

TRENDS IN MEDIEVAL POLITICAL THOUGHT



ESSAYS
P. R. L. BRUCE
M. WALLACE

BY
DAVID

by
Y

520.10902
Sm 18

OXFORD

TRENDS IN
MEDIEVAL
POLITICAL THOUGHT

ESSAYS BY

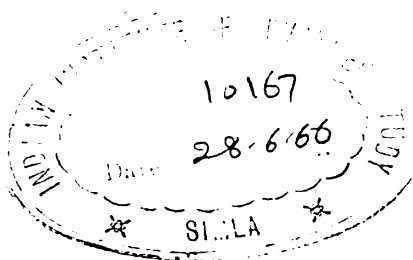
P. R. L. BROWN
J. M. WALLACE-HADRILL
K. J. LEYSER
JEAN DUNBABIN
MARJORIE REEVES
M. H. KEEN
T. M. PARKER

Edited with Introduction by
BERYL SMALLEY

BASIL BLACKWELL · OXFORD · MCMLXV

73

© Basil Blackwell & Mott, Ltd., 1965



72.109.02
 Library IAS, Shimla



00010167

Printed in Great Britain for BASIL BLACKWELL & MOTT, LTD.
by A. R. MOWBRAY & CO. LIMITED in the City of Oxford
and bound at the KEMP HALL BINDERY

CONTENTS

	PAGE
INTRODUCTION, by Beryl Smalley	vii
CHAPTER	
I. SAINT AUGUSTINE, by P. R. L. Brown	I
II. THE <i>VIA REGIA</i> OF THE CAROLINGIAN AGE, by J. M. Wallace-Hadrill	22
III. THE POLEMICS OF THE PAPAL REVOLUTION, by K. J. Leyser	42
IV. ARISTOTLE IN THE SCHOOLS, by Jean Dunbabin	65
V. MARSIGLIO OF PADUA AND DANTE ALIGHIERI, by Marjorie Reeves	86
VI. THE POLITICAL THOUGHT OF THE FOURTEENTH- CENTURY CIVILIANS, by M. H. Keen	105
VII. THE CONCILIAR MOVEMENT, by T. M. Parker	127

INTRODUCTION

BERYL SMALLEY

THESE essays represent a lecture course given at All Souls in Trinity Term, 1963. Increasing specialization has made the 'circus' fashionable; so I tried my hand at arranging one. Choice of lecturers was easy: they had to be based in Oxford, to specialize in some period of late-antique or medieval history, and to be interested in political thought. There are only eight weeks in term, which precluded any attempt at comprehensiveness. Our eighth lecture, by Mr. P. S. Lewis on 'Theories of Resistance in Fifteenth-Century France', will appear in *Medium Ævum*, since it has a more elaborate apparatus of quotations from unpublished sources than would be suitable here. The course was well received by a mainly undergraduate audience in a term which includes the Final Honours Schools and many pleasanter distractions. This has encouraged us to publish.

We have kept the informal lecture style of the originals. Contributors give only such footnotes as they need to justify their arguments; full bibliographies on each subject would be cumbersome and out of place. The original of a passage quoted in translation is given in a footnote only if it comes from an unprinted source. Contributions vary in depth and scope. Some lecturers offered the fruits of their researches; others undertook the less exciting but wholesome task of presenting better-known material in their own way.

We discussed the idea of taking a theme to run through the course and give it unity, but this was rejected in favour of perfect freedom for each lecturer to say what he liked. Anarchy was rationalized as the aim to bring out 'the richness and diversity' of political thought in the middle ages: hence our title, *Trends*. It has this to be said for it: some persons still write of 'the medieval mind', as though nothing changed between St. Augustine and Bodin. Our lecturers show some very individual minds at work in the period they cover. Perhaps this is flogging a dead horse, and writers on 'the medieval mind' do not read this kind of book

anyway. More important, the course illustrates how a particular genre would determine, if not conclusions, at least ways of reaching them. We pass from St. Augustine's sermons, letters and apologetics, through Carolingian tracts on kingship, polemics of the conflict between *regnum* and *sacerdotium*, commentaries on Aristotle's *Ethics* and *Politics* and on Roman law texts, the *Divina Commedia* and *Defensor pacis*, to the literature of the Conciliar Movement. A thinker of genius may either create his own form or reshape an existing one to suit himself; lesser men follow the lines laid down for them by their own particular duties or discipline. The influence of form on thought in the middle ages is still worth stressing.

All the same, as I listened to my team of unruly individualists, each bent on expounding his own 'trend' or contrasting two in one lecture (as Miss Reeves did by special request), I realized how much they had in common. They are all historians by training, who see political theories as an aspect of history. All relate their theorists to the contemporary scene, and warn us that they were trying to solve their own problems, not ours. Differences interest my contributors more than likenesses, though Augustine seems to be abreast of modern sociology in one sense, and the Conciliarists dealt, ineffectively, with problems which are still being discussed at the present Vatican Council. In their use of sources they share in the modern tendency to cast one's net wider than was possible to earlier students of political thought. Treatises on politics and related topics are supplemented by chronicles, letters, statutes and *obiter dicta*. Perhaps, too, the discipline of a historical training makes it easier to admit contradictions in one's authors and to note the ambivalence in contemporary attitudes. My lecturers took pleasure in pointing to gaps and inconsistencies in their sources; sometimes they suggested a reason: the logical consequences of an argument need not have been foreseeable, and so were not worth pursuing. Further, they linked arms inasmuch as an account of political thought in one period may show up novelty in what followed. Ninth-century bishops extended Augustine's teaching on rulership; they, in turn, make the 'papalist revolution' more new and unexpected; the detachment of thirteenth-century commentators on Aristotle provides just the right, neutrally-tinted backcloth for Marsiglio. Lectures IV to

VII take us from Paris to the Italian city states and back again, spotlighting the contrasts in social and political conditions in these areas. Whether the lecturers meant to or not, they brought out the theme of the developing secular state. The 'papalist revolution' paradoxically helped it along by teaching men to distinguish between ecclesiastical and secular, as they had not done before. The cleft deepened within the embracing concept of *Christianitas*. The failure of the Conciliarists spelled victory for the secular princes of fifteenth-century Europe.

The course ended as it began, on a note which brought home to me the change in outlook that has happened since I went, as an undergraduate, to hear A. J. Carlyle lecturing in University College. He used to tell us, scratching in his shock of white hair meanwhile, that Hobbes was 'an old donkey' and that Machiavelli did not count as a political thinker at all. His spoken censures on these two men corresponded to the theme and inspiration of *A History of Mediæval Political Theory in the West*. We have all been brought up on it. The Carlyles line up their political theorists and ask two questions: 'Has the state a positive function?' 'Is the ruler absolute, or should the subject resist a tyrannical government?' A theorist who answers wrong goes to the bottom of the class, while Machiavelli gets himself expelled. I mean no disrespect to those splendid volumes. What a dustheap they would have been if no leading idea had informed the scholarship packed into them! 'No theory, no history.' But the theory here springs from the concerns of Christian socialists or 'Lib-Labs', as their detractors called them in the phrase of that time. They were the *avant garde* of a generation educated before 1914. That the Carlyles and Figgis exaggerated the significance of resistance theories in medieval thought leaps up from many pages of *Trends*. The lecturers seemed to agree on it spontaneously. The Carlyles never hid or twisted their evidence; they were far too honest. It is a question of perspective. No one disputes the *fact* of resistance in the middle ages. There was plenty, but as Mr. Wallace-Hadrill says, from the point of view of theory 'it was of an untidy sort'. Writers on political theory are 'intellectuals' almost by definition. Medieval intellectuals for the most part wanted peace and a quiet life, to get on with their jobs. In this they resembled their opposite numbers throughout history. Only in revolutionary periods do

intellectuals advocate violence, and then it is often because they see it as inevitable: one chooses, not violence, but rather which cause it should serve. All our authors believed in the social hierarchy in some form or other. It rested on a volcano during the whole period under review. *The Pursuit of the Millennium*¹ should be compulsory reading for all students of medieval thought, supplemented by some eyewitness account of a revolt, such as *The Murder of Charles the Good* by Galbert of Bruges.² We may sympathize with the underdog; we shall not understand our authors unless we realize that they did not. The state had a repressive function, which was quite positive enough for them. They wanted to strengthen, not weaken it, though of course there are many nuances in their opinions. They had common sense and experience on their side when they pointed to the practical limits to tyranny. Even advice to suffer the tyrant and leave him to God's wrath, which had struck at many of his forebears, sounded plausible enough, if one read history as penned by the divine hand. Human instruments of God's wrath would come forward without prompting. The Gregorian polemic was a mere flash in the pan. Manegold's 'newfangled doctrine', as Mr. Leyser tells us, has interested modern historians more than it did his contemporaries. Given their background, we need not be surprised or irritated at the reticence and vagueness of medieval theorists when they allow or disallow resistance to tyranny; if the first, they hoped it would not be necessary; if the second, they felt sure that it would happen somehow, and then a Jacquerie perhaps.

What the priest cannot achieve by teaching and preaching, that the royal power does or commands by fear of punishment. For the people is easily controlled by dread of the king.

Abbot Hugh of Fleury included this cliché in his *Treatise on Royal Power and Priestly Dignity* addressed to King Henry I of England.³ He had chosen the right formula for both Norman and Angevin governments. The English bishops for the most part preferred the royal *vis et voluntas* or even *ira et malevolentia* against awkward subjects⁴ to Becket's call to them to defend the liberties of the Church. The people feared the king and bishops feared the people.

And yet the wheel has turned. I agree with A. J. Carlyle, and so, I think, would my contributors, in finding our medieval theorists closer to us than Hobbes, though for a different reason.

Our reason would be that the whole notion of the autonomous sovereign state of *Leviathan* is passing into history. The legacy of Greek political thought has hung heavily on 'modern' ideas about the state:

Political thought in Greece tended to concentrate on the internal changes of the States, on constitutional problems. Causes of war, external conflicts remained marginal issues rather than central problems. . . . War was the centre of Greek political life. Yet the amount of attention that Greek political thinkers gave to causes of war is negligible in comparison to the attention they paid to other matters. . . . Plato and Aristotle can always be relied upon to produce something interesting, if not something sensible, on any subject, but their contributions on war and peace do not bear comparison with what they wrote on constitutional changes.⁵

Marx put the international proletariat and Lenin imperialism on the map of political theory. We have had two world wars, and many revolutions; many attempts have been made to prevent bloodshed by 'joint action'. Political theorists who took inter-state warfare for granted as Aristotle, Machiavelli and Hobbes all did, without suggesting any way out of it, belong to an alien world. Our problems dwarf theirs. St. Augustine and most of the thinkers discussed in these lectures have more in common with us. They thought in terms of an authority which should be over and above the state, though they did not all give it coercive power or make it justify resistance. Exponents of the Carolingian *via regia* had a living tradition of empire to draw upon. Medieval papalists would have liked to substitute the Church. Dante, as Professor Gilson once threw out in conversation, 'proved that the empire was a dead institution by taking it seriously': we do not eulogize the living as a rule. But the fourteenth-century civilians still saw the need for it. Marsiglio had the strange idea that warring states would be able to co-operate in a *universitas fidelium* to hold a council. The Conciliarists discovered that the *universitas fidelium* was, if not as dead as Dante's empire, at least dying. The problem of finding an authority or co-operating to keep the peace is horribly topical. Earlier proposals for solving it are topical for the very reason that they failed. Of all our theorists only the Paris Aristotelians had caught the Greek virus; and they, as churchmen, and friars in many cases, could not wholly ignore the Church's claim to direct men to their supernatural end.

A nostalgic or patronizing attitude to political theories of the middle ages is silly. 'At best (or at least) it was a great ideal', said of the empire or papacy, misses the point. 'A great ideal', when impracticable, generally turns into a white elephant or worse. 'Idealism' does not characterize our medieval authors. 'Optimist' would be a better word to describe some of them. What most impresses me on reading through the course is their skill in analysing the data before them. They asked sensible questions. Events would frustrate their solutions, but we know how frustrating events can be. Our authors kept their feet on the ground; they could hardly avoid it. They were no armchair critics. All were involved in contemporary affairs as ecclesiastical statesmen, publicists, professional men or political exiles. As such they helped to make history. Perhaps our composite picture of them looks deceptively clear just because the choice of subjects was limited and the treatment selective. But *pace* my contributors I do see a picture.

¹ N. Cohn, *The Pursuit of the Millennium. A history of popular religious and social movements in Europe from the eleventh to the sixteenth century* (London, 1957). I do not agree with everything in this book; see my review, *English Historical Review* lxxiv (1959), pp. 101-3, but I still recommend it to all medievalists.

² *The Murder of Charles the Good, Count of Flanders*, transl. by J. B. Ross (Columbia University Press, 1960); see the review by K. J. Leyser, *Medium Ævum* xxxii (1963), pp. 51-3.

³ M.G.H. Lib. de lit. vol. ii, p. 469.

⁴ See J. E. A. Jolliffe, *Angevin Kingship* (London, 1955), pp. 50-109.

⁵ A. Momigliano, *Secondo contributo alla storia degli studi classici* (Rome, 1960), p. 21.

CHAPTER I

SAINT AUGUSTINE

P. R. L. BROWN

ISIDORE of Seville once wrote that if anyone told you he had read all the works of Augustine, he was a liar.¹ From the time of his conversion to Catholic Christianity, in 386, until his death in 430, Augustine wrote some 117 books.² Of these books, not a single one is devoted to political theory. Even the title of the book, in which we study his 'political ideas'—'*City of God*', *De civitate Dei*—is misleading. Augustine treated this as a technical term, taken from the Psalms,³ to express what we might call 'The Communion of Saints'.

The book itself took thirteen years to write, that is, from 413 to 426. Even Augustine thought it a bit too long; and we tend to dismiss it, as Henry James dismissed the Russian novels of the last century, as a 'loose, baggy monster'. Above all, *De civitate Dei* is a book of controversy. It should never be treated as though it were a static, complete photograph of Augustine's thought. It reads like a film of a professional boxing championship: it is all movement, ducking and weaving. Augustine is a really stylish professional: he rarely relies on the knock-out; he is out to win the fight on points. It is a fight carried on in twenty-two books against nothing less than the whole of the pagan literary culture available to him.⁴ Thus he is reluctant to follow an argument through to its conclusion in one move: instead, he twists a definition here, demolishes another there, proposes one to annoy an opponent, ignores it in the next few chapters, then takes it up again, no less than seventeen books further on, that is, ten whole years later.⁵ To try to extract from this infinitely flexible book a rigidly coherent system of political ideas is like trying to square the circle: it is a problem that has fascinated many great minds, and baffled all of them.

Yet this book dominated the political thought of the early middle ages; and Augustine is one of the few thinkers of the Early Church who can be called 'contemporary' to ourselves. In

this, he is like a planet in opposition: given the vast distance of time and culture that separates him from us, he has come as close as possible to the preoccupation of our own age. Why is this so? Perhaps it is because the whole emphasis on what is fruitful in political theory has shifted. The texts which the student usually has to study for his examinations, and especially the works of the 'classical' political theorists, Hobbes, Locke and Rousseau, already belong to the past. But the attitudes of Augustine and of many medieval theorists, though expressed in a foreign language and forming part of a framework of ideas to which we are unaccustomed, somehow remain relevant.

'Classical' political theory, from the seventeenth century onwards, was based upon a Rational Myth of the State. By myth I mean the habit of extrapolating certain features of experience, isolating them, in abstraction or by imagining an original state in which only those elements were operative, and using the pellucid myth thus created as a means of explaining what should happen to-day. The tendency, therefore, was to extrapolate a rational man; to imagine how reason, and a necessity assessed by reason, would lead him to found a state; and to derive from this 'mythical' rational act of choice, a valid, rational reason for obeying, or reforming, the state as it now is. By contrast, medieval thought, like modern thought, is neither concerned with a myth of the state, nor to base the fact of political obedience upon this myth. Both regard it as impossible to extrapolate and isolate man in such a way. Political society exists concretely: whether because of God, or history, does not matter; it is there. Above all, the link between the individual and the state cannot be limited to a rational obligation. As it exists, in fact, it is mysterious. We are linked to political society by something that somehow escapes our immediate consciousness: by a whole tangled skein of pressures and motives, some rational, many more not so. It is the nature of this tangled skein that perplexed medieval, as it now perplexes modern, thinkers. A man just finds himself in a situation in which men, for all the world like himself, are in a position to kill him, or to order him to kill others. Should this be so? Is it worth it? Is it right? In what circumstances may it be resisted? By what means may it be controlled? Thus, Augustine will not give us a fully-worked out 'myth'. Instead, he will do something more

important when dealing with an intractable reality: he will tell us where it is worthwhile looking; and, in so doing, he will direct some very bright beams indeed into crucial areas of the human situation.

For this reason, our paper will not claim to summarize the political ideas of St. Augustine:⁶ rather, it will attempt to delineate the distinctive manner in which he thought; to introduce the general reader to Augustine's assumptions, to what problems he thought were important, to the particular viewpoint from which he chose to impose meaning on the 'blooming, buzzing confusion' of human political society. Augustine's spontaneous reactions, therefore, as they appear at random in his sermons and letters, will often provide us with material that throws quite as vivid a light on his basic assumptions as do his professed formulations of political theory. Such a study must also, with regret, leave to one side the problem of the sources of Augustine's ideas, and their destiny throughout the middle ages; it can only claim to be a portrait, not a landscape.

The central problem of Augustine's thought is one which we all have to face: to what extent is it possible to treat man as having a measure of rational control over his political environment? The discovery that the extent of this control is limited has revolutionized political theory. Half the world is committed to some form of Marxist determinism: and the other half, far from rallying to Hobbes, Locke and Rousseau, studies Freud, the social psychologists, and the sociologists. On this point, Augustine is quite explicit: 'For no one is known to another so intimately as he is known to himself, and yet no one is so well known even to himself that he can be sure as to his own conduct on the morrow. . . .'⁷ This is the specifically Augustinian contribution to the problem of free will and determinism: for him, man is so indeterminate, so discontinuous, so blind in his intentions and haphazard in his attempts to communicate, that he must be determined by some forces outside the horizon of his immediate consciousness—for Augustine, of course, by God.

For this reason, one should begin studying Augustine's political theory in Book Ten of his *Confessions*, which he wrote around 397 or 400, that is, a good thirteen years before he wrote the *City of God*. Here we have Augustine's man, revealed by meditation on

his own 'memory', in fact on his whole inner world: 'Great is this power of memory . . . a spreading, limitless room within me. Who can reach its uttermost depths? Yet it is a faculty of my soul, and belongs to my nature. In fact, I cannot totally grasp all that I am.'⁸ Above all, man is discontinuous: he is incapable, by himself, of maintaining a continuous moral intention: 'As for the allurements of sweet smells, I am not much troubled. . . . At least, so I seem to myself; perhaps I am deceived. For that darkness is lamentable in which the possibilities in me are hidden from myself: so that my mind, questioning itself upon its own powers, feels that it cannot rightly trust its own report.'⁹ And, if man is discontinuous, his communication with others remains an unfathomable mystery. It is here that we can see most plainly how Augustine must invoke God to give meaning to this mystery. Communication is like putting a trunk-call through a vast telephone exchange: God is the operator, and it is He, and He only, who puts you through to what He thinks best: 'For you, O Lord, the most just ruler of the universe can so act by Your secret influence upon both those who consult and those who are consulted—neither of them knowing what they do—that when a man consults he hears what it behoves him to hear, given the hidden merits of souls, from the abyss of Your just judgement. Let no man say to You: What is this? or Why is this? He must not say it, he must not say it. For he is a man.'¹⁰ Now if man cannot determine himself entirely in consciousness, in moral intention, in communication, how much less can he claim complete self-determination in politics: how can he presume to claim to impose an intention planned by his reason on that scrambling box of human wills, presided over by God. It is typical of Augustine that he should cite the biblical text which is central to the Christian idea of kingship throughout the middle ages and beyond—*cor regis in manu Dei*, 'the heart of the king is in the hand of God'—but that he should deliberately complete the quotation: '*Just like a running stream*, so is the heart of the King in the hand of God: He deflects it wherever He wants.'¹¹

It is from this direction that we must approach Augustine's contribution to the Christian doctrine of passive obedience. He is a man for whom the delusion of self-determination appears as far more dangerous than any tyranny: 'Hands off yourself' he

says. 'Try to build up yourself, and you build a ruin.'¹² It is important to note the way in which this obedience is seen to rest on the individual. Augustine makes frequent use of the crucial passage of the thirteenth chapter of St. Paul's Epistle to the Romans: *Omnis anima potestatibus sublimioribus subdita sit, non enim est potestas nisi a Deo: quae autem sunt a Deo ordinatae sunt . . .*: 'Let every soul be subject to the governing powers, for there is no power but from God; these, coming from God, are subject to His ordering.'¹³ This is a free translation, in Augustine's sense. In it, the weight shifts to the last part *-quae autem sunt a Deo ordinatae sunt*. This does not mean that the 'powers that be' are divinely sanctioned in a crude sense: it is more that they are obeyed for the sort of reasons that would induce a man to obey any aspect of God's ordering of the world. A man is humble before his rulers because he is humble before God. His political obedience is a symptom of his willingness to accept all processes and forces beyond his immediate control and understanding. Thus, he can even accept the exercise of power by wicked men. In this, Augustine's view of obedience is strictly analogous to his view of illness, another phenomenon plainly beyond man's control and constantly frustrating his intentions. What does he do, he once wrote to a friend, when he feels depressed, and cannot preach well? *Flectamur facile ne frangamur*—'Let us bend easily, lest we be broken'. 'No man plans what he should do better than one who is more prepared not to put into action what is checked by the divine power, than he is avid to insist on doing what is thought out by his human calculations. For many are the thoughts in the heart of man, but the counsel of the Lord endureth for ever.'¹⁴

Because this obedience is based upon a religious attitude, it cannot be absolute. After all, the Christian Church had, in Augustine's opinion, grown because of the *pia libertas*¹⁵—the pious independence of the martyrs, who had refused to obey orders to sacrifice. The cult of the martyrs was the only form of popular devotion in the Early Church; and, in Africa, the accounts of how these 'prize-fighters of the Lord' had snubbed raging governors were read from the altar on innumerable anniversaries. But we must remember that these accounts are all courtroom scenes; and, as in a courtroom, the individual's heroic gesture is strictly cut off from the outside world. It is framed in a

straightforward protocol of correct behaviour. There is no appeal to the outside world—to political movements, to mobs, to immediate action of any kind. The martyrs remain, in the minds of late Roman bishops, courageous, but, like themselves, punctilious. Occasions for disobedience do not worry Augustine: what concerns him is the correct way to express an overriding love of God. One incident shows this plainly. That thoroughly un-Augustinian body of men, Augustine's own congregation at Hippo, had lynched the commander of the local garrison. Augustine is profoundly shocked. He agrees entirely that the man was a very wicked man; that his flock had been victimized by him. But the true, humble Christian, St. Laurence, on whose martyrdom he had been preaching, had limited his disobedience to a courteous refusal to sacrifice. Such a Christian would have nothing to do with an act of arbitrary violence, against a man set above him by God, for good or ill.¹⁶ Perhaps no thinker except Confucius has placed so great an emphasis on obedience as being produced and determined by the need to maintain an exacting standard of personal integrity and inner equilibrium; and on the need to avoid 'rancour', whose ideogram, derived from a 'closed up heart', plays such a part in the opening columns of the *Classic of Filial Piety*.¹⁷

An acute sense of the spiritual dangers of excessive claims to self-determination lies at the root of Augustine's doctrine of passive obedience: and it forms a somewhat oppressive feature of his political activities as a bishop. But it is only the negative facet of a positive doctrine. It is the positive doctrine of *ordo*—of the divine order of the universe—that predominates in the *City of God*. Man cannot claim complete self-determination because of his place in the divine order of things: in that order, he is tuned to one pitch and to one pitch only.¹⁸

We need only look around us to be surprised by the beauty of this order: '*Omnis ordo a Deo*: All order is from God. We must admit that a weeping man is better than a rejoicing earthworm. But I could still expatiate in praise of the earthworm. Consider his shining complexion, his rotund body, the perfect way in which his top fits his middle, and his middle, his tail-end; how, in his humble way, all his parts strive to make up a united whole. There is no single part of him so formed as not to harmonize with the proportions of any other.'¹⁹ But man, unlike the earthworm, is

an extremely complicated and notoriously erratic being. Above all, he is capable of a bewildering variety of loves. In his sermons, Augustine's men appear, not as 'dust and ashes', but as sturdy sinners, whose capacity to enjoy what they do strikes him as quite natural. 'The world', he says, 'is a smiling place.'²⁰ Little wonder, then, that it is enjoyed immoderately. The tenacity of their affections amaze him: think of highwaymen, tortured because they will not reveal the names of their accomplices. 'They could not have done this without a great capacity for love.'²¹ Augustine is acutely aware of the juxtaposition of these two elements. On the one hand, there is the self-evidence of a divine order of supreme beauty, to be contemplated in nature and in the absolute certainties of the laws of thought: on the other hand, the fact that, in this beautiful universe, the human soul tends to disperse itself in a baffling multiplicity of intense but partial loves. Such human loves only hint at a lost harmony: and it is the re-establishment of this harmony, by finding man's proper place and rhythm, that constitutes, for Augustine, the sum total of Christian behaviour.

Augustine's moral thought, therefore, is devoted to the re-establishment of a lost harmony. Because of this, human action is judged in terms of its relations. A good action is one that is undertaken in the light of a relation to a wider framework: the word *referre*, 'to refer', or 'relate', is central to Augustine's discussion of human activity; and for Augustine, of course, this human activity, of whatever kind, can only reach fulfilment when it can take its place in a harmonious whole, where everything is in relation to God.²²

It is from this direction, then, that Augustine approaches problems of political behaviour in a Christian ruler. The exercise of power, the establishment of order, the administration of punishment and the fighting of wars have their place in the order of human loves and human needs: Augustine is the last man to ignore their existence. Along with art and learning, political activity is among the 'great things' that human beings just do keep on doing with characteristic intensity.²³ In Book Five of the *City of God*, the problem of political activity is dealt with at length in this fashion. To Augustine, his present age of Christian emperors is different from the pagan past, because the Christian emperors are aware of this true harmony, and the pagans were

not. In Augustine's treatment of them, the ancient Romans emerge as undeniably heroic figures: Augustine plainly regarded them with the same sort of intense ambivalence as we, now, regard our own Eminent Victorians. But they were utterly unaware of the true nature of man's harmony. Instead, they set about establishing their own. It was a harmony based upon rigid self-control: they cowed their lesser vices with a stupendous pride and by a love of praise that led to exemplary public conduct.²⁴ They had their reward. God allowed them to conquer lesser men and to establish a remarkable city; but it was a mere *forma*—a perfect, but dead, shell.²⁵ God, who laughs the proud to scorn (with a rather bloodminded humour characteristic of African authors), had used all this feverish activity to spell out words in a language which the old Romans could not have understood; they were to provide stirring examples of fortitude to inspire Christian martyrs and the dispirited members of the 'redeemed family', the Church,²⁶ 'while they themselves conduct their own cases down below—whether successfully or not, is not at all relevant'.²⁷ Thus, the pagan empires of the past grew, prospered and fell for reasons of which the protagonists were entirely unconscious; from the point of view of God they were the incidental by-product of an experiment which, to put it mildly, has little to do with political theory.

With a Christian ruler the picture changes dramatically, to an historian, somewhat unconvincingly. Augustine's summary of the virtues of a Christian prince, and his portraits of Constantine and Theodosius, are, in themselves, some of the most shoddy passages of the *City of God*.²⁸ But in the framework of Augustine's ideas they are quite explicable. The Christian ruler differs from the pagan, not in the amount of power he wields, nor in the nature of the state which he maintains; he differs only in his awareness of where this power stands in God's order, to what it is related, what ends it may serve.²⁹ Above all, he will admit no illusion as to the ultimate source of what Augustine would have us regard as the by no means despicable 'consolations'³⁰ of political success. In Book Five of the *City of God*, Constantine, the first Christian prince, appears very much as he appears on his coins: decked out in the massive finery of his imperial robes, but with his eyes raised to Heaven.³¹

By now it should be plain that what we call Augustine's political thought gravitates around problems of man's behaviour in politics. The Christian subjects to whom he preached, and the Christian officials to whom he wrote advice, were not, for Augustine, 'natural political animals'; they were men faced with a whole range of aims and objects of love, of which those created by living in political society were only some among many others. They reacted to these aims not because they lived in a particular type of state, but because they were particular types of men. Put briefly, Augustine's political theory is based upon the assumption that political activity is merely symptomatic: it is merely one way in which men express orientations that lie far deeper in themselves. The Christian obeys the state because he is the sort of man who would not set himself up against the hidden ways of God, either in politics or in personal distress. The Christian ruler rules as he does because he is humble before God, the source of all benefits.

These remarks on the duties of the subject and the quality of the Christian ruler were welcome at the time. They showed that Christian ethics could absorb political life at a moment when pagans had begun to fear that Christianity had proved itself incompatible with Roman statecraft. They influenced the middle ages profoundly, because they provided a totally Christian criterion of political action in an unquestioningly Christian society. They do not, however, exhaust Augustine's thought on the state: they provide no answer to the question of why this form of political life exists at all. Indeed, in Augustine's opinion, one swallow did not make a summer. When he wrote the *City of God*, he was convinced of the collective damnation of the human race, with the exception of a small few, predestined to be 'snatched' from that 'damned lump'. The symptoms, therefore, which tend to predominate in his description of human political activity can only be thought of as symptoms of a disease. The roots of this disease go very deep indeed: it is first diagnosed, not even in Adam, but in the Fall of the Angels. The most blatant symptom of this fall is the inversion of the harmonious order established by God.³²

It is characteristic of Augustine that he should regard the most basic relationship in the divine order as one of dependence,³³ and

so the most basic symptom of the dislocation of this order, as one of domination—of the need to secure the dependence of others.³⁴ Augustine's own sense of personal dependence on God is particularly acute, it provides what is, perhaps, the sharpest note in his *Confession*i: 'Let the proud of heart deride me, and all who have never been brought low and broken by Thee unto salvation. . . . For, without Thee, what am I but a guide to my own destruction? Or at my best what am I but an infant suckled on Thy milk and feeding upon Thee. . . . What indeed is any man, seeing that he is a man? . . .'³⁵ For such a man, the only Fall could be one that upset this relationship of omnipotence and dependence. Thus, first the Devil, then Adam, chose to live on their own resources; they preferred their own *fortitudo*, their own created strength, to dependence upon the strength of God.³⁶ For this reason, the deranged relationships between fallen angels and men show themselves in a constant effort to assert their incomplete power by subjecting others to their will.³⁷ This is the *libido dominandi*, the lust to dominate, that was once mentioned in passing by Sallust, as an un-Roman vice, typical of aggressive states, such as Assyria, Babylon and Macedon;³⁸ and was fastened upon by Augustine as the universal symptom *par excellence* of all forms of deranged relationships, among demons as among men. Seen in this bleak light, the obvious fact of domination, as a feature of political society, could make the world of states appear as a vast mental hospital, ranging from the unhealthy self-control of the early Romans to the *folie de grandeur* of a Babylonian tyrant. This was a bitter pill, which many lay rulers were forced to swallow in later ages. But, as always with Augustine, the outward expression of this 'lust' in the form of organized states is merely a symptom. The extent, and even the admitted injustice of the state-building that Augustine observed, and commented on in blistering terms, was of purely secondary importance. A *libido*, for Augustine, was a desire that had somehow got out of control: the real problem, therefore, was why it had got out of control, what deeper dislocation this lack of moderation reflected. So, to say, as Lord Acton would, that 'all power tends to corrupt, and absolute power corrupts absolutely', would have struck Augustine as being rather like saying that a man got measles from having spots.

We emphasize this aspect of Augustine's thought because we tend to treat the state in isolation. But this is something which Augustine never did, at any time. The object of his contemplation, the aspect of human activity that he sought to make intelligible and meaningful, is not the state: it is something far, far wider. For him, it is the *saeculum*. And we should translate this vital word, not by 'the world', so much as by 'existence'—the sum total of human existence as we experience it in the present, as we know it has been since the fall of Adam, and as we know it will continue until the Last Judgement.³⁹

For Augustine, this *saeculum* is a profoundly sinister thing. It is a penal existence, marked by the extremes of misery and suffering,⁴⁰ by suicide,⁴¹ madness,⁴² by 'more diseases than any book of medicine can include',⁴³ and by the inexplicable torments of small children.⁴⁴ It is also marked by a disquieting inanity. Like a top set off balance, it wobbles up and down without rhyme or reason. Huge states can just happen, 'like a passing mist';⁴⁵ a gang of slaves almost overturns the Roman Republic at its height;⁴⁶ elderly bishops, vowed to poverty, are tortured by their conquerors for buried treasure they have no part in.⁴⁷ There are no verbs of historical movement in the *City of God*, no sense of progress to aims that may be achieved in history.⁴⁸ The Christians are members of a far country. Even to call them 'pilgrims' somewhat weakens the impact of Augustine's terminology: they are *peregrini* in the full classical sense; they are registered aliens, existing, on sufferance, *in hoc maligno saeculo*. Above all, they are in the *saeculum*, as in a vast experimental laboratory: to bring this point home, Augustine uses the familiar image of an olive press, squeezing the olives for oil.⁴⁹ The religious life of all members of the Christian Church is quite inconceivable for Augustine without this constant *pressura*—this constant pressing—inside the *saeculum*. It is important to note this. A whole study of the relations between the Catholic Church and society might be written around changes in the meaning of this one word, *saeculum*. For Augustine, it is all-embracing and inescapable: for other writers, it can become narrow, it can stand for a 'lay world' outside the Church, as a sort of primeval swamp of unregenerate politics that demands reclamation by the Catholic Church. This last view would contradict Augustine's most firmly held assumptions on the religious

life: the true Christian was here to be pressed in the self same press as the bad; to suggest anything else would be like suggesting that, in our experimental laboratory, the guinea-pigs should take over control of the tadpoles.⁵⁰

The most obvious feature of man's life in this *saeculum* is that it is doomed to remain incomplete.⁵¹ No human potentiality can ever reach its fulfilment in it; no human tension can ever be fully resolved. The fulfilment of the human personality lies beyond it; it is infinitely postponed to the end of time, to the Last Day and the glorious resurrection. Whoever thinks otherwise, says Augustine: 'understands neither what he seeks, nor what he is who seeks it'.⁵²

For Augustine, human perfection demands so much, just because human experience covers so very wide an area, a far wider area than in most ethical thinkers of the ancient world. It includes the physical body: this dying, unruly thing cannot be rejected, it must be brought into its proper place and so renewed.⁵³ It includes the whole intense world of personal relationships:⁵⁴ it can only be realized, therefore, in a life of fellowship, in a *vita socialis sanctorum*.⁵⁵ It is inconceivable that such claims can be met in this world; only a morally obtuse man, or a doctrinaire, could so limit the area of human experience as to pretend that its fulfilment was possible in this life. Thus, in opening his Nineteenth Book of the *City of God* by enumerating and rejecting the 288 possible ethical theories known to Marcus Varro as 'all those theories by which men have tried hard to build up happiness for themselves actually within the misery of this life',⁵⁶ Augustine marks the end of classical thought. For an ancient Greek, ethics had consisted of telling a man, not what he ought to do, but what he could do, and, hence, what he could achieve.⁵⁷ Augustine, in the *City of God*, told him for what he must live in hope. It is a profound change. In substituting for the classical ideal of an available self-perfection, the idea of a man, placed as a stranger in an uncomprehending land, a man whose virtue lies in a tension towards something else, in hope, in faith, in an ardent yearning for a country that is always distant, but made ever-present by the quality of his love, that 'groans' for it, Augustine could well be called the first Romantic. Thus we should never isolate Augustine's reflections on the state and society. They are part of an

anxious search for at least some echo, for some stunted analogy, that might lead men, in the misery of this life, to share with him some appreciation of the fulfilment of the human being that will be achieved beyond the *saeculum*. Anyone who reads the whole of Book Nineteen of the *City of God*—and it can be done with a most intelligent translation in Barrow's *Introduction to St. Augustine, The City of God*—will realize this immediately. It will be a salutary lesson in the true perspective of Augustine's thought.

Augustine attempts deliberately and persistently to see in human society the expression of the most basic and fundamental human needs. For only when he has hit upon what is truly fundamental in this life, can he feel that he has caught a partial hint of how these needs will reach fulfilment in his 'most glorious City'. For this reason, he is impatient with classical Roman theories of the state: these exclude too much of the realities of human behaviour. Augustine's political theory, therefore, is marked by the search for an all-embracing lowest common denominator of human needs that seek realization in social life. It is concerned with what is fundamental.

He finds this fundamental need in the human desire for peace. 'So great a good is peace', he writes, 'that even in earthly and mortal conditions to hear of it is pleasant, and nothing more desirable can be desired, nothing better, in fact, can be found. I should like to speak a little longer about this, and I think I shall not burden the reader: I do it because peace is the end of the city which I am describing, and also because of its inherent attractiveness, since peace is dear to all of us.'⁵⁸ This *pax*, for Augustine, means far more than tranquillity, unity and order. These things are only preconditions for its attainment. For Augustine, the obverse of peace is tension—the unresolved tension between body and soul and man and man, of which this life is so full. Peace, therefore, is the avoidance, and in its final form, the resolution of these tensions. Such a meaning of peace is characteristic of Augustine. He was a sensitive man, with an acute sense of violence and tension. His concern with peace as something absolutely fundamental to human happiness made him welcome any feature of organized society that might at least cancel out some of those tensions of which he was so intensely conscious.⁵⁹

For this reason, Augustine could accept the domination of man over man that had arisen from the Fall. This domination at least cancelled out certain tensions: although at a terrible cost, as anyone who has witnessed judicial torture and executions, would admit if he had any sense of human dignity.⁶⁰ But at least an ordered hierarchy of established powers can canalize and hold in check the human lust for domination and vengeance. For Augustine, like Hobbes, is a man for whom a sense of violence forms the firmest boundary stone of his political thought. The North Africa of his age was a notoriously 'tough' province. Augustine narrowly escaped assassination by his ecclesiastical rivals.⁶¹ What Augustine feels particularly acutely is the manner in which violence is a two-way affair, as demoralizing for the avenger as for the victim.⁶² It is this that shocks him in the lynching of the commander of the garrison at Hippo. *Ordinata est respublica* he says: 'The state is an ordered affair'; if he was wicked, let him be executed by a properly vested, impersonal authority, and not by the most degrading of all forms of action for all who take part in it, *privata licentia*, taking the law into one's own hands by mob violence.⁶³ It is a deep-seated and lasting anxiety. We in England, who can only bring ourselves to kill a man by hanging him decently in impersonal surroundings, are the direct heirs of this, Augustine's antiseptic theory of the state.

