***Magna Carta* in the attempts at limiting the Absolute Power of the King in Early Stuart England**

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"Magna Carta is such a fellow, that he will have no sovereign."[[1]](#footnote-1) This is what Edward Coke affirmed during the debates on the Petition of Right in 1628. He meant then that the Great Charter did not belong to the King but to the people by and for whom it was written. Coke was a determined defender of the Common Right and a strong opponent to the Divine Right of the Kings to make laws. He based all his arguments on the founding texts of the English Constitution; Magna Carta was his favourite reference. When he mentioned it as he tried to make King Charles I sign the petition that was meant to secure the liberties of his English subjects, it had not been considered for about a century. The petition was in fact a revival of the great charter - as a symbol of the English constitution[[2]](#footnote-2) - as well as a direct provocation against the principles of the Divine Rights of the Kings defended by Charles I and formalised by James VI and I before him. This opened the way to adaptations of the text throughout the century in England such as the Habeas Corpus or the Bill of Rights of 1689. How can this renewed interest in the text in the 17th century be explained given that during the reign of the Tudor dynasty it seemed ignored, if not forgotten? This article will demonstrate how a series of opportunities given by the context of the Union of the Crowns and the determination of King James VI and I to impose his divine power on his kingdoms led Edward Coke to make of this old text a reference to justify what he believed was a necessity for the English - and why not more generally for the British - subjects of his king.

The Tudor monarchs had been strong leaders. The Reformation established their power in such a manner that it became almost unlimited. The principle of their authority was based on the idea that it came directly from God, which justified their power over the Church and their subjects. Many were those who opposed them; their attempts usually took them straight to the Tower of London and on the scaffolds. The accession of King James VI of Scotland to the English throne as James I was an opportunity for these opponent voices for rising again. Coke was among those who did everything they could to limit the powers of the monarch. He attacked him by questioning his right to make laws, proving him he was, like his subjects, under the authority of God and his laws and of the common law, which to him, was based on sensibility and on the necessity met by Society. Although Coke was already active in the law making process as a lawyer and a jurist during the reign of Elizabeth I, he started to express his demands only after the accession of King James. In fact, both men had a common purpose: they sought a way to recover and formalise who was at the origins of the laws of the kingdom(s) in order to justify the right - they believed to be legitimate - to make laws. Both their positions were the result of a century of Tudor empire; their points of view differed only in their status and political goals. King James believed in the authority of the monarch of Divine Right; Coke believed in the authority of the judges in Parliament. One way to explain why Coke waited for the accession of the Stuarts to act consists in the analysis of his personal and professional ambitions and their influence on his political position. A second way is to understand the principles promoted by King James in the context of the Union of the Crowns and to confront them to the ideas defended by Coke, and to the English cultural and political traditions.

Coke was an ambitious man. His convictions about the Common right were clearly a way to allow Parliament to get more power by being at the origin of the law making process. Becoming an MP and sitting in a legal institution was for him a manner to establish and secure his own authority. Therefore, his ambition is not to be neglected in the study of his action to limit the power of the sovereign. Edward Coke was a jurist. He was educated in the English legal tradition. His rise was fast[[3]](#footnote-3). He obtained the privilege to be nominated Knight and Chief of the Common Plea. In a few years only, he got a seat on the main juridical institutions of the kingdom, at the centre of power and close to the government. He became one of the most influential men in England since he sat in the institutions that were at the source of the law making process. This is when he started to express his idea that every court of justice should be organised on the same model and that the Star Chamber and the King's Bench should be reformed since in these courts, the origin of the decisions came directly from the king. In order to limit the power of the monarch and to increase the one of assemblies of "professional" jurists and lawmakers, he first endeavoured to set limits to the use of the *Ex Officio* oath. The latter was used during trials at the Star Chamber and it was believed to annihilate the liberties of the accused since by this oath, the latter would acknowledge the last decision - making power of the King and Church in the sentence. For Coke, this was a violation of the Common Right and Reason. He also criticised the royal patents and the *Praemunire* that enabled the King to imprison and sentence people according to his own will[[4]](#footnote-4).

