THE MEDIAEVAL CONCEPTION OF KINGSHIP AND SOME OF ITS LIMITATIONS, AS DEVELOPED IN THE POLICRATICUS OF JOHN OF SALISBURY

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THE Policraticus of John of Salisbury is the earliest elaborate mediaeval treatise on politics. Completed in 1159, the date of its composition makes it a landmark in the history of political speculation for two reasons. It is the only important political treatise written before western thought had once more become familiar with the Politics of Aristotle. It thus represents the purely mediaeval tradition unaffected by ideas newly borrowed from classical antiquity. It is the culmination, in their maturest form, of a body of doctrines which had developed in unbroken sequence from patristic literature in contact with the institutions of the earlier Middle Ages. In the second place it comes just before the important turning-point in institutional development at the end of the twelfth and at the beginning of the thirteenth century, when legal precision began to be stamped on a great number of previously indefinite relationships, and when feudal independence tended to become consolidated into definite organs of political control. It therefore speaks from a point of view which was about to disappear, but which it is all the more important to understand because it contributed a heritage of ideas whose momentum made them, in spite of the newer influences, the dominant force in political thought down to at least the middle of the sixteenth century.

1 This article will form a portion of the introduction to a translation of the fourth, fifth, and sixth books, and of certain chapters of the seventh and eighth books, of the Policraticus, to appear later under the title of The Statesman’s Book of John of Salisbury, as one of the volumes of “Political Science Classics,” edited by Professor Lindsay Rogers and published by Alfred A. Knopf, New York.

The first half of the twelfth century was in some respects the great age of conscious feudalism. It is therefore striking that there is hardly a trace of contractual feudal theory in the *Policraticus*.¹ It is true that in one passage John of Salisbury accepts the feudal doctrine that public offices are transmissible by descent like private property; in a second he conceives the relation between the prince and his subjects in terms of the oath of fealty; in a third he denies the right of tyrannicide to those who are bound by fealty to the tyrant. But these passages are exceptional; the whole view of the state which is presented is at variance with the conception that there is anything contractual or voluntary in its composition.

The obvious explanation of this failure to mirror a dominant contemporary tendency is almost certainly the true one — namely, that John represents the standpoint and theory not of purely secular politics but of the Church. But this by no means implies that his point of view is academic or aside from the main currents of practical governmental development. On the contrary, the ecclesiastical theory of the state was a powerful factor in practical politics throughout the feudal period, in opposition to the distinctively feudal theory; and it was precisely this ecclesiastical theory which was at the basis of the pretensions of national monarchy against feudal aggression, and which served to keep alive the conception of “commonwealth” during an era of particularistic disintegration. Luchaire has pointed out that the monarchy of Hugh Capet and his immediate successors was royalty of an ecclesiastical character, inheriting Roman traditions through the channel of church theory, and that at the era of its lowest ebb it was prevented by this theory from ever degenerating into purely feudal suzerainty.⁵ From the standpoint of practical development this body of ecclesiastical-Roman doctrine is ac-

¹ This is noted by C. Schaarschmidt, *Johannes Saresberiensis* (Leipzig, 1862), p. 349.
³ vi, 25; Lane Poole, *op. cit. supra*, p. 204, goes too far in saying that “there is not a trace even of the terminology of feudalism.”
⁴ viii, 20.
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Accordingly vital, in that it was the doctrine which finally emerged triumphant in the triumph of national monarchy; and its statement by John of Salisbury is therefore significant as a stage in the transmission of the idea of organic political unity from antiquity to modern times. The heart of this body of doctrine was its conception of kingship.

I

There is no comparison of the relative merits of different forms of government in the Policraticus. The conventional discussion of the respective claims of monarchy, aristocracy, and democracy is an academic imitation of classical political theory which comes into mediaeval thought only with the recovery of Aristotle's Politics in the following century. Monarchy is the only form of government in which John is interested as a working reality, although he seems conscious that there may be other forms.1

There is one kind of government, however, which John in several passages sets up as an ideal in contrast to monarchy, to illustrate the shortcomings of the latter. This is rule by judges, as it existed among the people of Israel in the time of Samuel and before the establishment of the Kingdom. John's preference for such a government is closely connected with, and serves to emphasize, his conception of the supremacy of a ready-made body of pre-existing "higher"2 law. A king is not really needed by a people who follow this law and submit to its dictates; all that they require is a judge to administer it among them as Samuel did. The beginning of kingship marks a falling away from the purity of obedience to the law, and was a token of God's anger. "The earliest patriarchs," says John, "followed nature, the best guide of life. They were succeeded by leaders, beginning with Moses, who followed the law, and judges who ruled the people by the authority of the law; and we read that the latter were priests. At last, in the anger of God, they were given kings, some good, many bad. For Samuel had grown old, and when his sons did not walk in his ways, but followed after avarice

1 v, 1.

2 For a treatment of the doctrine of "higher law" by John of Salisbury the reader is referred to Section II of the Introduction to my forthcoming translation above referred to.
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and uncleanness, the people, who perchance deserved that such priests should be in authority over them, forced God, whom they had despised, to give them a King.”¹ “And yet a King was not truly needed, had not Israel after the likeness of the gentiles walked crookedly and showed themselves not content to have God for their King.”² “And if iniquity and injustice, banishing charity, had not brought about tyranny . . . perhaps there would be no kingdoms at all, since it is clear from the ancient historians that in the beginning these were founded by iniquity as encroachments against God or were extorted from Him.”³

These passages form an interesting link between important earlier and later theories. They reach back to the patristic doctrine that in the state of innocence there was no coercive government, and that it was sin which caused God to set men over one another, subjecting some to the authority of others. In the language of St Augustine, the primitive just men were rather shepherds of their flocks than kings of men.⁴ On the other hand, the same passages reach forward to the important distinction taken by the author of the second book of the de Regimine Principum between “political” and “regal” rule. Political rule was that of the judges of Israel. This was suited to man in the uncontaminated state of human nature which was called the state of innocence; but in the state of sin, regal rule is more beneficial. “Therefore the rod of discipline, which all men fear, and the rigor of justice, are necessary in the governance of the world because thereby the people and the rude untutored multitude are the better ruled.”⁵ Whether St Thomas wrote this passage or not, the distinction which it drew came to be identified with a similar distinction which he based on Aristotle’s Politics,⁶ and formed the

¹ viii, 18. ² iv, 3. ³ viii, 17.
⁵ Thomas Aquinas, de Regimine Principum, ii, 9 in Opera, (Parma ed., 25 vols., 1852–1873) XVI, 244.
John of Salisbury, when contrasting monarchy with government by judges, represents the former as essentially despotic in character.

