seems to have disappeared: 'Remember the time when kings who ruled over you unkindly were called to account by the authority of your laws .... that king is but your servant and minister'.

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127 Morris, op. cit., p. 129.
To the Anglican bishops of both Winchester and Oxford, the theocratic function of the ruler allowed him absolute powers but in civil matters the King may be deposed if he went beyond the dictates of law and reason "In temporal things" Wilson said, "princes may not dissolve the laws of their progenitors, nor frustrate the liberties of the people against reason and justice." He said if a prince, "neglect the laws established by common consent of prince and people, to execute his own pleasure" and if, in consequence, "the nobles and commons join together to defend their ancient and accustomed liberty, regiment, and laws, they may not well be counted rebels."  

To the Puritan bishop Ponet, Christians ought not to obey 'men's' 'commandments', either if they are "contrary or repugnant to God's commandments" nor yet if they are contrary to civil justice or to the lust of the whole state". To Ponet, government is a trust that can be broken if the ruler does not maintain the laws of the state. From the Puritan viewpoint the infidel ruler had to be destroyed.  

The whole question of categorical power, its misuse and the consequences of tyranny, and above all the vexed

128 Morris, op. cit. p. 120.
129 Morris, op. cit. p. 152.
question of resistance to the monarch are brought into interplay in the historical drama form. The anonymous play 'Woodstock', (written between 1591-93) scrutinised these themes in detail. Richard's dalliance with his favourites, irresponsibility in the affairs of state, and unnecessary levying of taxes upon the commons for personal benefits, makes him a tyrant in the eyes of the people. At the uprising of the commons the nobles expostulate:

Lancaster: Take open arms. Join the vexed commons
And hail his minions from his wanton side
Their heads cut off the people satisfied.

But Woodstock sees that there could be constitutional solutions to the problem:

Not so, not so! alack the day, good brother,
We may not so afright the tender prince.
We will bear us noly, for the kingdom's safety
And the king's honour. Therefore list to me.
You, brother Gaunt, and noble Arundel.
Shall undertake by threats of fair entreaty,
To pacify the murmuring the commons' rage;
And while you there employ your service hours,
We presently will call a Parliament
And have their deeds examined thoroughly;
Where, if by fair means we can find no favour
Nor make King Richard have their companies,
we'll thus resolve, for our dear country's good
Do right her wrongs, or for it spend our blood. 130

No matter how misguided or vile his actions are, Woodstock
refuses to rise against the person of the king:

But he's our king, God's great deputy;
And if ye hunt to have me second ye
In any rash attempt against his state,
Afore my God, I'll never consent unto it 131

That the rulers powers could be extended unconditionally, that
those curbs to his power in the form of law and Parliament
could be over-ridden to suit his arbitrary caprice is made
evident. The king's prerogative is deployed:

Richard: Have they so soon procurred a parliament
Without our knowledge, too; 'tis somewhat strange,
Yes we will meet them out with such intent
As shall dismiss there sudden parliament
Till we be pleased to summon and directed 132

Having had his crown ratified by parliament, Richard can now

130 Woodstock (Anon.) in Armstrong, op.cit., p.166.
131 Armstrong,op.cit., p. 234.
132 Armstrong, op.cit., p. 191.
proceed to unbounded lengths in asserting his power. The law could be his own will:

Richard: 'King's words are laws,
If we infringe our word we wreak our laws.'

His Chief Justice could support him thus:

Tresilian: Law must extend until severity when subjects dare to break their sovereign

The king's arbitrary will can always be asserted:

Tresilian: Is not the subject's wealth at the king's will? what, is he lord of lives and not of land? Is not his high displeasure present death?

The Shrive of Northumberland agreed with this in principle but maintains that the people could always appeal to the king's good will:

Shrive of North: We are free born, my lord, yet do confess our lives and goods are at the king's dispose but how, my lord? - like to a gentle prince to take or borrow what we best may spare.