Coke's actions were founded on theories he learned during his studies, that he spent analysing the evolution of English laws since the Saxons. His treaty *The Institutes of the Laws of England*[[5]](#footnote-5), and more particularly *The Fourth Part*, demonstrates how Magna Carta became part of the English politics and law making process. The principle of the consultation of Parliament by the King in matters of economy and law expressed in the charter guided him all through his argumentation, that was actually a response to the arguments of King James on the Divine Right of the Kings. Indeed, the latter had put down on paper his theory - contrary to the Tudors - and made a clear definition of it. He meant it first for his kingdom of Scotland when he published *The True Law of the Free Monarchies* (1598) and *Basilikon Doron* (1599), then for England as well, with the various re-editions of *Basilikon Doron* from 1603 in England, and through his speeches to Parliament (1607, 1610 and 1616). Ironically, as Coke contradicted King James with his *Fourth Part of the Institutes* so had done James when he wrote his treaties in response to George Buchanan[[6]](#footnote-6). The Scottish Presbyterians and Coke's English followers were radically opposed to the fact that the monarch was at the origin of laws, a principle which James VI and I discussed in the *True Law of the Free Monarchies* and repeated in his speeches[[7]](#footnote-7).

James VI of Scotland was educated as a Presbyterian in a kingdom governed for twenty years by the Kirk. When at his majority he decided to regain the control of his crown, he naturally limited the influence of the Presbyterians by getting hold of the Kirk, entering a process that was to make it a Protestant Episcopal Church that would be very like the Church in England. This project, known as the "Instrument", was a strategy organized with Elizabeth I of England, his Godmother and protector, in order to make possible a peaceful succession to the throne of England[[8]](#footnote-8). The second justification of the redefinition of his power was his need to secure his Scottish throne and life among the Scottish subjects that overthrew his mother and attempted to his power and life during his young years[[9]](#footnote-9). Imposing himself as a king by Divine Right was a way to remind his subjects that any attempt against his body or the crown meant an attack against God. Any Christian subject was therefore obliged to acknowledge and respect his authority. The King was a "*Little God on Earth*[[10]](#footnote-10)" and thus, was above his subjects. The latter owed him obedience. However, as a father to his people(s), the king had to be a model to guide them[[11]](#footnote-11). This patriarchal monarchy was reinforced and made official by a contract. To him, this would work only thanks to the mutual love and respect of his subjects, a trust officialised through the coronation oath[[12]](#footnote-12), also called by Buchanan (in *De Jure Regni Apud Scotos[[13]](#footnote-13)*) and Coke "contract" between the king and his subjects. The only difference was that to James, this contract was taken by the King as a sign of good will, whereas for Buchanan and Coke it was the fundamental condition authorising a monarch to reign over his people. For Buchanan, this contract was the consequence of the natural need of a Society to secure bonds of trust between the ruler and the ruled[[14]](#footnote-14) - meaning that the ruled could cancel the contract. James believed the subjects had no such right and that only the king could take the decision to establish it or not. Therefore, the King had only two obligations: to ordain and to make sure his orders were put into practice. His institutions - i.e Parliament and Courts of justice[[15]](#footnote-15) - had no other reasons to exist than to execute his will and to provide council[[16]](#footnote-16). He wrote it in his treaties and said it in his speech of 1616, where he reminded his opponents (addressing particularly Coke) of the mission of the Courts, saying: "*you are no makers of law, but interpreters of Law*"[[17]](#footnote-17) and "*this is a thing regall and proper to a king, to keep every Court within his owne bounds*"[[18]](#footnote-18). He was actually then reacting against Coke's attacks. Both men confronted their arguments to better impose themselves, giving way to an open conflict between the parliamentary and monarchical institutions for the following thirty years. It was built around the contestation of the different conceptions of the Common Right. Each theory of the one was questioned by the other with contradicting arguments. For example, the role and the mission of the monarch were discussed from the points expressed in James's treaties on Divine Right and for Coke, from those presented in Magna Carta. In the Charter, the king was under Divine and common law, i.e he could be judged by God as well as by his subjects, depending on his faults. This principle was in direct contradiction with the principle of Divine Right which placed the king above his subjects and always only under the authority and judgement of God. If for the supporters of the Divine Right of Kings the argument was enough to justify his authority on the subjects and his natural ability to be at the origin of the laws of the kingdom, Coke contradicted it and demonstrated the importance of the Courts of justice and of the legal system of the kingdom. To him, they were the warrants of peace among the subjects since they applied the laws they were proposing following their experience with the population.