"And so Saul was elected with the aforesaid right of a King, namely that he might take their sons and make them his charioteers, and take their daughters to bake his bread and cook his food, and take their fields and lands to distribute at his pleasure among his servants, and in short oppress the whole people beneath the yoke of slavery."  

This conception of kingship is out of line with the main trend of John's views on monarchy. It represents a direction of thought which, however congenial with his extreme doctrine of the self-sufficiency of law, is not the direction that he chose in the main to follow. On the other hand, the theory of kingship which he developed in detail embraces at least two distinct elements which it is difficult to harmonize.

John insists in numerous passages that the king is the “representative” of the commonwealth. He is “the minister of the common interest . . . and bears the public person.” He must regard himself as only the servant of the people. He is an “officer,” and his acts are not his own, but those of the universitas, or corporate community, in whose place he stands. This conception of kingship as representative or ministerial is in line with a current of opinion which was emphasized in twelfth-century thought by the revived study of the Corpus Iuris. A famous text based the authority of the emperor on a lex regia whereby the Roman people had transferred their power to him. Therefore the glossators explained the position of the emperor as that of a “representative” or “vicar” of the people. It happens that the earliest passages in the writings of the jurists which

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1 "This Diversite is wel taught bi Seynt Thomas in his boke wich he wrote, Ad Regem Cipri de Regimine Principum." Fortescue, Governance of England, ch. 1 (ed. C. Plummer, Oxford, 1885), p. 110.

2 viii, 18.

3 The identification of kingship and tyranny in connection with the theory of the origin of government, and the resulting inconsistency between this view and the attempt made elsewhere to draw a clear distinction between a king and a tyrant, reproduce themselves in the continuation of St Thomas's de Regimine Principum; cf. ii, 9, and iii, 9.

4 v, 2.

5 iv, 2.

6 iv, 1.

7 v, 4.

8 Dig., i, 4, 1; Inst., i, 2, 6.
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develop this view are probably a little later than the Policraticus, or
approximately contemporaneous with it; 1 but it was a view which
was to become the orthodox legal doctrine of the next century, 2 and
for that reason its early statement by John of Salisbury is all the
more remarkable and significant.

It does not, however, represent John’s dominant conception of
the position of the monarch. He regards him for the most part not
as the representative of the people, but as the “image of God on
earth.” 3 His ministry is conferred on him not by the people but by
God. “All power is from the Lord God; the power which the prince
has is therefore from God, for the power of God is never lost nor
severed from him, but He merely exercises it through a subordinate
hand.” 4 The power of the prince is “instituted by God for the pun-
ishment of evil-doers and for the reward of good men.” 5 The prince
“is placed at the apex of the commonwealth by the divine govern-
ance.” 6 Kingship is an honor bestowed by God, 7 and a criminal
attempt against the prince is an attempt against God Himself. 8 “He
is subject only to God and to the priesthood, who represent God
upon earth; 9 and he will be judged by God and held to account for
his ministry.” 10

The later Middle Ages were troubled by the problem of recon-
ciling the doctrine that, on the one hand, the ruler was the agent or

1 Com. ad. Dig. Tit. “de Diuersis Regulis Iuris” (Dig. L., 17), attributed to Bulgarus,
reg. 176, ed. F. G. C. Beckhaus, Bonn, 1856, p. 112; Placentinus, Summa Institutionum, i, 2,
quoted in Carlyle, Hist. of Mediaeval Political Theory, II, 58. (I have been unable to consult the
original as there is no copy in the library of Harvard University or of the Harvard Law School.)
Tourtoulon places the work of Placentinus after 1166, Vie de Placentin, (These pour le
Doctorat, Paris, Chevalier-Maresq, 1896), pp. 120, 121. It is impossible to date Bulgarus’s
commentary accurately; if it was his work, as Savigny supposes (Geschichte des römischen
Rechts im Mittelalter, Heidelberg, 1826, IV, 94 ff.), it might have been written before 1156 and
probably before 1159 (Ibid., 86, 87).

2 Aquinas, Summa Theol., Prima Secundae, q. 90, art. 3; Baldus, Com. on Code (Venice,
1586), X, rubr. 1, nr. 12, 13, 18; other citations in Otto Gierke, Political Theories of the Middle

3 Cf. Hugh of Fleury, Tract. de Reg. Pot., i, 3: “rex in regni sui corpore patris omnipotentis
optinere uidetur imaginem”; Suger, “Vita Ludovici,” in Oeuvres Complètes, ed. A. Lecoy de la
dum portat rex imaginem.” See J. Flach, Les Origines de l’Ancienne France (Paris: Larose,
1904), III, 236 ff.

4 iv, 1. 5 Ibid. 6 v, 6. 7 vi, 26.
8 vi, 25. 9 v, 2. 10 iv, 10; iv, 12; vi, 1.
representative of the people, and, on the other hand, that he held his power from God. John does not seem to have felt the difficulty, perhaps because he had a solution for it. "The commonwealth," he says, "stands in the same relation to the prince as a ward to a guardian." In other words, the prince is responsible for the commonwealth, but not to it; he represents it legally, but his responsibility runs to the legal authority to which he owes his appointment, namely to God. The same idea is differently expressed in another passage: "The prince is the Lord's servant, but he performs his service by faithfully serving his fellow-servants, namely his subjects."

This solution evades the necessity of taking one side or the other upon an issue which was of immediate practical consequence in the twelfth century — the issue, namely, between elective and hereditary monarchy. In the Carolingian period the conventional formulae of public acts described the Frankish kings as "elected by the whole people." During the feudal era the baronage had succeeded for a time in France, and permanently in Germany, in making the election more than a mere formality. In England, at least the form of election seems to have prevailed down to the time of Edward the First. At the very era when the Policraticus was being written, the French and English monarchs were finally succeeding in making the crown hereditary in their families through the practice of securing the election and coronation of the heir during the lifetime of his predecessor. "Philip Augustus was the first of his race who felt himself strong enough to dispense with the designation and coronation of his son during his own life-time. It had taken two centuries for the dynasty of Hugh Capet to attain this result." During the

1 For efforts to effect a reconciliation see Gierke, op. cit. supra, p. 146, notes 140 and 141.
3 See Luchaire, Institutions Monarchiques, I, 61–86.
4 Bryce, Holy Roman Empire, 7 ed., pp. 226 ff.
6 Luchaire, op. cit., p. 87.
whole period when the hereditary and elective principles were contending with one another, current theory sought to evade difficulties by accepting both at the same time, and refusing to see any inconsistency between them. The typical formulae run to the effect that the king is “rex iure hæreditario, . . . et mediante tam cleri quam populi unanimi consentu et favore”;¹ or as Ivo of Chartres explained, “Iure in regem est consecratus cui iure hæreditario regnum competebat et quem communis consensus episcoporum et procerum iampridem eligerat.”²

In fact, this mixed theory of election and heredity was not so much the result of a mere failure to distinguish between the two as it was the outcome of a carefully devised argument which formed an important element in that ecclesiastical tradition of political thought which John of Salisbury represents. The full statement of this theory is perhaps the point at which the Policraticus sheds the most direct light on the institutional history of its era.