The weakness of Augustine's position is, of course, that it implies a very static view of political society. It is quite content merely to have some of the more painful tension removed. It takes an ordered political life for granted. Such an order just happens among fallen men. Largely because he feels he can take it for granted, Augustine can dismiss it. For him, it is a 'peace of Babylon' that should only be 'used' by the citizens of the Heavenly City. Like the Jews, they are 'captives' in this Babylon, although they are urged, as Jeremiah urged the Jews, to *Let its peace be your peace*.⁶⁴ Even in a model prison all the inmates can do is to accept, gratefully, whatever benefits may come their way.

But this is only the most negative facet of his attitude. The structure of political society, its vested order of command and obedience, is what Augustine would take for granted: what really interested him deeply was the quality of such ordered societies, above all, the quality of the reasons for their coherence. He,

therefore, rejects as too narrow the classical definition of the *res publica*: such a definition would make it appear as if political society were a mere structure designed to protect certain rights and interests. For Augustine, this misses the point. Men, because they are men, just do cohere, and work out some form of normative agreement—an *ordinata concordia*. What cannot be taken for granted is the quality of this ordered life; and, for Augustine, this means the quality of the motives and aims of its individual members. 'Suppose therefore', he writes, 'that a different definition of *populus* is proposed . . . like this: A people is a gathering of a multitude of rational beings united in fellowship by sharing a common love of the same things. In that case, to see the character of each people, you have to examine what it loves . . . it is a better or a worse people as it is united in loving higher or lower things.'⁶⁵

This definition is typical of Augustine. It is deliberately fundamental and all-embracing. Such a definition is so wide that it could include a football crowd on a Saturday afternoon; indeed, the atmosphere of the Roman circuses, with their amazing manifestations of mob-psychology, is never far from Augustine's discussion of the motives of human groups.⁶⁶ It hits upon a fundamental motive: *dilectio*, which, for Augustine, stands for the orientation of the whole personality, its deepest wishes and its basic capacity to love, and so it is far from being limited to purely rational pursuit of ends. It is dynamic: it is a criterion of quality that can change from generation to generation. 'History tells us', he writes, of how the quality of the Roman Republic did change, 'what were the things the Roman people loved in its earliest days, and in its later days.'⁶⁷ In short, Augustine's definition deliberately focuses attention upon that 'middle distance' of human habits, values and instincts, which, far more than its structure, remains the greatest mystery of political society.

To-day, perhaps, we can appreciate the importance of this shift of emphasis. Previously, it could be assumed that political theory was a matter of structure, in an almost mechanical sense. In discussing this structure, we had tended to analyse it into its component parts, and, hence, to isolate the individual on the one hand, and the state, on the other, as the only two parts whose relations are relevant to thought on political society. In fact, this isolation is a deliberately self-limiting myth. So much of our

modern study in sociology and social psychology has shown the degree to which political obedience is, in fact, secured, and political society coheres by the mediation of a third party, of a whole half-hidden world of irrational, semi-conscious and conscious elements, that can include factors as diverse as childhood attitudes to authority, crystallized around abiding inner figures, half-sensed images of security, of greatness, of the good life, and, on the conscious plane, the acceptance of certain values.⁶⁸ These make up an orientation analogous to Augustine's *dilectio*.

The problems which this perspective poses, therefore, cannot be ones of structure, so much as of the quality of the needs that seek expression in obedience and coherence. Viewed in such a way, the state becomes a symbol: it is one of the many moulds through which men might be led to express needs and orientations that lie deep in themselves; and the expression of these needs through an organized community provides a far more tenacious bond of obligation than the purely rational agreements of a social contract. For Augustine, this need to express loves through political society can be very sinister, just as human loves can be sinister: 'the earthly (or fallen) city worships its own strength in its rulers'.⁶⁹ But it can also provide his successors with the foundations of a theory of the Christian state. For, as it was expressed at the time, and in the middle ages, this emphasis on quality, on the direction of a *dilectio*, as the criterion of an organized society, appealed to very different preoccupations than that of a modern sociologist. It offered a way to recreate the link between a given form of political structure and what could be broadly called a civilization—a set of traditionally accepted values. Augustine is content, in Book Nineteen, to demonstrate that the quality of a state ultimately depends upon the values of its members; but the natural inference, drawn throughout the Augustinian tradition in the middle ages, was that the state exists precisely in order to maintain specific values, to preserve the true ends and loves dictated by the Christian religion.⁷⁰ Augustine did not draw this conclusion in the *City of God*, partly, I suspect, because he could, by that time, take such an inference for granted.

The Christian emperors of his generation had made the possibility of an official Christian state seem quite natural to Augustine. They were proud to be 'limbs of the Church' as well as Roman

emperors.⁷¹ They indulged in spectacular acts of piety, the penance of Theodosius before St. Ambrose, told in a surprising number of Christian sources, had already begun a popular image of Christian kingship that would have a long future.⁷² Above all, they had suppressed pagans and heretics. Augustine was deeply involved in this last change. He is the only bishop in the Early Church whom we can actually see evolving, within ten years, towards an unambiguous belief that Christian emperors could protect the Church by suppressing its rivals. He is the only writer who wrote at length in defence of religious coercion; and he did this with such cogency and frequency that he has been called *le prince et patriarche des persécuteurs*.⁷³

Augustine is also a crucial figure in the symbiosis between bishop and politician that is the most obvious feature of fifth-century life.⁷⁴ The provincial governors who came from Ravenna to Carthage, most of them good, Catholic Christians, would have found themselves obliged both to praise 'the solicitude of the bishops' in massive edicts against heretics, and, from 415 onwards, they were expected to read presentation copies of instalments of the *City of God*. Augustine could write to one such man: 'I tell you this: If your administration, inspired as it is by the qualities I have just mentioned, is limited to the one aim that men should suffer no inconveniences in their material life, and if you do not think that it is your business to be concerned with the end . . . to which they relate this quiet, that is, to put it bluntly, how they should worship the true God, in Whom lies the fulfilment of all quiet in this life, all such hard work on your part cannot advance you to the blessed life. . . .'⁷⁵ Here we have, already in Augustine's correspondence, the subtle and all-important difference between reading the *City of God* for oneself, and being told it by a bishop. In later centuries, in a society where the external role of the Church will become more explicit, Augustine's subtle, dynamic doctrine in which values form a field of forces, linking what men really want in their hearts with what they want from a state, will settle down as a static hierarchy of duties. In the letter of Pope Gregory the Great to Queen Brunhilde, the *dilectio* of Augustine has become, quite simply, *dilectio sacerdotum*,⁷⁶ and 'love', 'love of the see of S. Peter'.⁷⁷

Augustine would not have said this. We are left with a dichotomy: an acute awareness of the actual condition of man in this *saeculum*; and a yearning for a City far beyond it. Augustine never overcame this dichotomy. And for this reason, his most considered reflections on political society, as they appear in the *City of God*, are no more than the anxious questioning of a shadow; they are a hint of a full peace and of a full realization of hidden loves, in the Heavenly Jerusalem, whose name signifies '*Visio pacis*'. In a sermon which he preached at Carthage in the same year as he sat down to write the *City of God*, we can see, better than anywhere else, the force and the true direction of the momentum that led Augustine to pile up this great work for future ages to puzzle on: 'When, therefore, death shall be swallowed up in victory, these things will not be there; and there shall be peace—peace full and eternal. We shall be in a kind of City. Brethren, when I speak of that City, and especially when scandals grow great here, I just cannot bring myself to stop.'⁷⁸

¹ 'Mentitur qui te totum legisse fatetur,
Aut quis cuncta tua lector habere potest?'

Lines placed above the cupboard containing the works of Augustine in the library at Seville. Migne, *Patrologia Latina*, 83 col. 1109, cf. Possidius, *Vita Augustini*, xviii, 9.

² See H. I. Marrou, *St. Augustine and his influence through the ages* (Men of Wisdom), New York—London, 1957, for a succinct summary of Augustine's life, thought and influence, and a full table of the usual editions and of English translations of his works, pp. 183–6. C. Andresen, *Bibliographia Augustiniana*, Darmstadt, 1962, is a full bibliography, and E. Lamirande, 'Un siècle et demi d'études sur l'ecclésiologie de S. Augustin', *Revue des Etudes augustiniennes*, viii, 1, 1962, 1–124, covers exhaustively all studies of Augustine's views on Church and State. Of innumerable editions and translations of the *De civitate Dei*, the best edition is in the *Corpus Christianorum*, Series Latina. xlvii and xlviii, 1955 (cited here by book, chapter, line and page), and the best bilingual text, that of the *Bibliothèque augustiniennne*, vols. 33–6. R. H. Barrow, *Introduction to St. Augustine, The City of God*, London, 1950, contains a summary, commentary and thoughtful translations of select passages, to all of which I am particularly indebted.

³ *Gloriosa dicta sunt de te, civitas Dei*, Ps. lxxxvi, 3. Augustine deliberately chose this title, rather than the classical word for a just community, *res publica*: *De civ. Dei*, ii, 21, 116 (p. 55).

⁴ Augustine's qualities as a writer, and the literary taste of his age, have been brilliantly characterized by H. I. Marrou, *St. Augustin et la fin de la culture antique*, Paris, 1938, esp. pp. 39–76 (with handsome modifications, pp. 665–72). J. C. Guy, *Unité et structure logique de la 'Cité de Dieu'*, Paris, 1961, is an excellent introduction to the shape of the work.

⁵ *De civ. Dei*, xix, 21, 2 (p. 687), of a promise made in ii, 21 (pp. 52–5), transl. Barrow, pp. 110–18.

⁶ This has been done, admirably, by J. N. Figgis, *The Political Aspects of St. Augustine's 'City of God'*, London, 1921, and N. H. Baynes, 'The Political Ideas of St. Augustine's 'De civitate Dei'', *Historical Association Pamphlet*, No. 104, London, 1936 = *Byzantine Studies and Other Essays*, London, 1955, pp. 288–306. See also H. A. Deane,

The Political and Social Ideas of St. Augustine, New York-London, 1963. Recent studies have emphasized the manner in which Augustine's thought on this, and on every other subject, was constantly changing: see E. Cranx, 'The Development of Augustine's Ideas on Society before the Donatist Controversy', *Harvard Theological Review*, xlvii, 1954, pp. 255-316, and B. Lohse, 'Augustins Wandlung i. seiner Beurteilung d. Staates', *Studia Patristica*, vi, *Texte u. Untersuchungen*, 81, 1962, pp. 447-75.

⁷ Ep. 130, ii, 4, transl. Dods, *The Letters of Saint Augustine*, ii, Edinburgh, 1875, p. 145.

⁸ Conf. X, viii, 15; transl. F. J. Sheed, *The Confessions of St. Augustine*, London-New York, 1944, p. 147.

⁹ Conf. X, xxxii, 48; transl. Sheed, p. 194.

¹⁰ Conf. VII, vi, 10; transl. Sheed, p. 109.

¹¹ Prov. 21, 1, in *De gratia et libero arbitrio*, c. 42 (426/7). In this, and other passages of his late works, Augustine appears to have deliberately made a study of the political history of the Old Testament, in order to show that it was God only who controlled the outcome of the policies and conscious intentions of the protagonists: see A. M. de la Bonnardière, in *Revue des Etudes augustiniennes*, ix, 1-2, 1963, pp. 77-85.

¹² Sermon 169, c. 11.

¹³ Rom. xiii, 1 ff. By a characteristic slip, Augustine, quoting from memory, once wrote 'Omnis ordo a Deo', instead of 'Omnis potestas . . .': *De vera religione*, xli, 77; *Retractationes*, i, 12, 8.

¹⁴ *De cathecizandis rudibus*, xiv, 20. The citation—Prov. xix, 2—recurs when Augustine discusses his own dealings with the Imperial authorities on behalf of a town which had been severely punished for rioting: Ep. 104, iii, 11.

¹⁵ *Contra litteras Petilianii*, ii, xcii, 211.

¹⁶ Sermon 302, 10-17.

¹⁷ Hsiao Ching, ed. Creel, Chang and Rudolph, 'Literary Chinese by the Inductive Method', Chicago, 1948, p. 68.

¹⁸ For the complex idea of *ordo* as it affects Augustine's ethical thought, see two brilliant studies, J. Burnaby, *Amor Dei*, London, 1938, esp. pp. 113-37, and R. Holte, *Béatitude et Sagesse: St. Augustin et le problème de la fin de l'homme dans la philosophie ancienne*, Paris-Worcester (U.S.A.), 1962, esp. pp. 193-300. The essentially dynamic and interior nature of this idea is well stressed by G. Madec, in *Revue des Etudes augustiniennes*, ix, 1-2, 1963, p. 140: 'Or il me semble que la spéculation augustiniennne ne s'appuie sur la base statique d'un univers hiérarchisé que pour s'épanouir en recherche de Dieu par l'ascension spirituelle'.

¹⁹ *De vera religione*, xli, 77.

²⁰ Sermon 158, 7.

²¹ Sermon 169, 14.

²² The classic summary of this idea is in *De doctrina Christiana*, i, xxii, 21; transl. D. Robertson, Saint Augustine, *On Christian Doctrine*, The Library of Liberal Arts, New York, 1958, p. 19.

²³ *De quantitate animae*, xxxiii, 72.

²⁴ *De civ. Dei*, v, 13 (pp. 146-7). Characteristically, Augustine allows a classical author, Sallust, *Catilina*, vii, 6, to provide the material for this description; see F. G. Maier, *Augustin u. das antike Rom*, Stuttgart, 1955, a sound, if studiously negative treatment.

²⁵ *De civ. Dei*, v, 19, 50-51 (p. 155): *secundum quandam formam terrenae civitatis*. The translation of Barrow, p. 56, 'if judged by the rough standards of the earthly city', misses the sharpness of the word *forma* cf. Sermon, 268, 2: a baptized Christian outside the Church is like a perfectly formed, but dead, amputated limb.

²⁶ *De civ. Dei*, v, 18 (pp. 151-4).

²⁷ *De civ. Dei*, iv, 5, 19 sq. (p. 102).

²⁸ esp. the sketchy and superficial panegyric of Theodosius the Great: *De civ. Dei*, v, 26 (pp. 161-2).

²⁹ *De civ. Dei*, v, 24 (p. 160); transl. Barrow, pp. 58-60.

³⁰ *De civ. Dei*, v, 24, 6 (p. 160).

³¹ *De civ. Dei*, v, 25, 1-14 (pp. 160-61). For the difficulty experienced by his first biographer, Bishop Eusebius of Caesarea, in fitting Constantine into the stereotype of a pious man, see A. D. Momigliano, 'Pagan and Christian Historiography in the Fourth Century A.D.', *The Conflict between Paganism and Christianity in the Fourth Century*, ed. Momigliano, Oxford, 1963, pp. 93-4.

³² Thus, a promise of a book dedicated to the nature of the two 'cities' caused by the Fall of the Angels is contained in Augustine's commentary on Genesis: *de Genesi ad litteram*, xi, xv, 20. For this reason, I would reject, with Guy, pp. 9-10, the widespread and facile opinion that the *City of God* was provoked entirely by the Sack of Rome, in 410: a 'City of God' might well have been written by Augustine without such an event.

³³ esp. *De Genesi ad litteram*, viii, vi, 12.

³⁴ esp. *De Genesi ad litteram*, xi, xv, 20.

³⁵ *Confessions*, iv, i, 1: transl. Sheed, p. 45.

³⁶ See the massive summary in *De civ. Dei*, xii, 6, 1-14 (pp. 359-60): transl. Barrow, pp. 30-32.

³⁷ *De civ. Dei*, xiv, 28 (pp. 451-2): transl. Barrow, pp. 36-8.

³⁸ Sallust, *Catiline*, ii, 2, in *De civ. Dei*, iii, 14, 50 (pp. 76-7).

³⁹ This aspect of Augustine's thought is made particularly clear by H. I. Marrou, *L'Ambivalence du Temps de l'Histoire chez S. Augustin*, Montreal-Paris, 1950.

⁴⁰ *De Genesi ad litteram*, xi, xxxv, 48: *omnis contritio saeculi*, above all, *De civ. Dei*, xxii, 22 (pp. 842-5).

⁴¹ *De civ. Dei*, xix, 4, 110-31 (pp. 666-7).

⁴² *De civ. Dei*, xix, 4, 43-61 (p. 665).

⁴³ *De civ. Dei*, xxii, 22, 89-94 (p. 844).

⁴⁴ See a moving passage in *Contra Julianum*, v, i, 4: 'There is no other reason why the mass of Christians detest your new-fangled ideas [the Pelagian denial of collective punishment for an Original Sin] . . . but that they think of God as both the Creator of men and as absolutely just, and then witness with their own eyes the sort of agonies suffered by their own little babies. . . .'

⁴⁵ *De civ. Dei*, iv, 5, 19 (p. 102).

⁴⁶ *De civ. Dei*, iv, 5 (p. 102).

⁴⁷ *De civ. Dei*, i, 10, 70 ff. (p. 12).

⁴⁸ Augustine's view was not shared by other Christian writers of his century: v. E. Th. Mommsen, 'St. Augustine and the Christian Idea of Progress', *Journ. of the History of Ideas*, xii, 1951, 346-74 = *Medieval and Renaissance Studies*, ed. E. F. Rice, jr., Ithaca-New York, 1959, pp. 265-88.

⁴⁹ *Sermon* 19, 6.

⁵⁰ This alternative is dismissed as irrelevant: *de Trinitate*, iii, iv, 9: 'But since we have not reached that state [in which 'the government and direction of human affairs are in the hands of men who are devoutly and perfectly submissive to God'] (for we must be exercised in this exile after the manner of mortal men, and be forcibly instructed by scourges in meekness and patience), let us think of that higher and heavenly country itself, from which we are separated during this exile', transl. Stephen McKenna, 'Saint Augustine's *The Trinity*', Catholic University of America, Washington, D.C., 1963, p. 103.

⁵¹ See Burnaby, pp. 53-60, for a brilliant evocation of Augustine's attitude.

⁵² *De consensu Evangelistarum*, ii, 20. The statement is all the more poignant as Augustine in his early days had once hoped for just such fulfilment; see Burnaby, pp. 35-6.

⁵³ *Sermon* 115, 15. 'Take away death, the last enemy, and my own flesh shall be my dear friend throughout eternity'.

⁵⁴ *De civ. Dei*, xix, 8 (pp. 672-3): transl. Barrow, pp. 78-80.

⁵⁵ *De civ. Dei*, xix, 5, 5-6 (p. 669), transl. Barrow, p. 70.

⁵⁶ *De civ. Dei*, xix, 1, 4 ff. (p. 657).

⁵⁷ Max Pohlenz, *Die Stoa*, i, Göttingen, 1948, p. 111.

⁵⁸ *De civ. Dei*, xix, 11, 26 ff. (p. 675): transl. Barrow, p. 84.

⁵⁹ 'His learning is too often borrowed, and his arguments are too often his own . . .', Gibbon, *Decline and Fall*, c. xxviii, note 79. The sources of Augustine's idea of peace have been exhaustively studied by M. Fuchs, *Augustin u. der antike Friedensgedanke*, Stuttgart, 1936. But the danger of treating the history of the idea *in vacuo* is that Augustine's concern, in Book XIX, is to persuade the reader of the Resurrection as a final resolution of tensions. H. J. Diesner, 'Die "Ambivalenz" des Friedensgedankens u.d. Friedenspolitik bei Augustin', *Kirche u. Staat im spätrömischen Reich*, Berlin, 1963, 46-52, in presenting this attitude as purely static and conservative, seems to have missed the subtle alchemy by which Augustine will transform a traditional *idée reçue* by incorporating it in a novel argument.

⁶⁰ *De civ. Dei*, xix, 6 (pp. 670-71), transl. Barrow, pp. 72-6.

⁶¹ Possidius, *Vita Augustini*, xii, 2.

⁶² *Sermon*, 302, xi, 10.

⁶³ *Sermon*, 302, xiv, 13-17.

⁶⁴ *Jerem.* xxix, 7 in *de civ. Dei*, xix, 26 (pp. 695-7): transl. Barrow, pp. 126-8.

⁶⁵ *De civ. Dei*, xix, 24, 1-3 (p. 695): transl. Barrow, p. 124, *rationalis* in this case means 'possessing reason', as distinct from a herd of animals.

⁶⁶ *Confessions*, vi, viii, 13: transl. Sheed, pp. 90-91, for an acute description of this reaction of his friend, Alypius, to the gladiatorial shows—'He was no longer the man who came there, but one of the crowd to which he had come, a fit companion for those who had brought him'. In *De doctrina Christiana*, i, xxix, 30: transl. Robertson, pp. 24-5, he can explain the Christian fellowship in terms of the fan-club of an actor!

⁶⁷ *De civ. Dei*, xix, 24, 11-16 (p. 695): transl. Barrow, p. 124.

⁶⁸ Among many abstract treatments, see esp. the precise study of I. Menzies, 'A Case Study of the Functioning of Social Systems as a Defence against Anxiety: A Report on a Study of the Nursing System of a General Hospital'. *Human Relations*, xiii, 1960, pp. 95-121.

⁶⁹ *De civ. Dei*, xiv, 28, 7-12 (p. 451): transl. Barrow, p. 36.

⁷⁰ esp. H. X. Arquillière, *L'Augustinisme politique*, Paris, 1955².

⁷¹ *De civ. Dei*, v, 26, 47 (p. 162).

⁷² *De civ. Dei*, v, 26, 50 ff. (p. 162).

⁷³ This evolution took place less abruptly and with far less hesitation than many commentators would admit. See R. Joly, 'S. Augustin et l'intolérance religieuse', *Revue belge de philologie et d'histoire*, xxxiii, 1, 1955, 263-94, and P. R. L. Brown, 'The Attitude of St. Augustine to Religious Coercion' (to appear in *Journal of Roman Studies*, 1964).

⁷⁴ P. R. L. Brown, 'Religious Coercion in the Later Roman Empire: the case of North Africa', *History*, xlvii, 1963, pp. 283-305.

⁷⁵ *Ep.* 155, 10.

⁷⁶ *Greg.*, *Reg.* viii, 4.

⁷⁷ *Greg.*, *Reg.* vi, 5. See Arquillière, pp. 131-41.

⁷⁸ *Ennaratio in Ps.* lxxxiv, c. 10.

CHAPTER II

THE *VIA REGIA* OF THE CAROLINGIAN AGE

J. M. WALLACE-HADRILL

I BORROW my title from the abbot Smaragdus, of St. Michael's, Verdun,¹ or rather, we both borrow it from the Book of Numbers, chapter 21, verse 22: *via regia gradiemur*—'we will go along by the king's high way'. In context, this is a real highway. But Smaragdus lived in the ninth century, and was a man of his own times; and so his *via regia* becomes the Whole Duty of a King. It was this highway, rather than that of the Book of Numbers, which the men of the ninth century made specially and passionately their own. They had not much time for the large matters of political theory, and when it came to the point were glad enough to accept what they found and could grasp in the writings of the Fathers. But in authority they were interested, and in particular the authority of the ruler. Here they had something to say. We can pick our way along their road well enough to see that their opinions about authority form at least one basis of medieval kingship. These opinions were not easily reached, nor were they dominated by any one theme—as, for example, by preoccupation with the delimitation of authority. What rulers might not do or should not do were matters for discussion now and again, as they generally have been. But you cannot systematically restrict a ruler's powers before you have a clear idea of what you want a ruler for, and in consequence the Carolingian age remained hazy about any right to resist authority. The age was also hazy—perhaps hazier than we are—about its heritage of 'Germanic' kingship. Connoisseurs of the early Merovingians will know how little of kingship of any kind came over the Rhine with the Franks. Merovingian kingship was constructed in Gaul out of war-leadership and Roman administrative techniques; and the men who did the work were as often as not churchmen. Thus, the kingship the Carolingians inherited had almost nothing 'Germanic' about it, if by 'Germanic' we mean what Tacitus meant

by his *reges a nobilitate*.² I speak of the kingship of the Franks, but much the same could be said of the kingship of other barbarian successor-states in the west: of the Visigoths, for example, so much exercised by kingship during their astonishing seventh-century councils at Toledo and so little aware of any 'Germanic' heritage; or Anglo-Saxon England, where Bede not merely described but defined kingship of a kind that Hengist and Horsa could not have guessed at. I doubt if we appreciate the novelty of the Christian kingship that Bede knew, or the creative skill of his picture of it, or the effect that his picture had in England and on the continent in the eighth century, when manuscripts of his biblical commentaries and of the *Ecclesiastical History* became widely diffused. There is, then, if I am right, a long incubation before we reach the *via regia* of the Carolingians. Most of what proved useful and stable in pre-Carolingian kingship was due to churchmen who knew their Bible and their law, and who found their rulers willing listeners. The immediate difference between Carolingian kingship and what preceded it was a difference in temper—and in temperature. A certain amount, then, that I shall say of Carolingian kingship could be found foreshadowed or implicit in a slightly earlier time.

The *via regia*, the king's way, was also God's way, as the ninth century saw it; and so it becomes necessary to speak of the ninth-century notion of the kingship of God. The Carolingians saw God as King of Heaven.³ To Him they transferred the essential features, duly magnified, of royal power, and then, as it were, borrowed them back. God thus became not only the source of their power but also their model. God in His Heaven was a mighty ruler in His fortress; a fortress, moreover, realistically conceived as prototype of the Carolingian palace at Aix. From this fortress, at once seat of cosmic order and model for its earthly counterpart, God sent forth his Son to do battle for the souls of men. The Father was a great king, the Son a princely conqueror. Perhaps inevitably, the second person of the Trinity stood in some danger of losing his identity or characteristics in those of the first person: it is not the suffering servant that one sees in the Carolingian Christ but the conqueror and the creator. The Carolingian view of the act of salvation, without denying the Cross, certainly minimized it; and this is reflected in the art of the day. To some,

the model and source of power of earthly kings was God the Father; to others it was the Son. On the whole, the Carolingians favoured the Father, though Smaragdus himself was an exception. Their view was theocentric, and not, like the Ottonians', christocentric.⁴ Cathwulf put it thus to Charlemagne: *quod tu (rex) es in vice illius (Dei) super omnia membra eius custodire et regere, et rationem reddere in die iudicii*.⁵ We should not underestimate the impact of this large, simple vision. Carolingian churchmen could boldly approach the consequences of the connection between their rulers and their God because those rulers could see God as a king. One expression of this, direct and concrete, was the liturgical acclamation of the Carolingian kings known as the *Laudes Regiae*.⁶ The *Laudes* were formally a liturgical investigation of parallels between earthly and heavenly rule, pitched in a key that would have been quite foreign to pre-Carolingian ears. They invited reflection on the parallel between a conquering God with his heavenly hierarchy and the king with his earthly hierarchy, each order or member of one having his counterpart in the other; and they uniquely invoked the approval of the earthly ruler by the heavenly. There is correlation at every step, and the tone is one of triumph and conquest and command. Whether his counterpart were God the Father or Christ, the earthly king achieved something of the likeness of God in his heavenly City merely by reason of his supreme position in the corresponding hierarchy: borrowing perhaps from Byzantium, Kosmocrator faced Pantocrator. The king's character was in real truth different from other men's because his position on earth corresponded to that of God in the Kingdom of Heaven—and this altogether apart from the consequences of any king-making rite that might be employed. 'The word of my lord the king shall now be comfortable: for as an angel of God, so is my lord the king to discern good and bad.' The Book of Samuel [II, 14, 17] was familiar to the men who composed the *Laudes Regiae*. Here was no priest-king, no second Melchisadek, but a king who was seen, and who saw himself, as a triumphant warrior because that was how God appeared to him to be:

Rex regum, Christus vincit.
Rex noster, Christus vincit.
Gloria nostra . . .

Fortitudo nostra . . .
Victoria nostra . . .
Arma nostra invictissima . . .
Murus noster inexpugnabilis . . .
Defensio et exaltatio nostra . . .
Lux, via et vita nostra, Christus vincit.

These are among the invocations of the *Laudes Regiae*.⁷ They might fit in quite nicely with a barbarian king's determination to go campaigning anyway, but the imagery is specialized. It was derived from imperial Roman acclamations and from the Bible.

When a Carolingian wanted a picture of how a God-directed king should behave, his attention was directed to the Old Testament, and in particular to the two Books of Samuel and the two Books of Kings. At these he could look either directly, for himself, or indirectly, by way of the commentaries of the Fathers: which is one reason why it is so difficult to disentangle the immediate from the more distant sources of ninth-century political thought. Sooner or later, however, it would emerge that the Old Testament kings had got off to a poor start. It was not the prophet Samuel who wanted kings in Israel, but the people; and it was the people that had had to take the consequences. Bede, in his commentary on I Samuel, calls this pressing for kings the pertinacity of a disobedient people.⁸ Furthermore, there was from the start the idea that a king of Israel could be good or bad, according to his ability to do the will of Jehovah and to listen to Jehovah's prophets and priests. His was not, properly speaking, a restricted power so much as a power aimed at a certain set of objectives: it existed for no other purpose, and its durability depended on keeping the objectives steadily to the fore. To this extent, the kingship of Israel was an office, a ministry, which could be forfeited like any other office. The Old Testament king could be rebuked or abased, or could abase himself. All the same, it is not clear that this abasing of biblical kings much troubled the Carolingians, who would otherwise have been less keen than they were to see themselves as biblical kings. There was another side to the picture. If the king were God-like and God-given, then conspiracy and rebellion were acts against God. Hraban Maur was very strong on the sinfulness of revolt and listed several examples of what befell those who revolted against their rightful kings;⁹ and he

started with the good example of David: *David unctus iam rex non ausus est levare manum suam contra Saul regem*, and this though nobody had thought Saul a particularly good king. In practice, then, the Old Testament kings could be said to have enjoyed a certain security of tenure, though their independence of spiritual authority was not nearly so marked as was that of New Testament rulers. They sounded sufficiently attractive to the Carolingians to warrant a cultus of biblical kingship in court circles. It was not to Byzantium that Charlemagne looked for an imperial model but to the Book of Kings: he preferred to see himself as a new David;¹⁰ his son Louis was to see himself as a second Solomon; and to Pippin III, first Carolingian king, Pope Stephen II had written: *quid enim aliud quam novum te dixerim Moysen et praeifulgidum asseram David regem?*¹¹ The mode of comparison goes back even farther, to the Merovingians. Nor was it considered any weakening of the royal position when attention was drawn to the official nature of David's rule. He ruled *propter ordinem*, and on this depended his power and his honour; and so, in the *Libri Carolini*, we find the *sanctissimus rex*, David, characterized as *divinae incarnationis minister*. Moses, David, Josiah and Solomon were the great exemplars, and their professional standing and virtues were not confused. Archbishop Hincmar, the Ezekiel of the ninth century, distinguished nicely between rulers chosen direct by God (like Moses and Josiah), rulers who owed their power to God, though men played some part in their making (such as Joshua and David) and rulers who owed their power to men, though divine approval had not been withheld.¹² The idea of the personal sanctity of the ruler, to which I must return, comes straight from the Old Testament. Jonas of Orleans, in his *De Institutione Regia*, bids his king turn to Deuteronomy when he comes to consider *qualis esse vel quid cavere debeat*.¹³ Hincmar, again, rebuking Louis the German for his incursion into his brother's lands, refers him to the Book of Kings if he wishes to find out the proper way to treat a brother-ruler.¹⁴ This, then, was the biblical background to Carolingian kingship. Perhaps if we knew the Old Testament as well as the Carolingians did, we should find their royal activity less confusing.

I come next to the making of kings. It is possible to examine the *ordines* of Carolingian consecrations, to evaluate each phrase

and word in them and so to arrive at a very clear notion of their total possible significance. What we cannot be sure of, however, is their actual significance to particular people on particular occasions. Schramm's work on early Carolingian coronations and anointings showed that they were confused in aim and uncertain in outcome;¹⁵ and Marc Bloch was struck by the sense of novelty that enveloped them.¹⁶ They varied so much in form through the ninth century that one cannot feel sure what to make of them. Charlemagne was angry on Christmas Day, 800, and we do not know why. His successors were mostly eager to be crowned and anointed; but we do not know why, either. We do not know what each one thought was happening to him. We can only guess; and guessing is a bad start for political theorists.

Nevertheless, we can start from the fairly firm position that a royal consecration in the ninth century, involving unction or coronation or both, was a kind of sacrament. It had to do with the Church. The Church designed it and thought it out with Old Testament precedents very much in view. Whether consecration made a king or confirmed him or admitted him, it bore witness to a link between the king and God, as the Old Testament anointings had done. Was it a new way of making an old kind of king, or an old way of making a new one? We have to be on our guard against the assumption that the western clergy had never taken any interest or part in king-making before 751. It is not certain that 'co-operation with the Church did not become imperative before the rite of royal anointment was introduced',¹⁷ for we have almost no evidence. Imperative or not, however, ecclesiastical participation need have been constitutive only in the sense of assent to the fact of elevation. The stages that preceded ninth-century king-making were not at all new. One way or the other, a suitable candidate had to be found, a man whose qualities were right, a man of *potestas* and, if possible, of the right blood.¹⁸ Thus far he might almost choose himself. There had to be a presumptive right to rule. He had to know that he commanded support. He might then be raised on a shield or acclaimed in more ways than one. But what more? There followed a church ceremony, a ritual, that gave him something extra. It turned him into the ninth-century idea of a ruler in Israel, with all that this might imply about God, God's king, God's priests and God's

people. Through a piece of church-magic, as he may have seen it, the Carolingian was put directly in touch with the source of his power. He found himself called son of God by adoption;¹⁹ and I doubt if he paused to consider whether what had been done might not also be undone. What unction did was to bring the Carolingians right into the Old-Testament world of kings, and to invite reappraisal of the basis of rule.

What had the king or emperor (in this context it does not matter which) gained by becoming adoptive son of God in a sense that nobody else in his kingdom or empire could presume to claim? First, he had obtained divine protection for himself and perhaps for his family. 'Who knows', asks Bloch, 'whether rulers did not attach more meaning to this than we to-day suppose, and whether the wish to benefit from the scriptural promise may not have drawn more than one of them to seek the Church's consecration?'²⁰ In a word, you eliminated rivals. But we must be careful here: it could well be, for example, that the first Carolingian king, Pippin III, was anointed with his family not to protect the dynasty from rivals but because of revived interest in liturgifying biblical parallels²¹ and putting them to what we should call political use. Secondly, the king had opened up a new channel to *felicitas*, to good luck and prosperity. This is where the sense of a magic comes in. Charles the Bald believed that by having his queen Irmintrud crowned and anointed in 866, she would again become fruitful and give him better children than the bad lot he had already had.²² Thirdly, by accepting the burden that God laid upon him, the king increased his own chances of salvation. If this benefit seems imponderable it could none the less have been the greatest of all. Lastly, the king gained a job, with authority to carry it out. He gained it, and was commissioned to undertake it, at his consecration and not before. The *ordines* stress this job-aspect of kingship, and there is no reason to suppose that candidates for unction took this as a grim warning. It was what they wanted to hear: it made them grander; and it gave them a recognizable goal. Any consecrated king had a definite Christian rôle not less majestic in its way than that of the Byzantine emperors. He was a *Deo coronatus*. To sum this up, consecration did make a different kind of ruler, and not a weaker or more circumscribed kind. It marked no conscious victory for the Church in

the sense of the bishops having captured kingship by way of unction. Unction was an experiment, the outcome of which cannot have been foreseen. Further, it was the experiment of an episcopate which, as a coherent *ordo*, was a phenomenon of the Carolingian age;²³ and so when we think of experimental unction we must remember to see it in the setting of a new episcopate and a new kingship at work upon a new relationship that strengthened both. Carolingian consecrations were surely not designed as a series of wily counter-checks on royal absolutism, nor were they based on an acknowledged principle of contract between a king and his consecrators. His contract was with God.

What, then, was an anointed king's job, and what authority had he for his actions?

Charlemagne was quite clear that he was a Christian sovereign ruling a Christian people, though, towards the end of his life, he enquired whether, in view of all that went on, he and his people really were Christians: *utrum vere Christiani sumus?*²⁴ It is, then, as a community of belief, in an Augustinian sense, that we have to regard the Carolingian state.²⁵ There was no other state. For its well-being the ruler was responsible and, because its whole purpose was the salvation of its members' souls, the ruler's responsibility could not be confined to their material well-being, any more than was that of the kings of Israel; it was spiritual, too. Charlemagne's interventions in moral and doctrinal issues are readily understandable in this light. Not so readily understandable are the religious motives underlying some of his actions in a more traditional kingly sphere. We all know that the oaths of fidelity he exacted were a safeguard for himself and his family. But they were more, as he points out in his emphatic, almost apostolic, way to the *missi* of 802.²⁶ In the first place, he says, his faithful men were bound to devote themselves utterly to God's service, remembering that the emperor could not personally watch over the faith of each individual. Moreover, they should in no way damage the interests of churches, widows, orphans or foreigners. A faithful man was bound by his oath never to hinder the emperor's orders or to impede his will or to deflect his justice. Halphen rightly says that 'the implications of the oath of fidelity were infinitely extendible'. They covered everything, because all actions—

indeed, all thoughts—could be viewed in the light of their effect upon the aims of Christian society; and the ruler alone could judge of their effect. Any contravention of the Decalogue—theft, for example—ranked as *infidelitas*. The oath was, then, to something more than to the ruler: it was an oath to support the aim of Christian society as interpreted by the ruler. Any man who betrayed the interests of this society was therefore *infidelis*. The Merovingians and their contemporaries, though Christians, had known nothing like this.