Woodstock professes the doctrine of divine right and non-

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133 Armstrong, op. cit., p. 204.
134 Armstrong, op. cit., p. 88.
resistance to kings, and is eventually a martyr to it. But he adhered to it with great difficulty, and his creator finds so much justification for the rebellion against Richard, after the killing of Woodstock, that this play is rather a challenge to orthodoxy than a confirmation of it.

We would like to affirm that, technically if not absolute, the kings still operated with absolutist powers. Protests have been made so far in sectarian controversies. That there was a cultural re-organisation, and men's thinking now proceeded towards de-mystification of the Prince, in a more widespread manner, can be evaluated from the literature of the early 17th century. Thus Webster's Bosola gives apt expression to that orientation which was now becoming evident:

Bosola: Say you are lineally descended from King Pepin, or he himself, what of this? Search the heads of the greatest rivers in the world, you shall find them but bubbles of water. Some would think that souls of Princes were brought forth by some more weighty cause than those of meaner persons: they are deceived, there's the same hand to them; the like passions sway them; the same reason that makes the Vicar go to law for a tithe pig, and undo his neighbours, makes them spoil a whole province, and batter down godly cities with the canon.

This emergent opinion that challenged the authority of the monarch was to escalate further. C. Hill analyses this development with reference to what he calls the theory of the Norman Yoke. This theory is equipped to implement two opposed projects. On the one hand its assumptions prop up the ruling monarchical government, and on the other it is seen as limiting libertarian processes prevalent in the past and which is perceived to be in continuity to the present. To the first aspect, James I and his spokesman Bacon are the primary subscribers. To the second, Coke and the common law lawyers. There is yet a third viewpoint that projects these presumptions as totally alien. To this radical group belongs the Cromwellian party. What we are concerned with here is that the theory as defined by Bacon and James states that the Norman conqueror had by right of conquest got the land of England and his successors held the title by that right, and the ancient laws were planted in England by the conqueror.  

James maintained that the greater part of the gentlemen were of Norman blood and his successors held the Crown and maintained the laws bequeathed by the conqueror. What they are proclaiming is that the monarchy in England was an indefeasible hereditary right. When Coke and his followers projected the theories upon

lost Anglo-Saxon liberties, Bacon was as quick to maintain that the laws were of Anglo-Saxon origin transmitted by the Conqueror. 139

The question we wish to pose is, was absolutism denied in this challenge and in its retaliation? We are convinced that though there was an express desire for greater liberty on the part of a growing bourgeoisie, comprising mainly of a section of a gentry and the trading groups, it in no way essentially undermines the powers of the ruling monarch. As we have seen, the monarch's powers were never absolute (as was in France or Spain), for there was a constitutional oracle to the sovereign monarch in the form of Parliament. We have so far noticed that there was a dominant body of opinion expressing predominantly the values of the ruling elite, which conferred near absolutism upon the ruler, and which was in most part agreeable to the status quo of the regime. This body of opinion also harboured misgivings that the monarch could degenerate into a tyrant, his powers being what they were, but maintained that it would not be expedient to do so on the part of the monarch.

We seek to make a few observations here. The emergence of the bourgeoisie from the feudal burgher class was also

139 id., p. 69.
necessarily accompanied by the development of moral theories suitable to its class relations and to its economic activity. This morality is most effectively announced as religious morality, though it is comprised of social and ethical morality as well. The strongest fetters to the bourgeoisie’s establishment of itself, both in terms of its economic privileges and a concomitant morality was the Roman Catholic Church. The Lutheran Reformation, followed by the Henrican Reformation was a decisive advance for the bourgeoisie. As a movement the protestant Reformation originated in Germany but here the peasantry made a preemptive bid to topple the whole feudal order and authority. It was doomed to failure. In England, where the central monarchy rose admirably to the occasion to serve the interest of the bourgeoisie while maintaining the political privileges of the feudal nobility, the Reformation was warranted better success. What we wish to concern ourselves here with is the form it took in England, particularly in establishing a bourgeois morality, and more widely a bourgeois consciousness.