John starts from the position that “the kingly power is not born of flesh and blood, since in the bestowal thereof regard for ancestry ought not to prevail over merits and virtues.”³ Again he says that, while ordinarily public offices descend to the heirs of the holder, governance of the people does not so descend as a matter of right, but is bestowed upon one who has in him the spirit of God, and has a knowledge of the law.⁴ The theory of absolute hereditary right is thus rejected. On the other hand, John is equally far from accepting an unrestricted freedom of election by the community. In describing the “ordination” of a Hebrew king, and implying that it is a model to be followed in instituting rulers, he says, “Here is plainly no ac-

³ iv, 3. ⁴ v, 6.
clamoration by the people, any more than a title founded upon ties of blood”; but the prince should be chosen in the presence of the people, “so that afterwards no man may have ground for retraction, and no least scruple of uncertainty may remain to cloud his title.”

John is particularly opposed to the efforts of kings to ensure the succession of their heirs. “Why is it,” he asks, “that the poor are crushed beneath wrongs and outrages, made lean with exactions, despoiled by manifold and oft repeated rapine, why are the peoples bidden to clash together in arms and shake the world, to no end but that princes may be succeeded by their natural heirs?”

“To-day all are actuated by the single motive of making their children, no matter what the character of the latter may be, resplendent with riches and honors rather than with virtues. They even neglect and forget that the burden and responsibility of the common weal rest upon them.”

If thus neither election nor hereditary right affords a sufficient basis for the royal title, whence is it derived? John derives it from God, through election or inheritance or such other means as God in the given instance chooses to employ. “The prince is placed by the divine governance at the apex of the commonwealth, sometimes through the secret ministry of God’s providence, sometimes by the decision of His priests, and again it is the votes of the whole people which concur to place the ruler in authority.”

Having been so chosen, if he then proceeds to discharge his office faithfully and in accordance with divine law, a presumptive right arises in his children to succeed him. “The father is succeeded by the son if the latter imitates the father’s justice. Parents will be succeeded by their children if these shall have faithfully followed them in obeying the commandments of the Lord. . . . Since there is nought which men more desire than to have their sons succeed in their possessions, therefore this promise is given to princes as the greatest incentive to the practice of justice. . . . It is the privilege of a prince to have his sons succeed him without any question and in continuance of the original grant from God unless their princely power is subverted as a result of iniquity.”

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1 v, 6. 2 v, 7. 3 iv, 11. 4 v, 6. 5 iv, 11.
favor of new men the blood of princes, who are entitled by the
divine promise and the right of family to be succeeded by their own
children provided they have walked in the judgments of the Lord.”

What the theory amounts to, then, is this: that heredity estab-
ishes a presumptive or defeasible title, which, if abused either by the
incumbent, his predecessor, or the claimant to the succession, is
capable of being divested by human action pursued in execution of
the judgment of God, and by virtue of authority derived from Him.
This was substantially the form in which a compromise between the
hereditary and elective principles was maintained by church theory
during the two centuries from the election of Hugh Capet to the end
of the twelfth century. On the former occasion it was expressed by
Adalbero of Rheims: “We are not ignorant that Charles of Lorraine
has partisans who pretend that the throne belongs to him by right
of birth. But if the question is stated in this way we shall reply that
royal power is not acquired by hereditary right, and that he alone
should be elevated to it who is designated not only by his birth and
family but also by the wisdom of his spirit and who finds his natural
support in his faithfulness to religion, his chief strength in his great-
ness of soul.”

What is substantially the same view is set forth in
the much-disputed speech attributed to Archbishop Hubert of Can-
terbury on the occasion of the “election” of King John of England.
“Let your discretion know,” the Archbishop is made to say, “that
no one has a right to succeed another in the Kingship unless after
the invocation of the Holy Spirit he is chosen by the unanimous
approval of the uniuersitas of the kingdom, having been previously
designated for the post because of his preëminence in good qualities,
according to the example and likeness of Saul whom God set over

1 v, 6.

2 The inconsistency between the two elements of the theory, heredity and election, was
already breaking apart in the investiture controversy at the end of the eleventh century. The
imperialists were driven to advance a theory of indefeasible hereditary right: Petrus Crassus,
“Defensio Henrici Regis,” vi (Monumenta Germaniae Historica, Libelli de Lìte, I, 432 ff); Liber
de unitate ecclesiae conservanda i, 13 (Libelli de Lìte, II, 173). On the other hand, Manegold of
Laubenbach for the papalists rested royal authority on delegation by the people: Liber ad
Germaniques de la Souveraineté,” in Revue Historique (May–June, 1917), CXXV, 1 ff.

3 Richer, iv, 11, ed. G. Waitz (Scriptores Rerum Germanicarum in usum scholarum, Hanover,
1877), pp. 132–33.
His people although he was not the son of a king nor even sprung from a royal stock; and of David likewise, the son of Semey, who succeeded him, the one because he was able and fit for the royal dignity, the other because of his holiness and humanity; thus showing that he who excels all in the kingdom in point of ability should be set over all in power and rulership. But if any of the family of the deceased king so excels others, his election must be consented to all the more readily and promptly.”

Read in the light of contemporary doctrine as developed in the Polieraticus, there is no need to see in Hubert’s speech the announcement of the principle of election in any modern sense, or to regard it as exceptional in the way that Stubbs seems to do. It is merely the emergence of the conventional view upon an opportunity and from a source from which it might naturally be expected to emerge. We should make a serious mistake if we supposed that the elective element was conceived with anything like the sharpness of nineteenth, or the hereditary element with anything like the legitimate absolutism of eighteenth-century, theory. Both were outlined with a hazy informality, which was no doubt all the more congenial to church writers because of the opportunity which was thus left to the Church to intervene in doubtful cases and declare upon the highest authority the will of God. But John cautiously refrains from saying that the power of decision rests always with the priesthood; it is true that they always have the power of deposition because they have the power of conferring royalty; but it is only sometimes that God works through this power, and He frequently employs other equally valid agencies to elevate his chosen candidate to royal office.

