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The Doctrine of the Holy Crown
By Professor GYULA SZEKFÜ

The Struggle Between Illyrism and the Pan-Serb Idea
By Dr. ANDREW FALL

Busy Activities in the Restored Parts of Transylvania
By LADISLAS SZENCZEI

Political Mosaic

Books

Political Economy

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THE DOCTRINE OF THE HOLY CROWN

BY

PROFESSOR GYULA SZEKFÜ

A few days ago there appeared — as a Publication of the Hungarian Academy of Sciences — a book dealing with the history of the Doctrine of the Holy Crown written by *Francis Eckhart*, professor of the history of law in the University of Budapest. While reading this book I was frequently reminded of the simple truth that reality is always clearer and more beautiful than what we are in the habit of imagining to replace it. Regarding the Doctrine of the Holy Crown we have always had and still have conceptions which in themselves are very attractive — conceptions which have been rounded off, on the basis of Verböczi's work, into artistic theories by those of our jurists who have taken their cue from the second half of the nineteenth century.

Only the historical data can enable us to appreciate the reality of the Doctrine of the Holy Crown; and this is what has been done in his present work by Francis Eckhart, who in this essential historical question has discovered the reality of the Hungarian past, — a reality not merely more true, but also more beautiful and more stirring, than even the finest theory.

The book has been written in keeping with the methods of the history of law; the author has collected from medieval and modern documents, from parliamentary speeches and transactions, the expressions relating to the Holy Crown,

which he has grouped, subsequently investigating the legal substance of each expression. *No more positive method could be conceived. Every explanation given by Eckhart is based upon a number of documentary expressions; the author does not attempt to say a single word more than what is contained in the Latin expression and is not prepared to colour the past; and this fact makes his exposition absolutely authentic in the eyes of scholars.*

The Doctrine of the Holy Crown may be regarded as dating from the coronation of St. Stephen; and in its first manifestation this Doctrine — in keeping with the character of the coronation as a Church function which was at that time still a sacrament — expressed the universal Christian idea that the Crown consecrated by the Church was the symbol of kingship and that the crowned king must in his capacity as Christ's Vicar worthily fulfil the sublime task thus entrusted to him. The Holy Crown at the same time became the symbol of the royal prerogatives, symbolising the office of king and the rights appertaining thereto; and there is evidence to hand already in the thirteenth and early fourteenth century to show that Hungarian public opinion derived the royal prerogatives from the Holy Crown. Already in the age of the House of Árpád the public documents referred to the dignity, glory, benefits, injury and grievances of the Holy Crown, laying particular stress upon the allegiance which freemen and nobles owed to the Crown. According to Eckhart the ecclesiastical origin and character of the ceremony of coronation resulted in the development in the Western kingdoms too of a certain crown-doctrine. — in particular in France and Germany; but this development was soon checked and never attained any historical or legal significance: on the other hand, however, the Hungarian Doctrine of the Holy Crown possesses two specialities which distinguish it from all others, — one

being the transcendental character of the Hungarian Crown which is the consequence of its religious origin and of the fact that it was worn by the saintly king who founded the Hungarian State, while the other speciality was the feudal allegiance to the Crown spiritually sensed from the very beginning as due to the Crown. *In national life only in England did the crown doctrine occupy the same pivotal position as it did in Hungary; but there only in the early centuries, the development in England later taking a different direction: while the Holy Crown as the focus of the national and State existence of the country has retained permanently its original position only in the history of Hungary.*

The *right* of the Holy Crown also developed early, in respect of the possession of property; the estates serving for the maintenance of the royal power appear already early in the thirteenth century as held *by right of the crown*; while in the following century the Crown figured as the symbol of the State in relations with foreign countries, appearing first in this character in international treaties. At the same time we find the term previously employed — “*the king's crown*” — existing side by side with the term “*the country's crown*”, that being the first sign of the development of a separate State personality independent of the king's person. In the chaos following the reign of Louis the Great — in the days of the assassination of Maria and the confinement and absence of Sigismund — the small towns of *Dalmatia* are found appealing for protection, not to the King of Hungary, but “*to the Crown of Hungary*”; *Eckhart* has spoken of the attachment of these towns — especially of *Ragusa* — to the Holy Crown, as a touching moment. The king, who in the days of the House of *Árpád* was himself the State, was gradually thrust into the background; and in a “kingless” period of the kind — in 1401 — the magnates

declared that the Holy Crown was the sole wielder of the State power.