In its first phase, German Lutheranism or English Protestantism served to establish a strong central monarchy or the legitimate power - state. It was however Calvinism
that was to establish the bourgeois, liberal, 'free society'. It is pointed out by Max Weber ('The protestant ethic') that Calvinism in the context of the industrial and commercial ethic, of course, in confrontation with a Marxist analysis of the relationship of material conditions of production and the 'superstructure' and its intimate relations with 'ideology', Taunay declines to attribute to Calvinism a single uncomplicated character. To Tauney, a dictionary of values, traditional and conservative on the one hand, libertarian and revolutionary on the other, has co-existed in the Calvinist disciplinary system and was to be settled only with the triumph of Puritanism. The Calvinist system altered the capitalist consciousness. From national churches, moral discipline was to shift to social units typified in the parish, congregation, and the household. For the bourgeoisie it as a progress from the emphasis on the sinfulness of humanity and necessary discipline to a broader outlook of social and communal self-help. With such a development of social morality there was also a theological morality whose emphasis was shifted from eternal decrees to the perfectibility

140 *see Anthony Giddens, Politics and Sociology in the thoughts of Max Weber, Macmillan, 1972, p. 31-2.

141 *see R.H. Tauney, Religion and the rise of capital in, Hazel, Watson & Viney, Lond. 1948, p. 212.
of men. As Christopher Hill shows this graduated shift from sacramental oath to vows and finally to the promise, keeping of one's word, in the expanding market of large-scale commodity production of the approaching capitalist era, was to take on the form of a natural right. In this context the Protestant establishment was perceived to be a conservative political institution and its dislodging was decried. Not until Parliament could be made to tally with the 'industrious sort' or the 'middling ranks' could such a displacement in the political arena be conducted. On the other hand protests from the lower ranks to this new morality in the form of the Leveller movement and of Anabaptism was violently crushed. The ethos of the new outlook that was being forged was Individualism. It is one of the features of capitalism that it has to organise its programme through individual states, and yet has to pit itself in rivalry to other independent 'sovereign' states. One nation, one law, one government, seems to be the order of the day. The national consciousness on linguistic and geographical grounds had been growing long space and along-with internationalism (international law, diplomacy etc.) too find expression in the literature of the period. For the state as now envisaged we may once more turn

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143 For this shift 'from oath to interest' see C. Hill, *Society and Puritanism* esp. p. 370-87.

144 For the Anabaptist protest and their religious ideas see, Allen op.cit., p. 33-48.

to Bacon. 'The New Atlantis' is the vision of a statesman typical of this era. Departmentalised, centrally regulated, bent upon scientific experimentation and enlargement of knowledge, insular, yet open to new questions, it was controlled by a paternal leadership. Indeed it was a far cry from More's vision of 'Utopia'. Utopia was classless, without government and religion, but regulated in strict conformity to ethical standards. We may quote Bacon's speech to James I here that pays tribute to the reigning monarch and in fact expresses the ideology of an influential elite:

The Lord Chancellor Bacon to the King (Jan 2 1618):

Your people military and obedient, fit for war, used to peace, your church enlightened with good preachers, as an haven of stars; your judges learned and learning from you, just and just by your example your nobility in a right distance between crown and people, no oppressors of the people, no overshadowers of the crown your council full of tributes of care, faith and freedom; your gentleman and justices of peace, willing to apply your royal mandates to the nature of their several counties, but ready to obey; your servant in awe of your wisdom, in hope of your goodness; the fields growing every day, by the improvements and recovery of grounds, from the desert to the garden; the city grown from wood to brick, your sea-walls or Pomerium of your island, surveyed and in edifying; your merchants
embracing the whole compass of the world, east, west, north and south, the times give you peace and yet offer you opportunities of action abroad, and lastly, your excellent royal issue entaileth these blessings and favours of God to descend to all posterity.\textsuperscript{146}

\textsuperscript{146} quoted from Montagu, op. cit., Vol. XII, p. 66.