The conception of the king’s title as derived from God goes hand in hand with the conception of his “office” as a religious one. “Every

2 Stubbs, Const’l Hist., I, 454. Election was only a channel through which God manifested his will. See Maurice Prou, in preface to his edition of Hincmar, “De Ordine Palatii,” Bibl. de L’École des Hautes Études, fasc. 58 (Paris, 1885), p. xxix.
3 See the very interesting “opinion” handed down by Innocent III when he undertook to decide the case of the disputed election of Philip of Swabia and Otto of Brunswick to the Empire (1201) in J. L. A. Huillard-Breholles, Historica diplomatica Friderici secundi (Paris: Plon, 1852–61), I, 70–76; also in Migne, Pat. Lat., CCXVI, 1025–31.
4 iv, 3.
5 v, 6.
office existing under and concerned with the execution of the sacred laws is really a religious office.” 1 A great part of the Polieraticus is taken up with a discussion of the duties of the ruler conceived from this point of view. The discussion is illuminating as disclosing absolutely no distinction between what we should to-day class as public and private duties. 2 The king should be chaste and avoid avarice; 3 he should be learned in letters; 4 he should be humble; 5 he should banish from his realm actors and mimes, buffoons and harlots; 6 he should seek the welfare of others and not his own; 7 he should wholly forget the affections of flesh and blood and do only that which is demanded by the welfare and safety of his subjects; he should be both father and husband to them; 8 he should correct their errors with the proper remedies; 9 he should be affable of speech and generous in conferring benefits; he should temper justice with mercy; 10 he should punish the wrongs and injuries of all, and all crimes, with even-handed equity; 11 he has duties to the very wise and the very foolish, to little children and to the aged; 12 his shield is a shield for the protection of the weak, and should ward off the darts of the wicked from the innocent; 13 he must act on the counsel of wise men; 14 he must protect the widow and the orphan; 15 he must curb the malice of officials and provide for them out of the public funds, to the end that all occasion for extortion may be removed; 16 he must restrain the soldiery from outrage; 17 he should be learned in law and in military science; 18 he must in all things provide for the welfare of the lower classes; 19 he must avoid levity; 20 he is charged with the disposal of the means of the public welfare, 21 and is the dispenser of honor; 22 he must not close his ear to the cries of the poor; 23 he must raise aloft the roof-tree of the Church and extend abroad the wor-

1 iv, 3.
2 Augustine, still living in the classical tradition, had recognized such a distinction. Ad Bon., Ep. 50, v, § 19. This letter appears as No. 185 in Migne's edition, Pat. Lat., XXXIII, 801.
3 iv, 5.
4 iv, 6. Hugh of Fleury would have the king learn to read, “ut acuatur cotidie eius ingenium sectione divinorum librorum.” Tract. de Reg. Pot., i, 6.
5 ix, 11.
6 iv, 2.
7 iv, 3.
8 iv, 8.
9 iv, 3.
10 Ibid.
11 iv, 2.
12 iv, 1.
13 iv, 2.
14 vi, 6.
15 Ibid.
16 v, 10.
17 vi, 1.
18 vi, 1.
19 vi, 20, 25.
20 vi, 23.
21 vi, 26.
22 vi, 26.
23 vi, 27.
ship of religion; ¹ he must protect the Church against sacrilege and rapine; ² and finally, he must ever strive so to rule that in the whole community over which he presides none shall be sorrowful.³

This patriarchal-ecclesiastical conception of monarchy and government forms part of a tradition which had become dominant sometime before the reign of Justinian and was destined to govern western thought until almost the end of the sixteenth century.⁴ It emerges with especial emphasis in the Carolingian period,⁵ and writes itself into coronation oaths and official documents. Thus Otto the First, when crowned King of the Franks, swore that he would “drive out all the enemies of the Christ by the divine authority committed to him, and would stretch out the hand of pity to the ministers of God and to all widows and orphans, and never be wanting in the oil of mercy.”⁶ Barbarossa seems to have sworn “to defend the Church and the clergy of God, to keep peace and order, and to protect the widows and the fatherless and all his people, to the end that those who obeyed and trusted him might rejoice, and that he might win glory in the sight of men and eternal life with the King of Kings.”⁷ Bishop Adalbero at the election of Hugh Capet told the assembly, “You shall have him for a father; for who of you when in trouble shall not be able to take refuge with him and find in him a patron and protector?”⁸ It is interesting to note that in two treatises on royalty written during the Carolingian period,⁹ there is quoted the same passage from a work certainly not earlier than the fifth century,¹⁰ in which this ecclesiastical-patriarchal con-

¹ vi, 26. ² vi, 13. ³ vi, 6.

⁴ See Sir Thomas More, Utopia, Everyman’s ed., pp. 39, 40, for substantially the same conception of kingship as that of John of Salisbury; so also Bodin, Six Livres de la République, ii, 3; George Buchanan, de Jure Regni apud Scotos ( appended to Buchanan’s Rerum Scoticarum Historia, ed. J. Man, Aberdeen, 1762), xxxviii, xxxix, also Epigram. ii, 27; see P. Hume Brown, George Buchanan, Humanist and Reformer (Edinburgh: Douglas, 1890), p. 254.

⁵ Seeliger, Cambridge Mediaeval History, II, 656.


⁷ P. Jaffé, Bibliotheca Rerum Germanicarum (Berlin: Weidmann, 1864), I, 513; Wibaldi Epp., no. 382.

⁸ Richer, Chron., ed. Waitz, p. 133.

⁹ Jonas of Orleans, De Inst. Reg., iii; Hincmar of Rheims, De regis persona et regio ministerio, c. 2 (Migne, Pat. Lat., CXXV, 833, 835).