King James would not stand Coke's attacks. Coke lost his seat at the Common Plea and was transferred to the King's Chamber. He had no longer any direct power on the law making process. The Star Chamber and the King's Bench were the only two chambers where no appeal was possible and therefore, there, as a chief of justice, Coke had no power of decision. That caused him much frustration: he could not put into practice his conviction that a sentence had to be adapted to the particular situation of the person and to the context using Reason. The only advantage of his new status was that he was now very close to the Crown. He manoeuvred in such a way that he eventually even obtained a seat as Privy Councillor. This nomination was a way for James to control him better. Unfortunately for the King, it did not happen as expected. This became for Coke the opportunity to confront himself directly to the Crown. In 1608, during the debates on the powers of the clergy, he pleaded openly in favour of the adaptation of the laws to Reason only - implying that laws proposed by the clergy were too dependent on the Scriptures and on the Church's interest and not on Society's realities. Still, he acknowledged his belief in the King's "natural" Reason, and therefore his legitimacy to be at the origin of the laws of his kingdom; he just reproached him not to be experienced enough since he had not been trained for that. He thus recommended him to stick to the laws of God and to let his subjects who were trained in the matter and naturally inclined to adapt them to the reality of the Society they lived in and worked for, deal with the making and the application of the law. To demonstrate his point, he quoted *Bracton's Immortal Axiom*, making one the Natural Law and the Common Law. But, for King James, these were not to be mixed since he was the only one whose power was "Natural" - to him, *Natural* was a synonymous of *Divine*, originated by God. Thus, he considered Coke's plea as an attack that suggested that his natural status as King submitted him to the Common Law like any other subject. This must have brought him back bad memories, thirty years before, when he had to face the Presbyterians' attacks in Scotland supporting Buchanan's theories on the powers of the King in Scotland. The climax of Coke's provocations was reached in 1616 during the *Peacham's Case*[[19]](#footnote-19). Coke came with old archives about the right of *Praemunire*. The trial being held at the Star Chamber, he expressed his belief that it was an unfair trial and that the King had already decided the sentence. Following such accusations, King James delivered the speech, where he gave an elaborate definition of his rights and duties in law and justice[[20]](#footnote-20). He proved his determination to protect his divine right and to appear as a moderate absolutist monarch telling the assembly that Parliament was essential to the welfare of the kingdom although it remained entirely under his authority.

Eventually, Coke was dismissed from the Court of Justice on November 10th, 1616. This did not stop him from keeping fighting to remain as close as possible to the main authorities of the kingdom[[21]](#footnote-21). Coke added then another dimension to his demonstration: the new King was a foreigner ... a Scot. To him, he was a threat to the continuity in the use of the ancestral principles so cherished by the English since... Magna Carta. The Charter was used as his main weapon in his fight to protect the English values and constitution. Nevertheless, it is interesting to point out here that Coke's principles as well as the ones in the Charter were at the time, often similar to principles circulating in Scotland and could have helped to reach an agreement between the two kingdoms within the context of the Union of the Crowns, at least among the King's opponents. But it did not happen due to strong prejudice and tradition in both kingdoms. In England, Coke's ideas, as well as those in Magna Carta, were the result of a reaction against the abuses of the authoritative power of the monarch by Divine Right. In Scotland, the Presbyterians were still very active in their actions against the royal power on the Church, refusing his authority and reminding him regularly - using Buchanan's teachings - that originally in Scotland, Kings were elected and could therefore be deposed. However, contrary to England, there was in fact no constitutional guarantee in Scotland - at least nothing like Magna Carta, that could be used as a reference in troubled times. Indeed, even though some historians tried to suggest a Magna Carta crisis also occurred in Scotland, it is hard to acknowledge. Never such a document was written in Scotland, not even the Declaration of Arbroath in 1320[[22]](#footnote-22) or the Covenant of 1638. Recently, John Cramsie affirmed in his furnished thesis on the financial situation of England and its impact on kingship during the Jacobean reign, that Buchanan tried to do with James VI like the Barons did at Runnymede in 1215, i.e. to bond the monarch to contractual obligations[[23]](#footnote-23). This could be compared indeed to the English situation four hundred years before, although we should not forget that in 1560s-70s in Scotland, the king was a young boy, ruling after his overthrown mother in a Presbyterian dominated government. During this period, the General Assembly of the Kirk could express itself, the Presbyterians had no interest in defending the liberties of the king's subjects, they just wanted to establish and affirm their empire on Scottish affairs. More, eventually and unlike King John, James VI reacted by implementing a religious policy meant to control the Presbyterians. He formalised it in his definition of the powers of the kings of Scotland in his treaties *The True Law of the Free Monarchies* and *Basilikon Doron*. So if such a design as a Magna Carta style revolution had been done in Scotland by the Presbyterians, it was not for the same reasons as in England and it did not succeed. No single text was written - Buchanan's writings are not part of the Scottish constitution. More, it ended up with the contrary effect since it reinforced the powers of the king in Scotland. Therefore, in England, the subjects had secured more guarantees than the Scots to protect themselves against the arbitrary powers of the monarchs thanks to Magna Carta, which they kept adapting throughout the centuries.