His duties, as Charlemagne saw them, were moral duties; all his imperial activities, whether legislative or judicial or military, were an exercise in moral authority. We can see this clearly if we turn to the one composition of his mentor, Alcuin, that can fairly be termed a consistent statement of political theory, the *Disputatio de rhetorica et de virtutibus*.²⁷ Here and on other occasions, Alcuin was quite clear about his master's duties, which he derived in part from the seventh-century Irish treatise, *De duodecim abusivis saeculi*.²⁸ These were: to correct, to defend, to judge, not to oppress. He must rule, too (here following Isidore),²⁹ through terror; and this should save bloodshed because it would lead to the unresisting surrender of his natural prey, the pagan world upon his frontiers. His Christian duty was to follow the example of David and be a conqueror, a subjugator of peoples. More than this, he must be a *praedicator*, keeping his people free from heresy and converting the heathen, though never as a *sacerdos*. To these ends he is blessed by divine grace with the gifts of power and wisdom and *felicitas*. Let him but do his duty and the *felicitas regni* would be fulfilled in the beatitude of the eternal kingdom. Alcuin's interest was simply in his lord's moral responsibility, in the attainment of *stabilitas*, 'the enduring solidity of faith', and in his *morum nobilitas*. From this it followed, almost as a necessary myth, that the ruler must be the wisest and most moral man in his kingdom, an example to all. His moral duties hinged upon irreproachable personal behaviour, again as in the Old Testament; and here at once one sees the way to a formidable brake upon the exercise of sovereign authority. Alcuin's little lecture, however, was not concerned with brakes on sovereign authority but on its proper deployment towards the goal of salvation. He never troubled his head about how or when to get rid of unjust

rulers. It was enough to point out to his readers that their emperor was replete with the virtues that alone could make his rule over them efficacious. A later generation had to face the practical problem of *reges iniusti*. As for Charlemagne, 'virtue he had, deserving to command', and that was enough. The peace of the Christian society he ruled was based on its unity of purpose, on its identification with its ruler, and of its ruler with God. Diversity of aim or divergence of any kind on the part of the individual was the evil most to be feared, and above all in the ruler. *Unanimitas*, society's pursuit of Christian peace, strongly suggests a resumption of interest in one of St. Augustine's themes, even if in new guise.³⁰ We are drawing near to what Arquillière termed 'augustinisme politique'. Charlemagne could command *unanimitas* of a kind, his aims seemed attainable because he himself was a *rex iustus*; and lest he were in any doubt about the precise personal qualifications of such, Cathwulf was at hand to list them for him. Cathwulf called them the eight columns of royal *iustitia*. Here they are:

Prima est veritas in rebus regalibus; secunda patientia in omni negotio; tertia largitas in muneribus; quarta persuadibilitas in verbis; quinta malorum correptio et districtio; sexta bonorum elevatio et exaltatio; septima levitas tributi in populo; octava aequitas iudicii inter divitem et pauperem.³¹

There is nothing here to startle a man brought up in an older tradition. What is new is to regard so mixed a bag of virtues as the only road to efficiency in the office of ruler.

With what or with whose authority did Charlemagne imagine he ruled? Anointed, he ruled *gratia Dei*; and from this *gratia*, however God had bestowed it, his authority as a Christian ruler stemmed.³² It was an effluence of God's grace, freely and revocably given. The ruler had no right to it, and without it he was no ruler. Again, earlier precedents could be cited: pre-Carolingian kings sometimes thought of divine aid or support as a desirable part of their armament. But this was not quite the same. Divine *gratia* had now become the very source of authority; it alone empowered the ruler to rule; for it was God's rule over God's people that was in question. The earthly ruler was therefore the channel, by grace, for the transmission of God's authority; and it also followed that, as the repository of that authority, the ruler

must stand in a new relationship to his people. They were not the source of his authority; that was God; they were literally his *subditi*, his *subiecti*. Whatever of authority they exercised, they exercised by his concession or delegation, not of right. The gulf was widened between king and people. In the course of a remarkable analysis of this development, Dr. Ullmann writes: 'The king by the grace of God had effectively emancipated himself from the *populus* itself and on the other hand freely acknowledged God as the source of the royal power.' Emancipation is perhaps putting it rather strongly. Something depends on how we define *populus*; but I cannot easily picture the pre-Carolingian kings as conscious of being answerable to any *populus* for their authority or sovereignty; so that, if I am right, we have with the Carolingians not so much the substitution of a theory of descending delegation of authority for an ascending one, as the happy acceptance that what was already implicit had become explicit through looking harder at the Old Testament: it made sense to everyone—clergy, king and people—but nobody said, so far as I know, that a substitute had been found for a clearly-understood 'Germanic' theory of popularly-derived sovereignty.

I have said that the bishops of the ninth century saw themselves as and behaved as an *ordo* in a way that was new; and it is time to consider this further, in terms of its bearing on kingship.

Political upheavals must account for something of this revolution. The Carolingian bishops were often called upon to reach great political decisions; and in conclave they had a model of their own.³³ It was the Early Church. They saw themselves as the successors of the apostles grouped round St. Peter. For example, the synod of 829 was shot through with nostalgia for the Early Church, the bishops consciously imitating the council of Jerusalem of A.D. 50.³⁴ You could say that the model of the Old Testament momentarily yielded place to the New. And what duties will these pastors (for it is as pastors more than doctors or priests that they behave) allocate to themselves? They will correct sin, the social consequences of which were the obsession of the time; they will interpret that reign of justice which kings must establish; they will proclaim the *vita apostolica*, the way of life of the Christian community of Jerusalem, grouped round the

apostles after Pentecost. It is the interpretation of a way of life that the bishops undertake; and one can hardly call this a deliberate infringement of royal prerogative.

We meet the *vita apostolica* in the pages of the treatise *De institutione regia*, put together in 831 from the acts of the Synod of Paris of 829 by Bishop Jonas of Orleans, for the guidance of Pippin of Aquitaine. It was a little lecture, addressed to his *domino nobilissimo prosapia, pulchritudine atque sapientia prestantissimo Pippino regi gloriosissimo*. The recent troubles of poor Louis the Pious have not tempted the bishop to take liberties, and we should be quite wrong to think of Louis' so-called deposition as some kind of Canossa. What had happened was this. Louis had threatened peace and unity, the conditions of salvation, because his partitions of the empire had threatened dislocation.³⁵ So the bishops, or some of them, intervened to convict him of sin; he was no longer *populo dux salutis et pacis*. There was nothing said of deposition. A penance was imposed on the emperor that made it no longer possible for him to rule because he would be shut off from the world. The office of ruler was therefore vacant. In terms of machinery for dealing with difficult kings we have not got much beyond the situation of 751, when the last Merovingian was packed off to a monastery. Machinery apart, however, we can now see 'augustinisme politique' in action. There is no secular state: there is only a secular power within the Church, a necessary weapon of ecclesiastical authority. To paraphrase Arquillière, Natural Law has become absorbed in supranatural justice, the Law of the State in that of the Church. The actions of the bishops matter less than their reasons, and their reasons are bound up with their feelings. Louis the Pious had shocked them in proportion as their feelings about the *vita apostolica* had become intensified. You can sense it, too, in the important letter of Pope Gregory IV to the bishops who had stood by Louis.³⁶ He also intervenes to rebuke sin: if the sinful emperor cannot ensure peace and unity, he, the Pope, must. Why, he inquires, had not the bishops shown to their emperor the portrait of the just ruler in *De civitate Dei*, V, 24?

To return for a moment to Jonas. There is so much that he does not say to King Pippin. He says nothing about unction, nothing about how divine authority reaches a king, nothing about

any right of the subject to disobey a king, nothing about popes, nothing about deposition. But there is much about the king's moral attributes, his judgements and above all his justice, the characteristic and all-enveloping royal virtue. The atmosphere is that of the Old Testament. It might be Samuel speaking. What was the difference, then, between the virtues of the just man and those of the just king? It was a difference of scale, mostly; any man might imperil the salvation of Christian society by injustice, but the king was likeliest to do so because he had had entrusted to him a greater share of divine authority than had anyone else, and had the added responsibility of supervising authority delegated to those beneath him. This was *recta administratio* in action. So far Jonas went. He was a bishop. His whole emphasis, in the words of Delaruelle, was on conservation and morals—an unexpected goal, perhaps, for a member of an *ordo* whose irruption into politics had been revolutionary.

'During the reigns of Louis and Pious and his sons', writes Fritz Kern, 'kingship was more profoundly humbled before the Church than in any previous century.'³⁷ What would Jonas have made of this? Penance involving relinquishment of rule was humiliation indeed; but humiliation of a man, not of his office. Others had done penance without damage to their office—David, for example, and the Emperor Theodosius. Kings were humbled, not kingship. The troubles of the mid-ninth century brought into sharp relief the importance of the personal suitability of rulers to fulfil a moral task, so that for Christians the idea of kingship had become inseparable from the idea of right. Carlyle claimed that the ninth-century bishops saw their princes as barbarians.³⁸ But a sinner is not always a barbarian; and a *rex iustus* seemed a possible kind of ruler. The Carolingian age had no time for the impracticable. The duties of the *rex iustus*, so clearly delineated for the Carolingians, were realizable up to a point. If they were auxiliary duties, so also was every function that God delegated within the hierarchies of Christian society. The pope was the embodiment of Christ, its head; that was very clear; but within his kingdom and even among his clergy the king was a man of godlike stature, whose person it was sacrilege to conspire against: 'Cor regis in manu Dei.'³⁹

The business of defining kingship was taken a step further through the writings and the actions of Hincmar, archbishop of Rheims in the mid-ninth century. Hincmar was a lawyer; and this is one reason why kingship in relation to law is best looked at with his help. Two of his treatises were written to help kings: *De regis persona*⁴⁰ was addressed to Charles the Bald, and *De ordine palatii*⁴¹ indirectly to Carloman. The first was a collection of *sententiae*, but it was Hincmar's own collection. Its tone is urgent. What he seemed to want was an altogether more vigorous king, not afraid to correct, punish or repress, and ready to fight. He has several chapters on fighting, mostly from St. Augustine. Ruling he sees as a professional job; indeed, his full title is *De regis persona et regio ministerio*. I would say that the purpose of the treatise was to help Charles to be more powerful in a useful way. *De ordine palatii* looks more original, though Hincmar may be right to claim that most of it came from an earlier book by Adalhard. It is an old man's work, as it looks back to the age of Charlemagne, the imagined golden age of a Christian society functioning as an organic unit under the priesthood and kingship of Christ. But there is something in the emphasis of *De ordine palatii* that is fresh, something that goes a little beyond St. Augustine even. I mean, the writer's preoccupation with the king as creator and servant of law, and his conviction that the king is the source of all human law made for the proper purpose of fulfilling or complementing divine law.⁴² Human law achieves this by its repressive character: by enforcing, that is, the conditions conducive to human salvation. He is fond of St. Paul's *lex propter transgressionem posita est*. If a man, including a king, were just, he would not feel the restraint of law. The majesty of human law lies, then, in its moral objective and in its power to interpret and enforce divine law, as revealed in the Scriptures; in a word, it is Christian. Hincmar does not state just how wide his definition of Christian law would be; certainly it would include the legislation of the Christian Roman emperors; but he does state that no Christian can plead ignorance of any law that is Christian. Precisely because all Christian law has a moral basis, the Christian ruler, imperfect as he is, must be the first to obey it, whether it be of his own promulgation or someone else's. If he does not, he is not a Christian. All Christian law is equally permanent in its

binding effect, and therefore (and this perhaps is Hincmar's contribution) laws should be made accessible and intelligible by codification.⁴³ Multiplicity of laws leads to disorder. The essence of what he thinks about law is expressed in chapter viii, which runs as follows:

And just as we have explained that no priest may plead ignorance of the canons of ecclesiastical law or do anything against the rules of the Fathers, so also *leges sacrae* [that is, Roman Law] have been decreed that no man can plead ignorance of or dispute. Since it is declared that all men must know the laws and conform to their decisions, no layman, whatever his position, can claim exemption from their authority. Thus there are laws that kings and *ministri reipublicae* must enforce in the administration of their provinces; and there are also capitularies of Christian kings and of their predecessors legally promulgated by them with the general consent of their *fideles*; and these equally must be observed. St. Augustine says of these laws: 'It is right for men to debate them while they are being formulated but once they are agreed upon and accepted, judges no longer have the option to dispute them but only to implement them.'

Provided always that a law furthers the interests of Christian society, it must, then, be considered universally applicable to that society and immovable, whether in origin it be Roman Law, canon law, royal edicts or what we should call barbarian law. As to origin, Hincmar clearly holds that the ruler is the source of law, whether consented to by others or not. Law is royal and should be royally enforced upon all, clergy and laity alike. The clergy in their persons are not exempt, any more than the king in his person is. Hincmar repeatedly distinguishes persons from their functions, and notably kings from kingship. This may seem obvious enough to us, but it was not so in the early middle ages. Once more, it emphasizes that what the Church had been doing to kingship was not to make it the lackey of the hierarchy but to strengthen it by freeing the office from the office-holder. Hincmar could be fairly unscrupulous at times; but he did not use his knowledge of law simply to gain his own ends. He had a firm grasp of its rightful place in an ordered society, and of the ruler's relationship to it. He had, too, for much of his career, to do with a ruler, Charles the Bald, who knew enough law to be personally acquainted with the Theodosian Code.⁴⁴ Dr. Ullmann means what Hincmar meant when he writes: 'the enforceable character

of the laws was rooted not in the consent given by magnates, barons, etc., but in the royal *voluntas*. Hence the law of the theocratic king was a royal concession.⁴⁵ It could even include royal interpretation of the Bible. Ullmann then goes on to distinguish this royal law from the popular or barbarian law-codes that seem to him to have been grounded in consent. No doubt they once were, but it is unlikely that, as they existed in writing in the eighth and ninth centuries, they were distinguished in this way. Their distinctiveness lay more in the fact that kings promulgated them and gave them the cover of their authority than in the general approval that once lay behind their acceptance. Not for nothing were the Burgundians called *Gunbadingi*, 'followers of the law of King Gundobad'. The laws of the Bavarians would have been nowhere without the repeated intervention of the Frankish kings.⁴⁶ No laws could have been royaller than King Alfred's. You will recall Fritz Kern's brilliant pages on 'the monarch and the law' where he writes: 'Law was the living conviction of the community, which, though not valid without the king, was yet so far above the king that he could not disregard the conviction of the community without degenerating into lawless tyranny.'⁴⁷ You cannot, however, cover the entire early middle ages in this way without being sure that 'community' has an invariable meaning. If Kern means that all new law was technically folk-law as that would have been understood in, say, the sixth century, then it seems to me to be untrue for the Carolingian age as a whole. It brings us, however, within range of the last big problem affecting kingship that I wish to draw your attention to: the problem, namely, of the *populus*. The Carolingians believed that they ruled a *populus*; not a *populus* of Franks, Lombards and others, though they were that, too, but a *populus christianus* whose members were equal in God's eyes and whose sovereign was God. Jonas of Orleans emphasized this equality: *cavendum his qui praesunt, ne sibi subiectos, sicut ordine ita natura, inferiores se esse putent*,⁴⁸ and Carlyle was right that the patristic theory of the natural conditions of human nature was one of the few which the ninth-century writers adopted 'with intelligence and conviction'.⁴⁹ This *populus*, then, was not the property of its earthly rulers: it was God's *populus*, which it was the ruler's duty to protect and to save. It embraced three *ordines*: laity, monks and clerics. They were ordained by

God for the purpose of peace and salvation and were represented in the *Admonitio Generalis* of 789 as the supporting columns of the kingdom. Himself a member of the *ordo laicorum*, the king was master of all three. When all is said, one has the impression that *populus christianus* conveyed a clearer and more significant meaning than did *imperium christianum* to the men of the ninth century. The significance of *imperium christianum* is debatable to us because it was debatable to them.

Did this ordering of the *populus christianus* give it, or any part of it, a right to resist its ruler? The clergy could admonish a wicked ruler and the laity could assassinate him, but neither, as an *ordo*, could depose him. There was no machinery for doing so, and the want of it was not quickly felt. You could say that a bad king, a tyrant, unmade himself by the mere fact of contradicting the purpose of his office, but you really ought to endure him. This was Isidore's position in the seventh century,⁵⁰ and Hincmar acknowledged as much two centuries later after sad experience of royal inefficacy.⁵¹ Running counter to this was the practice certainly, and the theory possibly, that men had a right to resist tyranny. If, in the last resort, as Kern says, a tyrant is one who interferes with another man's rights without his consent, then the times were rich in examples of resistance to tyranny of one kind and another; and we do not have to go back to Germanic tribal custom to find a reason for this: Greeks and Romans resisted, too; it is human nature. Rulers with their wits about them habitually did obtain what prior consent they could from those liable to be affected by their measures. When, therefore, we read that an eighth- or ninth-century king had decreed this or that in his court *consensu omnium* or words to that effect (including *consensu fidelium*) we should not assume that the consent was constitutive, though it may sometimes have been.⁵² Hincmar is vague here. Nor, if it were so, need it have stemmed from a tribal past. 'Popular consent' may also have had religious overtones derived from the Old Testament. We must remember the Chosen Tribe behind the cohesive *populus*. We must remember that the *universus populus* that participated in the downfall of Louis the Pious was conceived in biblical and not in Germanic terms. (Some notion of the activity of the biblical *populus* can be had by referring to Dutripon's Concordance of the Bible, where the word occupies no less

than twenty-five columns.) There was, too, the acclaiming voice of the *populus romanus*, liturgicized for the Carolingians by their bishops. *Consensus* may often have been no more than another word for convenience. Its corroborative effect, however derived, can only have been felt to strengthen the ruler's hand, not to weaken it. But still there was resistance of an untidy sort. I mean, that resistance was not a consequence of a clear sense of broken contract between ruler and people. Failure to keep coronation-oaths did not release a people from obedience to its ruler, nor was there any striving after a formalized procedure for expression of or implementation of resistance. What we actually find in the Carolingian age is practical resistance to kings and emperors without intention to limit the power of Christian kingship. There was a real problem here and no mere debating point; sooner or later, someone would want to limit kingship itself: Hincmar very nearly did. General recognition of it dawned, together with a theory of the right to resist, two centuries later. Unsatisfactory Carolingians were disposed of in a variety of ways. Would that we knew more of the circumstances of the so-called deposition of the Emperor Charles the Fat; but, if we did, we should probably find them peculiar to that occasion. So you chased away a bad king or tonsured him or murdered him, and then started again and hoped for the best.

Writing of the Carolingian age, Laistner says: 'It was a salutary thing, such as betokened a time of intellectual awakening, when men turned their minds to political theory, especially to the relation between Church and State.'⁵³ I am not positive that I know what this means. The state, at least as St. Augustine knew the state, came hardly at all within the Carolingian purview, and it is certainly untrue if we think of Church and state in eleventh-century terms. There is more to be said for Carlyle's opinion that 'when we study the Carolingian writers, we feel at once that we are studying the writings of men whose tradition of society and government is that out of which our own has directly and immediately grown'.⁵⁴ We feel this even while we recognize their incoherence and their capacity for self-contradiction. Their purpose was to rethink, in their own terms, the problem of authority in Christian society bequeathed to them by the Fathers. The Church they knew was not the Church of Gregory the Great, let alone of

St. Augustine. The rulers they knew were not Roman emperors or Byzantine emperors or Germanic chieftains: they were Christian kings. To confuse the peoples of Europe with the peoples of Israel was not, you will think, a very practical first step, and the identification of Charlemagne with David had no great future. So much of the Carolingian experiment was to come to nothing, even if something of sacerdotal kingship did survive to bother later generations of students of Roman Law. Yet we have to see that it was this, the *potestas* of biblical kingship, and not the beginnings of theories of resistance, that penetrated the thought of the age and reached down to touch action. This was their *via regia*.

¹ Migne, *Patrologia Latina*, 102, cols. 933–70. Alcuin also makes use of the phrase in his correspondence and it is likely that other Carolingian writers did the same.

² *Germania*, 7.

³ On what follows see H. Fichtenau, *Das karolingische Imperium*, ch. 2 (English trans., ch. 3). A good English example of the representation of Christ and the apostles as ninth-century warriors is the beginning of Cynewulf's *Fates of the apostles*.

⁴ E. H. Kantorowicz, *The King's Two Bodies*, p. 77.

⁵ *M.G.H. Epist.* IV, p. 503.

⁶ See E. H. Kantorowicz, *Laudes Regiae. A study in liturgical acclamations and medieval ruler worship*.

⁷ *ibid.*, p. 16.

⁸ 1 Samuel VIII, 19 (*Corpus Christianorum*, CXIX, ii, 2, p. 75).

⁹ *Liber de reverentia filiorum erga patres et subditorum erga reges* (*M.G.H. Epist.*, V, pp. 406 ff.). See also appendix XXXII of Fritz Kern's *Gottesgnadentum u. Widerstandsrecht* (ed. R. Buchner, pp. 357–9).

¹⁰ Fichtenau seems to think that Alcuin borrowed the *nomen* 'David' for Charlemagne from Byzantium, but this is not proved and strikes me as less likely than direct borrowing from the Bible.

¹¹ *M.G.H. Epist.*, III, p. 505. Pippin III is compared with David in at least four other letters, as Dümmler notes. See also the valuable observations of E. Ewig, 'Zum christlichen Königsgedanken im Frühmittelalter' (*Das Königtum*, Konstanz Vorträge III), esp. pp. 45 ff.

¹² cf. H. Schrörs, *Hinkmar, Erzbischof von Reims*, p. 384.

¹³ ed. Jean Revirion, ch. 3, p. 139. Revirion's text should not be used, however, without reference to the critique of Dom Wilmart, *Revue bénédictine*, 45 (1933), pp. 214–33. On the date of composition of *De Inst. Regia* see J. Scharf, 'Studien zu Smaragdus und Jonas', *Deutsches Archiv*, 17 (1961), pp. 333–84.

¹⁴ Migne, P.L., 126, col. 22.

¹⁵ *Der König von Frankreich*, I, pp. 21 ff.

¹⁶ *Les rois thaumaturges*, p. 70.

¹⁷ Kantorowicz, *Laudes Regiae*, p. 78.

¹⁸ cf. Schramm, *op. cit.*, I, p. 71.

¹⁹ For example, by Smaragdus, *loc. cit.*, col. 933.

²⁰ *op. cit.*, pp. 70–1. Psalm 104 verse 15 reads 'nolite tangere christos meos et in prophetis meis nolite malignari'.

²¹ The suggestion is made by Kantorowicz, *Laudes Regiae*, p. 56.

²² Schramm, *op. cit.*, I, p. 23.

²³ This important point was well made by E. Delaruelle, 'En relisant le *De Institutione Regia* de Jonas d'Orléans', *Mélanges Halphen*, pp. 187 ff.

²⁴ *Capitula tractanda cum comitibus, episcopis et abbatibus*, ch. 9 (*M.G.H. Capit.*, I, no. 71, p. 161). See also the excellent paper of F. L. Ganshof, 'L'église et le pouvoir royal dans la monarchie franque sous Pépin III et Charlemagne', *Settimane di studio del centro italiano di studi sull' alto medioevo*, Spoleto, VII (1960), pp. 95-141.

²⁵ For what follows see L. Halphen, 'L'idée d'état sous les Carolingiens', *Revue historique*, 185 (1939), pp. 59-70, and *Charlemagne et l'empire carolingien* (2nd ed., 1949), *passim*.

²⁶ *Capitulare missorum generale*, chs. 3-9 (*M.G.H., Capit.*, I, no. 33, pp. 92-3).

²⁷ Discussed by L. Wallach, *Alcuin and Charlemagne*, pp. 29-96.

²⁸ Ed. S. Hellmann, *Pseudo-Cyprianus de XII abusivis saeculi*, *Texte u. Untersuchungen* (ed. Harnack and Schmidt), 34, i. See also L. Wallach, *op. cit.*, pp. 8 ff., whom I follow.

²⁹ *Sententiae*, 111, 47, 1 (Migne, P.L. 83).

³⁰ The essential texts are cited by Ewig, *loc. cit.*, pp. 68 ff. See also F. L. Ganshof, 'La Paix au très haut moyen âge', *Recueils de la société Jean Bodin*, xiv, 1962.

³¹ *M.G.H., Epist.*, IV, p. 503.

³² The implications of *gratia* are fully examined by W. Ullmann, *Principles of Government and Politics in the Middle Ages*, pp. 117 ff., whom I here attempt to summarize, with slight differences of emphasis. See the same writer's discussion of Charlemagne's concept of rule in his *Growth of Papal Government in the Middle Ages* (2nd ed.), pp. 106 ff.

³³ cf. Delaruelle, *loc. cit.*

³⁴ *M.G.H. Capit.*, II, pp. 6-7, 26 ff.; *M.G.H. Conc.*, II, pp. 596 ff.

³⁵ The situation is best analysed by H. X. Arquillière, *L'augustinisme politique*, pp. 170 ff. See also Reviron, *op. cit.*, pp. 99 ff.

³⁶ *M.G.H., Epist.*, V, pp. 228-32.

³⁷ *Gottesgnadentum*, p. 193 (English trans., p. 104).

³⁸ R. W. and A. J. Carlyle, *A History of Mediaeval Political Theory in the West*, I, p. 220.

³⁹ Proverbs xxi, 1.

⁴⁰ Migne, P.L. 125, cols. 833-56.

⁴¹ ed. Maurice Prou, *Bibl. de l'école des hautes études*, 58 (1885), and by V. Krause, *M.G.H., Fontes iuris Germ. ant. in usum scholarum* (1894).

⁴² See the useful analysis of J. Devisse, *Hincmar et la loi* (Dakar, 1962), esp. p. 86.

⁴³ As noted by Devisse, *op. cit.*, p. 82.

⁴⁴ cf. *Expositiones pro ecclesiae libertatem defensione*, I (Migne, P.L. 125, col. 1039).

⁴⁵ *Principles of Government*, p. 123.

⁴⁶ The passage deserves quotation *in extenso*: 'Theodericus rex Francorum, cum esset Catalonis, elegit viros sapientes, qui in regno suo legibus antiquis eruditi erant. Ipso autem dictante iussit conscribere legem Francorum et Alamannorum et Baiowariorum unicuique genti, quae in eius potestate erant, secundum consuetudinem suam; addidit, quae addenda erant, et improvisa et inconposita reservavit. Et quae erant secundum consuetudinem paganorum, mutavit secundum legem Christianorum. Et quicquid Theodericus rex propter vetustissimam paganorum consuetudinem emendare non potuit, post haec Hildibertus rex inchoavit, sed Clodherius rex perfecit. Haec omnia Dagobertus rex gloriosissimus per viros illustribus Claudio Chado Indo Magno et Agilolfo renovavit et omnia vetera legum in melius transtulit et unicuique genti scriptam tradidit, quae usque hodie perseverent' (ed. K. Beyerle, p. 8).

⁴⁷ *Gottesgnadentum*, p. 127 (English trans., p. 73).

⁴⁸ *De Institutione laicali*, II, ch. 22 (Migne, P.L., 106, col. 213).

⁴⁹ *op. cit.*, I, p. 199.

⁵⁰ Isidore's classic statement on kings and kingship is *Etymol.*, IX, 3.

⁵¹ For example, in *De fide Carolo regi servanda* (Migne, P.L. 125, cols. 961-84).

⁵² P. Classen, 'Die Verträge von Verdun und von Coulaines', *Hist. Zeitschrift*, 196 (1963), shows how alert the *fideles* or magnates were to their political opportunities in the mid-ninth century.

⁵³ *Thought and Letters in Western Europe* (2nd ed.), p. 315.

⁵⁴ *op. cit.*, I, p. 197.

CHAPTER III

THE POLEMICS OF THE PAPAL REVOLUTION

K. J. LEYSER

THE habits of political thought and ideological conflict were born in Western Europe during the second half of the eleventh century. The spontaneous fight for their convictions by men who felt passionately that there was something wrong in the established order and working of the *ecclesia* and by those who sought to shield that order against their attacks brought to life a vast literature of controversy. If nothing else, the aspirations which found their common centre at Rome under papal leadership brought in their wake new dimensions and means of establishing truths. As the defenders of the status quo were never tired of pointing out, in vain of course, peace, concord and respect for rank were swept away by forms of agitation which were novel to anyone who had grown up in the cloisters and cathedral schools of early Salian times. Let us listen to one of them, Sigebert of Gembloux. His *Apology against those who challenge the masses of married priests* was written some time after Gregory VII's lenten synod in 1075 where the pope had ordered that the people should no longer accept the offices of incontinent clerks. 'Who does not grieve', Sigebert exclaimed, 'at so great an upheaval in the Church. Which Christian does not, if he has any compassion, feel full of sorrow on seeing Christianity trampled underfoot. What else', he lamented, 'is talked about even in the women's spinning-rooms and the artisans' workshops than the confusion of all human laws . . . sudden unrest amongst the populace, new treacheries of servants against their masters and masters' mistrust of their servants, abject breaches of faith among friends and equals, conspiracies against the power ordained by God? . . . and all this', he ended his complaint, 'backed by authority, by those who are called the leaders of Christendom.'¹

Here is, to say the least, the feeling of something new in the ways important issues are debated and brought home to an

audience much larger than that of a few learned men residing at the better schools, *scriptoria* and courts. It is not as if the urge to maintain a point of view or justify a policy had not been felt before. In tenth-century Germany, at the very beginning of the development which the leaders of reform attacked in the eleventh, there had been debate about the tasks and functions of the clerical élite in society, but it was restrained and anxious to avoid offence. A Ruotger or a Widukind of Corvey can be found defending, the one in his *Life of Archbishop Brun*, the other in his *Res Gestae Saxonicae*, the regime in which, as one of its critics remarked: 'duke and count did the work of bishops and the bishop claimed for himself the work of duke and count'.² Against this sharp hint at Archbishop Brun's dual role, half political and half religious, his disciple and biographer pleaded the harmony of his hero's deeds, combining priestly sanctity with royal strength.³ The protection of his church itself demanded of Brun that he should be busy at home and in the field.⁴ It called for a royal priesthood, a *regale sacerdotium* which in the end was nothing other than the Ottonian *Reichskirche* with its manifold tasks, religious, political and economic, and its bishops in the service of the king. Their functions outside their churches helped to secure the peace of the Church at large over which they had to mount guard, and the example of the Old Testament's judges and priests, especially Samuel, served to explain their role in the Ottonian Empire.⁵ It is to them that Sigebert of Gembloux looked back with nostalgia when he wrote the life of one of Brun's aristocratic recruits, Bishop Theoderic of Metz, for their's was to him a vanished golden age. He wrote: 'I rightly call the times of Otto (the Great) fortunate when the *res publica* was reformed by renowned prelates and wise men restored peace to the churches and integrity to religion. One could then see and, indeed, experience the truth of the philosopher's saying: "Happy the state whose rulers are philosophers and whose philosophers rule!"'⁶

On the other side the voices of critics could also be heard, even in the tenth century. Atto of Vercelli (c. 924-960) and more still Rather of Verona (c. 890-974) have been called forerunners of reform by Augustin Fliche.⁷ Abbo of Fleury was perhaps more successful in public than either the obscure stylist Atto had been or the eccentric and moody Rather. His writings may have been

one of Cardinal Humbert's sources and there are in his letters and in his *Apologeticus* already traces of the view that a church was an indivisible whole which could not be shared between a bishop and another lord, the altar belonging to the one and the building to the other.⁸ Abbo addressed royal patrons and councils but the atmosphere in which he wrote was on the whole enclosed, and despite the rising influence of Cluny, not so very different from that of Carolingian times. It wholly lacked the edge, the fury and volume of the later eleventh century, which respected neither persons nor institutions.

The German scholar Carl Mirbt began his study of the controversial literature in the age of Gregory VII, published in 1894, with a statistical survey.⁹ In the period from about 1050 to 1111 he counted a total of 115 polemical works of which he assigned 48 to Italy, 55 to Germany, 11 to France, and one to Spain. He seems to have omitted the Anglo-Norman writers altogether. The tracts of the author, now called the Norman Anonymous, had not yet been included in the Libelli-series of the Monumenta Germaniae Historica nor did Gilbert Crispin's treatise on the validity of simoniacs' sacraments enter into Mirbt's survey.¹⁰ His terminal date 1111 was of necessity an arbitrary choice: Honorius Augustodunensis and others equally belonged, and it should also be mentioned that the Lotharingian cardinal Humbert's book *Against the Simoniacs* is counted as a product of Italy. This formidable bulk of polemical literature was certainly meant for and reached a wide and not only clerical public. Manegold von Lautenbach in the dedicatory letter of his most important political work, the *Liber ad Gebhardum*, related how a pamphlet from the adversary's camp was hawked about everywhere, broadcast in the streets and more secluded places, and treated like a canonical text.¹¹ The author of this *libellus* was Wenrich, the master of the cathedral-school at Trier.¹² Both he and Manegold wrote perhaps less to make converts than to strengthen their own party and to disseminate the reasons behind its actions, but there can be no doubt about their sense of duty and vocation, especially in Manegold's case. Gregory VII more than once exhorted his followers that they must not only themselves obey St. Peter and his representative but also induce others to do so.¹³ Many of his literary partisans received their inspiration to defend or to attack

directly from him or from his letters. Initiative and success were on their side. They wrote more and what they wrote lasted better and reached a larger audience.¹⁴ Some of their opponents' works have survived in only one manuscript or none; this warns us not to over-value ideas for their interest to modern critics and historians that meant little to the contemporaries of their begetters and even less to the next generation of writers and possibly never reached them at all.

Distinguished German scholars have had nothing but praise for a work written at Hersfeld in 1092-93, the *Liber de unitate Ecclesiae conservanda*.¹⁵ It was one of the few utterances on the emperor's side which succeeded in reaching fundamentals. Its largest theme is unity within the Church based on St. Cyprian's words: 'He who keeps not . . . unity, holds not the law of God, nor the belief of the Father and the Son, nor the faith by which he should be saved.'¹⁶ The author, whoever he may have been, stood in old ways, when the king had been the vicar of Christ unquestionably and this had determined his place in the Church whose *rector* and defender he was by rights. But he also knew that the repetition of past beliefs was of no avail against the force of the currents which threatened to tear them away. When he wrote, civil war had been waged in Germany for some seventeen years, and his strongest arguments lay against the consequences of the Gregorian upheaval rather than its texts. These he refuted as best he could, but the justice of Henry IV's kingship depended in the last resort on the disasters which the destructive violence of zealots had wrought. Their calls to arms were against the divine order and the nature of the Church's constitution. From the very beginning of the agitation, simoniacs and those who favoured them, the lay-givers of altars and churches, had been branded as heretics. In the *Liber* the weapon is reversed and resistance to rightful authority is branded as heresy: 'It is a great heresy to resist God's order who alone has power to grant empire.'¹⁷ God gave rule, he cited St. Augustine, to Marius, Caesar, Augustus, Nero and Vespasian, some good and some horrible emperors, Constantine the Christian, and Julian the Apostate.¹⁸ To go against his ordinance, as some fifteen named bishops fighting against Henry IV had done, meant that human and divine laws had ceased to count 'amongst them and against them'.¹⁹ To have

raised the conflict into a matter of faith and to advocate violence were in his eyes crimes which soiled the causes for the sake of which they had been committed. Peace and concord he regarded as the higher values and it is as partisans and agitators that the Hildebrandines are denounced by him with the help of St. Cyprian and St. Augustine. Yet it is just in using the authority of the *De civitate Dei* that the author disappoints, for he did not quite know what to do with the classical definitions of justice and the nature of a true *res publica* which he found there:²⁰ 'The commonwealth is the affair of the people, but the people is not any assemblage of men, gathered together in any fashion, but a gathering of the multitude united together under a common law and in the enjoyment of a common well-being.'²¹ The author of the *Liber* cited these definitions which St. Augustine had taken from Cicero and the Roman tradition, but there were few conclusions he could base upon them. The refrain of his argument that peace was good and that established rulers should be obeyed rings through again, but nothing more. He made better headway with his charge that Gregory VII and his bishops were usurping the functions of both powers, that of kings and that of priests, reducing the former to a mere nothing.²² He sought to show this from the events of the day about which he was well informed, and it is his historical judgement rather than his stock of political ideas that lend force to his case.²³ The *Liber de unitate Ecclesiae conservanda* contains in its bulky pages a war-weary strain akin to the views of the *Politiques* in the French Wars of Religion: the continuity of a certain order of things must be defended against the heat and fury of fanatics. Unfortunately, the German Henry IV was not the man to attract and hold such sentiments round him: the three books of the *Liber* drew no immediate echoes nor answers. We possess them only because Ulrich von Hutten in 1519 found a manuscript, since lost, in the library of Fulda and liked its contents so well that he printed it a year later. Launched by so dangerous a firebrand, the *Liber* was at once prohibited by the authorities. The date is no accident. The anti-papal sentiments of German humanists at the beginning of the Reformation were fanned by their historical discoveries. Later not only some of Sigebert of Gembloux's writings but also the *Vita Heinrichi Quarti*,

a moving and yet highly contrived dirge on the memory of a much-execrated man, were placed on the Index.²⁴

Let us return to Sigebert's opening sentences in the *Apologia*: they may serve to describe the characteristics of the polemics as a whole and the atmosphere in which they changed hands. First of all the tone is harsh and uncompromising and yet Sigebert is regarded as a man of moderation, at least by German scholars.²⁵ To a greater or lesser extent this aggressiveness was a common trait of the writers on both sides. They did not intend to discuss issues in a spirit of liberalism. Scripture, canon, patristic authority or history interpreted, these were their weapons and they used them to hammer home their points past all rejoinders. They approached their task asking questions of detail: Could the ordinations given by a simoniac bishop be valid? Were the sacraments of priests so ordained of use or not to those who received them? Could a king be excommunicated or—in Gregory VII's values the lesser evil—could he be deposed? Could his vassals be released from their oaths of fidelity? Yet sooner or later they stumbled over larger, more fundamental and timeless questions and stated them in their own terms, terms unfamiliar to us but all the same distinctly recognizable. Let us follow one of them, Manegold von Lautenbach, as he approaches his most famous utterance, that in which he is thought to have put forward a doctrine of popular sovereignty. In his *Liber ad Gebehardum* he pursued the question whether a king—always Henry IV—could be rightly excommunicated and set aside. The letter on this subject which Gregory VII sent to the Germans in 1076 is cited in full and Manegold offered to demonstrate to his readers that the pope's commands contained only what his office and the application of the Church's teaching required.²⁶ In his letter Gregory had stood by the justice of his sentence against Henry's person; he did not yet speak about the place of kings in the Christian world as he saw it and the diabolical character of secular governments pursuing only their own ends. Manegold, to bear out his source, then plunged into an account of kings murdered, deposed, censured, excommunicated and humbled. Secular rebellions here stood cheek by jowl with ecclesiastical sanctions.²⁷ He simply argued that Henry IV's sins and crimes were more enormous than those of a Maurice, Childeric, Louis the Pious or

Lothar II, the stock examples. Manegold dwelt on his vices, catalogued them and named even some of his mistresses, which gives perhaps a hint at the kind of public he aimed at. It was not interested in crude, academic argument only.²⁸ The misfortunes of worthless kings are then continued and brought down to some very recent history, the royal blood-feuds of eleventh-century Hungary. It was not a very good example, but the 'tyrants' who came to grief in this case all happened to be protégés and kinsmen by marriage of the Salian dynasty. Manegold's list is indiscriminate and he seems to have thought that the deposed rulers were always in the wrong and their enemies right simply because they succeeded in deposing them. But it is important to note that in his tirade the fallen kings had both private misdeeds and public acts of injustice to answer for. He wanted to show that the word 'king' did not carry with it immanent powers and merits and that kingship was an office, a rank which could be forfeited for misconduct. A strict analogy with the grades in the Church was to apply.²⁹ From abuse and obscenity our author suddenly turned to attack the widely held and, until then, rarely challenged belief in the inviolate and charismatic sacredness of the crown and its wearer. The office and its holder could be separated.