¹⁰ The passage is from a work entitled “De Duodecim Abusionibus Saeculi,” ix, wrongly attributed by mediaeval writers to St Cyprian, and printed among his works (Migne, Pat. Lat., IV, 870, 877 ff.).
ception of royalty is very fully developed; and the passage as an obviously important source of much of the later theory deserves comparison with the statement of the ruler’s duties in the *Policraticus*: “The justice of a King is this: not to use his power to oppress any one; to judge between a man and his neighbor without respect of persons; to be the defender of pilgrims and orphans and widows; to prevent thefts; to punish adultery; not to exalt the wicked to power; not to nourish unchaste persons and actors; to destroy the wicked from the face of the earth; not to permit parricides and perjurerers to live; to defend churches; to sustain the poor by alms; to place righteous men in charge of the business of the realm; to have old men and wise men and sober men for his counsellors; not to give ear to the superstitions of magicians, soothsayers and forecasters; to put away anger; to defend the land bravely and righteously against foes; to live in God in all things; to hold the Catholic faith in God; not to permit his sons to act wickedly; to attend prayers at regular hours; not to take food before the appointed hours.”¹ This passage practically sums up all that John of Salisbury has to say on the duties of the prince. He has nothing to add to it.²

¹ This passage is adopted by Abbo of Fleury (ca. 990) as expressing his view of monarchy. *Recueil des Historiens de France*, X, 627. The way in which it reached him is interesting. He attributes it to the Sixth Council of Paris, canons ii, 1. The second book of canons of this Council incorporates practically in its entirety the treatise of Jonas of Orleans referred to above, including, of course, Jonas’s quotation from the *de Abusionibus*. (P. Labbé, *Sacrosancta Concilia*, Venice, 1729, IX, 746 ff.; J. D. Mansi, *Sacrorum Conciliorum Amplissima Collectio*, Venice, 1769, XIV, 574 ff.). Prou thinks that the treatise of Jonas is a mere copy from the canons, rather than that the canons are taken from the treatise; see his preface to Hincmar’s “*de Ordine Palatii*,” *Bibl. de l’École des Hautes Études*, fasc. 58, p. xxv.

² For a similar conception of monarchy in Justinian’s Novels, see Bussell, *The Roman Empire* (London: Longmans, 1910), II, 50 ff. The duties of a king are set forth as follows by Hugh of Flavigny (ca. 1100): “The duty of a king is to rule the people of God in justice and equity; to be the defender of churches, the protector of widows and orphans, to deliver the poor man from the mighty and the needy man whom there is none to aid; and, like blessed Job, to break the jaws of the unjust man and bear away his prey from his teeth; to be the father of the poor, an eye to the blind and a foot to the lame.” (Monumenta Germaniae Historica, *Scriptores*, VIII, 436.) The passage is copied by Hugh of Fleury, *Tract. de Reg. Pot.*, i, 6 (Libelli de Lite, II, 473). For a collection of passages from contemporaneous writers setting forth the same view, see G. Waizt, *Deutsche Verfassungsgeschichte* (2d ed., ed. G. Seeliger, Berlin, Weidmann, 1896), VI, 469 ff. A familiar type of treatise consisted of a list of the virtues proper to a king, and a moral discourse on each. Such is the *Via Regia* of Abbot Smaragdus, a Carolingian writer (Migne, *Pat. Lat.*, CII, 931 ff), and the first book of the *De Principis
The patriarchal-ecclesiastical conception of monarchy thus looked upon the relations between the monarch and his subjects as purely personal. Its ideal was Job sitting in the gate and rendering judgment in favor of the widow and the poor man, an ideal which was actually realized in St. Louis's well-known practice of doing justice under the oak at Vincennes. It ignored altogether the question of the organization of an administrative mechanism for establishing an impersonal contact between government and the individual. There is no hint of this problem in the Policraticus. From the theoretical standpoint it thus omitted some of the most important problems of the science of government. From the practical standpoint it was at once the cause and the reflection of the condition of affairs which resulted in the administrative disintegration that we know as feudalism. The relation of the prince to his subjects being conceived as not essentially different from their relation to one another, there follows naturally the disintegration of public law into private law which characterizes the Middle Ages. The relation of the subjects to one another being conceived as not different from their relations to the prince, there resulted the establishment by the more powerful subjects of what practically amounted to political power over their lesser neighbors. The same tendency was furthered by the conception of princely power as paternal; every lord of a large household was necessarily regarded by John of Salisbury as in some sort a prince. The patriarchal conception of authority thus worked toward the same result as the conception of a preëstablished higher law. Furthermore, the existence of only a personal, as distinguished from an institutional, bond between the prince and his subordinate offi-

1 v, 6, 8.
3 vi, 22, 27.
4 "The mediaeval view of government admitted and indeed required that wealth and social influence should be accompanied by political power. . . . Every householder had some jurisdiction under his roof-gutter and within the hedge. Personal authority over domestic servants and slaves took among other things the shape of criminal and police jurisdiction." P. Vinogradoff, Cambridge Mediaeval History, II, 651.
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cials operated on the one hand to make efficient supervision of the administrative system impossible, and on the other hand to place their relations on a footing of private law which lent a color of legality to claims of feudal independence. Feudalism was thus bred in part from the very ideas of personal absolutism which superficially seem most strongly opposed to it. Its persistence was to some degree due to the fact that its presuppositions were accepted by its opponents.¹

The absence of any sense of the need for organizing on an institutional basis the relations between the prince and his subordinates no doubt accounts for the scandalous venality of the bureaucracy which so much of the Policraticus is devoted to castigating.² It is a result which always follows from such a cause; it did so in the Byzantine Empire,³ and in the Renaissance monarchies of the sixteenth century.⁴ The restraining influence of purely personal supervision is entirely inadequate to control a large body of officials functioning over a wide territorial area; an institutionalized system of responsibility can alone develop the tradition and enforce the practice of honest efficiency. It has been well said that, when more power is conferred upon the people than they are able to exercise, effective control is really taken from them; ⁵ and similarly, when more power is left in the hands of the prince than he can humanly exercise, effective power passes really to an irresponsible bureaucracy.

John is innocent of any idea of correcting the abuses of administration by an institutional organization of public functions under the prince. Everything rests in his personal pleasure. Everything is "guided solely by the determinations of his own mind." ⁶ And this absolutism is tinctured with elements which enable us to see the patriarchal origins of the feudal point of view. The prince is in a

¹ When the French kings by the middle of the fourteenth century had succeeded in getting possession of the greater feudal principalities which they had been striving to control for more than two centuries, they could think of nothing better to do with them than to parcel them out as 'appanages' among younger members of the royal family in whose hands they became the basis of a new feudalism. See R. Lodge, The Close of the Middle Ages, 46.
² v, 10, 11, 15, 16; vi, 1.
³ Bussell, The Roman Empire, II, 53 ff., 93 ff.
⁶ v, 6.
sense the owner of all the goods of his subjects. Private law is again called into play, and the subjects are conceived as mere tenants by superficies; and "when the advantage of the ruling power so requires, they are not so much owners of their possessions as mere custodians. But if there is no pressure of necessity, then the goods of the provincials are their own, and not even the prince himself may lawfully abuse them." 1 On the other hand "the prince will not regard as his own the wealth of which he has the custody for the account of others, nor will he treat as private the property of the fisc, which is acknowledged to be public. Nor is this any ground for wonder since he is not even his own man, but belongs wholly to his subjects." 2 This is a view which can easily degenerate into the claim of the overlord to ownership of all the goods of his vassals; 3 while in its essence it seems to approach quite nearly to the modern conception of trusteeship. The king can take and use the goods of his subject when necessary for the common advantage; and he is accountable not to their judgment but only to the "higher law." Implicit belief in the certainty of this law and its enforcement serves to conceal the danger of entrusting such power to an individual. On the other hand, a power of "eminent domain" had obviously to be vested somewhere; and John and his contemporaries were incapable of conceiving it as vested in the state itself because they could not yet conceive of the universitas as acting except through the prince, or as having a persona of its own, apart from the persona of the prince. In other words, they had to think in terms of trusts and not of corporations; and they could do that without difficulty because they had the "higher law" to fall back upon. John's inability to conceive of community action against, or otherwise than through the agency of, the prince stands out with especial clarity in his doctrine of tyranny, and of the means to be pursued in dealing with it. 4