The Common Law defended in Magna Carta was a specificity of England which King James was aware of, as he proved it in his 1616 speech. There he affirmed he never put it into question since it was adapted to his subjects:

*For the Common Law, you can all beare mee witnesse, I never pressed alteration of it in Parliament; But on the contrary, when I endeavoured most an Union reall, as was already in my person, my desire was to conforme the Lawes of Scotland to the Law of England, and not the Law of England to the Law of Scotland and so the prophecie to be trew of my wise Grandfather Henry the seventh, who foretold that the lesser Kingdom by marriage, would follow the greater, and not the greater the lesser;*[[24]](#footnote-24)

By affirming he considered the English Common Law as a cultural specificity of his Southern kingdom, he acknowledged officially a difference with the laws in Scotland. This speech pronounced in front of an assembly of English subjects was meant to reassure the latter; it was far from reassuring the Scots. Indeed, the English constitutional tradition was presented as a possible model in the future Great Britain of his dreams. In fact, it was this very reason that prevented his dream of complete union from becoming a reality. A further constitutional and institutional Union of the Crowns was indeed, the first concern that led to a reconsideration of the legal systems in the two Kingdoms. Edward Coke distinguished the crowns of England and Scotland[[25]](#footnote-25) in legal matters. Since there was no common succession law for both countries, why should they have uniform laws and legal systems? If for him and his followers a law for a single market was necessary within the actual union, nothing should be done "*to bind Britannia*"[[26]](#footnote-26). It seems that the concerns about trade within the Union of the Crown conditioned part of the debate on the legal uniformity scheme. For John Cramsie, "*the demands of Crown finances in England generated an extended debate about the practice of Kingship and governance under James VI and I*"[[27]](#footnote-27). The fact is that these economic problems were the reason why the debate was brought into Parliament. That led to proper actions among which the reconsideration of the limits of the powers of the monarch, like when Magna Carta was written. The opportunity, however, came with the Union of the Crowns and the reconsideration of the constitution and of the institutions of the two kingdoms. Scotland was united to England through the person of the King. Although not institutionally united, the two kingdoms had to work and progress together. Some uniformity had to be organised. King James proposed to further the Union but the English, soon followed by the Scots, refused the scheme in 1604-7. Strong nationalist feelings grew within old and lasting prejudices, which tried to prove the incompatibility of the two kingdoms. In England, the opponents to the total union of Great Britain, and more generally the opponents to Monarchy as it was then, used a strategy based on ancient institutional sources to prove how the two kingdoms were institutionally and constitutionally different. They used the cultural argument of the resistance against the "enemy of the North". Their constitutional traditions were a guarantee. For the Scots, the logic was the same and focused on the resistance against the "invader of the South". Coke and his followers revived the Magna Carta on that occasion pleading in favour of an "ancient constitution" created by the English for the English. It was founded on the medieval tradition of the Normans, as it was adapted from the Saxon one by the successors of William I. It promoted a royal power dependent on the advice of an assembly. More, the two kingdoms had constitutions that were then considered as incompatible. For example, Coke demonstrated that even if the two kingdoms were similar in their monarchies, language and geographical situation being on an island (arguments also given by King James[[28]](#footnote-28)), they could not agree on a common legal and justice system[[29]](#footnote-29). Coke was not the one who questioned the Union scheme using the "Ancient Constitution" argument. Nicholas Fuller, an MP in 1607, expressed his concern on the evolution of the Magna Carta principles if the two kingdoms were united[[30]](#footnote-30). To him, the Charter was exclusively English for the English. Therefore, if British laws were created, Magna Carta would no longer have its place there. If this founding text of the English constitution had to disappear, it would mean to them the end of the English constitution as it was known then. Four hundred years of English constitutional tradition would be annihilated. Everything would have to be done again. Fuller simply concluded "*nolumus legis, etc. nolumus nomen Angliae mutare*" (*'We do not wish to change the laws and name of England*')[[31]](#footnote-31). Therefore, the revival of Magna Carta was definitely a result of the fear of losing part of the English culture through a constitutional change because of a union with Scotland. For all the opponents of King James's legitimacy to be the source of the laws of his subjects, laws had to be made by the subjects for the subjects and by nature, according to their constitutional specificities and traditions.