At this point Manegold reached the heart of the conflict. Seen in political terms, and of course no writer in the eleventh and early twelfth centuries saw it in what historians or sociologists would now call political terms, the struggle was about rights and powers, their origins and status and how the visible representatives of authority in the Church stood towards one another. Manegold wrote:³⁰ 'As the royal rank and power excel all other earthly powers so, to wield it, one must not appoint someone criminal or infamous but someone who surpasses others not only in place and rank but also in wisdom, justice and piety. For it is necessary that he who has the care of all and must govern all should also excel all by the superior grace of his virtues. Let him wield the power given to him with the greatest fairness; the people do not exalt him to give him leave to tyrannize but so that he should defend them against the tyranny and wickedness of others.' If the king, who was chosen to coerce evil men and shield the good, himself turned into a cruel despot, 'is it not obvious that he should deservedly fall from the rank granted to him and the people

be freed from his lordship and their submission since he himself first broke the covenant for the sake of which he was set up?' This meant that kingship existed to perform certain tasks agreed on in a 'pact'. If the ruler failed to perform these, all obligations to him lapsed. Manegold then used an analogy that can hardly have been flattering for the people to be governed and reveals him as the uncouth controversialist he was, compared with some of his no less zealous partisans, for instance Bernold of Constance. For, he said by way of common-sense reasoning, if someone committed a herd of swine to a keeper for a wage and the swine-herd then did not look after, but stole, slaughtered and destroyed his charges,³¹ one would surely not in the end pay him his wages but chase him away. The people, however, who elected, obeyed and deposed kings in this case were first and foremost the German princes and their noble vassals. It is not surprising that in later and quieter times Manegold was thought to have been unmannerly: his polemic, although it pleased some of Gregory VII's German adherents, was rumoured not to have won papal approval.³²

None the less, he had stated the essentials of a contract of government. By this the office of a king was not to be at the mercy of human failings which had to be borne with patient resignation. Manegold thought of deposition for unworthiness as a discipline which had been observed by the ancient Romans when they expelled Tarquin. The responsibility of the great, he argued, was greater even in venial transgressions than that of humble people; that of kings was greatest of all and so he led his readers back to Henry IV's vices and sins.³³ In a later chapter of his work, the *Liber ad Gebhardum*, he returned to the theme of rationalized kingship. At this point he wanted to remonstrate against those who sought to prove that papal absolutions from oaths of fealty were wrong as well as disastrous. Human nature, Manegold wrote, excelled that of all other animate creatures in that being capable of reason, it does not rush into action haphazardly, but finds out the causes of things with the aid of rational judgement. It cares not only for what is done but also how it is done. Nobody can make himself emperor or king. The sole purpose for which the people set a ruler over themselves is to govern them justly, give everybody his own, help the good, destroy the wicked and

do justice to all. If he fails them he thereby absolves the people from their due subjection. The oath of obedience is governed by reason and nobody is obliged to obey and follow wherever a raging and insensate man might want to lead.³⁴ Right reason then and a common-sense, self-evident standard of justice were to govern the relationships between ruler and ruled, the German king and his princes. Manegold here argued those questions of authority and obligation which troubled his contemporaries most of all, and he did not broach them solely from the point of view of the Church. He had in fact spelt out a rational justification for the secular aspects of the great revolt against the Salian king. His *pactum* is something more than the traditional bonds between the king and the nobles who did him homage and swore him fealty.³⁵

Manegold did not know Aristotle's *Politics* nor could he have laced a coherent doctrine of natural law into his image of the kingly office and its controls. He was not troubled by the question how the people could make a contract of government without a preceding social contract because he took the existence of the community for granted. It seems that in his heat and hurry to pursue more immediate ends he was scarcely conscious of having said something of great moment; he certainly did not give his remarks on the contract of government precedence over those massive sections of his book which merely repeated rather vehemently what was common ground amongst Gregory VII's literary supporters. When he first mentioned the *pactum* it was a covenant which stood above the king and his electors, binding them both. The ruler was set up for the sake of the covenant and those who swore fidelity joined him in observing it. They bound themselves, man for man, to be his helpers and companions in upholding peace and justice. But when Manegold returned to the theme he spoke of the contract as the constitutive act itself by which the king had been raised to his office, a *pactum quo*, not a *pactum pro quo*.³⁶ This may have been no more than a slip, since the purpose of the contract in his argument and the consequences of its breach by the king remained the same. It shows, however, that Manegold was more anxious to press his conclusions than to work out the premises on which they were based. He could do this because he believed the pope's authority in absolving Christians from their

oaths of fealty to be sufficient in any case. To justify this authority the contract-theory was not needed.

On the other side it was argued that oaths were inviolate and had always and amongst all people been held sacred. Kingship, too, was as old as the beginning of the world, older than Christianity. It was fortified by God after it had already existed for some time in its own right. Wenrich of Trier, in his treatise, seems to put forward a historical justification for the secular power, now forced to fight for its age-old status.³⁷ But it was no more than a hint, nor can it be said that Petrus Crassus' *Defence of Henry IV* succeeded in summoning the resources of Roman law to the king's rescue. Peter, the only layman amongst the polemicists, came from Ravenna, where some instruction in the elements of Roman legal science was available and working lawyers could bring principles of Roman private law to bear on their daily practice.³⁸ He thought that Henry IV's kingship was inviolate not only because it had been given to him by God but also because it belonged to him by the same right as any heir enjoyed. He cited ample material from the *Institutes* and the *Codex Justinianus* to prove the sacrosanctity of private inheritance. Could anyone be so unreasonable as to believe that one could do against a king what the law forbade in the case of a private individual, namely, deprive him of his just possession?³⁹ These words, addressed to the insurgent Saxons, ignored the heart of their case since they claimed to defend their hereditary rights and liberties against a king turned tyrant.⁴⁰ To be able to reason as he did Peter had to show, first of all, that the authority of Roman civil law was continuous and universal, and it was here rather than in his strained appeal to the rights of private inheritance that the *Defensio Heinrici* gained new ground. All peoples were subject to these sacred laws in the sense that some could learn by studying them directly while to others they were brought home in the guise of custom and long use. Whether men were conscious of them or not, these laws held sway. To make this plausible Crassus had to equate the legislation of Ancient Rome with medieval custom where they agreed, as they did in the matter of inheritance. The Roman emperors had not excluded themselves from the benefit of this rule nor their successors or later kings. Long possession of the realm could not be challenged lawfully and rebellion was a

poor substitute for laws. Without them man lived not much better than brutes that knew neither authority nor property.⁴¹ All this was said, however, only to denounce and demand judgement against Gregory VII who had broken with all laws. Crassus' call to those who were to judge him belonged to a tradition of ferocious proceedings against popes in ninth- and tenth-century Rome with their grotesque publicity and afflictive penalties. He used, albeit clumsily, scriptural authority, papal decretals, St. Augustine, and St. Ambrose side by side with the *Institutes* without a sense of incongruity, let alone conflict.

Crassus' awkwardness as a polemicist betrays his lack of schooling or rather his peculiar schooling which placed him at a disadvantage against the monastic and clerical writers. The strong idiosyncracies and temperamental methods of so many of the eleventh-century controversialists were conditioned by the fact that they did not possess an adequate apparatus of political concepts between them. Their writings performed the important service of revealing the need for such an apparatus. Phrases like the *ius gentium*, *ius civile*, *civilitas* and *res publica* belonged to the political vocabulary of this prolonged crisis without forming the base of a coherent secular political theory. Peter Crassus' *Defensio*, too, has survived only in one manuscript, and like other pamphlets on the king's side, his was stillborn. Here again the theorists of change and the right order in the world, as Tellenbach called it, had the better of the argument for the moment.⁴² Cardinal Deusdedit in his *Libellus contra Invasores*, completed in 1097, knew that Roman law and the canons could conflict. When they did, he made it clear, the former must be rejected because sacerdotal authority, instituted by God, surpassed royal power.⁴³ Their offices were separate, but secular wealth and might must minister to the Church's requirements. The dominant school of political theologians and canonists who in the twelfth century succeeded in finding agreed terms of reference and in building an imposing edifice of papal theory upon them, owed much to Deusdedit.

Gregory VII himself was the sternest and most unrelenting exponent of the ideas which his measures sought to impose. He taught what he did, and teaching was not the least important means to make his actions effective. His letters to Bishop Hermann of Metz, for instance, especially that of 1081, not only seem to

sum up his cause, but became the lapidary texts which his opponents sought to break and his literary supporters interpreted, enlarged and so helped to propagate yet further. Read in isolation, however, they cannot wholly do justice to the convictions which drove him, especially in the matter of earthly, secular rule. Gregory VII has not suffered at the hands of the devoted bands of scholars who have set out and elucidated his ideology but he has, much more than most decisive figures, come to be understood in many different and conflicting ways. No historical metaphysician or marxist could see in him only the spokesman of forces latent in eleventh-century society or the Church; too much of the impulse in the war for the *libertas ecclesiae*, to take only the most obvious expression of what he wanted, came from him alone. His sense of mission was overpowering. Even if it could be shown that all his ideas were found in older traditions and already widespread in the reform-movement before his pontificate, there would remain the frightening severity and heroic persistence with which he pressed them, regardless of the consequences to himself or to others. He had, to say the least, the temper of a revolutionary.

The early middle ages knew more than one meaning for the word *libertas*. There was what has been called subjective liberty, belonging to an individual by virtue of his birth and standing, which really defined his relations to those above and below him.⁴⁴ There were also the *libertates* which performed similar functions for privileged churches and later privileged towns. The term could equally be applied to a kingdom to describe its freedom from feudal dependence on another. Here *libertas* really meant almost the same as *potestas* and *honor*. The writers of the Ottonian period, now and again, also had an objective sense for the word 'liberty' when it stood for a universally recognizable and everywhere applicable contrast to servitude and enslavement.⁴⁵ There could be many ambiguities about the status of a free man; there was none about that of a slave. In general, however, *libertas* and honour increased as its subject had obligations towards a higher rather than a lower overlord and the highest liberty was to depend on God alone. In this way Gregory VII could argue that the kingdom of Hungary was freer as a vassal of St. Peter and his successors than as a satellite of the empire.⁴⁶ For the same reason, however, the question of the origin of secular government

and its place in the hierarchy of legitimate powers came to be and remained at the centre of the conflict. The defenders of kingship and its rights and standing in the Church, writers like Hugh of Fleury and the Norman Anonymous, began and ended their case by setting out once more its direct divine ordination and dignity, regardless of the individual qualities of a king.⁴⁷

The possession of much subjective freedom, independence from the wills of others, in the early middle ages thus necessarily belonged to those who also possessed power, the rulers of Western Europe and their great nobles. Highly prized as it was, it could not be, even for this privileged minority, wholly an end in itself but had to serve, both in theory and in practice, positive purposes. It was in his authoritative claim to decide what these purposes were to be that Gregory VII came into conflict with the emperor and, sporadically, rulers like Philip I of France. By divine justice the Church must be freed from lay-domination: kings and nobles, no less than bishops and priests, should honour, help and defend her with a new humility and this for their own good as much as the advancement of reform.⁴⁸ To understand Gregory's programme and what he regarded as the right relations between the successors of St. Peter and the successors of Constantine or Charlemagne, his idea of justice is even more important than that of *libertas*. It demanded that service to God, the Church, its earthly head and their needs should take precedence over the bread-and-butter politics of 'who whom', of feuding and princely land-hunger.⁴⁹ For in the eleventh century service to God and dependence on his will could not be an experience only of the inner man, it had to manifest itself in loyalty and unquestioning obedience to the pope as the successor of St. Peter to whom the Church had been entrusted. Obedience to him became in the course of the battle against simony, clerical marriage and lay-control the touchstone of whether a man served in the camp of Christ or in that of Satan. Just as Cardinal Humbert had passionately turned against those who would distinguish between the spiritual and the secular attributes of a benefice, and insisted that not only the altar but also the lands and other possessions of a Church were sanctified, so Gregory VII demanded a new unity of belief and action. Men, especially rulers, must seek to make St. Peter their debtor and merit their rank or good fortune by

placing themselves at his disposal as soldiers, tributaries and pressure-groups.⁵⁰ Those who followed these precepts would be rewarded by the prince of the apostles not only in the next life but also in this with victory and more honour. Those who disobeyed were the sons of pride whose actions followed only their own will, pursuing temporary instead of lasting ends. In this scheme of things the place of the powers that were depended on their willingness to accept a role of useful service: there is plenty of evidence that the pope viewed the ordinary ambitions and activities of the princely ruling class with, at best, misgivings and, more often, with intense dislike.⁵¹

In Gregory VII's attitude towards secular government one should perhaps distinguish between his dealings with the fringe, the homilies he addressed to the nascent kingdoms and societies on the frontiers of Europe, and his collision with old and established powers like the Salian *Reich* and Capetian France. To the former, Norway, Denmark, Poland, Bohemia, Hungary and the kingdoms of Spain he wanted to impart the rudiments of Christian behaviour or higher standards of justice and the sum of all his messages was that power entailed responsibilities.⁵² To their leaders closer relations with Rome were generally advantageous and meant a step up in the world of western states, an increase of honour and *libertas* which did not conflict with *iustitia*. But it was different with the older thrones where justice demanded that their freedoms should be reduced and that they must be subordinated to the higher judgement of the papacy. Their honour and customs were not to stand in the way of the Church's freedom which belonged to her as the bride of Christ.⁵³ Gregory's second letter to Bishop Hermann of Metz was written at the height of the crisis that arose when he staked everything on Henry IV's renewed excommunication and deposition. It once again gave a lead to those who felt uneasy about the attack on established traditions and the turmoil, including full-scale wars, it entailed. Were kings, he wrote, exempted from the power to bind and to loose, which Christ entrusted to St. Peter? Who could be exempted from this universal grant except the wretch who did not want to bear God's yoke and so bowed to the devil, refusing to be one of the sheep of Christ? This miserable liberty, however, is of no profit to him because the more he refused to bear the

yoke out of pride the more he shall wear it at the last judgement.⁵¹ Here then justice, as Gregory VII felt it, clashed with the freedom of secular powers to pursue their own ends in their own way. This freedom was not only wretched but also illusory since it led to eternal damnation. True freedom was to be found only in the kingdom of heaven.⁵⁵ It is characteristic that one of Gregory VII's commentators, the able Bérnold of Constance in his *Apologeticae Rationes* toned down the stridency of his exemplar. Here the Lord's yoke is gentle and to bear it is to reign; to reject it meant to submit to the devil's tyranny without thereby escaping from the Church's power.⁵⁶

Rarely have the forces of heaven been summoned so directly and confidently to influence the minds and the behaviour of men as they were by Gregory VII. He had his own favourite examples to proclaim the nothingness of mere earthly authority, its duties to a higher order of things and its perils if it failed or lapsed in them. The best known is a sentence suggesting not only the human but even the diabolical origin of secular government. At the height of the passion which runs through the whole of his letter to Hermann of Metz, he exclaimed: 'Who does not know that kings and dukes began with those who did not know God and in their blind greed and intolerable presumption wanted to rule over equals, i.e. other men, with pride, pillage, murder and in the end all the crimes in the world at the devil's instigation?'⁵⁷ This passage has been much brooded over because elsewhere in his letters the origin of principality and the source of royal power are not called evil; on the contrary, they were given to their holders by God. His homilies to the Spanish kings insisted on this and his letter to William the Conqueror written in 1080 began: 'We believe your prudence must know that God distributed the apostolic and royal dignities, both higher than any other in the world, so that they shall govern it.' The king's office was to be under the care and guidance of the Holy See.⁵⁸ To Countess Adelheid of Turin he wrote: 'Honour and power were granted to you by God so that they shall be applied to his service and that of his people', in this case the monks of Fruttuaria.⁵⁹ The divine commission, therefore, bound those who received it to accomplish more for the Church, to be humbler and juster and to receive papal directions gladly. Scholars have sought to find a consistent

theory of the state in Gregory's letters despite these conflicting groups of utterances or to show that they contain no contradictions. It is not easy to do this. Recently a German historian, Nitschke, held that what Gregory VII wrote of the diabolical origin of kingship only referred to its beginnings in pagan times.⁶⁰ Pagans who did not know God could not be ruled by his dictates and their governments must therefore have been evil. In a Christian setting, however, a prince who belonged to the following of the Church and showed due devotion was part of a divine order. Those who offended and disobeyed must be followers of the devil. There could be no separate sphere for the state. But this interpretation, if anything, enlarges the ambiguities and uncertainties in Gregory's thought and introduces an element of permanent dualism into his world. According to Augustin Fliche royal power was of divine origin for Gregory VII in the same sense as Gregory the Great in his *Moralia* expounded that the devil's power too had been granted to him by God and is just in its origins but unjust in its will.⁶¹ This seems very forced. Is it not possible that Hildebrand as pope never reached a rounded theory of secular government and that his views remained rugged and dissonant, drawing a distinction between good and evil rulers rather than the nature of the authority common to them both? He came to know the men he had to deal with and found most of them wanting. Here too his followers and literary partisans toned down and polished the tenor of his ideas. Cardinal Deusdedit said of kingship that it was a human invention which had been allowed but not willed by God. Hence its power was at first *de facto*, whereas the priestly authority had from its Old Testament beginnings divine legitimation.⁶²

The examination of all government, secular and ecclesiastical, was to become the *ex-officio* province of the papacy. In an ascending scale of responsibility Christian kings would have to answer for their subjects before God, like priests and bishops, but the supreme pontiff would have to render account for them.⁶³ In this way they remained organs of the Church, albeit subordinate ones. It followed also that they were responsible for the slaughter of men whom they led into battle for the sake of conquest and power. Thousands were killed and for this princes might occasionally say 'mea culpa' without meaning it or wishing that they had not led

their fellow-men to perdition.⁶⁴ A condemnation of all purely secular warfare lies behind these sombre sentences. There was no room for it in Gregory VII's convictions and this must be set against his own calls to war in the cause of St. Peter and the Church.⁶⁵ The need to use arms was accepted by him and that they were used furnished his opponents with their bitterest and most repeated charges. Here lay a *confusio ordinis*, an offence against the way the roles had been distributed. Had Henry IV accepted the place now meant for him, it could be argued, all wars under the authority of St. Peter would have been crusades.

To the idea that secular government must be supervised by the *sacerdotium*, which Gregory VII handed on to the political theologians of the twelfth century, notably Hugh of St. Victor, must be added another. The last paragraph of his letter to Hermann of Metz began: 'Let those therefore whom the Church calls to a governance or an *imperium* . . . obey humbly.'⁶⁶ Twice events drove him to stake his claims in the election of a German anti-king. Suitability, usefulness and devotion to Rome were to be the criteria of the German princes' choice.⁶⁷ Further, the pope must confirm it and approve of the elected king. In the last sentences of the letter hereditary succession to the throne is condemned almost as if the Church called men to rule principalities as it called them to be bishops and abbots under the new dispensation. Manegold von Lautenbach's virulent views on the appointment and deposition of rulers developed a theme of which the main chord had already been struck.

Is it permissible, then, to speak of 'the political ideas of the papal revolution'? Gregory VII and his circle often insisted that they were not innovating but only returning to the wise, right and just precepts of the Fathers. It is worth examining these claims, sometimes echoed by modern scholars, for a moment. They were, of course, in the eleventh century fiercely anachronistic, since the Gregorians challenged custom, tradition and established practices with their own vision of the past and the argument of lasting truth. It was not admitted that this truth had itself at one time been historically conditioned and been part of the way in which the Church was organized and had lived in the later Roman empire. A minatory clause in a privilege of Gregory the Great's, to cite only one example, could thus become

one of the justifications for Henry IV's excommunication and deposition.⁶⁸ Gregory VII's own and his followers' attitude to history was ambivalent. They cited historical precedents when these seemed to favour their programme, but they rejected them in favour of ultimate principles when the past seemed to stand in their way or stood condemned in the light of their values. Their opponents could claim with some justice that many examples which showed rulers under the duress of ecclesiastical sanctions could not remotely justify the actions now taken by the curia. The Gregorians could not claim a monopoly of support from early decretals and the Fathers. The uses they made of their texts, St. Cyprian, St. Augustine, St. Ambrose, Gelasius and Gregory the Great were not always better than their opponents' and did not unequivocally give them the better case. The same authority counted for both parties and was appealed to by both; this in itself shows that the claim, that there was nothing new in the aims of the movement led by Gregory VII, must not be taken literally.

The second and better reason for the view that we are dealing with sweeping changes and a revolutionary upheaval lies elsewhere. Much has been written by German scholars, Hauck, Erdmann and Haller about the ways in which Gregory VII's urgency over reform in the Church and his ideas of the right relations between Rome and the ruling secular strata of catholic Europe, emperor, kings and princes, were translated into action.⁶⁹ The pope never denied, but on the contrary expressly asserted, that new counsels and expedients could be used to enforce divine justice and come to the rescue of neglected canons.⁷⁰ These counsels included the boycott, agitation, subversion, and the utmost publicity for the papal programme and its justification. The polemical literature belonged to the new arsenal of weapons which the Gregorians created for themselves. It was revolutionary almost in the marxist sense that it is not enough to discover the truth but that one must make it one's business to transform what exists in order to make it prevail. The leaders and writers of the papal reform movement were ready to do this, and in this cause volcanic figures like Humbert and Gregory VII and lesser ones, Anselm of Lucca and Deusdedit, the Germans Manegold von Lautenbach and Gebhard von Salzburg spent their lives, suffered and refused to compromise. To bring about the rule of divine

justice, as they saw it, on earth they were ready not only to persuade but also to force the recalcitrant against their will, knowing what was good for them in the timeless manner of revolutionary idealists.

It has already been said that political ideas in the classical sense only appear in the polemics of the eleventh and early twelfth centuries incoherently, in flashes. But the spate of appeals to opinion in the new genre, developed during and as part of the investiture conflict, did not end when the struggle was over. It is with us still as long as it remains meaningful to argue about questions of right, authority and the use of powers. The successors of Manegold and his generation in the Church wrote with greater precision and commanded a vaster armoury of organized knowledge, above all a new legal science, to fight over the dangerous and brooding legacy which the first collision between *regnum* and *sacerdotium* left behind. The ideologies of early medieval Europe had been challenged and in part destroyed. Given the Church universal, empire and kingdoms had always been regarded as the most exalted powers within it. The idea of frontiers between them or areas where they did not overlap was unknown. But as secular governments refused to accept in full the new curbs on their *libertas* and despite all papal teaching regarded them as affronts to their *honor* and *potestas*, such frontiers became inevitable. An almost Hobbesian note is sounded in an anecdote told of Henry IV's son Henry. When urged not to hang a count under the walls of his defiant castle for fear of divine censure, he is reported to have said: 'The heavens are the Lord's heavens, but the earth he has given to the sons of men' (Ps. cxiii, 16).⁷¹ There had been no theory of the secular state as such, but as a result of the great crisis it was all ready to be born. The very compromises over lay investitures found in the West, in England and France in the early twelfth century, helped to divide what had hitherto been one. The distinction between *spiritualia* and *temporalia* could be enlarged. Following on the development of more secular government and better administration in many parts of Europe, it was.

Lastly, the ascendancy of the new hierarchy of ideas and values which had been so necessary for the Church's self-realization, its new orders and improving organization, helped to create another kind of new frontier. To describe it, it is worth while recalling

Rousseau's idea of the relations which should exist between the sovereign General Will and government and his warning that governments had a general will of their own and could have interests of their own.⁷² Some development of this kind began to trouble the Church in the twelfth century. The idea of a Christian society encompassed by the *ecclesia* in a religious and social sense and directed by the papacy grew apace in a way which made the writers of the eleventh century look like poor cousins, but there was now an ever more self-protective *ecclesia* with a formidable apparatus of government which had to justify itself to stronger secular powers.⁷³ The struggle for the Church's freedom turned into a struggle for clerical privileges. The ideal and the privileged institution confronted one another. The widening distance between them did not escape the ever more self-confident critics of the medieval Church.

¹ *Monumenta Germaniae Historica* (henceforth cited *M.G.H.*), *Libelli de Lite Imperatorum et Pontificum* ii, 438 (henceforth cited *Libelli*).

² Archbishop William of Mainz in a letter to Pope Agapitus II, dated 955 in *Monumenta Moguntina*, ed. P. Jaffé (Bibliotheca Rerum Germanicarum III, Berlin, 1866), p. 348: 'Dux comesque episcopi, episcopus ducis comitisque sibi operam vindicat.'

³ *Ruotgeri Vita Brunonis* ed. I. Ott, *M.G.H. Scriptores Rerum Germanicarum* (henceforth cited *S.R.G.*) Nova Series (Weimar, 1951), c. 20, p. 19. For Ruotger's interpretation of Brun's more than ducal powers in Lotharingia cf. F. Lotter, *Die Vita Brunonis* des Ruotger, *Bonner Historische Forschungen* 9 (Bonn, 1958), pp. 115 ff.

⁴ Ruotger, *op. cit.* c. 25, p. 26.

⁵ *Die Sachsengeschichte des Widukind von Korvei*, ed. P. Hirsch and H. E. Lohmann, *S.R.G.* (Hanover, 1935), p. 44: 'Ac ne quis cum (Brun) culpabilem super hoc dixerit, cum Samuelem sanctum et alios plures sacerdotes pariter legamus et iudices.' Cf. also Ruotger, *op. cit.*, c. 23, p. 24.

⁶ *Vita Deoderici Episcopi Mettensis*, c. 7, *M.G.H. Scriptorum Tomus* iv, 467.

⁷ A. Fliche, *La Réforme Grégorienne* I (Louvain, 1924), p. 60 ff.

⁸ *op. cit.*, p. 51 and 'Apologeticus ad Hugonem et Rodbertum Reges Francorum' in Migne, *P.L.* 139, coll. 465, 466. Abbo censured above all simoniacal transactions between prelates and clerks.

⁹ C. Mirbt, *Die Publizistik im Zeitalter Gregors VII* (Leipzig, 1894), p. 86. Two of his polemics, however, Guido of Arezzo's *Letter* and the *De Ordinando Pontifice* of French origin are prior to 1050.

¹⁰ J. Armitage Robinson, *Gilbert Crispin Abbot of Westminster* (Cambridge, 1911), pp. 67-70 and 111-24, and also W. Holtzmann, 'Zur Geschichte des Investiturstreites', *Neues Archiv* 50 (1935), pp. 246 ff.

¹¹ *Manegoldi ad Gebhardum Liber*, *M.G.H., Libelli* I, 311, l. 13 f.

¹² *Wenrici Scolastici Trevirensis Epistola*, ib. p. 284 ff.

¹³ *Gregorii VII Registrum*, ed. E. Caspar in *M.G.H., Epistolae Selectae* ii (Berlin, 1955), i, 71, p. 103 (henceforth cited *Reg.*); ii, 49, p. 190; vii, 23, p. 500 f.

¹⁴ K. Erdmann, 'Die Anfänge der staatlichen Propaganda im Investiturstreit', *Historische Zeitschrift* 154 (1936), p. 491 ff. and esp. pp. 511-12.

¹⁵ R. Holtzmann in W. Wattenbach, *Deutschlands Geschichtsquellen im Mittelalter*, ed. R. Holtzmann (Tübingen, 1948), i, 3, p. 406 called it the most valuable and important of all the *libelli*. Cf. also C. Erdmann, *Die Entstehung des Kreuzzugsgedankens* (Stuttgart, 1935 and 1955), p. 241 and A. Hauck, *Kirchengeschichte Deutschlands* (3rd ed., Leipzig, 1906), iii, 856.

¹⁶ *Liber de Unitate Ecclesiae Conservanda*, Bk. I, i *Libelli* ii, 185 and *Thasci Caecili Cypriani de Catholicae Ecclesiae Unitate* ed. G. Hartel, in *Corpus Scriptorum Ecclesiasticorum Latinorum* iii (Vienna, 1868), I, 215. The translation is by John Fell, *Of the Unity of the Church by Cyprian* (Oxford, 1681), p. 10.

¹⁷ 'Magna quidem heresis est Dei resistere ordinationi, cuius solius est potestas dandi imperii.' *Liber de Unitate* II, c. 20, *Libelli* ii, 237.

¹⁸ *loc. cit.* and *De Civitate Dei* V, c. 21 *Corpus Christianorum Series Latina* xlvii, xlviii (Tunshout, 1955), p. 157.

¹⁹ *Libelli* ii, 237, l. 13-14.

²⁰ *Liber de Unitate* I, c. 17, p. 210 f. and *De Civitate Dei* II, c. 21, p. 53 f., XIX, c. 21, p. 687 f.

²¹ From R. W. and A. J. Carlyle, *A History of Medieval Political Theory in the West* (Edinburgh, 1903), i, 4.

²² *Liber de Unitate* II, c. 15, pp. 230-31. The author's argument was here firmly based on Gelasius I's definitions. Cf. Carlyle, *op. cit.* i, 190-92.

²³ E.g. his case against a historical example frequently used in papal literature, the deposition of Childeric, the last Merovingian king by the Franks in 751. *Liber de Unitate* II, cc. 2 and 3, pp. 186, 189.

²⁴ Mirbt, *op. cit.*, p. 102.

²⁵ '... der nichts weniger als ein Heissporn war', R. Holtzmann in *Deutschlands Geschichtsquellen im Mittelalter* i, 3, p. 399 and cf. M. Manitius, *Geschichte der Lateinischen Literatur des Mittelalters* (Munich, 1931), iii, 334.

²⁶ *Manegoldi ad Gebhardum Liber*, c. 28 *Libelli* i, 361 l. 29 ff. The letter also in *Gregorii VII Epistolae Collectae*, Monumenta Gregoriana ed. P. Jaffé (Berlin, 1865), p. 535 ff. On Manegold see G. Koch, 'Manegold von Lautenbach und die Lehre von der Volkssouveränität unter Heinrich IV', *Historische Studien* xxxiv (Berlin, 1902).

²⁷ Manegold, *op. cit.*, c. 29, pp. 361-4.

²⁸ Manegold's boorishness and plebeian excesses gave offence and later caused his admirers some embarrassment. See Gerhoch von Reichersberg's *Epistola ad Innocentem Papam*, *Libelli* iii, 232 f.

²⁹ Manegold, *op. cit.*, p. 365, ll. 1-3.

³⁰ *op. cit.*, c. 30, p. 365.

³¹ *loc. cit.* However coarse the comparison it echoed a phrase in the treatise of Wenrich of Trier against whom Manegold had taken up the cudgels. Wenrich had written that it was new and unheard of to change kings, the Lord's anointed, as if they were village-receves. (*Libelli* i, 289, l. 34.) Manegold thought it was neither new nor, in the manner, mistaken.

³² Gerhoch von Reichersberg, *op. cit.*, *loc. cit.*

³³ Manegold, *loc. cit.*, l. 44 f.

³⁴ Manegold, *op. cit.*, c. 47, p. 391 f.

³⁵ On these reciprocal relations see F. Kern, *Kingship and Law*, translated by S. B. Chimes (Oxford, 1948), pp. 75-9.

³⁶ Manegold, *op. cit.*, c. 30, p. 365: '... cum pactum, pro quo constitutus est, constet illum prius irrupisse.' c. 47, p. 391: 'At vero si quando pactum, quo eligitur, infringit...'.

³⁷ *Wenrici Scolastici Trevirensis Epistola* c. 4, *Libelli* i, 289, l. 30 f.

³⁸ K. Jordan, 'Der Kaisergedanke in Ravenna zur Zeit Heinrichs IV', *Deutsches Archiv für Geschichte des Mittelalters* ii (1938), p. 85 ff.

³⁹ *Petri Crassi Defensio Heinrici IV. Regis* c. 6, *Libelli* i, 443 ff.

⁴⁰ See *Brunos Buch vom Sachsenkrieg* c. 25, ed. H. Lohmann, *Kritische Studentexte des Reichsinstituts für ältere deutsche Geschichtskunde* ii (Leipzig, 1937), p. 29: Igitur

expergiscimini et hereditatem vobis a parentibus vestris relictam liberis vestris relinquitte; nec . . . vos et liberos vestros . . . servos fieri permittite. The Saxons justified their revolt against Henry IV with the same arguments that Peter damned it.

⁴¹ Petrus Crassus *op. cit.*, p. 445, l. 7.

⁴² G. Tellenbach, *Church, State and Christian Society*, translated by R. F. Bennett (Oxford, 1940) p. 1.

⁴³ *Deusdedit Presbyteri Cardinalis Libellus contra Invasores et Symoniacos* . . . , Prologus and c. 3, Libelli ii, 300 and pp. 352-53. The *auctoritas-potestas* antithesis was taken from Pope Gelasius I.

⁴⁴ Tellenbach, *op. cit.*, p. 15 ff. and esp. p. 21. See also H. Grundmann, 'Freiheit als religiöses, politisches und persönliches Postulat im Mittelalter', *Historische Zeitschrift* 183 (1957), p. 23 ff.

⁴⁵ Widukind von Korvei, *op. cit.*, p. 84. Widukind adopted this sense of *libertas* from his literary model, Sallust.

⁴⁶ Reg. II, 63, p. 218.

⁴⁷ *Hugonis Monachi Floriacensis Tractatus de Regia Potestate et Sacerdotali Dignitate* c. 1, Libelli ii, 467. After quoting Gregory VII's sentence on the vicious and even satanic origins of royal government from the second letter to Hermann of Metz (cf. *infra*, n. 57) he rejects it as frivolous because the Apostle had said: *Non est potestas nisi a Deo*. (Rom. XIII, 1.) 'Constat igitur hac sententia, quia non ab hominibus, sed a Deo potestas regia in terris est ordinata sive disposita.' In Bk. II, cc. 6 and 7, p. 493 f. Hugh advanced a doctrine of non-resistance. For the Norman Anonymous see *Tractatus Eboracenses* IV, Libelli iii, pp. 663, 679.

⁴⁸ Reg. I, 75, p. 106 f. to Philip I of France; *ibid.* VII, 21, p. 498 to King Haakon of Denmark: 'Inter ceteras ergo virtutes . . . ecclesiarum defensionem in mente tua volumus eminere.' *Ibid.* VII, 23, p. 500, l. 26 f. to William the Conqueror.

⁴⁹ Reg. III, 10, p. 267, l. 5 ff. Reg. VII, 11, p. 473 ff.

⁵⁰ A. Nitschke, 'Die Wirksamkeit Gottes in der Welt Gregors VII', *Studi Gregoriani* v, ed. Borino (Rome, 1956), p. 158 with many examples. In 1074 Duke William VI of Aquitaine was asked to frighten his overlord, King Philip I, into a more respectful frame of mind with the help of other French magnates. Reg. II, 18, pp. 150-51.

⁵¹ E.g. Reg. II, 5, p. 130; Reg. IV, 2, p. 295, l. 10, the first letter to Bishop Hermann of Metz (1076). Reg. IX, 37, p. 630: ' . . . sed secularem cautelam et rationem divine legi preponens . . . ' was written to William the Conqueror because he had imprisoned Bishop Odo of Bayeux, his half-brother.

⁵² Reg. VI, 13, p. 415 to the King of Norway; Reg. II, 51, p. 192; VII, 5, p. 464; VII, 21, p. 497 to the kings of Denmark; Reg. II, 73, p. 233 to Duke Boleslav II of Poland; Reg. VII, 11, p. 473 to Duke Wratislav of Bohemia; Reg. II, 63, p. 218 to Duke Geisa of Hungary; Reg. IV, 28, p. 343 to the rulers and princes of Spain; VII, 6, p. 465 and IX, 2, p. 569 to Alphonso VI of Castile.

⁵³ Gregory's best-known utterance on this is in Reg. IV, 3 of 1076. About Henry IV he wrote: 'Non inflatus spiritu elationis consuetudines superbie contra libertatem sancte ecclesie inventas defendat.'

⁵⁴ Reg. VIII, 21, p. 548.

⁵⁵ *ibid.*, p. 562, l. 24.