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1 vi, 1.  
2 iv, 5.  
3 See More, Utopia, Everyman's Library, p. 38.  
4 For a treatment of the power of the Church as a limit upon the monarch's authority, the reader is referred to Section IV of the Introduction to my forthcoming translation, above referred to. In contrast to the view of Gierke and Schaarschmidt, I incline to the opinion that John's theory of ecclesiastical supremacy cannot be strictly interpreted in terms of constitutional law because John recognized no clear distinction between constitutional and merely moral considerations. See Ernst Schubert, Die Staatslehre Johannis von Salisbury (Erlangen diss., Berlin, 1897), pp. 36, 49.
The doctrine of the *Policraticus* is that there can be "tyranny" wherever there is rulership. "Tyranny exists not only in the case of princes, but everyone is a tyrant who abuses power that has been granted to him from above over those who are subjected to him."¹ "In common speech the tyrant is one who oppresses a whole people by rulership based on force; and yet it is not only over the people as a whole that a man can play the tyrant, but he can do so, if he will, in the meanest station."² . . . "It is not only kings who practice tyranny, but among private men there are a host of tyrants, since the power which they have, they turn to some forbidden object."³ These passages illustrate the absence of any clear distinction in John's thought between the moral and the political; abuse of public power is conceived simply in terms of a breach of personal morality.

So there may be tyranny on the part of persons holding ecclesiastical as well as temporal offices;⁴ and "of the two kinds the ecclesiastical tyrant is worse than the temporal."⁵ Much of John's discussion of the behavior of tyrants has reference to the ecclesiastical variety;⁶ but his theory of temporal tyrants is far more complete and well defined.

In the sphere of temporal rulership the difference between a prince and a tyrant is that the prince obeys "the law," while the tyrant "oppresses the people by rulership based upon force, and regards nothing as accomplished unless the laws are brought to nought and the people reduced to slavery."⁶ John then quotes the traditional etymology of "rex," which derived it from "recte," and gave a basis for the argument that he alone is entitled to the name

¹ viii, 18. "Tyrant" is a name frequently applied, from the Carolingian period onward, to the feudal magnates who were forcibly extending their authority. Einhard, *Vita Karoli*, ii; Suger, *Vita Ludovici*, xxiii, *Oeuvres*, ed. Lecoy de la Marche, pp. 92, 93.
⁵ See especially vii, 17; viii, 17, 23.
⁶ viii, 17. The idea that the difference between a prince and a tyrant consists in the fact that the one rules in accordance with law, and the other not, goes back in ecclesiastical tradition to Gregory the Great, *Com. on Job*, xv, 20 (in *Moralia*, xii, Migne, *Pat. Lat.*, LXXV, 1006).
of king who rules rightly. This leads to the further inference that
the will of the prince cannot be unjust or opposed to the law, be-
cause when it becomes so he then ceases to be truly a prince and
becomes a tyrant instead. "The will of the true ruler depends upon
the law of God . . . but the will of a tyrant is the slave of his desire." 2
It is therefore quite proper to say that the will of the prince has the
force of law, because, in so far as he is truly a prince, his will cannot
fail to be in accordance with the law. 3 "Who, indeed, in respect of
public matters can properly speak of the will of the prince at all,
since therein he may not lawfully have any will of his own, apart
from that which the law or equity enjoins, or the calculation of the
common interest requires? For in these matters his will is to have
the force of a judgment; and most properly that which pleases him
therein has the force of law, because his decision may not be at
variance with the intention of equity." 4

Having by this sleight-of-hand reconciled the doctrine of a
"higher law" with the text "Quod principi placet," it would no
doubt have been possible for John to proceed to the conclusion later
reached by Bartolus that some or all of the acts of the tyrant are
legally void, and that his rule is without authority; 5 but he does not
do so; for his way is here blocked by another current of authority
to which he could hardly have dared to refuse deference. This is the
tradition proceeding from the scriptural texts, "The powers that be
are ordained of God," 6 and "Servants, obey your masters." 7 The
tyrant must be regarded as holding his power from God no less than
the true prince, for "all power is from the Lord God. . . . It is not
the ruler’s own act when his will is turned to cruelty against his
subjects, but it is rather the dispensation of God for His good pleasure
to punish or chasten them. Power is worthy of veneration even when

1 Hor., Ep., i, 1, 59, 60. The definition seems to have come into serious political thought
with St Isidore of Seville, Etym., ix, 3, 4 (Migne, Pat. Lat., LXXXII, 342).
2 viii, 22.
3 Dante attempted to show realistically that one who was sole monarch of the world must
have a will directed toward good, for there is no object of selfish ambition left for him to desire
—de Monarchia, i, 11, 5.
4 iv, 1.
5 See Bartolus, de Tyrrania, trans. in E. Emerton, Humanism and Tyranny (Cambridge:
Harvard University Press, 1925), especially c. vii, pp. 194 ff.
6 iv, 1.
7 vi, 27.
it comes as a plague upon the elect.” ¹ “Even tyrants of the gentiles who have been damned unto death from eternity are yet the ministers of God and are called the anointed of the Lord.” ²