The Scottish theory of the Divine Right of the Kings, even if similar to the English one, once presented in England from 1604 within the context of the Union of the Crowns, was an opportunity for the awakening of a strong opposition to the absolutist system. Law making and courts of justice were put at the centre of the debates. They had been sensitive organs of the government in England since the ratification of Magna Carta in 1215, contrary to Scotland where no such constitutional revolution had occurred. The incompatibility of the constitutional principles and traditions in England and Scotland at the beginning of the 17th century, provoked the reconsideration of the principles of the liberty of the people and the limits of Monarchy, as exposed four hundred years before in Magna Carta. This gave to the Commons in Westminster the opportunity to make these principles theirs and to use them to their advantage to eventually get more power against Monarchy throughout the century.

The Union of the Crowns did not encourage a diffusion of the principles of Magna Carta in Scotland, at least for the points dealing with law and justice. These principles never became "British". Everything had been done so that it would never happen. The law of the post-nati, that was ratified for both kingdoms in favour of the jurists of the Isle born after the 1603 succession, is a proof that the uniformity of the legal systems never found any consensus since it was impossible to realise, or at least it was wiser not to do so. Each kingdom maintained its own legal institutions and took care to train their own jurists according to their national traditions. In Great Britain, the legal system being founded in religion, Church, laws and education were dependent on each other. Universities and schools in both Scotland and England held on their systems, resulting from their history and traditions, to maintain their independence and specificities within the British Union. Today still, jurists are obliged to study both Scottish and English laws to practice in Great Britain. Magna Carta's principles and myth are responsible for this situation. The revival of the text in the 17th century - the century that shaped today's Great Britain - is therefore to be considered as a device used by the English during that century to fight against a general Union, as much as Scotland did with its national Churches[[32]](#footnote-32). And even if it is on the United Kingdom Statute Book and if it belongs to a sense of "Britishness" for those considering that being British means to acknowledge the traditions and symbols of all the Four Nations together as part of the "British Culture", Magna Carta belongs to the myth of the "perfect" English Constitution[[33]](#footnote-33) and above all to England's traditions.

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1. *Edward Coke on the Lords' Amendment to the Petition of Right*, 17 May 1628 (J. Rushworth, Historical Collections (1659) vol. 1) [↑](#footnote-ref-1)
2. Edward Coke never mentioned any particular version of Magna Carta. He probably meant it as a symbolic document, without consideration of date, versions and alterations throughout the centuries. [↑](#footnote-ref-2)
3. He obtained the favour of Queen Elizabeth I thanks to his involvement in trials such as the one of her favourite, Robert Devereux, 2nd Earl of Essex (1601). He had the protection of King James at the beginning of his English reign when he was in one of the trials of Walter Raleigh and then of Guy Fawkes and his followers after the Gunpowder Plot of 1605. [↑](#footnote-ref-3)
4. The right of *Praemunire* had not been used since Henry VIII. [↑](#footnote-ref-4)
5. Edward Coke, *The Fourth Part* *of the Institutes of the Laws of England*. London, 1644 (1671 ed). [↑](#footnote-ref-5)
6. Edward Coke, *op.cit.*