⁵⁶ Libelli ii, 97. Elsewhere, however, in Gregory's letters, alienation from God was servitude to demons. Cf. Reg. VIII, 21, p. 555, l. 13 f. and also IX, 3, p. 575.

⁵⁷ Reg. VIII, 21, p. 552, l. 13.

⁵⁸ Reg. VII, 25, p. 505 with the sun and moon analogy.

⁵⁹ Reg. I, 37, p. 59, l. 8.

⁶⁰ Nitschke, *op. cit.*, p. 190 f. His is one of the most arresting interpretations of Gregory's mind and thought to which I should like to acknowledge my debt.

⁶¹ A. Fliche, *La Réforme Grégorienne* (Louvain, Paris, 1926), ii, 403 ff. E. Voosen, *Papauté et Pouvoir Civil à l'époque de Grégoire VII* (Gembloux, 1927), p. 162, held that there is no contradiction. One must distinguish between the divine source and the historical origin of royal government in Gregory's thought. But it is not clear that Gregory, in his letters, drew this distinction. W. Ullmann, *The Growth of Papal*

Government in the Middle Ages (London, 1955), p. 271 n. 1, takes the view that there is no problem.

⁶² Deusdedit, *op. cit.*, Libelli ii, 353, l. 27: '... eo quidem permittente, non tamen volente.'

⁶³ Reg. VIII, 21, p. 559: 'De tot enim hominibus Deo reddituri sunt rationem, quot sue dominationi subditos habuerunt.' Reg. VII, 25, p. 506 for the pope's responsibility and *ibid.*, n. 2 its Gelasian source.

⁶⁴ Reg. VIII, 21, p. 559: '... quid erit de iis, qui multa milia morti tradunt pro huius mundi honore?'

⁶⁵ C. Erdmann, *Die Entstehung des Kreuzzugsgedankens* (Stuttgart, 1935), p. 145 ff.

⁶⁶ Reg. VIII, 21, p. 561.

⁶⁷ Reg. IV, 3, p. 299; IX, 3, p. 574 ff.

⁶⁸ Reg. IV, 2, p. 294, l. 16; VIII, 21, p. 550 f.

⁶⁹ Hauck, *op. cit.*, iii, 759 and 763; Erdmann, *op. cit.*, pp. 156, 188 f., 202. J. Haller *Das Papsttum* (Stuttgart, 1951), ii, 368 f., 379 f.

⁷⁰ Reg. II, 45, p. 184: 'Multo enim melius nobis videtur iustitiam Dei vel novis reedificare consiliis, quam animas hominum una cum legibus deperire neglectis.'

⁷¹ The story is Otto of Freising's. See his *Gesta Friderici I Imperatoris*, S.R.G. (3rd ed., Hanover and Leipzig, 1912), p. 27.

⁷² *Du Contrat Social*, Bk. III, cc. 2, 5, 10, ed. C. E. Vaughan (Manchester, 1918), pp. 54, 59, 74.

⁷³ For the development of the Church's social and political ideology in the twelfth century see Ullmann, *op. cit.*, p. 413 ff. and G. B. Ladner, 'The concepts of *Ecclesia* and *Christianitas* and their relation to the idea of papal *Plenitudo Potestatis* from Gregory VII to Boniface VIII'. *Miscellanea Historiae Pontificiae* (Rome, 1954) xviii, 49 ff.; F. Kempf, S.J., 'Papsttum und Kaisertum bei Innozenz III', *ibid.* xix, 182 ff.; M. D. Chenu, O.P., *La Théologie au Douzième Siècle* (Paris, 1957), p. 252 ff.

CHAPTER IV
ARISTOTLE IN THE SCHOOLS

JEAN DUNBABIN

HOBBS knew just what he thought about the learning of the schools:

The Writings of the Schoole-Divines are nothing else for the most part but insignificant traines of strange and barbarous words, or words otherwise used, than in the common use of the Latine tongue; such as would pose Cicero, and Varro, and all the Grammarians of ancient Rome. Which if any man would see proved, let him (as I have said once before) see whether he can translate any Schoole-Divine into any of the Modern tongues, as French, English, or any other copious language: for that which cannot in most of these be made Intelligible, is not Intelligible in the Latine. Which Insignificancy of language, though I cannot note it for false Philosophy; yet it hath a quality, not only to hide the Truth, but also to make men think they have it, and desist from further search.¹

The technical jargon and distinctions which Hobbes here decries are to be found in any scholastic writing. Political theory, however, has its own peculiar problems as well. For when the scholars of Paris in the period 1250-1300 considered the nature of government, they were guided and inspired by Aristotle's *Politics*. Now the *Politics* is an all-inclusive study, coping with both the real and the ideal state, describing a great variety of constitutional frameworks. Because its medieval commentators regarded it as an 'authority', they were obliged to touch on all the topics with which it deals, to imitate its breadth. As a result, if we want to know what kind of government the scholars of late-thirteenth-century Paris advocated, we are faced with the task of sifting out the convictions from the purely academic theorizing. There is no reliable method of doing this. Any conclusions are bound to be open to question.

Still, the method most commonly adopted has produced some unlikely interpretations. It consists of drawing up unchangeable criteria of Christian political theory, and then attaching importance to those sections of thirteenth-century argument which

support these criteria. For example, Fr. Eschmann has concluded that the overwhelming concern of St. Thomas Aquinas in his *De regno: Ad Regem Cypri* was to support limited monarchy.² He bases this contention on section 42 of the work, in which Thomas says:

First it is necessary that the man who is raised up to be king by those whom it concerns should be of such condition that it is improbable that he should become a tyrant. . . . Then, once the king is established, the government of the kingdom must be so arranged that the opportunity to tyrannize is removed. At the same time his power should be so tempered that he cannot easily fall into tyranny.³

Now this section certainly does support limited monarchy. Yet the *De regno* is a long work, and the ideas expressed here are not developed anywhere else. If Thomas had meant them to be the kernel of the work, would he not have suggested ways in which the king's power should be tempered? But Eschmann defends his choice thus:

It is clear . . . that this line of political thought was the only one that could be adopted by a Christian political thinker, for the limitation of political power is the very first and universally recognized preoccupation of Christian Politics; it is the essence and the driving power of the Christian revolution in the political field. Had St. Thomas advocated the absolutism of royal power, he would have been guilty of pagan and reactionary tendencies.⁴

The belief that sanctity and Whiggery necessarily go together is the product of bitter experience in the modern world. To extend it back to the thirteenth century and use it to sift the wheat from the tares is liable to distort the proportions of the structure.

An alternative method of approach is, firstly, to discover from the political background of the thirteenth century what the scholars are likely to have considered important; and secondly, to attach significance to those institutions and concepts which they themselves mention most frequently, or which they develop beyond Aristotle.

The political background is easier to describe than might have been expected; for the only university at which Aristotle's *Politics* was intensively studied during our period was that of Paris. All the works from which I shall quote were written by men who had either been trained or had taught at Paris. And Paris was the Capetian capital. The connection between the court and the

University had been forged when Philip Augustus gave the University its Charter in 1200.⁵ St. Louis was deeply interested in its studies—he granted land to Robert of Sorbonne for his college,⁶ and there is at least the legend that he entertained St. Thomas at his table. Philip the Fair patronized Giles of Rome. And the connection between the court and the city of Paris was a very intimate one. Joinville⁷ tells us:

Sometimes have I seen him [St. Louis], in summer, go to do justice among his people in the garden of Paris. . . . And he would cause a carpet to be laid down, so that we might sit round him, and all the people who had any cause to bring before him stood around. And then would he have their causes settled, as I have told you afore he was wont to do in the wood of Vincennes.

The king was there, moving among his subjects. Scholars in the University could see the way in which he dispensed justice; and their chances of personal contact with him were high. They could compare the popularity and success of the French monarchy with the bitter feuds of the Italian city states or with the collapse of the Hohenstaufen and the troubled interregnum that followed in Germany. It would therefore be in keeping with their personal experience to advocate a strong monarchy.

To turn to their writings, scholastic political theory is to be found in three types of academic work: (1) commentaries on the *Nicomachean Ethics* and on the *Politics*. It is arguable that the former give a truer indication of the scholars' own opinions than the latter, since political questions arise less directly out of the text; (2) didactic literature, addressed to a specific ruler; (3) the discussions which occur in theological works.

All scholastics agree with Aristotle in declaring monarchy to be the best kind of constitution. Their reasons vary. Albertus Magnus in his First Course on the *Ethics* compares a state ruled by a king to a man guided by reason to his proper fulfilment;⁸ an anonymous commentator on the *Ethics* compares it to the rule of God over the universe.⁹ These highly theoretical arguments are balanced by the practical considerations brought forward in St. Thomas' *De regno*: firstly that rule by one man is more efficient than rule by many, because one man can make up his mind much faster; and secondly that, as a matter of fact, cities and provinces which are ruled by more than one man are torn by dissensions,

whereas monarchies flourish.¹⁰ This is surely a reference to his native Italy, as contrasted with France. But what strikes the eye is not so much the actual justification of monarchy, as the fact that scholars are much more interested in it (and its perversion, tyranny) than in the other four constitutions mentioned in the *Politics*—aristocracy, oligarchy, polity and democracy. The commentators on the *Ethics* give hardly a word to these four; the lists of Quodlibetic questions¹¹ for the period indicate a far deeper concern with monarchy than with any other form of government. And it is here that they go beyond Aristotle.

Aristotle begins his discussion of monarchy by enunciating the principle that

Royal rule, if not a mere name, must exist by virtue of some great personal superiority in the king.

(*Politics*, Book IV, 1289 b.)

This the schoolmen accept. As one says:

The king ought to be sufficient unto himself, and abounding in both external and internal goods, such as the moral and intellectual virtues.¹²

In fact, one early-fourteenth-century commentator takes the idea of intellectual superiority so seriously that he denies nobility to kings who are not also scholars; and he chooses as a model of kingship not St. Louis but the twice-excommunicated Emperor Frederick II, on the grounds that he was learned in astrology.¹³

Aristotle assumes that monarchy will only come into being if there is a man so pre-eminent in virtue that he cannot in justice be treated like other men. By contrast the schoolmen take the existence of a king for granted. The question, for them, is whether the king should be elected, or should succeed to the throne by hereditary right. Since the king is to be pre-eminent in virtue, the obvious method is election. Yet all the scholars who consider this question are apprehensive about election. As one commentator puts it:

I say that *per se* a king should succeed by election, *per accidens* however by hereditary right . . . for [from election] there can arise strife among all men, and seditions and wars, and thus the polity and the common good are destroyed.¹⁴

The unanimity on this point must be the result of experience; for these political tracts were written either during the Interregnum

in Germany, or in the years immediately after, when the lesson was still fresh in their authors' minds. Hereditary monarchy seemed the only safe solution. Besides, Giles of Rome points out,¹⁵ there are positive benefits in the system: a king who knows his son is to succeed him will have an incentive to preserve the state's resources; while, on the other hand, a royal prince who has been brought up to be a monarch will be less puffed up on his accession than a man unexpectedly elected. If the prince is not up to the job, he can use wise and good counsellors to help him.

But this non-Aristotelian preference for hereditary right, derived from their own society, puts the scholars in a dilemma: their various justifications of monarchy as an institution depend on the king's being comparable with God, able to lead his people to their proper fulfilment and to make the state flourish. But the chances that hereditary succession will regularly produce such a man are not high. Events in England under King John and Henry III proved that royal blood was no guarantee of statesmanship. Since they are not seriously interested in other constitutions, the theorists can only suggest two possible solutions to their diverging loyalties: either that a bad hereditary monarch must have constitutional restraints put upon him, or that a royal son must be so trained and conditioned from his earliest youth that the misuse of power becomes an abomination against the whole grain of his nature. Because the first solution is the one which has recommended itself to later generations, what St. Thomas and his contemporaries say on constitutional restraints can be found in any text-book. The second solution, by contrast, has been ignored. Yet it seems to me that it was the one which the late-thirteenth-century scholars very definitely preferred.

For there is something curiously vague in the treatment of constitutional restraint in our sources. The authors mention several possible limitations on the sovereign, but none of them are given much prominence, nor are their consequences explored.

For example, Giles of Rome holds that the king must govern the kingdom according to the natural law.¹⁶ This contention has been much dwelt on by historians, but it commanded little interest among Giles' contemporaries. Most simply do not mention it at all. The natural law, after all, is not an Aristotelian concept. It is the prerogative of the Law Faculty rather than of

the Arts. And when St. Thomas explains the subjection of all men to the natural law, he takes the trouble to define that law, so that its significance should not be exaggerated:

The order of the precepts of the natural law corresponds to the order of our natural inclinations. For there is in man a natural inclination to good which he has in common with all substances; in so far as every substance seeks its own preservation according to its own nature. Corresponding to this inclination, the natural law contains all that makes for the preservation of human life, and all that is opposed to its dissolution. Secondly there is to be found a further inclination in man to certain more specific ends, according to the nature which man shares with other animals. In virtue of this inclination there pertains to the natural law all those instincts which nature has taught all animals, such as sexual relationship, the rearing of offspring and the like. Thirdly there is in man a certain inclination to good, corresponding to his rational nature: and this inclination is proper to man alone. So man has a natural inclination to know the truth about God and to live in society. In this respect, there come under the natural law all actions connected with such inclinations; namely, that a man should avoid ignorance, that he must not give offence to others with whom he must associate, and all actions of a like nature.¹⁷

This has more in common with an anthropological survey than a legal code. It bears little relation to the later natural law of Hobbes; it carries with it no idea of natural rights or duties. So as a constitutional limitation, the king's subjection to the natural law lacks conviction; it is simply a platitude.

As to the positive law, the commentators agree that the king ought to consider himself subject to it. Yet he is above it *quantum ad vim coactivam legis*, that is, he is outside its powers to compel obedience. For these powers belong entirely to him, and no man can compel himself. In this, his privilege is unique. The Vatican commentator on the *Ethics* says:

Only the king has the right to make the law and to compel obedience, for he who is superior alone has these rights; but only the king is superior in the state; for anyone else who is elevated above his fellow is so by the king alone.¹⁸

Then there comes the far more complicated question of whether the king is the maker of the positive law, or merely its executive agent. Earlier medieval political theorists had always assumed that the law had an existence independent of the king; that it was his function simply to clothe in words universally recognized

principles of justice; or if, as was most likely, his predecessors had already done this, he must simply preserve inviolate the ancient laws and customs of the realm. Such respect for ancient laws and customs still thrives in the thirteenth century. St. Thomas proves in the *Summa theologiae*¹⁹ that custom has the force of law; and Giles of Rome is careful to warn the young prince Philip, to whom his *De regimine principum* is addressed, of the dangers inherent in changing the laws drawn up by his pious ancestors.²⁰

But this attitude was rather out of touch with the times, for their contemporaries St. Louis and Edward I of England were busy changing the ancient customs of their realms by means of new laws. By the thirteenth century, reform was in the air. Fortunately Aristotelian political theory could accommodate this development. For in the *Politics* a large part is played by that shadowy figure, 'the legislator'. Aristotle does not make it clear who this man is. But St. Thomas says that the legislator must be identical with the body which carries out the law. So in states ruled by the whole people, the whole people should be the legislator, and in principalities the prince should make the law.²¹ Giles of Rome also identifies king and legislator,²² pointing out that the burden of framing laws must rest on the man who is responsible for enforcing them. Both are agreed, though, that the king's laws are only laws in so far as they are based on justice. Thomas says that unjust laws are not binding on subjects: indeed, if they order a crime against God they must not be obeyed; and even if they merely order a human injustice, they do not bind unless disobedience will cause scandal and tumult²³ (which of course, it will).

Despite this limitation on the kind of law the legislator may make, Thomas' contemporaries show some uneasiness about the combination of the legislative and executive offices in one body, and especially in one man.

The often repeated question, 'Is it better to be ruled by a good man than by good laws?', in fact, demands a comparison between the old system of independent laws and the new idea of the king as the source of law. A typical answer is given by Giles of Orleans in his commentary on the *Ethics*. In favour of rule by a good man, he argues that this is more like the rule of God over His people, and that it therefore comes as near as possible to the best kind of

government; and further, that a good man is more flexible than good laws, able to show mercy or harshness as the situation dictates. In favour of rule by law, he argues that although a man may be just when he becomes king, he may be corrupted later, whereas the laws cannot be. But he concludes only with the wretched scholastic distinction:

Per se it is better that the state be ruled by the best man rather than by the best laws; *per accidens* however by the best laws.²⁴

The Vatican commentator says the same thing in a clearer way:

If we suppose that the best man will never be perverted, then it is better that the state be ruled by him than by the best laws. But because it is difficult for the best man not to be perverted, then it is better *per accidens* that the state be ruled by the best laws.²⁵

What strikes the modern reader as so odd is the clearly expressed preference for the principle of absolute rule. It is only if the king is perverted that rule by law becomes desirable. We are still far from Whiggish principles. These two commentators leave us here, having dropped their tantalizing hints about limited monarchy; but Giles of Rome, following in their footsteps, then hares off in the opposite direction to assert that the advantages of rule by one man so outweigh the disadvantages as to make it much the best solution.²⁶

Another limitation to the power of the king (in addition to the natural law and the possible independence of the positive law) is a mixed constitution. In this, the legislative and executive powers would be united in one body, but that body would consist of the king and a council elected by the people. St. Thomas declares this to be the best kind of constitution,²⁷ because in it every citizen has some stake in the government. This passage has been interpreted as supporting the election of the king by the people; but the example which Thomas gives shows that he means only the aristocrats to be elected. For he compares a mixed constitution to the government of the Children of Israel by Moses and seventy-two elected elders from the tribes. It is noteworthy that Thomas—like Aristotle—suggests this expedient as a means of curbing popular dissatisfaction rather than royal power.

These, then, are the ways of limiting sovereign power suggested by the thirteenth-century scholars. As they stand, they are undeveloped and not framed in practical terms. If it be true that

'the limitation of political power is the very first and universally recognized preoccupation of Christian politics',²⁸ then our authors would appear to be muddle-headed and vague; while one of their contemporaries, Ptolemy of Lucca, must seem deliberately perverse. For Ptolemy sets out the two possible forms of government thus:

There are two kinds of government put forward by Aristotle in his *Politics* . . . the political and the despotic. A government is called a polity when a region or a province or a city or a camp is ruled by one man or many according to its own laws, as happens in parts of Italy, and especially in Rome. . . . A despotic principality is called so because it is the relationship of master to slave.²⁹

But he then goes on to argue that each constitution has something to be said for it. A polity works where the citizens are all virtuous, as they were in ancient Rome, but a despotism is more efficient elsewhere. He has no emotional reaction whatsoever against despotism. In fact, he remarks:

Because the perverse are difficult to chasten, and the number of the stupid is infinite, as it is said in *Ecclesiastes*, a despotic regime is more fruitful in corrupt nature.

But if the thirteenth-century theorists are very hard to pin down on the cures for tyranny, they are absolutely clear on its prevention. Autocracy tempered by conscience is the doctrine emphatically taught both by St. Thomas in his *De regno* and by Giles of Rome in his *De regimine principum*. These two pieces of didactic writing, addressed respectively to Hugh III of Cyprus³⁰ and the young prince Philip the Fair of France, owe much to the traditional *Fürstenspiegel* in arrangement, but are thoroughly permeated by Aristotelian ethical teaching. Every incentive to virtue suggested by Aristotle is seized on by Giles and St. Thomas, who stress that it applies even more to a king than to other men. The king must justify his position by making himself into the noblest in the state. Giles emphasizes the need to begin this tough programme in youth. He blames heartily kings who are careless in the education of their sons; for, as he says, the whole state's safety will later depend on their integrity.³¹ He gives details of the kind of training a prince needs at different ages. And since the *De regimine principum* was written for Philip when he

was probably no more than eleven, it is easily seen that Giles' standard for princes was high.

Both Giles and Thomas aim to hammer into their respective princes the creed that good government pays dividends to the ruler. Giles argues that virtue in a king automatically brings stability to the state.³² On the other hand, says Thomas, a king who represses his subjects will be in constant danger of revolution:

The government of tyrants is maintained by fear alone and consequently, they strive with all their might to be feared by their subjects. Fear, however, is a weak support. Those who are kept down by fear will rise against their rulers if ever the opportunity occurs when they can hope to do it with impunity, and they rebel against their rulers all the more furiously the more they have been kept in subjection against their will by fear alone. . . . Therefore the government of a tyrant cannot be of long duration.³³

As Giles succinctly puts it: *Violentia autem perpetuitatem nescit*.³⁴

This is on the negative side: a king must not be a tyrant or he will be deposed. There are also positive incentives to good rule. For Thomas remarks that the temporal advantages for which tyrants abandon justice, work to the greater advantage of kings when they observe it. He then gives three illustrations. In the first place, tyrants impoverish themselves in their drive for power:

Among all worldly things, there is nothing which seems worthy to be preferred to friendship. Friendship unites good men and preserves and promotes virtue. Friendship is needed by all men in whatsoever occupations they engage. In prosperity it does not thrust itself unwanted upon us, nor does it desert us in adversity. It is what brings with it the greatest delight, to such an extent that all that pleases is changed to weariness when friends are absent and all difficult things are made easy and as nothing by love. But though tyrants desire this very benefit of friendship, they cannot obtain it for when they seek their own good instead of the common good, there is little or no communion between them and their subjects. . . . Good kings, on the contrary, are loved by many when they show that they love their subjects.³⁵

Secondly, tyrants make an economic mistake, for it costs more to rule unjustly than justly:

Experience further shows that kings acquire more wealth through justice than tyrants do through rapine. Because the government of tyrants is displeasing to the multitude subject to it, tyrants must have a great many satellites to safeguard themselves against their subjects. On these it is necessary to spend more than they can rob from their

subjects. On the contrary, the government of kings, since it is pleasing to their subjects, has for its protection, instead of hirelings, all the subjects.³⁶

And finally, tyrants commit the folly of sacrificing the rich rewards of Heaven to mere ephemeral tit-bits:

Tyrants who desert justice for a few earthly advantages are deprived of such a great reward, which they could have obtained by ruling justly. How foolish it is to sacrifice the greatest and eternal goods for trifling, temporal goods is clear to everybody but a fool or an infidel.³⁷

Giles' arguments follow much the same lines. He stresses that Aristotelian happiness is not open to the man who treats his subjects as though they were slaves; indeed, it is as much better to rule free men rather than slaves as it is to be a free man rather than a slave.³⁸ And the glory and magnificence which surround a good king are in themselves incentives to good behaviour.

It is significant that in marshalling their arguments for just rule, both Giles and St. Thomas assume that the burden of choice will be wholly on the shoulders of the monarch, that unrestrained tyranny is completely open to him. Otherwise they would scarcely go to all the trouble of painting the picture of the wretched, misguided and inglorious fool, surrounded by hatred which will soon engulf him. Unfortunately, Giles rather undermines the impact of this picture on the prince by then explaining to him how, if he does become a tyrant, he can avoid revolution. He reels off all Aristotle's infamous Tips to Tyrants,³⁹ including the advice to use foreign war as a means of silencing domestic discontent.

It seems to me that the thirteenth-century scholars attached more importance to this appeal to the king's conscience and self-interest than they did to any theory of mixed government or independent law. There is, after all, in all their work a strongly expressed preference for one omnipotent authority in the state provided that authority remains just. In St. Thomas' words:

That which is itself a unity can more easily produce unity than that which is a plurality.⁴⁰

In Paris, where they taught, there was no cause for pessimism about royal integrity. The French kings, by asserting their authority over the whole country, were making justice and order at least more of a reality than they had been before. As Joinville says of St. Louis:

No man in the world laboured more to maintain peace among his subjects, and especially among the great men who were neighbours, and the princes of the realm.⁴¹

To have supported the limitation of such royal authority would have seemed reactionary. Of course, the French were very fortunate. The English had been forced to limit royal power, both under John and under Henry III; but these men were thought of as unfortunate accidents, individual failures. It was above all the personality of the king that counted. Therefore the literature that aimed to convince him that his own and his subjects' interests were identical, played a really significant part in medieval political theory.

Having warned the king against tyranny, Giles and St. Thomas go on to explain the duties of a good monarch. His prime function is moral leadership:

Since the beatitude of heaven is the end of that virtuous life which we live at present, it pertains to the king's office to promote the good life of the multitude in such a way as to make it suitable for the attainment of heavenly happiness. . . . Thus the king, taught the law of God, should have for his principal concern the means by which the multitude subject to him may live well.⁴²

With this go the practical duties of defending the realm, dispensing justice and making ends meet in such a way that he does not have to ask his subjects for extra financial help. Giles is particularly interested in the first, though how relevant his advice was to thirteenth-century conditions I do not know. Book III of the *De regimine principum* contains much detailed military advice (lifted from the Roman strategist Vegetius) and a long dissertation on the ordering of the realm in time of war. Thomas, more idealistically, concentrates on justice:

Let the king recognize that he has assumed the duty of being to his kingdom what the soul is in the body and what God is in the world. If he reflects seriously upon this, a zeal will be enkindled in him when he contemplates that he has been appointed to administer justice throughout his realm in the place of God; further, he will acquire mildness and clemency, looking upon the persons subject to his government as the members of his own body.⁴³

Thomas goes on to mention the king's duty to live of his own. But his fullest treatment of this occurs in a letter to the Duchess of Brabant.⁴⁴ Here he emphasizes that, although in times of national

emergency the prince may collect an extra tax over and above his usual income, he ought never to ask for one simply to cover his own inordinate expenditure. He must be guided by the common good.

These, then, are the responsibilities of kingship, and a king will find himself well rewarded if he carries them out. But what happens if he does not? This is the subjects' problem, not the king's; it therefore comes into the province of the commentators on the *Ethics* and the theologians, as well as into that of the propagandists. The answer invariably found is that the subject must bear injustice and tyranny with patience. Of course, the friar scholars were in a better position to take this line than most people. Having no property themselves, they were practically immune from the ordinary manifestations of royal injustice. So it was easy for them to say with Giles of Rome:

If therefore one considers how much good comes from kings, not only from kings who rule righteously but even from those who tyrannize in some way, the people ought to try to obey them. For the tyrannically inclined are more easily borne than the evil which arises from disobedience to the prince and prevarication about his orders.⁴⁵

Thomas points out the unwisdom of deposing a tyrant—his place may be so easily taken by another who, having learnt from his predecessor's downfall that the people can be dangerous, will oppress them twice as much as his predecessor did.⁴⁶ And one commentator on the *Ethics* concludes that even a bad king should be honoured, because his office is in the interests of the community.⁴⁷ This argument fits in with what Albertus Magnus says in his First Course on the *Ethics*:

Democracy is simply worse than tyranny, because at least in tyranny there remains the subjection to one superior and there remains the order of authority, even though it is abused, but in democracy nothing remains, for the whole civil order is overthrown.⁴⁸

This is the general scholastic line on submission: sedition is a mortal sin,⁴⁹ and rebellion may have disastrous consequences. On occasions, of course, there are possibilities of relief from tyranny. If a people has the right to elect its king, then it also has the right to depose him; if the king is subject to and appointed by an emperor, then the emperor may depose him.⁵⁰ But these are rare constitutional situations, and in general a people has no recourse against a tyrant but to pray that God will smite him.

There is, however, one famous passage in the *Summa theologiae* in which St. Thomas cautiously works out a possible academic justification for rebellion:

Tyrannical government is unjust because it is directed not to the common welfare but to the private benefit of the ruler. . . . Consequently the overthrowing of such a government is not strictly sedition, except where it is accompanied by such disorder that the community suffers greater harm from the consequent disturbances than it would from the continuance of the former rule.⁵¹

This was used by later generations without St. Thomas's safeguards. But in the original the justification is so hedged around as to suggest simply an intellectual exercise. In fact, Thomas here goes only marginally further in support of rebellion than he does when he says in the *De regno*:

Nor would it perhaps be a violation of fidelity at all, according to the opinion of many, to frustrate the wickedness of tyrants by any means whatsoever.⁵²

Indeed, one would not expect incitement to rebellion from scholars who put a positive value on the virtue of obedience:

The order of justice requires that inferiors obey their superiors; otherwise the state of human affairs cannot be preserved.⁵³

Since it is the duty of the king to provide moral leadership, then it must be that of the subject to obey, or else he could not benefit by that leadership. Giles says:

If any citizen wishes to be good and virtuous, since virtues are the highest good, he ought with extreme diligence to apply himself to obeying the king and keeping the laws.⁵⁴

And this is why the thirteenth-century scholars are content to leave the subject so vulnerable to tyranny: the state, though it can do great harm, can also do infinite good to each citizen. It is the purveyor of the 'full life'. Without it, man would be quite lost. Peter of Auvergne puts this simply:

You should understand that a man at the start of his life is imperfect. Immediately he needs food and clothing for his body. And because each natural thing is born to be perfected, to this it is ordained. But man is perfected through communication with his fellows and through society. . . . But you should understand that although man is imperfect, his nature can be perfected by those things, without which his life cannot be saved, as for instance food and clothes. In these things a man is assisted by his family, for one ploughs, another digs. Again man is imperfect because by himself he lacks those things which

are necessary for a full life. And in these he is helped by the whole population in his state, for one man makes shoes, another makes something else essential, and so there are exchanges inside the state. And again, there are some who teach others. And again, there are princes in the state so that those men should be corrected whom paternal castigation has not restrained.⁵⁵

For Peter, then, the prince provides for his people in exactly the same way as the cobbler. Where the cobbler supplies shoes, the prince supplies a substitute for self-control, and the subject could no more get along without the prince's leadership than he could without his shoes.

For St. Thomas, social intercourse among men would be quite impossible in the absence of government. Hence his famous doctrine that even in the state of innocence there would have been dominion.⁵⁶ For men in a body need one man in authority over them, to look after the common good while they pursue their individual interests. In the process of caring for the common good, the ruler leads his people to a better life. Here St. Thomas quotes St. Augustine (*De civitate Dei* XIX 14): 'The just rule not through desire of domination but because it is their duty to give counsel.' Thus the ruler has a direct moral influence on every citizen. But his indirect influence is even greater; for by preserving the social hierarchy, the prince makes possible those close personal relationships which enrich and develop a man.

And here we get to one of the cardinal principles of medieval social theory: the state has unity of purpose—the full life for each of its citizens—but this unity is achieved through a diversity of status. Inequality among men is not only inevitable, it is desirable. As Ramon Lull put it rather later:

It is seemly that the men should plough and dig and work, in order that the earth may yield the fruits from which the knight and his horses will live; and that the knight, who rides and does a lord's work, should get his wealth from the things on which his men are to spend so much toil and fatigue.⁵⁷

In our sources, the same doctrine takes a more Aristotelian form. Giles says:

As it is natural that beasts should serve man so it is natural that the ignorant should be subject to the prudent; their subjection is useful to them so that they may be guided and saved by their industry.⁵⁸

The system, then, is in the interests of the weak, who would flounder without aid. This applies to slaves, serfs and servants. It also applies, though in a more liberal form, to a man's family. The parental domination prevents sons from falling into all the sins of youth; and husbandly guidance turns intemperate, gossipy and flirtatious women into sober, tranquil and orderly wives.⁵⁹ And while a man is thus benefiting his dependents, he is himself gaining in moral stature by the exercise of prudence.

Therefore to be head of a household is of advantage to a man. So, too, is to own property; for this demands both liberality and diligence.⁶⁰ This leads to the question of how much property a man should have. One commentator on the *Ethics* declares:

It is not lawful for a man to have more wealth than is necessary for his life and station; and if he has more, it is not rightfully his.⁶¹

Another expands the notion:

If anyone has more riches than are needful for himself and his close friends, and than he will need for his civic functions, and for the future, according to right thinking, even to wish for such riches is a sin.⁶²

What emerges from both commentators is that the amount of a man's wealth should be determined by his station, the part he has to play in society. This is one of the most alien things about medieval social theory: it is taken for granted that every man has a fixed place in the social hierarchy. Nobody should play himself down—that is merely false modesty—but equally nobody should over reach himself. One must be completely true to one's own position. This belief results in some strange advice; Giles, for example, says that a lady should wear the amount of jewelry which will make her attractive to her husband without exciting comment as excessive for her station.⁶³

I have tried to describe here what is meant by the concept *vita activa* as used by medieval scholars—that is, the life in which a man is enriched both by obeying his superiors and by prudently governing his dependents and his property. It was under the influence of Aristotelian thought that this life became the epitome of respectability. Indeed, so much so that one commentator on the *Ethics* is driven to insist that monasteries too have their share of it, as well as of the *vita contemplativa*.⁶⁴

But since it is the state which contains and guides this flowering of the individual, its interests must dominate also. Giles compares

the state to the body, and says that as an arm is sacrificed to the safety of the body, so may some men be to the common good.⁶⁵ And Peter of Auvergne's *Questions* on the *Politics* betray 'the clear assertion of the superiority of politics to the ethics of the individual'.⁶⁶

So the thirteenth-century schoolmen would have been quite bewildered if they had been asked to consider the liberal doctrine: 'All the errors which a man is likely to commit against advice and warning are far outweighed by the evil of allowing others to constrain them to what they deem is good.'⁶⁷ Their Christianity, their moral philosophy, and their personal experience all combined to teach them: that there was only one good life; that that life was only obtainable in society; and that a society ruled by a monarch who exemplified that life had the best chance of achieving it for all its citizens.

In all this, nothing has been said of the Church. And this is not surprising. For Church-State relations is not a problem on which Aristotle can give a useful line to a Christian nation. The commentators on the *Ethics* and *Politics* deal simply with natural religion, making no attempt whatsoever to infiltrate Christian ideas into the text. Albertus Magnus, for instance, in his First Course on the *Ethics*, says that the ruler alone can appoint the sites for 'temples' and the times most suitable for religious rites; he also has authority over the actions of the priesthood.⁶⁸ Giles and St. Thomas in their advice to princes are not governed by the strict conventions of the commentary, so they are free to discuss a king's religious duties. But curiously enough, Giles only mentions the Church in passing, telling the king to respect theologians above all other men⁶⁹ and to see that his son is brought up in the faith.⁷⁰ Thomas takes the problem more seriously. He insists that the priesthood seeks to offer the people an even more perfect way of life than can the king; therefore the king must regard himself as subordinate to the priesthood.⁷¹ But all his argument on the subject is confined to two chapters; and he does not draw out the implications of royal subjection at all. Yet he was writing at a time when papal foreign policy dominated the international scene, and conflicted with that of all temporal rulers, not excluding the saintly Louis of France. In this situation his restraint is remarkable.

True, when St. Thomas turns from philosophy to theology, he does develop the theme of Church-State relations. But he states his position in the most moderate of terms:

Both the spiritual and the temporal power derive from the divine power; consequently the temporal power is subject to the spiritual only to the extent that this is so ordered by God: namely, in those matters which affect the salvation of the soul. And in these matters the spiritual is to be obeyed before the temporal. In those matters however which concern the civil welfare, the temporal power should be obeyed rather than the spiritual, according to what we are told in St. Matthew, 'Render to Caesar the things that are Caesar's.'

Excessive claims from the priesthood are therefore to be deplored. But he then makes an important qualification:

Unless of course the spiritual and the temporal power are identified in one person as in the pope, whose power is supreme in matters both temporal and spiritual, through the dispensation of Him who is both Priest and King: a Priest forever, according to the order of Melchisedech, the King of kings and Lord of lords whose power shall not fail and whose dominion shall not pass away to all eternity. Amen.⁷²

Exactly what temporal power Thomas here accords the pope has been endlessly debated, and yet another opinion on the subject would not be very valuable. But since there is so much difficulty in interpreting the passage, surely it is legitimate to deduce that Thomas was not particularly concerned by the practical problems involved in a clash between king and pope. Indeed, he could not very well be. For his whole political theory demanded that the king be a power for good, and two such powers could not clash—or else the whole castle would come tumbling down. As it did.

¹ *Leviathan*, Part 4, ch. 46.

² *St. Thomas Aquinas. On Kingship: To the King of Cyprus. Done into English by Gerald B. Phelan. Revised with Introduction and Notes by I. Th. Eschmann, O.P.* (Toronto, 1949). Introduction, pp. xxxvi-xxxviii. I have used this translation throughout except see note 40.

³ *ibid.*, p. 24.

⁴ *ibid.*, pp. xxxvii-xxxviii.

⁵ Denifle et Chatalain, *Chartularium Universitatis Parisiensis*, 4 vols. (Paris, 1889-97). Vol. I, pp. 59-61.

⁶ *ibid.*, vol. I, pp. 349, 434.

⁷ *Chronicle of the Crusade of St. Louis*, translated by Sir Frank Marzials under the title *Memoirs of the Crusades* (Everyman Edition, London, 1909), p. 150.

⁸ Gonville and Caius College, Cambridge, MS. 510 (388), fol. 127ra:

'Solutio. Dicendum quod, cum homines sint per naturam ordinati ad aliquod unum bonum participandum, oportet quod per aliquod unum bonum regulentur ad illud, sicut ad omnes conclusiones unius artis regulamur per unum habitum et ad hoc quidem ordinatum est naturalis lumen rationis inditum hominibus.'

See J. Dunbabin, 'The Two Commentaries of Albertus Magnus on the Nicomachean Ethics', *Recherches de théologie ancienne et médiévale* xxx (1963), pp. 232-50.

⁹ Erfurt Amplon F 13, fol. 112va:

'Dicendum ad hoc quod iustum naturale est quod civitas regatur tantum uno principe; tum quia sic totum universum regitur, tum quia minor mundus sic regitur.'

¹⁰ *On Kingship* . . . , pp. 11-13.

¹¹ P. Glorieux, *La littérature quodlibetique de 1260-1320* (Bibliothèque Thomiste Vols. 5 and 6), Paris, 1925, 1935.

¹² Erfurt Amplon F 13, fol. 112va:

'Rex . . . debet esse per se sufficiens, et superhabundans bonis exterioribus et bonis interioribus, ut virtutibus moralibus et intellectualibus.'