This does not however mean that the Crown was superior to the king who had been crowned with it. It means simply that it represented at all times the kingly power; and when there was a king, that king was in possession of the Crown — that being the attitude of King Matthias too. When Regent, John Hunyadi always gave precedence to the Crown, speaking of his own power only as subordinate to that symbol. With the development of the Estates, which according to the latest views of historians was completed in the fifteenth century, the election of the king and the coronation as symbolising the transfer of the State power, ceased to be a Church function and became the business of the Estates; subsequently, as a result of the king being thrust more and more into the background, the Holy Crown was taken as the symbol of the country — of the whole territory of the Hungarian Kingdom —, the unity and integrity of which was under its protection; the subjects of the kingdom, irrespective of nationality, were all "*subjects of the Crown*". — According to Verböczi — who was stressing an old Hungarian conviction — the "*subjects of the Crown*" were entitled to justice, which had to be meted out to them, even if they were Jews or gipsies. Before the days of Verböczi the Holy Crown was already a moral personality; it was spoken of as having a will and was entitled to the possession of national estates, while it was the Crown with which foreign Powers made treaties. This power was undoubtedly reinforced by the influence of canon law and incidentally by the so-called "*organic*" State conception, which — following the precedent of the Church being regarded as "*the mystical body of Christ*" — considered the State too as a body, the Head of State being its head and the subjects its members. This theory, originally developed by *St.*

Thomas Aquinas, was present — in varying forms — in our texts already in the days of St. Stephen and is found there continuously in subsequent ages, — in the fourteenth century, for instance, when the persons present in Parliament, and in the fifteenth century, when all the nobles were regarded as members of the Crown. In 1413 already Ragusa termed itself "*member of the Hungarian Crown*"; the two ancient views — the identity of king and State with the Crown and the "organic" State-idea — were welded into one by Verböczy in his "*Tripartitum*". But, living as he did amid the party strife of the Age of the Jagellos, he placed the right of election and therewith the right of the transfer of power in the hands of the national community, this attitude being also based upon ancient traditions dating from the thirteenth century, that community in his opinion consisting of the privileged Estates, who enjoyed the same liberties as the prelates and the magnates or lesser nobles; according to Verböczy "*every noble*" was a Member of the Holy Crown.

As a consequence of the great authority of Verböczy's conception, as is well known, remained in vogue until 1848, the year of the fall of the Estates. We see, therefore, that for more than three centuries (after 1514) only the minority (the nobles) were considered as Members of the Holy Crown, the vassals (serfs) being excluded. The other medieval elements of the Doctrine of the Holy Crown also continued to remain in force in the centuries following the age of Verböczy: the Holy Crown continued to be the symbol of the State to which every subject owed allegiance: *disloyalty was a crime against the Crown; the territory of the State was also subject to the jurisdiction of the Holy Crown*. Prior to 1848 the accessory lands and *Transylvania* alike regarded themselves as Members of the Holy Crown; the criterion of citizenship was also whether

the person in question belonged to the Holy Crown. In *Transylvania* too every one was regarded as a citizen who originated from "countries subject to the Crown of Hungary". The Holy Crown was entitled to claim lost territories; it was the holder of all State property and had vested in it the overlordship of noble estates and the ownership of all Royal Free Cities. And this many-sided substance of the Doctrine of the Holy Crown has remained intact until the present.

The Doctrine of the Holy Crown has at all times been so deeply rooted in the ancestral Hungarian past, its wide-spreading branches and offshoots having been omnipresent in the intellectual life of every Hungarian generation, that the relative significance of its various elements has varied with the ages in keeping with the respective national task which each respective age has endeavoured to fulfil. From the period of the expulsion of the Turks down to 1848 the restoration of the territorial integrity of the country was one of the main problems; and we know how arduous was the task of re--incorporating the "Partium" and of engineering the union with *Transylvania*. At that period the Holy Crown figured in parliamentary records and in the speeches of statesmen as the personality eternally demanding the territorial integrity of Hungary. *In the age of Dualism, especially in the second half of the age, the defective character of the country's sovereignty was felt, political unity and completeness being demanded; the result being that the Holy Crown was stressed chiefly as the source of the inviolability of the constitutional Parliament.* After the conclusion of the Treaty of Trianon too it was the dismemberment of the Holy Crown that led instinctively to the claim for a revision; we do not propose on the present occasion to discuss the question as to whether sufficient use was made in this respect of the possibilities latent in the Doctrine of the Holy Crown.

Historians do not believe in the existence of any mysteries serving as the origin of State life or politics — mysteries which are consequently extremely secular in character; in general they have an aversion to vagueness, even where that vagueness is dictated by generous motives. Nor can historians reconcile with their science or with the methods of that science any idea that the constitutional and political way of thinking of a people with a thousand years' past cannot change, but must remain stationary at the point whence it started. The reason why the Doctrine of the Holy Crown is grand and elevating, is not that it reveals some ancient mystery the possession of which entitles us to regard ourselves as the first people in Europe to have established a constitution; the reason is that that Doctrine is the rich gift of the political maturity of the Hungarian people, which for centuries was elaborated by succeeding generations in a Hungarian spirit for the benefit of the whole nation. With that Doctrine in its possession the Hungarian people needs no comparisons. *The Doctrine of the Holy Crown, now over a thousand years old, together with the periodical variations thereon, is a creation of the Hungarian national genius which is one of the most magnificent proofs of the political capacity of the Hungarian people.*