These attacks were explicitly expressed in the *True Law of the Free Monarchies* : "*not to trouble your patience with answering the contrary propositions, which some have not bene ashamed to set downe in writ*" (in Sommerville, *King James VI and I, Political Writings*, p. 64 ) and in *Basilikon Doron*: " *such infamous invectives, as Buchanans or Knoxes Chronicles*" ( in Sommerville, *op.cit*., p. 46). [↑](#footnote-ref-6)
7. Jacques VI et I, *Selected Works*. London, 1616. [↑](#footnote-ref-7)
8. Sabrina Juillet Garzon, « La correspondance entre Elisabeth I et Jacques VI comme base d’une future unité britannique », in *La Renaissance anglaise: horizons passés, horizons futurs,* [http://cle.ens-lyon.fr/82989457/0/fiche\_\_\_pagelibre/&RH=CLE\_ANG110100](http://cle.ens-lyon.fr/82989457/0/fiche___pagelibre/%26RH%3DCLE_ANG110100) [↑](#footnote-ref-8)
9. The young king had to face two attempts against his life and power during his Scottish reign: the Ruthven Raid in 1582 and the Gowrie Plot in 1600. [↑](#footnote-ref-9)
10. *"he made you a little GOD to sit on his Throne, and rule over other Men"* (*Basilikon Doron,* in Sommerville, *op. cit.,p. 12; "Kings are called Gods by the propheticall King David, because they sit upon God his Throne in the Earth"* (*The True Law of the Free Monarchies*, in Sommerville, *op.cit.*, p. 64) [↑](#footnote-ref-10)
11. The King is a “shepherd” (1607 Speech, in Sommerville, *op.cit*., p. 136), as “on a stage” (*Basilikon Doron*, in Sommerville, *op.cit*, p. 49) and " *as a loving Father, and careful watchman, caring for them more than for himself, knowing himself to be ordained for them, and they not for him*" (*True Law*, in Sommerville, *op.cit*., p. 65). [↑](#footnote-ref-11)
12. *True Law*, in Sommerville, op, cit., "*This oath in the Coronation is the clearest, civill and fundamentall Law, whereby the Kings office is properly defined.*", p. 65; "*in the coronation of our owne Kings, as well as of every Christian Monarch, they give their Oath first to maintain the Religion presently professed within their countrie, according to their Lawes*[…] *And next to maintaine all the lowable and good Lawes made by their predecessours* […] *and lastly to maintaine the whole country, and every state therein, in all their ancient Priviledges and Liberties*." (*True Law*, in Sommerville, *op.cit*., p. 64-5.) [↑](#footnote-ref-12)
13. George Buchanan, *De Jure Regni Apud Scotos*. Edinburgh, 1579. [↑](#footnote-ref-13)
14. Through his books Buchanan came up with a very radical justification for the destitution of Mary, Queen of Scots. He asserted that the ancient Gaelic Kings of Scotland had been elected and not divinely appointed. Hence they were subject to the law of Scotland and not above it. So, if a monarch broke his or her contract with the people and became a tyrant, then in law, the people, by which he meant the Scots nobility, were entitled to depose that monarch (Chapter 28 of *De Jure* *Regni Apud Scotos* is dedicated to "Tyranny and to idea of a contract between the ruler and the ruled"). [↑](#footnote-ref-14)
15. James VI and I had already done it in his *Basilikon Doron*. "*Only remember, that as Parliaments have bene ordained for making of Lawes, so ye abuse not their institution, in holding them for any mens particulars: For as a Parliament is the honourablest and highest judgement in the land (as being the Kings head Court)if it be well used, which is by making of good Lawes in it* […] *and therefore hold no Parliaments but for the necessitie of new Lawes*." (*Basilikon Doron,* In Sommerville, *op.cit*, p. 21) [↑](#footnote-ref-15)
16. James I, 1616 Speech, in Sommerville, *op.cit*., p. 220 "*For a King hath two Offices. First to direct the things to be done; Secondly, to take an account how they are fulfilled; for what is it the better for me to direct as an Angel, if I take no account of your doings*."