¹³ Vat. Lat. 2173, fol. 69ra:

'Dico quod prelati debent utrasque [vitam activam et vitam contemplativam] habere, et principes debent habere utrasque; et ideo antiquitus solebant magis instrui in scientiis liberalibus per quas homo attingit felicitatem speculativam quam in aliis scientiis. Sicut apparet de Frederico, qui fuit non est multum diu, qui fuit optimus astrologus. Et nisi isti principes habeant speculativam cum practica, dico quod non sunt nobiliores aliis habentibus felicitatem speculativam.'

¹⁴ Paris Nat. Lat. 16089, fol. 216va: (Giles of Orleans)

'Dico quod per se secundum electionem debet succedere, per accidens tamen secundum propagationem . . . quia ex hoc potest fieri contentio inter omnes et seditiones et bella, et sic destruuntur communitatis politia et bona communia.'

¹⁵ *De regimine principum* Book III, Part II, ch. 5, Ed. Rome, 1556, fol. 272v-275r.

¹⁶ *De reg. princ.* Book III, Part II, ch. 29, fol. 315r.

¹⁷ *Summa theologiae*, Ia IIae, 94, art. 2.

¹⁸ Vat. Lat. 832, fol. 43v:

'Solut rex habet legem statuere et virtutem coactivam, quia ille qui est superior solum habet legem statuere et virtutem coactivam. Modo solus rex in civitate est superior, quia quicumque alius a rege habet superioritatem.'

¹⁹ Ia IIae, 97, art. 3.

²⁰ *De reg. princ.*, Book III, Part II, ch. 32, fol. 317v-319v.

²¹ Ia IIae, 90, art. 3.

²² *De reg. princ.* Book III, Part II, ch. 27, fol. 311r-312v.

²³ Ia IIae, 96, art. 4.

²⁴ Paris Nat. Lat. 16089, fol. 216rb:

'Per se melius est regi viro optimo civitatem quam optima lege; per accidens est e converso.'

²⁵ Vat. Lat. 832, fol. 31r:

'Si supponimus quod vir optimus nullo modo pervertatur, melius est civitatem regi co quam optimis legibus. Tamen, quia hoc est difficile, scilicet quod optimus vir nullo modo pervertatur, ideo melius est per accidens civitatem regi optimis legibus.'

²⁶ *De reg. princ.*, Book III, Part II, ch. 29, fol. 314r-315v.

²⁷ Ia IIae, 105, art. 1.

²⁸ See above, p. 66.

²⁹ From his continuation to St. Thomas *De regno* . . . , Book II, ch. 8. Quoted in R. W. and A. J. Carlyle, *Mediaeval Political Theory in the West* (London, 1928), vol. V, p. 73.

³⁰ Fr. Eschmann disputes the mediaeval theory that it was addressed to Hugh III; he puts the *terminus ante quem* to 1265—in the reign of Hugh II. (*On Kingship* . . . , pp. xxviii-xxx.) But he argues this from the date of St. Thomas' commentary on the *Ethics*. Since this is highly controversial, it seems safer to take the conventional view.

³¹ *De reg. princ.*, Book II, Part II, ch. 2, fol. 172r-173r.

³² *ibid.*, Book III, Part II, ch. 14, fol. 289r.

³³ *On Kingship* . . . , p. 47.

³⁴ *De reg. princ.*, Book I, Part I, ch. 10, fol. 19v.

³⁵ *On Kingship* . . . , pp. 44-5.

³⁶ *ibid.*, pp. 48-9.

³⁷ *ibid.*, p. 43.

³⁸ *De reg. princ.*, Book I, Part I, ch. 10, fol. 20r-v.

³⁹ *ibid.* Book III Part II ch. 15 fol. 289v-291v.

⁴⁰ *On Kingship* . . . p. 43. I have preferred my own translation here.

⁴¹ *Chronicle* . . . p. 308.

⁴² *On Kingship* . . . pp. 64-5.

⁴³ *ibid.* p. 54.

⁴⁴ *Opuscula omnia*, ed. R. P. J. Perrier (Paris, 1949), pp. 213-19.

⁴⁵ *De reg. princ.*, Book III, Part II, ch. 34, fol. 325r.

⁴⁶ *On Kingship* . . . , p. 25.

⁴⁷ Paris Nat. Lat. 16110, fol. 258vb:

'Verum est propter hoc quod ordinatur hic ad bonum aliquod, sicut ad bonum civitatis; unde non debet honorari quia malus sed propter hoc quia ordinatur ad bonum.'

⁴⁸ Gonville and Caius College, Cambridge 510 (388), fol. 125ra-rb:

'Democratia est simpliciter peius quam tyrannia, quia in tyrannia saltem manet ordo ad unum superiorem, et manet ordo potestatis, quamvis ille abutatur; sed in democratia nichil manet quia totus ordo civilitatis confundatur.'

⁴⁹ *Ila Ilae*, 42, art. 2.

⁵⁰ *On Kingship* . . . , p. 27.

⁵¹ *Ila Ilae*, 42, art. 2.

⁵² *On Kingship* . . . , p. 47.

⁵³ *Ila Ilae*, 104, art. 6.

⁵⁴ *De reg. princ.*, Book III, Part II, ch. 34, fol. 323v.

⁵⁵ Leipzig Univ. 1386, fol. 115ra-rb:

'Intelligendum quod homo in principio sue generationis imperfectus est. Statim enim indiget nutrimento et indumento quantum ad corpus. Et quia unumquodque naturale est natum perfici, ad illud habet ordinem; perficitur autem homo per communicationem et societatem; . . . Est autem intelligendum quod cum homo sit imperfectus, natura eius est perfecta per ea sine quibus natura humana salvari non potest, sicut indiget nutrimento et veste, sine quibus vita transiri non potest. In talibus enim iuvatur familia; unde unus arat, alius fodit; sine quibus vita transiri non potest. Iterum homo imperfectus est de se, quia caret eo quo indiget ad hoc quod sufficienter vivat. Et in hoc iuvatur multitudo civili, secundum quod unus in civitate facit calciamentum, alius autem alia, et sic fiunt communicationes in civitate. Iterum ad ea que pertinent ad doctrinam, sunt aliqui qui instruunt alios. Iterum principes sunt in civitate ut corrigantur qui paterna castigatione castigari non possunt.'

I am grateful to Fr. R.-A. Gauthier for telling me about this commentary.

⁵⁶ *Ia*, 96, art. 4.

⁵⁷ Quoted by M. Bloch, 'The Rise of Dependent Cultivation and Seignorial Institutions', *Cambridge Economic History*, vol. I, p. 277.

⁵⁸ *De reg. princ.*, Book II, Part III, ch. 13, fol. 226v.

⁵⁹ *ibid.*, Book II, Part I, ch. 19, fol. 163r.

⁶⁰ *ibid.*, Book III, Part I, ch. 11, fol. 254r-v.

⁶¹ Paris Nat. Lat. 16110, fol. 137va:

'Dico quod non est licitum homini plura bona possidere quam sit ei necessaria vite et ad statum suum; et si plura habeat, illud non est suum.'

⁶² Erfurt Amplon F 13, fol. 118rb:

'Si aliquis habeat plures divicias quam requirantur ad se ipsum et suos amicos propinquos, et quam requirantur ad indigentiam ipsius secundum quod est pars civitatis, et quam etiam indigeat in tempore futurum, secundum rectam estimationem velle etiam habere tales divicias est peccatum in moribus.'

⁶³ *De reg. princ.*, Book II, Part I, ch. 21, fol. 165v-167v.

⁶⁴ Vat. Lat. 832, fol. 6vb-7ra:

'Viri religiosi, licet non habeant uxores sicut alii, et licet non sint communicativi, tamen non sunt omnino a civitate separati, quia habent domesticos in domo cum quibus communicant; etiam in civitate communicant cum aliis; verum est quod non sint totaliter dediti operationibus exterioribus sicut alii in civitate, tamen non sunt omnino a civitate abstracti.'

⁶⁵ *De reg. princ.*, Book I, Part III, ch. 3, fol. 95r.

⁶⁶ Quoted from C. J. Martin, *The Commentaries on the Politics of Aristotle in the late thirteenth and early fourteenth centuries, with reference to the thought and political life of the time*. Unpublished D.Phil. thesis, Oxford, 1949.

⁶⁷ Sir Isaiah Berlin, *Two Concepts of Liberty* (Oxford, 1958), p. 12.

⁶⁸ Gonville and Caius College, Cambridge, 510 (388), fol. 125vb:

'Interest enim legislatoris ut ordinet congregationes ad sacrificia fieri temporibus quibus homines sine nocumento possunt ab aliis operationibus vacare; similiter ut templa congruis locis edificentur; similiter vita ministrantium in talibus dupliciter potest considerari, aut quantum ad contemplationem, et sic non pertinet ad politicum, aut quantum ad actiones. . . .'

⁶⁹ *De reg. princ.*, Book II, Part II, ch. 8, fol. 184r.

⁷⁰ *ibid.*, Book II, Part II, ch. 5, fol. 177r-178v.

⁷¹ *On Kingship* . . ., pp. 58-64.

⁷² *In II Sententiarum*, Distinctio 44, *Expositio Textus* ad. 4.

CHAPTER V

MARSIGLIO OF PADUA AND DANTE ALIGHIERI

MARJORIE REEVES

MARSIGLIO and Dante were almost contemporaries. Dante was ten or more years the elder but died younger (1265-1321), so that Marsiglio, born between 1275 and 1280 and dying in 1342 or 3, had a longer span of life. In background and in some of the *political experiences* which formed them there are close parallels, yet the *political thought* into which those experiences crystallized was astonishingly different. This sharp contrast invites exploration, not so much in hope of explanation, as from desire to savour more fully the distinctive quality of each.

Each was born and brought up in an Italian city-state which had not yet succumbed permanently to the signory of one family and which prized its republicanism deeply. Florence at this time was busy reshaping its constitution in accordance with the shift of political power towards the major and median guilds. From the constitutional experiments which reached a climax in 1293-95, the Signoria, consisting of Priors chosen from the guilds, emerged as the chief instrument of political power. In contemporary Padua power still remained with the *Concilium maius* of one thousand citizens—with a property qualification—and the chief administrative officer was still the Podesta, elected by the *Concilium maius*. At a time when new men were jostling for position, both cities clung to liberty, but neither achieved equilibrium.

There is a significant divergence in the education of the two men. Dante, as we know from his own analysis of his experience, was at one stage of his growth fascinated by the Lady Philosophy and followed her closely:

And as it is wont to chance that a man goeth in search of silver and beyond his purpose findeth gold, the which some hidden cause presents, not, I take it, without divine command; so I, who was seeking to console myself, found not only a cure for my tears, but words of authors, and of sciences and of books, pondering upon which I judged that Philosophy who was the lady of these authors, of these sciences

and of these books was a thing supreme; and I conceived her after the fashion of a gentle lady, and I might not conceive her in any attitude save that of compassion; wherefore the sense for truth so loved to gaze upon her that I could scarce turn it away from her; and impelled by this imagination of her, I began to go where she was in very truth revealed . . . so that in a short time . . . I began to feel so much of her sweetness that the love of her expelled and destroyed every other thought.

(*Convivio*, ii, 13, tr. P. Wicksteed).

Marsiglio, on the other hand, was for some time chiefly interested in the natural sciences and medicine. He was in Paris from 1312 to 1313 and c. 1320 to 1326, when he was giving lectures on natural philosophy and studying medicine. This difference in academic taste we shall find reflected in the modes of thought of the two men. Yet both display a common characteristic in that the pursuit of learning was interrupted by political activities. Dante's name appears in the Florentine records as a participant in city councils a number of times between 1295 and his exile in 1302. Marsiglio at some period turned from the study of 'nature' to become involved in the politics of Can Grande della Scala and Matteo Visconti. Both returned to paths of study—Dante because his exile shut the door on any satisfactory political activity, Marsiglio apparently by choice. Both, as we shall see later, got once more caught up in political strife, this time at the imperial level.

The experience of life in a city-state engendered in both these thinkers one over-riding political concern which at times seems to become an obsession: the paramount importance of finding the cause of civil strife in communities, of striking at this root evil in human society and of discovering the true formula for peace. Moreover, the common conditions of politics in thirteenth-century Italian city-republics meant that both discovered one of the major causes of civil strife in the 'invasions'—or conversely in the immunities—of the Church. On the one hand, ecclesiastical authorities from the pope downwards were claiming increasing rights of intervention in the civil sphere; on the other hand, clerical immunities from civil control threatened to ham-string political authority. Thus we find in Dante a mounting resentment against the disastrous role of the Church in politics, a resentment underlined by Boniface VIII's intervention in Florentine affairs, with

its fatal consequence of exile for Dante. As for Marsiglio, during his lifetime there was a continual struggle in Padua against clerical immunity from civil jurisdiction and clerical control over the laity, a struggle which found expression both in the bitter complaints of chroniclers and civil legislation against these privileged persons. It is not surprising that in his mind the clergy came to constitute the primary obstacle to peace in the state.

Finally, both men were impelled to distil their political experience into a work of political philosophy. Both, in their works, assumed the passionate role of a political reformer, and both, at some stage, pinned their faith on an emperor as the agent of political regeneration. There has been controversy about the date of Dante's *Monarchia*,¹ but the most generally accepted view places it somewhere between 1309 and 1313, that is, during the Emperor Henry VII's expedition to Italy.² Dante supported this attempt of imperial authority to reassert control over Italy with great passion: he burnt all his political boats, heaped reproaches on Florence for resisting Henry, and—since the expedition failed—rendered his own sentence of exile irrevocable. We do not know when Marsiglio began the *Defensor pacis*³ but he tells us that he finished it on June 24, 1324.⁴ Thus it was not conceived, like Dante's work, in a moment of political crisis, but thought out in the comparative remoteness of the Paris schools. His authorship became known in 1326; the book was declared heretical and Marsiglio was forced to flee to the court of the Emperor Lewis of Bavaria.⁵ Among Marsiglio's Paris contacts had probably been a group of Spiritual Franciscans, including Ubertino da Casale. These became curious allies in the attack upon clerical wealth and privilege and both Marsiglio's political polemic and the Spirituals' religious denunciation were utilized by Lewis of Bavaria in his offensive against Pope John XXII. So Marsiglio found himself, like Dante, supporting an imperial expedition to Italy in 1327. In Rome there was a brief make-believe of putting Marsiglio's political doctrines into practice, but this was quickly over. After the debacle Marsiglio spent the rest of his life in exile at the court of Lewis.

Thus there are striking parallels between the experiences of these two men, but even more striking is the sharp divergence of

their thought. Broadly similar experiences drove them in diametrically opposite directions. In turning now to look briefly at Dante's political philosophy, we shall leave on one side problems of its development through various phases, selecting only a few main points which remain more or less constant and which will point up our contrast with Marsiglio. In the first place, seeking for the root of this great over-riding evil of civil strife, Dante found it in the sin of *cupiditas* to which all human beings are so prone. Quoting from Aristotle he affirms that 'the greatest obstacle to justice is cupidity' (*Monarchia*, i, c. 11). The 'invasion' of that which is not one's own brings untold evil consequences. This view is carried to such lengths that even the physical expansion of a thriving city like Florence is denounced by Dante's ancestor, Cacciaguida, in *Paradiso*, xvi, instead of being regarded as a sign of healthy vitality. But the greatest example of cupidity is found by Dante in the papacy—taking from Constantine that which was not her own, grasping the sword as well as the crook, invading the civil sphere at every turn:⁶

. . . your avarice grieves the world, trampling on the good and raising up the wicked. . . . You have made you a god of gold and silver. . . . Ah, Constantine, to how much evil gave birth, not thy conversion, but that dower the first rich Father had from thee!

(*Inferno*, xix, 104-17).

Thou canst plainly see that ill-guiding is the cause that has made the world wicked. . . . Rome, which made the good world, used to have two suns, which made plain the one way and the other, that of the world and that of God. The one has quenched the other and the sword is joined to the crook, and the one together with the other must perforce go ill.

(*Purgatorio*, xvi, 103-11).

Justice is only possible when greed has been utterly removed and greed is only removed when nothing is desired. This is a possible state of mind only for one who possesses all, that is, a universal monarch. In him alone can perfect justice be achieved, for he alone is free from all cupidity:

But when there is nothing to be desired there can be no cupidity, because the passions cannot remain when their objects have been eliminated. But the Monarch has nothing to desire, since the ocean alone is the limit of his jurisdiction—unlike other princes . . . whose

jurisdictions are limited by one another's frontiers. It follows that of all mortals the Monarch can be the purest incarnation of justice.
(*Monarchia*, i, c. 11).

So Dante arrives at the concept of universal monarchy as the only cure for civil strife.

This desire to end civil strife is not just a negative impulse. Dante starts the argument of the *Monarchia* from the perspective of the ideal goal of human civilization as a whole. This goal is to realize the specific potentiality of humanity, as distinct from that of animals in general, and this he defines as the potentiality or capacity of intellect. To achieve this, universal peace is necessary and, as we have seen, the elimination of strife can only be achieved under unity of rule:

For, if it is agreed that mankind as a whole has a goal (and this we have shown to be so), then it needs one person to govern or rule over it, and the title appropriate to this person is Monarch or Emperor. Thus it has been demonstrated that a Monarch or Emperor is necessary for the well-being of the world.

(*Monarchia*, i, c. 5).

Dante goes on to elevate the argument for universal monarchy above the level of civil necessity to that of cosmic and divine perfection. The whole heavens are ruled by a single motion and, on this pattern, the whole human race should be ruled by one ruler and one law. Moreover, humanity comes nearest to achieving its goal when it most resembles God. God is absolute unity. Therefore the human race is most God-like when it is most one, and it follows that when it is subject to one prince it most resembles God.

Dante, you will observe, has elevated the 'end' of political life into a final or ideal 'end'. But very clearly he also has another final 'end'—the goal of mankind on the supernatural plane. Thus *he conceives of two beatitudes towards which mankind strives:*

... it follows that man's ultimate goal is twofold—because since man is the only being sharing in both corruptibility and incorruptibility, he is the only being who is ordered towards two ultimate goals. . . . Unerring Providence has therefore set man to attain two goals: the first is happiness in this life, which consists in the exercise of his own powers and is typified by the earthly paradise; the second is the happiness of eternal life, which consists in the enjoyment of the divine countenance (which man cannot attain to of his own power but only

by the aid of divine illumination) and is typified by the heavenly paradise.

(*Monarchia*, iii, c. 16).

The one 'end' is made plain by human reason, that is, by the direction of philosophy; the other is only attained by the guidance of the Holy Spirit. Progress towards the one is directed by the emperor, towards the other, by the pope.

This is a strange conception: it seems to postulate two final ends to be reached by distinct and different means. Dante almost commits himself to belief in two completely independent planes of human existence. Here lies his most individual political thought. He is driven to it by his conviction that, for the proper fulfilment of the earthly beatitude, the political ruler must not be subordinated in any way, *qua* ruler, to the pope. His own political experience forced this separation upon him, while the claims of the canonists forced him to make it as absolute as possible in order to bar the way to their invasions. We see his strong feeling that the developing claims of ecclesiastical lawyers were a major cause of strife in his attack upon the Decretalists in Book III of the *Monarchia*. Indeed, the whole of the Third Book is devoted to proving that the authority of the Roman monarchy is derived directly from God.

This is a great assertion of Christian humanism: the belief in an ultimate value on the strictly human level of existence which is given and blessed by God. Yet it would have been unthinkable for Dante—even the Dante of the period before the *Divina Commedia*—to have conceived of the purpose of human life solely in terms of earthly felicity. His second goal of eternal beatitude is axiomatic. Can he, then, sustain two absolute ends right through the argument of the *Monarchia*? In the last chapter he reiterates Man's two ends and reasserts his belief in the independence of the temporal monarch whose authority is received 'directly and without intermediary, from the source of all authority'. Yet in the end the dichotomy *must* be transcended. After all, Dante admits, mortal felicity is, in a certain sense (*quodammodo*), ordained to serve immortal felicity. The Roman monarch must, therefore, acknowledge that he is subjected *in aliquo* to the Roman pontiff.

Caesar, therefore, is obliged to observe that reverence towards Peter which a first-born son owes to his father; so that when he is enlightened

by the light of paternal grace he may the more powerfully enlighten the world, at the head of which he has been placed by the One who alone is ruler of all things spiritual and temporal.

(*Monarchia*, iii, c. 16).

Thus, in spite of his efforts to create an absolute division between the two, Dante at the last opens a door through which the ecclesiastics could once more invade the political territory.

Marsiglio's argument contrasts with Dante's in a most illuminating way. He starts from the same purpose of opposing the mounting arrogance of papal claims, through which the papal *plenitudo potestatis* is seen as above and inclusive of all other powers. His declared and immediate purpose, as expressed in the first chapter of the *Defensor pacis*, is to refute 'this perverted opinion . . . pernicious to the human race'. But he sets about his task quite differently. Dante shared with his antagonists a mode of thought which began with an ideal framework of universal order and worked back to institutions and political practice. The papalists, of course, saw this order in terms of one organic hierarchy of powers crowned by the papal *plenitudo potestatis*, whereas Dante and other anti-papalists sought to diversify the order, Dante himself going so far as almost to create a dualism of orders. But he still thought in terms of ideal orders, of goals and ends. The weakness of this mode of thought is clear from the concluding sentences of the *Monarchia*: so long as one thought in these terms, one end must ultimately be declared final and, since there could be little doubt in men's minds as to which end was absolutely final, Dante is forced to admit a breach in his defences through which the papalists could reclaim the whole position.

Marsiglio makes a radical break with this tradition of thinking in terms of ideal orders and ultimate goals. He starts from the opposite end: the natural desires of men. For him the 'natural' is the primitive, not the perfected; it is the original endowment of Man, an endowment shared in part with the animals. He has constantly in mind the biological image of a living organism which he can apply either to the individual or to the state, and his language frequently suggests biological or even medical categories. Thus normal healthy men and animals have natural desires which are only perverted if the organism is sick or defective:

All men not deformed or otherwise impeded naturally desire a sufficient life and flee and avoid what is harmful thereto; which has been admitted not only concerning man but also concerning every genus of animals.

(*Defensor pacis*, I, iv, § 2).

The state, too, can be seen as a well-balanced animal organism—and here Marsiglio is taking a point from Aristotle:

Let us assume with Aristotle . . . that the state is like an animate nature or animal. For just as an animal well disposed in accordance with nature is composed of certain proportioned parts ordered to one another and communicating their functions mutually and for the whole, so too the state is constituted of certain such parts when it is well disposed and established in accordance with reason. The relation, therefore, of the state and its parts to tranquillity will be seen to be similar to the relation of the animal and its parts to health.

(*Defensor pacis*, I, ii, § 3).

Again, he likens discord or strife to the illness of an animal and speaks of diseased governments. Many examples of this use of medical or biological metaphor can be found in Marsiglio's work.

Thus Marsiglio places politics within a biological context and starts his analysis from instinctive desires. Where Dante sees the meaning of politics in terms of a progression towards man's true nature which is his end, Marsiglio sees it as a series of consequences following from a biological drive which is his predetermined beginning. His political doctrines follow with a kind of inevitability which is new because it derives from beginnings, not ends. Here the contrast between the two thinkers is reinforced by the striking difference of the analogies they use: whereas Marsiglio, envisaging his perfect state, thinks of the healthy animal organism, Dante, seeking for a symbol of ideal political harmony, finds it in the divinely-ordered and immovable hierarchy of the cosmos.

But now we meet a difficulty in Marsiglio's reasoning. Like Dante he was, as we have said, obsessed by the evil consequences of civil strife. The theme of conflict pervades the whole *Defensor pacis*, with its constant references to contentions, injuries, disputes, strifes. But Marsiglio is forced to begin by accepting conflict as 'natural'. Naturally each individual man pursues his own private desire for the sufficient life, and equally naturally he will pursue it too far, so that clashes between warring desires will inevitably

arise. Dante can sit in moral judgement on the sin of cupidity: Marsiglio must start from an instinct to desire in excess which is a biological consequence of the nature of Man: 'Without . . . correction the excesses of these acts would cause fighting . . . and finally the . . . loss of the sufficient life' (I, v, § 7). He finds the origins of the state, therefore, not in the need to realize a perfected end, but in the necessity of modifying and controlling natural desire for the sufficient life in the very interests of achieving that sufficient life. Moreover, his experience of city economics shows him that division of labour and co-operative functioning make for a more sufficient 'sufficient life'. So, in his account of the origins of the state, Marsiglio accepts the limitation of natural desire in the interests of avoiding harm and making life easier:

Men had to assemble together in order to attain what was beneficial through these arts and to avoid what was harmful. . . . Men, then, were assembled for the sake of the sufficient life, being able to seek out for themselves the necessities enumerated above and exchange them with each other. This assemblage, thus perfect and having the limit of self-sufficiency, is called the state. . . . For since diverse things are necessary to men who desire a sufficient life . . . there had to be diverse orders or offices of men in this association. . . .

(*Defensor pacis*, I, iv, § 3, 5).

Once this position is accepted, the state becomes a necessity because all or most healthy men will recognize that their private desire has been incorporated into the public aims. Because men desire the sufficient life, it will follow that 'all or most men' will 'wish for a law appropriate to the common benefit of the citizens' (I, xii, § 8). The people's will must be accepted and the individual will rejected because the former aims at the common benefit with the same necessary biological drive as the latter aims at its private benefit.

Precisely because conflict is so natural, it is of paramount importance to prevent, over-ride and suppress it, so that the common benefit, that modicum of natural life alone possible, can be salvaged from destruction. The most urgent purpose of government is not to lead the good life but to coerce members into a 'due proportion'. For conflicts will inevitably arise:

Because among men thus assembled there arise disputes and quarrels which, if not regulated by the norm of justice, would cause men to fight . . . and thus finally would bring about the destruction of the

state, there had to be established in this association a standard of justice and a guardian or maker thereof.

(*Defensor pacis*, I, iv, § 4).

Marsiglio is haunted by the danger of the destruction of the state and with it of the only possible formula for the sufficient life. This dominates his thinking. The highest authority must be accorded to the government because it alone has the necessary means to prevent descent into anarchy. Thus political necessity rather than noble ends gives the state its *raison-d'être*. There is little need here to point up the contrast with Dante.

It is true that Marsiglio does set forth his 'end' in his concept of the sufficient life, but this is pitched in a far lower key than Dante's two beatitudes. Marsiglio, of course, takes the idea of a political 'end' from Aristotle, but he makes an important shift of emphasis from final to immediate ends. When he comes to explore the meaning of the sufficient life in the civil community, he does, it is true, move beyond animal sufficiency to include activities which he can describe under the heading of 'living well':

Those who live a civil life not only live, which beasts and slaves do too, but they live well, having leisure for those liberal functions in which are exercised the virtues of both the theoretic and the practical soul.

(*Defensor pacis*, I, iv, § 1).

Now the interesting thing here is that, although his civil happiness includes theoretical aspects, it puts them on the same level as practical activities. There is no hierarchy of ends or values. The sufficient life for men consists in realizing all the values which they naturally desire, and all aspects of civil life—moral, intellectual and theological, as well as practical and economic—evolve from the original natural impulse. We realize the levelling effect of Marsiglio's conception when we compare his view of the purposes of peace with Dante's. To the Florentine the noble end of peace is to enable the human race to realize the whole power of possible intellect. The Paduan simply enumerates the advantages of peaceful co-operation in society:

... the mutual intercourse of citizens, their intercommunication of their functions with one another, their mutual aid and assistance... the power... of exercising their proper and common functions, and also the participation in common benefits and burdens...

(*Defensor pacis*, I, xix, § 2).

Both have an Italian civic background and it is noteworthy that only one incorporates it into his idea of peace. This sharp contrast perhaps gives us the most central point of divergence between Dante and Marsiglio, for whereas Dante's aspiration to achieve the possible intellect leads him straight forward to the single monarch as the only means to this end, Marsiglio's spread of varying civic values without distinction of grade is the basis of his republicanism. The qualities of his sufficient life are minimal enough to be desired and attained by a large proportion of the people, whereas a hierarchy of ends presupposes that only an élite will reach the highest.

The people, then, associate naturally for economic and social activities, impelled to this action by basic biological needs. There is no indication that Marsiglio conceives of men as desiring each other's company for its own sake. The state is a group of men forced into association with each other by elementary necessities. It consists of six principle parts: farmers, mechanics or artisans, bankers, judges or rulers, soldiers, priests. The chief aim of political life is the 'good disposition' of all the parts, so that they may function easily within the whole. The meaning of peace is interpreted in an entirely secular and external sense—simply as smooth inter-relations. Marsiglio resolutely turns his back on any concept of peace 'in the inward parts', for the state is concerned with outward acts alone, in so far as they affect other people. 'Transient' actions, i.e. acts that pass over into effects on others are to be distinguished from 'immanent' acts, i.e. motivations which do not reveal themselves in external deeds; the state can take cognizance of the former only, for the latter are not within its competence.

This has a direct bearing on Marsiglio's treatment of Law. Like a condition of inward peace and the existence of 'immanent acts', he recognizes the reality of divine law. But it is irrelevant, because it does not impinge directly on the externalized relationships which form the civil life. So he refuses to discuss it:

I shall discuss the establishment of only those laws and governments which emerge directly from the decision of the human mind.

(*Defensor pacis*, I, xii, § 1).

Human law must be a coercive command which affects outward acts. Precisely because the essential basis of human law is not

reason but coercive command, Marsiglio defines the law of the state as the command of the whole body of citizens, for, though it may not express the highest reason, only the whole has the right to coerce each member. Thus we reach Marsiglio's famous concept of the whole people as Legislator. The state must rest, not on a higher law, but on the positive will of a human agency and Marsiglio postulates with great force that this must be the people—the 'primary and proper efficient cause of law' (I, xii, § 3). The people, then, constitutes the Legislator and this he endows with a kind of sovereignty unparalleled in medieval political thought. The Legislator elects the deliberative experts who propose the laws, discusses and judges the adequacy of their proposals and stamps them with its coercive command which alone makes them law.

You will notice here that the exercise of reason and expertise does enter into the drafting stage of law-making. The question arises as to whether Marsiglio believes in simple majority opinion at the promulgating stage. This would be out of keeping with the whole medieval way of thinking in terms of group opinion, especially strong in civic communities. Marsiglio does define the people as the *universitas civium*—as if he were going to proceed by counting heads—but he adds the important qualification 'or the weightier part of it' (I, xii, § 3-5). His discussion of this concept of *valentior pars* is most illuminating. His criteria for determining it include both quantitative and qualitative factors, the recognition of majority opinion and the weighting by wealth, experience, function, etc. In fact, looking more closely at Marsiglio's thought at this point, it seems that his units of opinion are not the individuals of a modern democracy but functional groups of people. All groups must, however, share in forming the will and there is an almost modern note in his passionate defence of the rightness of the many as against the wisdom of the few. Whilst the wise and experienced may guide in the initial stages of lawmaking, the ordinary good sense and judgement of average citizens is needed to make good enactments:

That at which the entire body of citizens aims intellectually and emotionally is more certainly judged as to its truth and more diligently noted as to its common utility. For a defect in some proposed law can be better noted by the greater number than by any part thereof, since

each whole . . . is greater in mass and in virtue than any part of it taken separately. Moreover, the common utility of a law is better noted by the entire multitude because no one knowingly harms himself. . . .

. . . For most of the citizens are neither vicious nor undiscerning most of the time; all or most of them are of sound mind and reason and have a right desire for the polity and for the things necessary for it to endure. . . . For although not every citizen nor the greater number . . . be discoverers of the law, yet every citizen can judge what has been discovered and proposed to him . . . and can discern what must be added, subtracted or changed.

(*Defensor pacis*, I, xii, § 5 and xiii, § 3).

Naturally, of course, there will be some wrong-headed citizens who lack the good sense to see where their well-being lies. It is characteristic that these 'deviationists' (as I think Marsiglio would have called them to-day) are described, not as sinners, but as 'deformed'. There is no question but that they must be coerced into agreement.

The people elects the ruler or government and delegates its executive authority to this chosen power. Marsiglio is quite clear that the only basis of legitimate rule is the will of the people: it cannot be any personal qualities of wisdom or experience, however desirable these are in themselves:

It now remains to show the efficient cause of the ruler, that is, the cause by which there is given to one or more persons the authority of rulership which is established through election. For it is by this authority that a person becomes a ruler in actuality and not by his knowledge of the laws, his prudence or moral virtue, although these are qualities of the perfect ruler. For it happens that many men have these qualities, but nevertheless, lacking this authority, they are not rulers. . . .

(*Defensor pacis*, I, xv, § 1).

The people must correct, punish or depose the ruler if he infringes the law. Above all, the ruler cannot make the law—for a very illuminating reason: that the one or the few must inevitably seek to pervert the law to private interests against which the only safeguard is the many. This stands in sharp opposition to Dante's argument for the single ruler—that he alone, possessing all, is free from the perverting corruption of cupidity.

To Marsiglio, with his emphasis on an externalized peace, the primary function of the government is the judgement of disputes and the prevention of 'impediments' to the smooth working of the state. This is a negative and limited function, yet of vital

importance. The ruler is strictly controlled by the people but, because the preservation of peace is the primary purpose of the state, the ruler must himself tightly control all parts of the community to ensure the preservation of the state. He has, for instance, the right to direct the citizens' choice of occupation and to regulate economic activity. There is a constant flow of authority from the people to the ruler and from the ruler to groups and individuals. Once again we find Marsiglio using the biological analogy when he describes the ruler as the heart of an animal:

Consequently the action of the ruler in the state, like that of the heart in the animal, must never cease. . . . For the command and the common guardianship of the things which are lawful and prohibited . . . must endure at every hour or minute and whenever anything unlawful or unjust is done, the ruler must completely regulate such acts or must perform the preliminary steps towards such regulation.
(*Defensor pacis*, I, xv, § 13).

Finally, we must look briefly at two special problems (out of many) in Marsiglio's thought: his approach to the Church/State controversy and his attitude towards the concept of universal government. The whole argument in Discourse I is designed as a foundation on which to build the special argument of Discourse II concerning the position of the Church. The last chapter of the first discourse is entitled *On the efficient causes of the Tranquillity and Intranquillity of the City or State, and on that singular cause which disturbs States in an unusual way; and on the connection between the first Discourse and the Second*. It is clear that to Marsiglio the Church, with its immunities and extra-territorial jurisdictions, constitutes the chief impediment to tranquillity in the state. The papacy in particular is 'the efficient cause of civil strife'. Here, of course, the Italian city-state experience comes out most strongly:

There is, however, a certain unusual cause of intranquillity or discord of cities or states. . . . This cause has for a long time been impeding the due action of the ruler in the Italian state, and is now doing so even more; it has deprived and is still depriving that state of tranquillity . . . ; it has vexed it continually with every evil . . . and misery. . . . (It is) a singular impediment because of its customary hidden malignity. . . . This cause arises because the bishops of Rome therefore assumed for themselves this universal coercive jurisdiction over the whole world under the all-embracing title 'plenitude of power'

which they assert was granted by Christ to St. Peter and to his successors. . . . so those who call themselves vicars of Christ and of St. Peter have this plenitude of coercive jurisdiction limited by no human law.

(*Defensor pacis*, I, xix, § 3, 4, 9).

In Discourse II Marsiglio expatiates eloquently and at great length on the machinations of the bishops of Rome—how by their stealthy double-dealings they have been creeping up on rulers to usurp their jurisdictions, how this ‘pernicious pestilence’ has spread, how they have wormed their way through all the states of the world to subject all governments to them.

Marsiglio builds his attack on the papacy and its protagonists on his completely secular approach to the state in Discourse I. Here all the problems of civic life, including those of the Church, are examined solely in the light of reason and common experience, excluding all considerations of faith or eternal ends. Thus the Church is, in the first place, an organ of a secular state designed to contribute to its smooth functioning, and the priesthood, therefore, must receive its status from the secular authority. Instead of the familiar division into State and Church, Marsiglio sees only one state with two parts to it: the *pars principans* (ruling part) and the *pars sacerdotalis* (priestly part). Since civil peace is Marsiglio’s central concern and this can only be achieved by secular authority, the government must form the primary part and the clergy must be subordinated to it. Here he strikes at the root of the papalists’ position, namely, their claim that the pope alone is the ultimate guardian of the divinely-ordained ends which govern the whole life of man and that he alone could fully implement them. Marsiglio overturns this by denying the relevance of eternal ends to the organization of the civil community and by concentrating on immediate means rather than ultimate ends. His means of preserving civil peace really becomes a this-worldly end, cut off from eternal values.

As a functioning part of the state, the priesthood has an important role; it must, therefore, be established by the government and hold its temporal possessions under governmental control. It is hardly necessary to add that all clerical immunities, in Marsiglio’s view, must be eliminated, since they destroy the unity of the state through an unordered plurality of government. Divine law is irrelevant because it is coercive only in a future world and therefore

is really not law at all in this world. Thus coercion in matters of faith cannot be exercised by the Church, but only by the ruler or the Legislator, and this only in the interests of civil peace, not to ensure correct belief. Once again, we see that the state is concerned solely with 'transient' acts. The priests may teach divine law and administer the sacraments, but where divine law impinges on the outward acts of men, the power to enforce it belongs solely to the secular agents of human law who have the monopoly of coercive power, 'for the office of coercive rulership over any individual, of whatever condition, or any community or group does not belong to the Roman bishop or any other bishop or priest as such . . .' (*Defensor pacis*, I, xix, § 12).

Since the Church is treated as a social organism it is easy to see how Marsiglio arrives at his definition of it as the '*universitas fidelium*'—the whole people in its religious activity, just as the Legislator is the whole people in its law-making capacity. It is the *universitas fidelium*, therefore, which must elect the priesthood, define articles of faith through its elected General Council, elect a head-bishop, control excommunication and so on. It is astounding that Marsiglio should thus, with one stroke of the knife, cut away the whole structure of priestly powers. One can see the preparation for this in Marsiglio's civic background and in the desperate secularism he develops in face of mounting ecclesiastical claims, yet, none the less, this claim for the *universitas fidelium* remains one of those leaps in original thought which surprise whenever the historian meets them. It introduces a kind of medieval 'congregationalism' which is unique.