In other words, tyranny is a part of God’s providential ordering of the universe, and, as such, it must be met with due submission. “Every power is good since it is from Him from whom alone are all things, and from whom cometh only good. But at times it may not be good, but rather evil, to the particular individual . . . upon whom it is exercised, though it is good from the universal standpoint, being the act of Him who uses our evil for His own good purposes. Therefore the rule of a tyrant is good, although there is nothing worse than tyranny.” ³ “Because of the wickedness of our generation, who are continually provoking against ourselves the wrath of God, it more frequently happens that power comes into the hands of bad, than of good, men.” ⁴ “For tyrants are demanded, introduced, and raised to power by sin,” and “are properly deserved by a stiff-necked and stubborn people.” ⁵ And just as God inflicts a tyrant upon a sinful people, so when they turn from their wickedness, God frees them from the oppressor. ⁶ A wicked king cannot escape the judgment of God. “Run through the sequence of all the histories, and you will see in brief the successions of Kings and how they were cut off by God, like threads in the warp of a web.” ⁷ Therefore the best way to get rid of tyrants “is for those who are oppressed to take refuge humbly in the protection of God’s mercy, and, lifting up undefiled hands to the Lord, to pray devoutly that the scourge wherewith they are afflicted may be turned aside from them.” ⁸ For “the end of tyrants is confusion, leading to destruction if they persist in malice, to pardon if they repent and return to the way of righteousness.” ⁹ Therefore a tyrant should be borne with in patience until he either suffers a change of heart or falls in battle, or otherwise meets his end by the just judgment of God.¹⁰

¹ iv, 1. ² viii, 18.
³ Ibid. This is a commonplace of the 12th century: “De bonis et de malis bene facit Deus qui omnia iuste facit atque disponit. Et sic fit ut malus angelus et malus homo diuinae militent providentiae.” Hugh of Fleury, Tract de Reg. Pot., i, c. 4.
⁴ Ibid. ⁵ viii, 20. ⁶ Ibid.; also iv, 11. ⁷ iv, 12.
The notion that in God’s good time tyrants are certain to meet a bad end is part of the conventional tradition of ecclesiastical political theory. It is found in the early work *de Duodecim Abusionibus Saeculi*,¹ from which it is taken over by the Carolingian writers. According to this text if the King fails in his duty, many evils will come upon him and his land, his children will die, enemies will invade the provinces, there will be storms and tempests, wild beasts will devour the flocks, and his children will not inherit his throne.² In other words, his ruin will be brought about through causes wholly beyond the control of his subjects. They are encouraged to pray and to wait passively in the faith that God is just and will do justice. It is the strictly logical conclusion of the doctrine that tyrants are ministers sent of God.

From this conclusion, John of Salisbury strikes off at an inconsistent tangent into one of the most interesting and characteristic of his contributions to political thought. His point of departure may have been the situation presented when the tyrant commands the Christian subject to perform an act which is contrary to the divine law. Here John’s theory of the “higher law” compels him to say that the subject is bound to decline obedience. God must be preferred before man.³ “Loyal shoulders should sustain the power of the ruler so long as it is exercised in subjection to God and follows His ordinances; but if it resists and opposes the divine commandments, and wishes to make me share in its war against God; then with unrestrained voice, I answer back that God must be preferred before any man on earth.”⁴

Whether in such a case John advocates active opposition by the subject, or merely passive resistance, as Luther was afterwards to do on practically the same premisses,⁵ he does not make entirely clear. He appears to feel that as a matter of policy passive resistance is ordinarily best. “If princes have departed little by little from the

¹ See above, p. 324, note 10.
³ vi, 9, 12.⁴ vi, 25.
true way, even so it is not well to overthrow them utterly at once, but rather to rebuke injustice with patient reproof until finally it becomes obvious that they are stiff-necked in evil-doing.”¹ But there may come a time when active resistance is necessary: “Better would it be by far were the diadem torn from the head of the prince than that the good order of the chief and best part of the commonwealth, which is the part concerned with religion, should be destroyed at his pleasure.”²

The right of resistance thus established, the transition is almost inevitable to the thought that here is one of the instruments which God can use in executing His judgment upon tyrants. Why should He be confined to resorting to the use of the inanimate forces of nature or the attacks of foreign enemies rather than the arm of the tyrant’s oppressed subjects? Since God must have an intermediary in the physical world through which to administer His vengeance, why is not a subject justified in becoming such an intermediary? “Malice is always punished by God; but sometimes it is His own, at others it is a human, hand which He employs to administer punishment to the unrighteous.”³ This is apparently the chain of inference which resulted in John’s famous doctrine of tyrannicide,⁴ a doctrine which perhaps more than any other part of the Policraticus engaged the attention of later mediaeval thinkers, and which emerged into practical prominence during the period of the Counter-Reformation.⁵

John bases his theory of tyrannicide on the authority of examples drawn from scriptural, classical, and ecclesiastical history. Many times, he says, the Children of Israel were in bondage to tyrants in accordance with the dispensation of God, “and then, when they cried aloud to God, they were set free. And when the allotted time of their punishment was fulfilled, they were allowed to cast off the yoke from their necks by the slaughter of their tyrants; nor is blame

¹ v, 6. ² vii, 20. ³ viii, 21.

⁴ John of Salisbury was the first mediaeval writer to erect tyrannicide into a doctrine and defend it with reasoned arguments. See Paul Gennrich, Die Staats- und Kirchenlehre Johanns von Salisbury (Gotha; Perthes, 1894), pp. 106 ff.

attached to any of those by whose valor a penitent and humbled people was thus set free, but their memory is preserved in affection and honor by posterity as the servants of God.”

By the example of Sisera and Holofernes he “establishes” that “it is just for public tyrants to be killed and the people set free for the service of God.”

These stories show that the use of “pious dissimulation” to lure tyrants to their ruin “is not treachery because it serves the cause of the faith, and fights in behalf of charity.” “Even priests of God repute the killing of tyrants as piety, and if it should appear to wear the semblance of treachery, they say that it is consecrated to God by a sacred mystery.” But as for the use of poison against tyrants, John says that he has not read that it is ever permitted by any law. “Not that I believe that tyrants ought not to be removed from our midst, but it should be done without loss of religion and honor.”

Similarly, “the histories all teach that none should undertake the death of a tyrant who is bound to him by an oath or by the obligation of fealty.” With these limitations, “it is as lawful to kill a tyrant as to kill a condemned enemy.” All these passages go merely to show that tyrannicide is not unlawful and not that it is a positive duty; indeed it is in connection with them that John expresses the opinion, already quoted, that usually the safest and most useful method of destroying tyrants is for those who are oppressed to pray to God that their scourge may be removed; and he praises the forbearance of David, who, “although he had to endure the most grievous tyrant, and although he often had an opportunity of destroying him, yet preferred to spare him, trusting to the mercy of God within Whose power it was to set him free without sin.”