James VI and I was a fond reader of Plato's *Politicus*. It helped him to prove that leader had natural knowledge to govern others. As John Cramsie pointed out, therefore, for the subject, the subjects never questioned that ability, "*In James's practice of kingship, the matter at issue was not whether to trust governors or other counsellors, but rather that James alone possessed the highest order of knowledge, statesmanship, with which to evaluate council and made decisions*." In John Cramsie, *Kingship and Crown Finance under James VI and I. 1603-1625*. Bury St Edmunds, The Boydell Press, 2002, p 43, 44 ; see also *Common Debates, 1621*. in Wallace Notestein (ed.) New Haven, Yale University Press, 1935. [↑](#footnote-ref-16)
17. James I, 1616 Speech, *op.cit*., p. 215 [↑](#footnote-ref-17)
18. James I, *1616 Speech*, in Sommerville, *op.cit*., p. 211 [↑](#footnote-ref-18)
19. This trial questioned the status of bishoprics and the authority of the King on religious matters. [↑](#footnote-ref-19)
20. James I, *1616 Speech*, in Sommerville, *op.cit*., p. 211, 215 [↑](#footnote-ref-20)
21. He was allowed to reintegrate his position as Privy Councillor in 1617. He was then elected in the House of Commons in 1621, 1624 and 1628. Coke tried all his life to be as close as possible to Power. He even married his daughter to John Villiers, the brother of George Villiers, Duke of Buckingham. [↑](#footnote-ref-21)
22. A. Herman explained that the Declaration of Arbroath was the "Scottish Magna Carta", but this concerned only the idea of affirming the liberties of the Scots against the English Crown. (Mentioned by Dr Murray Leith in his communication "Great documents and political Totems: Magna Carta and the Declaration of Arbroath", during *Magna Carta Conference*, Amiens Dec. 2015 (Arthur Herman, *How the Scots invented the Modern World: the true story of how Western Europe's poorest nation created our world & everything in it.* New York, 2001)). [↑](#footnote-ref-22)
23. Cramsie, *op.cit*., p. 25. [↑](#footnote-ref-23)
24. James I, *1616 Speech*, in Sommerville, *op.cit.*, p. 209. [↑](#footnote-ref-24)
25. Edward Coke, *Fourth Part of the Institutes*..., 1671 edition, p. 347. [↑](#footnote-ref-25)
26. *Common Journals*, vol. I, pp. 178; 951. [↑](#footnote-ref-26)
27. John CRAMSIE, *Kingship and Crown Finance under James VI and I. 1603-1625*. Bury St Edmunds, The Boydell Press, 2002. p. 1. [↑](#footnote-ref-27)
28. *1604 Speech*, in Sommerville, *op. cit*., p.p. 132-146. [↑](#footnote-ref-28)
29. Coke, *Fourth Part*, pp. 345- 348. [↑](#footnote-ref-29)
30. Conrad Russell, *King James VI and I and his English Parliament*. OUP, 2011. p. 36; *Common Journals*, pp. 152, 157, 160, 169, 176. Nicholas Fuller, *The Argument of Nicholas Fuller of Grayes Inne, Esquire*. London, 1641, p. 14. [↑](#footnote-ref-30)
31. Fuller, in *Common Journals*, p. 952, 185; see also C. Russell, op.cit., p. 36. [↑](#footnote-ref-31)
32. For more about the national specificities of Scotland and England and the way they were used to maintain their independence during the Union of the Crowns, see Sabrina Juillet Garzon, *Unis par la couronne, indépendants par l’Eglise. L’Ecosse face à l’Angleterre, 1603-1707*. EUE, 2011, 520 p. [↑](#footnote-ref-32)
33. The myth of the "Perfect English Constitution", also considered as the "Saxon Constitution": an idealized constitution based on old traditional Saxon principles that evolved adapting throughout the centuries to answer the Society of England's needs. [↑](#footnote-ref-33)