The paradox is that, over against this democratic socialized Church which strikes so modern a note, Marsiglio sets an extreme other-worldly ideal for the priesthood which betrays the influence of some of the most rigorous medieval idealists, the Spiritual Franciscans. On the one hand, the Church is a social institution, functioning in a this-worldly context and, as such, requiring the priesthood to contribute to the sufficient life of civil society and even to participate as part of the people in the coercive authority of the state. Yet, on the other hand, in Discourse II Marsiglio makes it plain that because the clergy are dedicated to other-worldly ends, they ought to refuse to take part in secular responsibilities. For the divine law they serve has no coercive force in this

world. Christ said: *My kingdom is not of this world*; therefore, says Marsiglio, by Christ's counsel and example they must refuse such rulership. He goes further—and here surely one hears the echo of the Spiritual Franciscans—in asserting that the clergy must renounce riches and ambition and all the secular values which characterize the state; in opposition to these they must practise poverty and humility, they must preach contempt of this world's values, they must exhort men to pursue those of the world to come. Marsiglio seems here to set up two contrary systems of values which he does not attempt to make compatible. Theoretically he never resolves the dichotomy, but practically he gets the priests out of their dilemma, for since, he argues, the Legislator has the plenitude of power, it can give the priests power to participate in government. The Legislator's authority can be limited by nothing, and certainly not by the other-worldly allegiance of the clergy.

Thus, in the long run, Marsiglio has to admit that there is a realm of eternal values which does impinge on his domain of secular values in the problem of the priesthood. Like Dante, there are for him, after all, two ends. Here, however, we reach the most striking contrast in their two methods of handling the problem of Church and state. Dante, like Marsiglio, affirms the reality of the temporal end in its own right, but his two beatitudes are, in the long view, united in one, for the lines of both are extended beyond this world's horizon to their meeting-point in the unity of God. He cannot resist putting the temporal in the context of the eternal and this is the undoing of his argument. His whole case for the independence of the secular ruler collapses since the beatitude which belongs to the eternal order must govern the temporal which is ultimately subsumed into it. To Marsiglio the horizon of this life cuts the two ends sharply apart. The civic end is severed at that point, but in this life it is absolute. The eternal end is certainly to be recognized here as a kind of invisible line running through the consciences of men and, especially, the loyalties of priests, but it does not exist here in external acts, for it has no coercive force: its realm is the next world. Thus Marsiglio is able to give complete sovereignty to the authority responsible for this world's ends, not because it is higher but because in this life it alone has coercive force.

We can only look briefly at Marsiglio's approach to the concept of universal government. Discourse I seems to make it plain that Marsiglio can only conceive of the unity of the state in terms of a republic in which the whole people can be the Legislator. He would seem to be utterly opposed both to the idea of universal government and to the concept of monarchy which went with it. Even though he allows for various forms of state, the image of the Italian city-state seems to be before his eyes most of the time. Unlike Dante, he dismisses universal government as something which 'merits a reasoned study, but is distinct from our present concern' (*Defensor pacis*, I, xvii, § 10). Yet in the second Discourse Marsiglio seems to be thinking in far wider terms: the *universitas fidelium* is a world-wide Church and the ruler so frequently mentioned in opposition to the pope is not the head of a city-state but the emperor. One can even at times detect a swing from republicanism towards absolutism. Is there really a change between the two Discourses? When in Discourse II Marsiglio turns the attack directly on the pretensions of the bishops of Rome, he is forced to counter the universalism of those claims by something correspondingly worldwide. His answer is the General Council to which he gives universal legislative powers in religious matters. But when we examine this we find that it still rests on the popular authority of all the separate human legislators:

And now I am going to show that the principal authority . . . for such determination of doubtful questions belongs only to a general council composed of all Christians or of the weightier part of them, or to those persons who have been granted such authority by the whole body of Christian believers. The procedure is as follows: Let all the notable provinces or communities of the world, in accordance with the determination of their human legislators whether one or many, and according to their proportion in quantity and quality of persons, elect faithful men, first priests and then non-priests, suitable persons of the most blameless lives and the greatest experience in divine law . . . they are to assemble at a place which is most convenient . . . where they are to settle those matters pertaining to divine law which have appeared doubtful. . . . There too they are to make such other decrees with regard to church ritual or divine worship as will be conducive to the quiet and tranquillity of the believers.

(*Defensor pacis*, II, xx, § 2).

Because it derives from all the peoples this General Council becomes the faithful human Legislator with universal coercive powers:

... to the faithful human legislator which lacks a superior belongs the authority to give a coercive command or decree ordering that all men alike, priests and non-priests, observe the general council's decisions, regulations and judgements, and to inflict punishment in person or in property, in this world, on transgressors of its command. . . .

(*Defensor pacis*, II, xxi, § 4).

Both the international extent of the 'pernicious plague' he is fighting and the very universality of the Faith itself, seem to edge Marsiglio in Discourse II away from his ingrained small-scale republicanism towards the world state. Yet he goes unwillingly. Fundamentally the two Discourses are not out of harmony with each other. To the universalism of the papal *plenitudo potestatis* he opposes a consensus of human opinion which still reflects the common sense and judgement of 'the whole body of believers or their weightier part'. Where Dante sees universal monarchy as a theological idea mirroring divine unity, Marsiglio sets up the faithful human Legislator as an expression of the *universitas fidelium*. The common experiences of Italian city-politics and papal monarchy could not have driven two men in more opposite directions.

¹ See the critical edition by G. Vinay (Florence, 1950). All quotations in this essay are given in the translation of D. Nicholl and C. Hardie, *The Monarchy and Three Political Letters* (London, 1954).

² On the dating of the *Monarchia*, see C. Hardie, *Note on the Chronology of Dante's Political Works* in the translation cited *supra*, n. 1, pp. 117-21; U. Cosmo, *A Handbook to Dante Studies* (trans. D. Moore, Oxford, 1950), pp. 107-8.

³ The most easily available critical edition of the *Defensor pacis* is that of C. Previté-Orton (Cambridge, 1928). It has been studied in detail and translated by A. Gewirth, *Marsilius of Padua. The Defender of Peace*, vol. I. *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951); vol. II. *The Defensor Pacis* (New York, 1956). It will be obvious that I have drawn heavily on these two authorities. All quotations from the *Defensor pacis* are given in Gewirth's translation.

⁴ Previté-Orton has distinguished two groups of MSS, a French and a German, and has detected in the German group revisions which Marsiglio was making down to 1329 (*op. cit.*, pp. xxvi-xli).

⁵ Implicated with Marsiglio in the condemnation of the *Defensor pacis* was his friend John of Jandun; both fled together. The question of the latter's share in writing the treatise remains uncertain. Previté-Orton (*op. cit.*, pp. xxv-xxvi) thought his influence was 'more pervasive than local', and that 'the main author seems . . . to be Marsilius'. Gewirth regards Marsiglio as the sole author, 'John of Jandun and the *Defensor Pacis*' in *Speculum*, xxiii (1948), pp. 267-72.

⁶ Translations from the *Divina Commedia* are given in the version of J. Sinclair (London, 1939).

CHAPTER VI

THE POLITICAL THOUGHT OF THE FOURTEENTH-CENTURY CIVILIANS

M. H. KEEN

THE subject I am going to talk about in this lecture is the political thought of the fourteenth-century civilians. When, not long ago, I began to think about what I ought to say on this subject, the first thing I did was to consult Professor Sabine's *History of Political Theory*. This, I thought, will at least give some indication of what I can treat as common ground. But when I opened Professor Sabine's book, and began to look for the fourteenth-century civilians, I found that the position was not as simple as I had expected. I could find references to most of the other people who have been mentioned in this course of lectures, to Augustine, to Charlemagne, to Manegold of Lautenbach and Giles of Rome and Marsiglio of Padua. But the fourteenth-century civilians are not mentioned there, either as a school or individually: not even the greatest of them, Bartolus of Sassoferrato, has rated a mention in a passing footnote. I think there are reasons for this silence. Technical problems make the civilians far from easy to study; and besides, as I hope my lecture will reveal, there is a good deal of common ground between them and such contemporaries as the pair Miss Reeves was discussing last week, Marsiglio and Dante. They lived in the same age as these men, and their works reflect concern with the same contemporary problems. But this is no excuse for ignoring them. There were more manuscripts of Bartolus copied in the fourteenth century than were ever copied of the *Defensor pacis*.

Nevertheless, I think Professor Sabine's silence was not altogether unhelpful to me. It suggests clearly that what I had better begin by doing is explaining who these people were that I am going to talk about, and what their business was. By the civilians, I mean the doctors of Roman law. In the fourteenth century there were two great schools of Roman law, the Italian

and the French schools. In Italy, the most famous centre for the study of Roman law had by this time shifted from Bologna to Perugia. In France the most famous schools were those of Montpellier and Orleans. The works of the Italian school are, by an easy margin, the better known to us, and the writers whom I shall quote most often, Cynus of Pistoia, Bartolus of Sassoferrato, and Baldus of Perugia, all belong to that group. To give some picture of their dates, I will add that Bartolus, who was the pupil of Cynus and the master of Baldus, was born in 1314 and died in 1357. The works of the French, the Ultramontane doctors, as their Italian compeers called them, are much less well known. The commentaries of their most revered and most quoted master, Jacques de Revigny, have never been printed.¹ This is a serious matter, since from what can be learned of their work (often only from quotations of their opinions by the Italian masters) it looks as if in many ways their thought was more radical and influential for the future than that of the Italians. Their heyday certainly came slightly earlier: their influence is much clearer in the writings of Cynus, a friend of Dante and the first of the truly great Italian jurists of the fourteenth century, than it is later.² One thing I must add at this point. In the history of the study of Roman law, the fourteenth century is known as the age of the post-glossators. This applies equally to the Italians and the Ultramontane schools. In order to put the work of the legal experts of this age into perspective, I must therefore now say something about what this description implies; and to do that will involve saying something about the general history of Roman law studies in the medieval period.

Two points must be made at the outset. The first is that Roman law (in the form it had achieved in the compilations of the Emperor Justinian which contained in themselves more than the germs of a system of political thought) never ceased, even in the west in the Dark Ages, to operate as a living system of law. And the study of Roman law therefore did not cease either. Fragmentary glosses, put together in the ninth and tenth centuries, survive to witness that in these ages, when in Italy and Southern France there were still people who lived under Roman law, that law was still studied. We know there were schools of Roman law in these times at Rome, Ravenna, and beyond the Alps.³ This continuing

tradition was of great importance when, about the end of the eleventh century, in the lifetime of the great Bolognese lawyer Irnerius and partly due to the rediscovery at Pisa of an almost complete text of the Digest,⁴ there began the great revival in the scientific study of the Roman law. It meant that, in contemporary eyes, it was no dead law which Irnerius and his successors studied, but a living one, whose rules were seriously and sincerely assumed to be apposite to conditions of the day.

Nevertheless (and here I come to my second point) the work of Irnerius and his contemporaries constituted in a real sense a new departure. He was the first legal scholar of real genius to turn to the compilations of the sixth century, and to apply the principles he learned, not from a partial examination but from their study *in toto*, to the political and social conditions of his own day. This is an important point. For the beginning of the scientific study of Roman law at the end of the eleventh century, based as it was on the consideration of a far more perfect text than had hitherto been familiar, tapped a mine of legal wisdom which appeared to be as far in advance of any other juristic system which that age could produce, as did the natural philosophy of Aristotle to the thirteenth-century schoolmen. The most telling witness that I have heard to the impression which this new academic discovery of the twelfth century made, not only on men of that time but long afterwards, is the remark of Cynus of Pistoia in the beginning of the fourteenth century, about Justinian: *fuit Christianissimus et in nullo erravit*.⁵

Irnerius was the founder of the school of the glossators. Their contribution to the study of the Roman law was twofold. Their first, and perhaps their most important achievement, was the reconstitution of a proper text of Justinian's laws, of the books of the Digest, of his Code, his Institutes and his Novellae. But here a word of caution is necessary. Not only did they reconstitute these texts, they also added to them. As I have said, to them the Roman law was a living system, and just as they regarded the German emperors as the legitimate successors of the Caesars, so they regarded their constitutions, and the capitularies of their Frankish predecessors, as of equal validity with the laws of Constantine and Theodosius. It was thus that the feudal constitutions of the Hohenstaufen emperors found their way into the

Libri Feudorum, which the fourteenth-century lawyers glossed as part of the *Corpus Iuris Civilis*, as they called the total authoritative body of Roman law. Secondly, besides reconstituting and adding to the text of Justinian's laws, the glossators put together a vast body of comments or glosses thereon, explaining the difficulties in the language and reconciling the statements of such classical jurists as Ulpian, Gaius and Celsus with the conditions of their own times. Many of the greatest of them also composed *summae*, treatises on specific problems in the law (Placentinus' treatise on *The Various Forms of Actions* is a good example). As time went on and their writings multiplied, the ambitious student was thus faced with an increasingly daunting *corpus* of legal learning, which it would be his business to master if he hoped to achieve a place among the famous doctors of his day. To make it worse, the famous doctors, like all academics, often failed to agree on essentials.

However, the war of the glosses did not endure. It was ended by the compilation of the great gloss of Franciscus Accursius in the middle of the thirteenth century. In his immense work, Accursius drew together all that he regarded as best in the work of his famous predecessors. How much he himself contributed in the way of original thought is hard to establish, since he did not always quote his authorities and many of the opinions once attributed to him have since been identified as coming from the pens of earlier writers. There are varying opinions, too, about the standards of selection and the powers of judgment which his quotations indicate.⁶ But of one thing there is no doubt. In his own day, his work was acclaimed as a triumph of legal learning and industry. No one was prepared to challenge its reputation by attempting to put together a rival gloss which should be even more comprehensive. Accursius' work rapidly established itself as the *glossa ordinaria*, the standard commentary from which the professor taught in the schools. The statutes of the university of Perugia, the university in which Cynus and Bartolus and Baldus all taught, directed that the lecturer should proceed to the reading of the Gloss immediately after the reading of Justinian's text.⁷ Hence the fourteenth-century school is known as the school of the post-glossators, for their voluminous writings are commentaries not on one received text only, but on two, that of Justinian and

that of Accursius: hence the technical complications of studying their works, to which I referred at the beginning of this lecture. To understand effectively what they are saying or why they are leaving things unsaid, one must have both these two received texts open before one as one reads.

If for this reason only, it becomes imponent on me to say something about the political thought of the glossators. The first thing that I must stress about them (and it is true of the post-glossators as well) is that political thought was not their first concern. They were jurists, and they were concerned with general problems of government only when the text of Justinian's laws indicated that they must consider them. This fact, however, makes the task of examining their political thought easier: it tells one where to look for their views on questions of politics. If one wants to know what they thought about justice, and of laws in general, one looks at the first title of the first book of the Digest, *de iustitia et iure*.⁸ If one wants to know what they thought about the relation between written law and custom, one looks at their comments on Constantine's rescript on this matter.⁹ If one wants to know what they thought about the question, whether the prince was bound by the laws, one looks at the law *digna vox* in the first book of the Codex.¹⁰ Two points seem worthy of mention here. One is that they assumed that their subject was a subject in its own right, a *civilis sapientia* as Bartolus calls it,¹¹ wholly independent of other methods of thought. Where, therefore, their thought resembles that of philosophers and publicists like Marsiglio and Dante, this does not imply that there is a direct connection. It implies merely that they were looking at the same contemporary scene, though Bartolus, well-educated man that he was, had read the *Convivio* and Giles of Rome.¹² The other is that they knew their laws as well, or better, than the backs of their hands. They taught orally, and they did not refer to the laws as we would, as Codex 1.3.3 and so on (references which can be easily verified), but by the rubric, that is, by the opening words of the title and of the law under that title. They assumed that their students could follow them.

This may act as a reminder that most of what the glossators had to contribute to medieval thought was dependent directly on the texts they had in front of them. Viewed as a whole, the most important lesson which these taught them was to take a new, more

positive and less restrictive view of the role of the state in human affairs. The role of the law, and hence of the ruler who frames it, is to do justice, and justice means, in Ulpian's words, a *voluntas constans et perpetua ius suum cuique tribuere*.¹³ It is concerned to make sure that the legitimate interest of every individual be protected, for it is in the well-being of its component members that the well-being of the whole, of the *res publica*, consists. The function of law and government is, therefore, to promote the common weal. Closely akin to this view was the glossators' idea of the ruler as being the representative of his people, a collective person.¹⁴ The Roman law of corporations familiarized them with the concept of the *societas*, of the association of individuals for purposes of common interest, which before the law is a single person who speaks through the mouth of its head or representative. The state (and by the state they understood nothing less than the Roman Empire) was a corporation on a grand scale, a *universitas*. The legislative omnicompetence of its ruler (what we would call his sovereign powers) had been conferred on him originally by the *populus Romanus*, with whom all legislative authority had originally resided, to ensure good government, and the furtherance of the *res publica*. It did not escape them that this *translatio imperii*, from people to prince, of which the law spoke,¹⁵ had a bearing both on the origins and the limits of state power. In the view of the glossators, the function of government in general was, as I have said, the furtherance of the common weal. The method by which it achieved this was by the application of accepted and enduring principles of justice to individual situations. They treated the *corpus* of the Roman law as a coherent and inclusive body of legal knowledge. The object of their commentaries was to resolve the difficulties and obscurities of all the particular texts, by comparison with parallel passages drawn from other parts of Justinian's books. Apparent contradictions between the various texts were then sorted out, and a solution or explanation offered in terms of the real agreement behind their seeming divergence. In the process, the underlying principles of justice on which law was based were laid bare; these formed the working rules of juristic science. The methodology of this science in itself implied a near religious veneration for the ancient texts, and this was, perhaps, the most striking feature of all about the work of the glossators. In the

phrases of the old law books they hoped to find the key to the whole of what Celsus called the *ars boni et aequi*.¹⁶

At the same time, however, his words are a reminder that the object of law is essentially practical. The doctors of Bologna were as well aware of this as any, but their attitude towards the authority of their texts induced a very natural tendency to treat the problems of the Hohenstaufen period in terms of sixth-century laws. They wrote, as Vinogradoff put it, 'as if the Lord Justinian were still holding sway over Italy, and all disputes were to be decided in his courts'.¹⁷ This made them friends in general to lay absolutism, and in particular into natural Ghibellines. Accursius' most important work was completed before the death of Frederic II. The laws which he glossed spoke of one sovereign only, and in that age there was one man only in the Christian world to whom the Digest's description of a single omniscient sovereign, the *dominus mundi*, could be taken to refer, the Hohenstaufen emperor. The glossators accepted the implication of their texts. There were embarrassing facts, it is true. The king of France, for instance, did not appear to recognize the emperor's sovereignty. But even the French lawyers, until the last years of the thirteenth century, preferred to explain this independence in terms of prescription or concession, which were recognized in Roman law.¹⁸ Faced with difficulties, they were more ready to twist the facts into conformity with the law than to do violence to their texts. This is the main difference between them and the post-glossators of the fourteenth century. By then the visible decay of the empire had rendered the disparity between imperialist theory in its simple form and the facts of life too great for practical jurists to ignore.

This involvement of the post-glossators with practical questions is so essential a part of their outlook that it is worth emphasizing for a moment at the outset. The greater part of their lives, it is true, was spent in the schools, lecturing upon the texts of the Roman law and the Gloss. But one must remember even here that many of those who sat at their feet were destined not for academic but for public life, as advocates, notaries, magistrates, perhaps even ambassadors. They themselves, moreover, were more than mere professors. Bartolus, Baldus, and John of Legnano, to quote three great names, all had practical experience in

the legal profession, as magistrates or advocates, and they knew at first hand the problems of administering the law to men. Some of their most interesting and original views are to be traced not in their commentaries on received texts, but in their *consilia*, the opinions which they wrote on legal issues about which they had been consulted. Some of these issues were very important contemporarily. Oldradus wrote two opinions on the question of the legality of the citation of King Robert of Naples before the Emperor Henry VII, and of the sentence passed against him;¹⁹ John of Legnano and Richard of Saliceto both wrote *consilia* about the famous appeals of the Gascon lords to the *parlement* of Charles V in 1369.²⁰ The treatises of Bartolus in a similar way form an impressive selection of essays on subjects to which Justinian's laws paid little heed, but which contemporary events forced on a lawyer's attention. Thus he was brought to consider the question of reprisals, which, as he pointed out, had not been significant in the days when the emperor's presence provided an effective final court of appeal. He wrote too on the legal position of tyrants, which events in Treviso in his youth had rendered an important issue,²¹ on the problem of government in city states, and on heraldry. The first concern of men like Bartolus was to say something useful. Like the glossators, they were deeply respectful of their texts, but facts forced them to be a little more independent in their attitude. For this reason, perhaps, they had rather more original things to say.

It would be impossible for me, in what remains of this lecture, to sum up the whole contribution of the post-glossators to political theory. I shall therefore limit myself to saying a little about what seem to me to be some of the more important questions they discussed. I shall concentrate on their views on four matters. Firstly, I want to say something about their idea of the nature and force of law and of laws; secondly about their views of the empire as a legal institution; thirdly there is the question of their views about sovereign authority and its limits; and fourthly, of their views on the rights of the individual. I shall rely most on the writings of four Italian doctors, Cynus, Bartolus, Baldus, and John of Legnano, whose works are closely related. As I hope to show, their views on these four topics were coherent, and closely connected.

Most of what the fourteenth-century lawyers thought about the nature of laws will be found in their comments on the first title of the Digest, *de iustitia et iure*, and the parallel first title of the Institutes. It is here that one finds them at their most philosophical. 'We must start by examining the question of cause', says Cynus, 'for as Aristotle says, to know a thing is to understand it by means of its cause.'²² The cause of law is justice, and the object of human law is the realization of justice in life. In order to study law, one must therefore also study man and his nature, since its object is the establishment of just and harmonious relations between men. What lacks this cause simply is not law, because it is, as Bartolus put it, *contra substantiam legis*—opposed to the essence of law, which is human utility.²³ From this point of view it is essential to remember that man is endowed with a dual nature. 'Man is created with two natures', says Cynus, 'one which he shares with other animals, and one which he shares with the angels.'²⁴ This is very like the views of Dante and Marsiglio, which Miss Reeves discussed in the last lecture; but the lawyers, unlike these two thinkers, were absolutely unwilling to consider either nature in isolation. No approach, they believed, could be made to the useful regulation of human life which did not allow for both natures, for man's peculiar position in the order of created things.

This becomes of importance the moment one begins to sort laws into the categories which are described in the Digest, the *ius naturale*, the *ius gentium*, and the *ius civile*, and to define the proper spheres and relations of these laws. The post-glossators start from the description in their texts of natural law. Natural law is the law common to men and to all animals.²⁵ As Mrs. Dunbabin said when describing Aquinas' treatment of the subject, this means that natural laws are something like biological or psychological laws: they are the natural instincts which prompt creatures to seek food, sex, and self-preservation. But this is not all for the lawyers, at least as regards the creature called man. 'As defined with regard to all animals', says Cynus, 'natural law is understood in terms of the sensible instincts implanted at birth; as regards man alone, it implies also a rational instinct towards the good, which pertains to the nature of man only.'²⁶ The reason is that man is not just an animal; he has an angelic side to

his nature as well. Thus natural law can impose limits on the powers of a human sovereign, for these limits are natural limits. An example will perhaps illustrate what I mean. A private individual may, in a loose sense, do what he likes with his property, that over which he has 'dominion' as the lawyers would put it—say his cattle. Nevertheless, he cannot obtain whiskey from them instead of milk, because that is contrary to natural law. In the same sort of way, a ruler can do what he likes, because he has dominion over his people; nevertheless, it would be otiose for him to try to prevent the union of the sexes, because he simply would not succeed in thwarting this natural instinct. But the limits go further than this, for man's angelic nature implants in him a rational instinct towards the good. A ruler's law therefore cannot bind a man to do wrong.²⁷ To the jurists, to command men to sin was just as offensive to reason as to forbid them to engender children. But there was a difference, and they saw it. The limits on what human authority may command animal man to do are *de facto*: the limits on what it may command spiritual man to do are *de iure*.

Closely akin to their idea of a rational natural law was the lawyers' idea of the *ius gentium*; indeed, they sometimes called it the *ius naturale gentium*. The Institutes define this law as follows: 'It is in truth what reason teaches to all mankind, and so among all peoples it is equally observed and is called the *ius gentium*.'²⁸ This law enshrines those principles of honesty and good faith without which men cannot live as social beings, and which are common to all known legal systems. This definition explains the relation between natural law and the *ius gentium*: the *ius gentium* proceeds from natural law but carries it further. Thus, man is by nature an *animal politicum et sociale* (thus far natural law); but in order to make sociable living possible, certain other things are implied. These necessary implications of man's social nature are the *ius gentium*. Like Hobbes, the jurists perceived that to allow men the free run of their natural instincts would be to make social conditions unbearable. To render them tolerable government was required (*dominia distincta*), as also the keeping of faith between man and man: hence *pacta* (contracts) are *de iure gentium*.²⁹ Hence the *ius gentium*, like the natural law, also placed limits on the authority of a ruler, *de iure* at least, since the rules it enshrined

were really unchanging factors of the human condition. *Iura gentium sunt immutabilia*, says Bartolus.³⁰

The third category of law mentioned in the Digest and the Institutes is the *ius civile*, the law of the state whose existence the *ius gentium* necessitates. 'What a people prescribes as a law to itself is called the *ius civile*' say the Institutes.³¹ Here we descend, therefore, from the realm of general laws to the realm of particular laws, and here there was a difficulty for the post-glossators. The ancient texts on which they were commenting spoke only of the laws of one particular state, the Roman Empire. The gloss, too, spoke of only one authority who was legislatively omniscient, the emperor. Were they therefore to conclude that the imperial laws were unchangeable, except by the emperor, and of universal application? They could only claim this by sacrificing the relevance to conditions of their own day of any comments which they might care to make, for the Europe they knew was visibly crowded with associations which presumed omniscience in prescribing laws to themselves. Thus contemporary conditions brought them face to face with the problem of the sovereign state—dragged them, kicking and screaming, into the fourteenth century.

I say kicking and screaming, because the jurists were deeply unwilling (and very naturally) to abate by one jot or tittle the authority of their imperial laws. *Nulla universitas quae non sit de iure sub imperio*, says Bartolus:³² all societies, that is to say, in law, are subject to the empire. But it is one thing to be *de iure* under the empire, and quite another to obey the emperor *de facto*. Between the emperor whose authority was barely recognized outside Germany, and the empire, Bartolus and his school drew or implied a distinction. Whatever the limits of the emperors' *de facto* authority, the empire was still coterminous with Christendom. It embraced all who were part of the *populus Romanus*, and that, as John of Legnano explained, meant all who obeyed mother church, the whole *res publica Christiana*.³³ That it was in this sense that Bartolus too used the phrase is clear from his statement that a man who is banished from a city, though he loses all his rights as a citizen, does not lose his rights under the *ius civile*, the law of the empire.³⁴ The problem of prisoners taken in wars between

independent cities was treated by John of Legnano and Bartholomew of Saliceto in the same way. Though they had no rights under the local laws applied by the courts of their captors' country, prisoners of war were not slaves, and retained their due rights as members of the Christian community.³⁵ This authority of the empire in the Roman, and hence the Christian, world was firmly founded in gospel authority, for the gospel spoke of the edict of Caesar Augustus by which all the world was enrolled. To deny the imperial authority *in universo* would, therefore, says Bartolus, probably be heretical.³⁶

This is not all that the jurists had to say about the empire, but the rest of what they said I must return to later. Before that, we must consider their views about these societies, the *regna* and the *civitates*, which they saw behaving as if they possessed the legislative omnicompetence which the imperial laws reserved to the emperor. Here there are two strands in the thought of the Italian jurists. The first of these represents an adaptation to Italian conditions of certain views of the French and Sicilian lawyers. The French kings had long before the fourteenth century asserted their independence of the empire; the Bull *Venerabilem* of Innocent III had made specific reference to the claim, and thus called the attention of all lawyers in the Christian west thereto. In Bartolus' own lifetime, moreover, King Robert of Naples had vigorously asserted a similar claim for his kingdom, against the emperor Henry VII. The lawyers in the service of these kings, and in particular William Durandus in France and the feudist Andrew of Isernia in Sicily, had developed the thesis that in his own kingdom the king has the same rights as the emperor, *rex in regno suo est imperator*.³⁷ The possible objections had been fully considered and refuted by Oldradus de Ponte, a civilian in the papal service, in his *consilium de maiestate et obedientia*.³⁸ These men defended their views on the ground that kings in their kingdoms used all the same essentially public rights as the emperor of the laws did. Their subjects could not appeal beyond their courts in any lay plea: the lands of traitors and of those who died without heirs escheated to their fisc, becoming in effect public property; to rebel against them was to commit treason, the *crimen laesae maiestatis*, and involved all the penalties of offending against public majesty. As far as their subjects were concerned, they

enjoyed all the rights which the law books attributed to the sole *princeps* in the empire.³⁹ In effect their kingdoms were empires, self-contained sovereign bodies in themselves.

It was by applying these views of the French lawyers about the authority of kings to the conditions of their native land that the Italian lawyers evolved their notion of the *civitas sibi princeps*.⁴⁰ The Italian city states claimed and used the same rights with regard to their citizens as did the kings of France and Sicily with regard to their subjects. Like them, they recognized *de facto* no superior lay authorities. The jurists considered them therefore to be in themselves *imperia*, small self-contained empires with all the internal authority that empire implied. Thus the Aristotelian notion of the *polis* which was sufficient to itself (enjoying *sufficientia ad omnia necessaria vitae*, to quote the philosophers' phrase) was translated into jurists' terms. These terms in their turn gave the Aristotelian idea of the state greater precision. When they were faced with questions about the powers of judges, captains, and other officials of a city, the first question the jurists asked was, does the city in question *de facto* acknowledge a superior authority, or not? If it did, it was to be regarded not as a *respublica* or state in itself, but as part of some other *respublica*; it had no fisc of its own,⁴¹ and to offend against its authorities would be less than treason. Here the jurists were giving currency to a distinction full of significance for the future in political theory, the distinction between the juristically sovereign state and all other forms of association.

Here, as I have said, the Italian lawyers took their ideas originally from the Ultramontane doctors; but in their application of these ideas to the conditions of Italy they extended and perfected them. In particular, they made an important and original contribution when they came to consider the legislative competence of these sovereign associations. The key texts in this matter were the statements of the jurists in the Digest, and the rescript of Constantine on the authority of custom. As these persons realized, custom, though it has the force of law, cannot be like statute, which is an expression of the will of the prince. Custom is made not by the prince but by the people, by the *tacita conventio civium*.⁴² But there can be no real difference, Bartolus pointed out, between that which the people establishes

by tacit consent, and that which it establishes by express consent.⁴³ If men can make law by consent in the one way, they must, if free, be able to make it in the other too; where, therefore, a people does not recognize any superior, that people must be capable of making law by statute. For its own purposes, and because it is a free people, a *civitas sibi princeps* can make any law it chooses,⁴⁴ because in its collective personality it is just as much *legibus solutus* as the emperor is. Thus the application of the French lawyers' teaching about sovereignty to the conditions of Italy gave new impetus to the notion of the popular origin of state power. Bartolus and his school by this means lifted popular sovereignty out of the limbo of history, where (according to the lawyers) it had lain since the *translatio imperii* from the Roman people to the Caesars, and showed it working in practice.

This brings me on to the question of the limits on state sovereignty, and this at once resurrects the problem of the empire. The continuing general force of the imperial laws, from which, as Constantine's rescript states clearly, no custom can derogate,⁴⁵ presented little problem, since the statutes of the cities were made to fit their particular internal conditions. They could therefore be regarded, where they appeared to conflict with the *ius civile*, not as having derogated therefrom, but as having added further regulations to fit the laws to specific purposes. In any case, there could be no conflict, since *de iure* the state derived its legislative power from the emperor, as well as from the people. This may sound like a contradiction in terms, but the conflict is only apparent. The emperor was the superior authority who had, by tacit or express consent, brought the authority of the people into operation. Bartolus and his contemporaries did not question that all Western Christendom had once been directly subject to the emperor: therefore, they argued, none could exercise sovereign powers except by his assent. Since this could be tacit, a prescriptive right was perfectly allowable.⁴⁶ In fact, a good many of the Italian cities could base claims to internal independence on the terms of the Peace of Constance, between the Lombard communes and Frederic Barbarossa. Now a commune is often described in feudal terms as a *seigneurie collective*, and this brings out an important point. The jurists had to face the facts of feudal institutions, just as they had to face the facts of civic independence. The

emperors had undoubtedly granted feudal fiefs on contractual terms. The sanctity of contracts is a rule of the *ius gentium*, by which the emperor himself is bound. He cannot therefore resume his grant, unless the contract is broken by the grantee or his successors, or there is a failure of heirs. Therefore, by analogy, though he brought its sovereignty into being, the emperor cannot without sound and lawful cause resume direct rights in a city or interfere in any way in its internal administration. Baldus is quite explicit on this point in his commentary on the Peace of Constance: the emperor cannot override or revoke the statute of a free city.⁴⁷ Only the voluntary surrender of their powers by the free people he has created can restore him to his pristine authority.

What then does Bartolus mean by his constantly reiterated statement, that although *de facto* the cities recognize no superior, *de iure* they are nevertheless subject to the emperor? What he means, and how far his views are from Hobbes' idea of the completely sovereign state, comes out very clearly in his treatise on reprisals. Reprisals, or letters of marque, are the means by which a state protects the interest of its citizens if they are cheated or despoiled by strangers outside the legal reach of its authority. They license the seizure of goods belonging to co-nationals of the strangers in question, to indemnify the subject, and thus provide a kind of rough and ready system of international justice. It is very clear from the first that Bartolus disapproved of reprisals: they are odious, he says, and repugnant to divine and natural law.⁴⁸ They can only be tolerated when recourse to a higher authority is impossible. Since the state is *de iure* subject to the emperor, there is always *de iure* a higher authority to whom an appeal can be made. What render reprisals just permissible are the facts that the emperor's authority is not recognized, and that he is too far away to act.⁴⁹ But in the good old days, says Bartolus, there was no need for reprisals, since every Roman citizen had the right of appeal to the emperor. It is only the wickedness of men in recent ages that has made them so common.⁵⁰

We see thus what to Bartolus' mind was the proper relation of the empire to the *civitates*. It was not their internal affairs that the emperor ought *de iure* to regulate, but their external relations. Bartolus' conception of the proper ordering of human society is not just a world of sovereign states, but a world of sovereign states

in a wider association. We must remember that it was not yet obvious in his day that the decline of the empire in Italy would endure. The last Hohenstaufen emperor was not yet a hundred years dead; in his lifetime two emperors, Henry VII and Ludwig of Bavaria, had appeared armed in Italy, and he himself had a patent of nobility conferred upon him and his heirs by another emperor, Charles IV. Most of the leading minds of his day in Italy saw the best prospects for the future in some restoration of the empire, which had for a moment seemed to be impending again when Cola da Rienzi re-established the republic at Rome. If Bartolus was a bad prophet, so were many others, Petrarch amongst them. And even if he must be so regarded, the importance of the point he was making for political thought is undeniable. With his training in the imperial laws, Bartolus had seen instinctively the weakness of the Aristotelian notion of the independent state which suffices for all the needs of man. In itself, it may be a *societas perfecta*, but it is not so, as he would put it, *in universo*.⁵¹ The communal pursuit of the good life in the state is only possible if there are means of making sure that the state will be allowed to pursue the good life in peace. States must act in harmony not only internally but externally too, and this implies the need for some authority over and above the state. Bartolus' statement that all societies are *de iure* subject to the emperor is not a quibble to save the face of the imperial laws: it is a reminder that political thought implies the consideration of problems not only of national but also of international government.

So much for the limits on the authority of the state which are imposed from above: what limits are there on its authority within its own boundaries? At the outset it must be made quite clear that the civilians regarded the power of a prince, whether that meant one man or an assembly, as unlimited. 'Even though he hold his kingdom as the fief of another, a king has supreme power over all his subjects',⁵² wrote Baldus. The laws cannot bind the prince, because he makes them: he is *lex animata*.⁵³ But we must be careful of treating this phrase as if it were itself a complete answer to the question. *Animata* is the past participle passive: its use implies somewhere an *animans*, a force which animates the thing animated. The ruler's will decides what is obligatory on his subjects, but what is it that makes a ruler obligatory? The

answer is the *ius gentium*, the fact that government or dominion over persons is necessary to make social life viable. Social utility, the common good of the people, this is what the object of having a ruler is. It follows, if one accepts Cynus' dictum, quoted from Aristotle, that things are known through their causes, that a law which does not promote social utility is not a law, and a ruler who rules for any other purpose than the good of his people is not a ruler (*de iure* of course) but a tyrant.⁵⁴

Here, therefore, is one limit on the authority of a ruler. The laws are such, and have force, in so far as they express the will of a prince, but he only is a prince in so far as he wills what is good and useful. This, it may be said, is a very old limit on sovereignty. Aristotle's remarks on tyranny and corrupt government are entirely in the same spirit and what has been said is just the same message phrased in jurists' terms. This is in part true. It does, however, permit Bartolus to reach some very interesting conclusions. It leads him, for instance, in his *De regimine civitatum*, to a most interesting consideration of the various forms of political government and to the conclusion that their appropriateness is a matter of the size of the association governed.⁵⁵ Thus, a large state profits best from monarchical rule; a community of middling extent is best fitted to the government of a few, an aristocracy: a small community is fitted for popular government. The deciding factor in each case is the same force which necessitates rule itself—the *bonum commune*. This remarkably original treatise, anticipating the views of Montesquieu by four centuries, shows how effectively a jurist could apply the lessons which he learnt from a study of the principles of law to reach important conclusions about politics quite independent of anything suggested by the Digest.

More important, perhaps, in Bartolus' own day were his deductions about the legal position of the ruler who governs ill. These reveal how very different his views really were from those of the Aristotelian philosophers. Strictly consistent to his own notions about the hierarchy of legal authorities, he does not treat the tyrants' offence as being *de iure* against the *ius gentium*, since it was not the *ius gentium* that brought rule at his level into being, but against the emperor. The tyrant who usurps power without authority is therefore guilty of high treason, of the crime known

to the civil law as the *crimen laesae maiestatis*.⁵⁶ Whether he governs well or ill, a usurper therefore has no right, and none of his acts are legally valid.⁵⁷ A ruler who governs tyrannically, but has a valid title to rule, as the emperor's *podesta*, say, or the elect of a free people, has offended only against lesser laws, probably the *lex Iulia de vi Obedientia*,⁵⁸ and his acts are invalid only in so far as they are not for the common good. This may sound like forensic virtuosity, but the legal validity of the acts of tyrants was a matter of first concern in fourteenth-century Italy. The definition of usurpation as constituting high treason to the imperial laws has a further importance. It cuts from under a usurper's feet the plausible defence of the demagogue, that his action was justified by the assent of an inflamed populace.

The question of tyranny inevitably raises the question of the rights of the individual *vis-à-vis* the state. What was the view of the jurists here? Clearly, all those rights which the individual has solely in virtue of his being an imperial citizen are secured, for the state sovereign has no right to thwart the intention of the imperial laws, though he may alter their letter to suit the demands of circumstance. This does not mean, incidentally, that the individual has a right of appeal to the emperor, since the emperor has assented to the final jurisdiction of rulers in internal affairs. '*A regia maiestatis sententia non appellatur*', says Baldus.⁵⁹ Since he is protected by the civil laws, *a fortiori* those rights of the individual which are *de iure naturali* and *de iure gentium*, the laws by which even the emperor is bound, are inviolable. His life, limbs, and property are thus protected. But the protection, it must be noted, is not all-inclusive. Thus there can be no law against marriage, since marriage is an association necessitated as a result of natural instinct. But, Baldus thinks, a Guelf state might nevertheless quite reasonably pass a statute forbidding marriage to a Ghibelline, which would be valid because it was *propter publicam utilitatem*.⁶⁰ Similarly, a man's property is his own, and he has dominion over it by the *ius gentium* and cannot be called on to surrender it. A ruler who has dominion over persons does not have dominion over their property, for even the emperor does not possess all things: he is the *dominus mundi*, but only *quoad protectionem*, not *quoad possessionem*.⁶¹ But this does not mean that an individual cannot be called on to contribute from his property to taxes imposed for

the common good—in the long run, for the protection of his and everyone else's property.⁶² It does, on the other hand, mean that taxation is only lawful for public purposes.⁶³ The ruler cannot at will demand things owned by his subject, not, at least, Cynus says, *de potestate sibi per iura concessa*.⁶⁴ In fact, of course, he can by main force seize them, but this is no more than common sense. All kinds of things happen in fact which should not happen *de iure*.

But, if they do, has the individual any right to resist the tyrannical acts of a ruler? On this crucial point the civilians did not have much to say. This is perhaps not surprising since it is a question on which, for natural reasons, their texts did not give them much of a lead. Bartolus, in his treatise on the Guelfs and Ghibellines, gave it as his opinion that the people could depose a tyrant; significantly, he quotes as his authority not the laws, but Aquinas.⁶⁵ Baldus seems to have been of the opposite view: subjects cannot derogate from the right of a superior, he says, therefore *de iure* they cannot depose him⁶⁶—unless he has no title, in which case deposition patently cannot constitute any offence. All the lawyers are quite prepared to admit that force is justified where law is already abrogated. Bartolus' treatise on reprisals, and John of Legnano's treatise on war, bring this point out over and over again: once force has entered the proper domain of law it may be met with force. But both insist strenuously that this is only justified if every means of obtaining a remedy by due process of law has been tried in vain, whether it be individuals or associations that are involved. This, I think, is indicative of what is the essence of their position. Like all good jurists, they were suspicious of any act which flouted existing law, and by its nature resistance does just this. Faced with the problem of resistance, their natural inclination was to ask whether rebellion did not create more problems than it solved. Bartolus had some words of real wisdom on this matter. He recognized the right of resistance, but only at a pinch. In a less disordered world resort to the emperor would be a better answer than resort to force; and though on occasion it could be justified, the right to take the law into one's own hands was not to be lightly invoked. 'Just as a man is rarely to be found who is level-headed in all concerns, so government is seldom unattended with some degree of tyranny', he wrote.⁶⁷ Some injustice is better suffered. Neither he nor his colleagues expected

human laws to guarantee absolute justice in all things. Justice in human affairs, says Cynus, does not imply the standards that are expected of an apostle.⁶⁸ Where there is no clear answer, one must therefore look to see what is the lesser evil.

I think this note of common sense, from the founder of the Italian school of the post-glossators, is perhaps as good a note as any on which to close. There are many other subjects on which the civilians wrote, but from the point of view of the history of political thought I believe that those I have discussed bring out their most important contributions, and also reveal their thought at its most coherent. What they had evolved, working entirely from legal texts, and keeping one eye always on relevance to contemporary conditions, was a theory of *legal* sovereignty which, because it was a theory of legal sovereignty only, was yet reconcilable both with the notion that the individual possessed inviolable rights, and with the notion of limits upon sovereigns in their relations with one another. Since they were jurists, arguing entirely from legal texts, it would be otiose to try to assess their views by philosophic standards. What seems to me much more important is that they could develop such a coherent theory without losing their perspective, their sense of what was useful and what could be practical. It was enough for them that they could put their points without doing violence to the rules of their own trade. In the process they managed to formulate a good many views which were to be important in the future.

¹ On his work, see P. de Tourtoulon, *Les Œuvres de Jacques de Revigny* (Paris, 1899).

² On the influence of the Ultramontane doctors on the Italians, see F. Ercole, *Da Bartolo all' Althusio* (Florence, 1932), p. 195 ff.

³ cf. R. W. and A. J. Carlyle, *A History of Mediaeval Political Theory in the West* (London, 1903-36), Vol. II, p. 54 ff.

⁴ Though the traditional story of the capture of this text by the Pisans from the Amalfitans is now wholly discredited, it seems generally agreed that the text of the Digest used at Bologna in the twelfth century was based on the ancient MS which had been preserved at Pisa. Though this MS had probably been there for many centuries, it seems not to have been studied. The Digest is hardly ever quoted by the pre-Irnerian lawyers, and Irnerius was probably the first to lecture on the whole of it. For a review of the problem of the text and its restoration, see H. Rashdall, *The Universities of Europe in the Middle Ages* (ed. F. M. Powicke and A. B. Emden, O.U.P., 1936), Vol. I, ch. 4, § 1.

⁵ Cynus, *Comment. in Cod.*, I, 1, 1.

⁶ Savigny had a low opinion of Accursius' powers, see *Histoire du Droit Romain au Moyen Âge* (tr. C. Guénoux, Paris, 1839), Vol. IV, p. 147 ff. For a more modern view see H. Kantorowicz, *Rivista di storia del diritto italiano*, Vol. II (1929), pp. 35 ff., 193 ff.

⁷ cf. C. N. S. Woolf, *Bartolus of Sassoferrato* (C.U.P., 1913), p. 6.

- ⁸ Dig. I, 1, 1.
⁹ Cod. VIII, 52, 2.
¹⁰ Cod. I, 14, 4.
¹¹ Bartolus, *Tractatus de testibus*, Lib. I, § 70.
¹² Bartolus quotes from Giles of Rome in his *Tractatus de regimine civitatum*, § 7; and from the *Convivio* in his commentary on Cod. XII, 1, 1.
¹³ Dig. I, 2, 10.
¹⁴ See Carlyle, Vol. II, p. 57 ff.
¹⁵ Inst. I, 2, 6, and Dig. I, 4, 1.
¹⁶ Dig. I, 1, 1.
¹⁷ P. Vinogradoff, *Roman Law in Medieval Europe* (London, 1909), p. 49.
¹⁸ Jacques de Revigny, the most conservative of the French school, regarded the French king not as the equal of the emperor, but as his lieutenant or 'magistrate' (Tourtoulon, cit. sup., p. 48). Petrus de Bellapertica derived French independence from concession, or acquiescence of the Emperor in France's 'non subjection' (see W. Ullmann, 'The development of the Medieval Idea of Sovereignty', *E.H.R.*, Vol. 64, pp. 7-8). Johannes Faber argued the case for prescription (cf. Woolf, cit. sup., pp. 377-8).
¹⁹ Oldradus, *Consilia*, 43 and 69.
²⁰ Printed by P. Chaplais, 'Some documents regarding the interpretation and fulfilment of the Treaty of Bretigny', *Camden Miscellany*, Vol. XIX (1952), pp. 58-78.
²¹ Ercole, p. 297 ff.
²² Cynus, *Comment. in Dig. Vet.*, Proemium, 1.
²³ Bartolus, *Comment. in Cod.*, I, 22, 6.
²⁴ Cynus, *Comment. in Dig. Vet.*, I, 1, 1.
²⁵ Dig. I, 1, 1.
²⁶ Cynus, *ut supra*.
²⁷ Bartolus, *Comment. in Cod.*, I, 22, 6.
²⁸ Inst. I, 2.
²⁹ *ibid.*
³⁰ Bartolus, *Comment. in Cod.*, I, 14, 4.
³¹ Inst. I, 2.
³² Quoted by Ercole, cit. sup., p. 121.
³³ John of Legnano, *Tractatus de bello*, cap. xiii.
³⁴ Bartolus, *Tractatus de banntis*, Lib. I, § 10.
³⁵ John of Legnano, *Tractatus de bello*, cap. ix: Bartholomew of Saliceto, *Comment. in Cod.* VIII, 51, 2.
³⁶ Bartolus, *Comment. in Dig. Nov.*, XLIX, 15, 24.
³⁷ On Durandus, see Ercole, p. 184 ff.; on Andrew of Isernia, Ullmann, *E.H.R.*, vol. 64, pp. 20-24.
³⁸ Oldradus, *Cons.* 69.
³⁹ cf. Andrew of Isernia, *In Usus Feudorum*, § quae sint regalia, rub. 77.
⁴⁰ For a full discussion of this point, see Woolf, cit. sup., chapter 22, § 111, especially pp. 155-60.
⁴¹ See Woolf, cit. sup., pp. 119-23.
⁴² Dig. I, 3, 35.
⁴³ His views on this question are discussed by Ullmann, *The Principles of Medieval Government* (London, 1961), p. 283 ff.
⁴⁴ Bartolus, *Comment. in Cod.* X, 63, 5.
⁴⁵ Cod. VIII, 52, 2.
⁴⁶ Bartolus, *Comment. in Dig. Vet.*, II, 1, 3.
⁴⁷ Baldus, *Super Feudis*, commentaria super Pace Constantiae.
⁴⁸ Bartolus, *Tractatus de Represaliis*, quaest. II, 4.
⁴⁹ *ibid.*, quaest. II, 5, and III, 2.
⁵⁰ *ibid.*, proemium.
⁵¹ Ercole discusses this point in detail, p. 124 ff. He points out that Bartolus' views are similar to those of Engelbert of Admont, p. 131 ff.
⁵² Baldus, *Comment. in Dig. Vet.*, Proemium.

⁵³ Nov. CV, 2, 4.

⁵⁴ Bartolus, *Tractatus de tyrannis*, § 2-4.

⁵⁵ Bartolus, *Tractatus de regimine civitatum*, § 16, 20, 22.

⁵⁶ *ibid.*, § 16 and 32.

⁵⁷ *ibid.*, § 33.

⁵⁸ *ibid.*, §§ 35-7.

⁵⁹ Baldus, *Comment. in Dig. Vet.*, Proemium.

⁶⁰ *ibid.*, I, 1, 1.

⁶¹ Bartolus, *Comment. in Dig. Vet.*, Prima constitutio, § omnem; and *Tractatus super constitutione 'Ad Reprimendum'*, § totius orbis.

⁶² Bartolus, *Tractatus de regimine civitatum*, § 12.

⁶³ Baldus, *Comment. in Dig. Vet.*, I, 1, 5.

⁶⁴ Cynus, *Comment. in Cod.* I, 19, 7.

⁶⁵ Bartolus, *Tractatus de Guelfis et Gebellinis*, 9.

⁶⁶ Baldus, *Comment. in Dig. Vet.*, I, 1, 5.

⁶⁷ Bartolus, *Tractatus de tyranno*, § 43.

⁶⁸ Cynus, *Comment. in Dig. Vet.*, I, 1, 10.

CHAPTER VII

THE CONCILIAR MOVEMENT

T. M. PARKER

IT may seem surprising that a lecture on the Conciliar Movement should be included in this series, for it might be held that the Conciliar Movement has no connection with political thought in the strict sense. It was, I need hardly remind you, a movement concerned almost wholly with the constitution, government and reform of the Church and it arose as the result of a crisis in church history. Let me recall the facts. The Great Schism in the Papacy broke out in 1378 and was ended only in 1417 by the election at the Council of Constance of Martin V as the undisputed pope. Thus the crisis was settled by conciliar action, a method recommended at the very beginning of the Schism by two Paris masters, Conrad of Gelnhausen and Henry of Langenstein, although for a long time set aside by the alternative methods of the 'way of cession' (the simultaneous resignation of both papal claimants) or the 'way of compromise' (negotiation in a committee drawn from the cardinals of both obediences)—both of which failed in the face of the refusal of rival pretenders to back down. It was this failure which drove men back to the idea of a General Council of Christendom. One was held at Pisa in 1409, as the result of a breakaway by cardinals hitherto supporting the Roman or Avignon lines of papal succession respectively, but, as they had not taken the preliminary precaution of finding out in advance whether or not they would receive sufficient support from the body of the Church, its only result was the adding of a third *soi-disant* pope to the other two.

It is worth while recording these elementary historical facts at the outset because there was a tendency in the past to think of the Schism and the Conciliar Movement resulting from it in political terms. That great Cambridge historical writer, Neville Figgis, saw it in the light of the Actonian idea of the history of freedom. Many of us, I suppose, were brought up on his *From*

Gerson to Grotius, the Birkbeck Lectures of 1900,¹ with its classical account in Lecture II of 'The Conciliar Movement and the Papalist Reaction'. Let me quote some passages from it:

'Probably,' says Figgis, 'the most revolutionary official document in the history of the world is the decree of the Council of Constance asserting its superiority to the Pope and striving to turn into a tepid constitutionalism the Divine authority of a thousand years. The movement is the culmination of medieval constitutionalism. It forms the watershed between the medieval and the modern world. We see in the history of the movement the herald of that struggle between constitutional principles, and the claims of autocracy in the state which was, save in this country and the Netherlands, to conclude by the triumph of the latter and the riveting of despotism upon the peoples until the upheaval of the French Revolution.'

Eugenius IV is the forerunner of Louis XIV. The most remarkable of all the facts about this movement is its failure. In this failure and in its causes are to be discerned at once the grounds of the religious revolution, the excuse for ultramontane ideals, and the general tendency to autocracy in all States.' (p. 31).

Figgis, then, sees the Conciliar Movement's failure as the major turning point in European political thinking between the fifteenth century and 1789. He certainly would not be disposed to deny its relevance to political thought. To him the Conciliar thinkers were the last defenders of freedom who had any chance of success before the night of absolutism descended upon Europe.

But is he right? It is salutary to notice that at least one result of the Conciliar Movement was the increasing control of local churches by national states. An obvious example is the French Pragmatic Sanction of Bourges of 1438, which took the form of a royal edict; although ostensibly it gave local French ecclesiastical authority control over appointments to benefices, in fact it tended to increase royal authority over the Gallican Church—a tendency canonized, so to speak, by Francis I's Concordat of Bologna with the Papacy in 1516, obtained by him as a reward for abandoning the Pragmatic Sanction which had seemed to fly direct in the face of the Holy See. This is but one symptom of the general tendency towards what later ages would call Erastianism characteristic of the fifteenth century, and to be found, not only in national states of the importance of France or England, but even in city states no larger than Zürich, where by the time of Zwingli the city council

virtually kept the authority of the Ordinary, the Bishop of Constance, at bay and even possessed the power to carry out visitations of religious houses. If Figgis is right in seeing a connection between the failure of what he regards as constitutionalism in the Church and the growth of autocracy at this time, the connection is less simple than he thought, for political autocracy grew largely at the expense of centralized autocracy in the Church. Popes, no less than popular or aristocratic assemblies, lost ground to kings. It would seem that we must analyse more deeply to obtain a true picture.

Nationalism did indeed play a part in the Conciliar Movement. It is a familiar fact that at Constance the Council Fathers were organized into four (later five) 'nations' with equal voting power in order to counteract the numerical preponderance of Italian bishops, many of whom were more closely under papal influence than their colleagues elsewhere. Too much must not be read into this; the 'nations' at Constance did not correspond with political entities. Yet behind this pragmatic arrangement there did lie, as some speeches at the Council show, ideas of national ecclesiastical rights—which indeed had their roots far back in European history.

In order, however, to appreciate the situation realistically, we must ask a much more fundamental question. How far had the notions of Church and State in our modern sense yet emerged? Did men by this time think of two separate societies, ecclesiastical and civil, distinct and self-contained, even though all men (necessarily at that time) belonged to both?

On this, too, Figgis had something to say and was challenged upon it in his own day. He said it in his famous paper '*Respublica Christiana*', read to the Royal Historical Society on December 15, 1910, and published in its *Transactions* of 1911.² Here he claimed that the middle ages knew of one society only, the *Respublica Christiana*, of which Church and State were, so to say, two functions. He speaks of what he calls the modern 'concessions theory', the idea that:

... apart from the State, the real society—and from individuals, the living members of the State—there are no active social unities; all other apparent communal unities are directly or indirectly delegations, either of State powers or of individuals. (p. 63).

Using a contemporary illustration from the quarrel of Church and State in France under the Third Republic, he says:

'In France the concession theory has long reigned practically unchecked, alike as a legal theory and even as a political maxim. It burst into renewed activity only the other day in the Associations "Loi". . . . M. Emile Combes put it, writing in an English review, "There are no rights but the rights of the State; there is no authority but the authority of the Republic". . . . On this very controversy there was published a volume of collected speeches by M. Combes, with a preface by M. Anatole France. It is called "*Une Campagne Laïque*". That title contains, in my view, the key to the mystery. Consider for a moment that M. Combes is not a layman, but an unbeliever; he is a fanatical anti-Christian, and would repudiate with scorn any notion that he was a lay member of the Catholic Church. . . . Why, then, should M. Combes use a term so essentially ecclesiastical as *lay* to describe his campaign? I answer that it was because he could not help it; the distinction that has ruled Europe for so many centuries has been a distinction, not between Christian and non-Christian societies, but between cleric and layman, between the spiritual and the temporal power, each of them exercised within the Church; between the ecclesiastical and the secular governments, each of them functioning within the body politic. M. Combes used the word *laïque* as an unconscious survival of the day when an attitude similar to his own could have been rightly described by that term. He slipped into it, because the categories of our thought are still ruled by influences that breathe of a different world. He was unconsciously, and in spite of himself, recalling a time when troubles between Church and State were not troubles between two societies, but between two departments of one society; . . . ' (pp. 66-7).

We should all agree that Figgis's statement is true of the earlier middle ages. But is it true of the later? Not long after the publication of this paper, C. N. S. Woolf, in *Bartolus of Sassoferrato*,³ criticized some of its assumptions. It is well to quote his own words:

Bartolus, we note, evidently uses 'Papa', 'Ecclesia' and 'Sacerdotium' as convertible terms—nor, in this, is he by any means unique. Dr. Figgis has recently reminded us that 'in common parlance the Church in the middle ages meant not the "congregatio fidelium"—though, of course, no one would have denied that to be the right meaning—not the whole body of baptised Christians as distinct from those who were not, but rather the active, governing section of the Church'. (p. 101).

After other detailed criticism, Woolf continues in this vein. He points out that medieval students of Roman Law could not accept

the way in which the law of Justinian saw the Church as absorbed into the state. 'As a result they were driven to insist on the separation and distinction of the *Ecclesia* and *Imperium*.' He continues:

To this it may be said that the separation and distinction for which they plead, are not the separation and distinction of Church and State, but of the ecclesiastical and secular governments of the one society. 'The conflicts between the two powers', says Dr. Figgis, 'are habitually spoken of as struggles between the *Sacerdotium* and the *Regnum*; although the wider terms *Respublica* and *Ecclesia* are not unknown, it is surely reasonable to interpret them by the former.' We would venture to express this differently. We would say that in the early middle ages, that is to say, up to the Investiture struggle—and perhaps inclusive of it—the conflict is habitually considered as between the *Sacerdotium* and *Regnum* or *Imperium*, and, in nine cases out of ten at least, as taking place in the *Ecclesia*, rather than in the *Respublica*. Only in the later middle ages are *Respublica* and *Ecclesia* used as convertible terms for *Regnum* or *Imperium* and *Sacerdotium* respectively: and the conclusion we would draw is that, when this happens, the conception of the single society is breaking up. (pp. 103-4).

Woolf reached this conclusion partly by showing how Bartolus, the fourteenth-century legist, could speak of the lands of the Church and the lands of the Empire, meaning thereby the papal states on the one hand and Germany on the other. He does, I think, demonstrate that in the later middle ages the idea of a unified Christian society had already to some extent given place to the later notion of two societies, Church and State in the modern sense, even though all men still belonged to both. This is a fact very relevant to our theme

One great factor in this change undoubtedly was the re-discovery of Aristotelian political thought in the thirteenth century. Of this other lecturers will have spoken and I need not dwell on it more than to say that it involved the revival of the idea that the state is natural to human life and the consequent abandonment of the idea so common in the early Christian Fathers (as one finds it in Augustine, for example) that, on the contrary, the state is a consequence of the Fall of Man and a remedy for human sin resulting therefrom—good as a remedy, but not in itself, just as medicine is good once one is ill, but not *per se*. Revived Aristotelianism held that there would have been a state even if man had never fallen, even if God had never

needed to redeem us. For the state's function is to lead man to his natural end or purpose—the good life. Christian Aristotelianism necessarily differed from its pagan originator in recognizing, beyond man's natural end, a supernatural end to which he could attain only by grace. Yet, even so, the state is allowed a positive function, not merely the negative one of combatting sin. It allows to the state, in virtue of this, even an autonomy not recognized or at least very much restricted by earlier Christian thought. In a secularist like Marsiglio of Padua this could lead even to an Erastian view of the Church; in more orthodox thinkers it at least caused stress to be laid upon the importance of the state as a natural creation of God, planned by Him to fulfil His purpose both inside and outside Christendom.

It is vital to remember that the academic element in the Conciliar Movement (an element which has been exaggerated, but which was nevertheless influential) was composed of men brought up in the universities, and especially at Paris, in this tradition. Dr. Walter Ullmann, in his *Principles of Government and Politics in the Middle Ages*,⁴ has called attention to the fact that at Paris (as also at Oxford) philosophy and theology still predominated over legal studies, so that, in contrast to the legal universities of Italy, political thought there did not move in narrowly legistic grooves. 'There was not much fresh air blowing through the lecture rooms at Bologna, Perugia, Pavia, and so on' (p. 292). Thus the Conciliar theorists approached their problems, problems in the first instance concerned with the unity and government of the Church, with a conviction that human society on its secular side had a validity of its own, and the problems with which they were primarily concerned were in some ways akin to those which arose in political matters—the problems of autocracy versus constitutionalism, of centralization as against local autonomy and so on. Nor were these problems as new as used to be thought. It is well to remember that the schism of 1378 was not the first in the papacy. Indeed, in the earlier middle ages papal schisms were frequent, almost endemic. No further back than 1328 the Emperor Lewis of Bavaria had set up an antipope, even if a transient and embarrassed one. Nor was there anything novel in the idea of a General Council, which was part of the tradition of Christendom. People sometimes speak as if councils were at best

antiquarian rediscoveries of the Conciliarists. Yet the last, the Council of Vienne, had been held no further back than 1311.

New and disquieting features there were, of course, at the end of the fourteenth century. Not only was the schism of 1378 more long-lasting and intractable than earlier disputes of the same kind; it also divided Europe into two power blocks of almost equal strength, locked in both religious and political rivalry, as the political schism already caused by the Hundred Years' War was reproduced in the religious field, France with her allies or satellite states, Scotland, Castile, Aragon, Naples, supporting the popes of Avignon, while England, most of the Empire and Portugal supported the Roman. The older idea that political conflict caused the Great Schism is now questioned; one must seek its causes more directly in the tensions within the papal curia, where the cardinals, like the nobles in secular states, were demanding a greater share in the determination of papal policy. But once it had broken out the Schism quickly and inevitably organized itself along the lines of the already existing political schism, and in so doing made itself more difficult to heal, since the support of different claimants to the See of Peter became bound up with considerations of national prestige and policy.

Much the same is true of the question of conciliar as against papal authority. We now know that the origins of the theory of the ultimate superiority of councils goes back considerably earlier than the days of the Great Schism; it was not invented to meet a new situation. Dr. Brian Tierney in his *Foundations of the Conciliar Theory* showed that, surprisingly enough, the thirteenth-century canonists, who contributed so much to ideas of papal absolutism, nevertheless realized that the contingency of a mad or heretical pope might arise or that in some other way a pope might become unfit to govern, and in this last resort they looked for a final solution to a Council as the ultimate authority in the Church, representing as it did the whole body of the faithful, which must have the power of self-preservation. Here again the intransigence of the rivals in the Great Schism suddenly made a remote issue immediate and real. The only way out of the impasse of pretenders to the papacy, who would give way neither to each other nor to anyone else, was to turn to that ultimate conciliar authority which even the canonists envisaged. Seen in this light the famous

decree *Sacrosancta*, by which the Council of Constance proclaimed its right to obedience from all Christians, including the pope, appears less like 'the most revolutionary official document in the history of the world', as Figgis regarded it. It led to action which, if not strictly revolutionary, had at least not been witnessed for centuries, when, on its basis, the Council deposed two popes, John XXIII and Benedict XIII, and accepted the almost inevitable resignation of a third, Gregory XII. Old ideas, for a long time theoretical rather than practical, assumed immediate significance and had to be acted upon boldly.

It is precisely in this process of translating abstract theory into action that ideas of interest for political thought are born. It became clear that one question involved another. For example, if the ultimate authority lies with the whole body of the faithful, as represented in a Council, what is the nature of papal authority even in its ordinary exercise. Is it absolute? William of Ockham, before the Great Schism began, had insisted that the papal office was constitutional in character. The pope possesses authority from God, but not to use arbitrarily; he is bound, not only by the revealed law of God, but also by canon law and church tradition, just as, in medieval thought, a secular monarch was limited by the ancient laws and customs of his realm, which it was his duty to enforce, apply, and if necessary amend (though normally in consultation with his subjects), not to change arbitrarily or disregard.

The Conciliar thinkers had similar ideas. In Gerson's *De auferibilitate sponsi ab ecclesia* (composed in 1409 at Paris and probably revised for delivery to the French Nation at Constance on April 20, 1415) occurs a passage of much interest. The document as a whole consists of a series of 'considerations' based upon St. Mark ii. 20: 'The days will come, when the bridegroom shall be taken away from them.' In true medieval style, Gerson considers different ways in which Christ, the Church's Spouse, or the pope, His vicar, can be taken away from her. Consideration VIII runs thus:⁶

Any civil polity which is monarchical or royal can be taken away or changed, without alteration of the law, so that it can become aristocratic, but this is not the case with the Church, which was founded by Christ upon one supreme monarch throughout the world.

This can be deduced both *a priori* and *a posteriori*, by considering the variations there have been in other polities; because Christ has instituted no other polity to be immutably monarchical and in a sense royal except the Church. And those who have a different opinion about the Church, such as that it is right for there to be several popes, or that any bishop is in his diocese a pope or supreme pastor on an equality with the Roman pope, err in faith and about the unity of the Church against that article (of the Creed): 'And in one, holy . . .'; and if they remain pertinacious are to be judged heretics, like Marsilius of Padua and some of the others.

Reason agrees with this, because, just as all members of the Church Militant are bound to one faith and the same sacraments, so it was fitting, so that there should not be schism, that there should be also a final ordering under one supreme head; otherwise, when a community is ruled solely by natural laws and human traditions, which, according to the differences of times and places, are laudably and usefully varied rather than binding all in exactly the same way, as Aristotle says, using the example of the Lesbian rule. Concerning which let us incidentally say that neither the supreme pontiff or any other ought to strive to have positive canon laws or other human traditions observed without variation everywhere in the whole Church and among all peoples. Acting otherwise perhaps gave occasion for the Greeks to depart from the Latins. Moreover, it provides daily much matter for dispute and serious scruples when an attempt is made to have human law observed in an invariable way, whether it be canonical or civil, in the way that the Divine Law must be kept without any variation. Thence comes that complaint of Christ in Matthew xv: ye have made the commandment of God of none effect by your traditions.

Emphatic as he is upon the need for maintenance of the unity of the Church by obedience to the monarchical papacy, and opposed to any idea that there can be strictly autonomous or autocephalous authorities in the Church besides the Holy See, Gerson is clearly thinking in terms of an ecclesiastical system sufficiently flexible to take account of local circumstances and historical change—a position very similar to that towards which the Second Vatican Council is generally thought to be working to-day. In a sense he is anticipating the famous statement of the Anglican Thirty-fourth Article of Religion:

It is not necessary that Traditions and Ceremonies be in all places one, or utterly alike; for at all times they have been diverse, and may be changed according to the diversities of countries, times, and men's manners, so that nothing be ordained against God's Word.

though it does not follow that Gerson would have gone on to accept the last sentence of the same article:

Every particular or national Church hath authority to ordain, change, and abolish, ceremonies or rites of the Church ordained only by man's authority, so that all things be done to edifying.

It is just possible that he might have wished for a devolution of authority from the papacy which would have made such changes permissible at local level.

To this extent the association of Conciliar ideas with limited sovereignty made by Figgis and others may be true, but the relationship is not as simple as they saw it. For decentralization in the Church was only too compatible with centralization in the nation state; indeed, it assisted the latter, as we have seen, by making local churches more vulnerable to local political power. It cannot be too often repeated that in the strife between papacy and Councils the *tertius gaudens* was the civil power. Already the secular state had benefited from the recognition of the Aristotelian principle that the state is natural to man and can by itself assure his natural happiness—a principle which can too easily overlook the fact that few states really do achieve that goal. The qualification, insisted upon by St. Thomas Aquinas, that this natural end of politics must in a Christian state be subordinated to the pursuit of man's supernatural end, the Beatific Vision, which was the Church's responsibility, retained for the Church in theory a right of political censorship and control. In practice it could easily be overlooked or an increasingly self-confident state could regard itself as competent to secure this end also; hence the Erastianism which was already on the march in the fifteenth century.

With this reservation, however, there can be seen in the Conciliar Movement an attempt to draw in ecclesiastical affairs a distinction parallel to that between *dominium regale* and *dominium regale et politicum* which Sir John Fortescue was to insist upon later in the century, when he contrasted the absolute French monarchy with the English kingship, limited by law and by the tradition of co-operation with Parliament. The Conciliarists did want to make the papacy a limited monarchy, its powers balanced by those of the bishops and its omnicompetence limited by a recognition of the ultimate authority of the body of believers. They failed for many reasons, not least the quarrelsome ineptitude of

many of their followers, displayed in full measure at the Council of Basle. But perhaps a deeper reason was their inability to translate their vision into precise theological terms, hampered as they were by the fact that the middle ages, despite its achievements in other fields of theology, had never developed a deep ecclesiology, a full theology of the Church itself. It is a remarkable fact that the *De regimine christiano* of James of Viterbo, written as late as the opening years of the fourteenth century, can be accurately described by its modern editor, H. X. Arquillière, as *Le plus ancien traité de l'Eglise* (Paris, 1926); it has no predecessor and had no real successor for centuries. Even more remarkable is the fact that St. Thomas's *Summa theologiae* has no section *De Ecclesia*. It is not then surprising to find the Conciliarists resorting so often to the Aristotelian doctrine of *epikeia*, of breaking the letter of the law in order to keep its spirit, in justifying their radical proposals. The idea has truth, but it is a flimsy foundation for a theory of church reform. What was really needed and never fully attained was a theology of the collegiate relation of the episcopate to the papacy, such as the Second Vatican Council, in the light of the great progress in ecclesiological studies achieved in this century by Mersch and many others, is now hammering out, as it fills in the *lacuna* left by its predecessor of 1870 by producing a definition of episcopal divine right, balancing that claimed for the papacy by the First Vatican Council's decree *Pastor Aeternus*.

The nearest approach to this was attempted by the greatest of the Conciliar thinkers, Nicolas of Cusa, in his *De concordantia catholica*, described by Figgis as shedding 'a sunset glory over the medieval world'. He says of it:

Like the *De Monarchia* of Dante the work of Nicolas is at once a prophecy and an epilogue—an epilogue in respect of its ideal of a rejuvenated *civitas Dei* with Pope and Emperor again shining forth as twin though limited rulers; a preface in its conception of society as organic, in its proclamation of the right of consent, in its universality. It is almost the last book which treats Christendom as a single organic system, in which a complete theory of politics, whole or parts, is set forth.

The underlying idea is derived from Nicolas's Platonism, in the light of which he saw the universe as a balance of opposites finding their union in God.

Finite things are multiple and distinct, possessing their different natures and realities while God transcends all the distinctions and oppositions which are found in creatures. But God transcends these distinctions and oppositions by uniting them in Himself in an incomprehensible manner.⁷

Applied to political thought this notion gives rise naturally to what in later language would be called a system of checks and balances. Just as what seem to us opposed principles in Nature find reconciliation in the Divine Mind, so what might seem to be distinct and even potentially hostile powers in human society can find reconciliation in an all-embracing harmony. Thus, as Figgis says, the keynote of Nicolas's book is harmony.

The author strives to find the harmony which unites earthly government to heavenly, secular to spiritual; he takes the various members of the body politic. The unity of the whole, not in spite of but manifested in and through difference is the constant thought of the author, and the (indirect) Divine origin of all government, but he strives to harmonize it to notions of the Divine and human origin of authority. If power is in the ultimate resort from God, immediately and apparently it comes from man. The consent and agreement of the Christian community is the origin of Papal authority, which is a delegation from the people, and may be removed at their will. The civil power is to be free from ecclesiastical interference, and unhampered by clericalism. Yet it needs reforming. The Emperor is to be surrounded by a continual Council and to do nothing apart from them. There is also to be an annual representative assembly at Frankfurt.

Figgis is certainly not wrong in seeing here a relation between Conciliar thought and constitutionalism in politics, even if Cusanus is almost the only theorist of the movement to deal at all closely with political thought. In him are united the desire to broaden the basis of government both in Church and State, expressed ecclesiastically in Conciliar theory, politically in a doctrine of representative assemblies and of continual councils to advise and when necessary, check monarchs.

Yet, except in England, such political ideas were already on the decline and, whether he knew it or not, Nicholas was backing a cause which would have no immediate victory. Perhaps he did know it, for in later life Nicolas can be found to some extent swimming with the tide. Disgusted, like other thoughtful men, with the factious and impractical radicalism of the Council of

Basle, he quitted it to support the cause of papal authority. In his later writings (notably his *Dialogue* against the supporters of the antipope Felix V, set up by Basle, and a letter to Rodrigo Sanchez de Arevalo) he is to be found teaching that all power in the Church stems from the See of Peter as from a first principle. Nor is his attitude such a *volte-face* as might be supposed. The ideas of representation and consent had always played a central part in his political and ecclesiastical thinking. So they do in the political theory of Thomas Hobbes, as anyone knows who has pondered upon the famous frontispiece to the *Leviathan* in which the giant crowned figure brandishing sword and crozier is constructed out of the tiny forms of citizen manikins. It is perhaps not surprising that Nicolas came to see in Pope and Emperor, conceived in terms of the Platonism which increasingly enthralled him, the supreme representatives and for that very reason the founts, if not the monopolisers of power. As he put it in a sermon: *In omni multitudine unius generis reperitur unum, in quo est plenitudo respectu omnium*. Is this so far from *L'état, c'est moi*? The wheel has come full cycle. Figgis saw in Eugenius IV the forerunner of Louis XIV. It might have surprised him to consider that the greatest of Eugenius's cardinals, his hero Nicolas, has some claim to figure among the prophets of *Le roi soleil*.⁸

¹ 2nd ed. (Cambridge, 1916).

² *T.R.H.S.*, Third Series, Vol. V.

³ Cambridge, 1913.

⁴ London, 1961.

⁵ Cambridge, 1955.

⁶ Jean Gerson, *Œuvres complètes*, ed. P. Glorieux, Vol. III, *L'œuvre magistrale* (Tournai, 1962), *op. cit.*, pp. 298-9.

⁷ F. J. Copleston, *A History of Philosophy*, Vol. III (London, 1953), p. 235.

⁸ See on this the recent study of Cusanus by Paul E. Sigmund, *Nicolas of Cusa and Medieval Thought* (Cambridge, Mass., 1963).

SEVEN Oxford historians discuss trends in political thought in the Middle Ages. P. R. L. Brown examines St. Augustine's way of thinking about society; J. M. Wallace-Hadrill describes the teaching of Carolingian churchmen on kingship; K. J. Leyser analyses the polemics of the 'Gregorian revolution'; Jean Dunbabin tells what the thirteenth-century schoolmen made of Aristotle's teaching on politics; Marjorie Reeves compares Dante and Marsiglio of Padua as political thinkers; M. H. Keen reviews the contribution of fourteenth-century Civilians, and T. M. Parker that of the Conciliarists; Beryl Smalley has written an introduction. Although the topics studied range from the fifth to the fifteenth century, this book is neither a digest nor an outline. Increasing specialization in medieval studies calls for division of labour, while making the task of synthesis more necessary than ever before. Both have their place in these essays, which represent a lecture course intended for a mainly undergraduate audience. Some contributors present the results of original research; others suggest new lines of approach. The aim of the lecturers, working as a team, was to bring out the richness and diversity of political thought in the period from St. Augustine to Nicholas of Cusa. The introduction suggests some common factors both in the theories discussed and in the lecturers' treatment of the problems they examine.

BASIL BLACKWELL