Elsewhere, however, John represents tyrannicide as amounting to a public duty. “To kill a tyrant,” he says, “is not merely lawful but right and just. For whosoever takes up the sword deserves to perish by the sword. And he is understood to take up the sword who usurps it by his own temerity and who does not receive the power of using it from God. Therefore the law rightly takes arms against him who disarms the laws, and the power of the public rages in fury against him who strives to bring to nought the public force. And

1 viii, 20.  2 Ibid.  3 Ibid.  4 Ibid.  5 Ibid, 20.
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while there are many acts which amount to _lèse-majesté_, none is a graver crime than that which is aimed against the body of Justice herself. Tyranny therefore is not merely a public crime, but, if there could be such a thing, a crime more than public. And if in the crime of _lèse-majesté_ all men are admitted to be prosecutors, how much more should this be true in the case of the crime of subverting the laws, which should rule even over emperors? Truly no one will avenge a public enemy, but rather whoever does not seek to bring him to punishment commits an offence against himself and the whole body of the earthly commonwealth.” ¹

John of Salisbury, it seems plain from this passage, had fundamentally no clear conception of the difference between private individual action and public collective action to rid the community of a tyrant. Or, rather, he seems to have been completely unable to conceive of the community as capable of so ridding itself except by private action; the need for, or the possibility of, organized collective action is not suggested.² It was the obvious danger latent in the irresponsibility of private tyrannicide which caught the attention of later thinkers and caused them to repudiate John’s position. St Thomas points out that it would be subversive of all civil order if private individuals should claim the right to murder their governors on the ground that they believed them tyrants.³ Coluccio Salutati undertakes to answer John specifically and denies that a single person or even several together can properly take justice into their own hands; the tyrant must be removed, if at all, only by the collective

¹ iii, 15. This passage does not fall within the part of the _Policraticus_ covered by my translation. Unlike the references to tyranny in other parts of the work, it seems to emphasize usurpation of authority as the essence of tyranny. This suggests a possible foreshadowing of the later distinction between “tyrants by defect of title” and “tyrants by abuse of power.” See Bartolus in Emerton, _Humanism and Tyranny_, p. 132. The notion that usurpers—i.e., “tyrants by defect of title”—might be lawfully resisted, although it was never lawful to resist a legitimate hereditary ruler no matter how he might abuse his power, was advanced by an imperialist writer at the end of the eleventh century: _Liber de unitate ecclesiae conservanda_, i, 13 (Monumenta Germaniae Historica, _Libelli de Lide_, II, 173ff.). See A. Fliche, “Les Théories Germaniques de la Souveraineté,” _Revue Historique_ (May–June, 1917), CXXV, 1, 14.

² In the next generation after John of Salisbury, the doctrine of tyrannicide is stated as a commonplace by Giraldus Cambrensis, _de Principis Instructione_, i, 16, Rolls Series, XXI, viii, 56: “Percussori tyranni non poena sed palma promittitur.”

³ _de Reg. Prin._, i, 6.
action of the community. The question came to the attention of all Europe in a vivid and dramatic way at the beginning of the fifteenth century, when the Council of Constance was called upon to condemn a book written by one Jean Petit in which the murder of Louis of Orleans at the instigation of the Duke of Burgundy was defended on the ground of the right of tyrannicide. Petit cited the *Policraticus* as an authority. Gerson replied by arguing that to vest the right of tyrannicide in a subject would be to make him the legitimate judge of his ruler; and a legitimate judge, even the king himself, may not condemn an accused person without summons, trial, and conviction. "Certainly no mere private individual can have greater authority over one not lawfully subject to him than a king has over his own subjects."  

John of Salisbury had based his doctrine of tyrannicide on the conception that a private individual may lawfully act in his private capacity to enforce "the law" against his legitimate ruler. What later thought brought out was that law can be enforced only by an agent holding a legitimate mandate from the community. The difference between these two conceptions registers the most momentous advance in political thought during the interval; and it isolates and emphasizes the cardinal element which was missing from the political thought of the *Policraticus* and the whole tradition which it represents. John of Salisbury does not seem to have conceived that the community, or *universitas*, could act except through the prince. If action was to be taken against him, it had therefore to be taken as private individual action. This seems to stand out clearly from the last passage quoted from the *Policraticus*. The

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4 This view is definitely expressed by Baldus in the fourteenth century: "imperator est ipsum imperium," *Com. on Cod.*, X, Rubr., 1, no. 13; see also Baldus, *Consilia*, III, clix, nr. 5.

5 For a survival in the seventeenth century of the notion that there was no agency save the conscience of individuals to judge whether a monarch had broken the "fundamental laws," see the passages from Philip Hunton's *Treatise of Monarchy*, pp. 17 and 28, quoted and criticized in Sir Robert Filmer's *Anarchy of Mixed Monarchy* in *The Freeholder's Grand Inquest* (ed. 1680), pp. 265, 272.
action there contemplated against the price is public action; but public action not taken through the prince cannot be organized action; it can only be action by all or any, that is to say, action by separate individuals. This is the natural outcome of the patriarchal conception of society as an organized hierarchy; it is the same conception which no doubt lay at the bottom of Bodin's denial that a representative assembly could do more than offer good advice to the prince.1

But meanwhile in John of Salisbury's own generation another idea was taking form, which was to supply this missing element to later thought. It was an idea which seems to have had its source among the Roman lawyers, and it consisted in identifying the corporate or organized community with the whole membership of the group — the *uniuersitas* with the *populus*. Once this idea had taken hold, it is no longer necessary to think that the community can act as a community only through the prince who is set over them by God; from now on they can act through whatever organization they choose to shape for themselves. The idea of the King's trusteeship gives way before the idea of an autonomous corporation. The *uniuersitas* ceases to be a mere inert thing whose *persona* is permanently delegated to and "borne by" the prince; it becomes an active unity, bearing its own *persona*, and capable of speaking and acting for itself, against the prince if need be. This is the idea which is already emerging in the speech of Archbishop Hubert at the coronation of King John of England, above referred to; Hubert says that it is the *uniuersitas*, not merely the *clerus et populus*, which must assent to the choice of a King. In other words the *uniuersitas* can act independently of, and even against, the King. The importance of the idea for establishing a check on the King and eliminating the necessity of resort to tyrannicide comes to a head in Bracton. Bracton, like John of Salisbury, says that the King is the vicar of God and as such is subject only to God; so that if he abuses his power, there is room only for supplication that he should amend his ways, and if he will not do this, he must be left to the judgment of God. But Bracton no more than John is content with this result; and by the

1 *Six Livres de la République*, i, 8.
same sort of sudden inconsistency with which John had advanced the doctrine of tyrannicide, Bracton turns about upon himself and adds that the universitas regni and baronagium, acting through the King's court, may restrain his tyranny.¹ Here is the beginning of a conception which men were more and more to grasp during the thirteenth century, but which they were not to transform into effective political practice until the seventeenth and eighteenth centuries.²

Meanwhile the doctrine of individual action in the form of tyrannicide was, apart from the self-limitation of their own power by rulers,³ the only conceivable check upon despotism; and at the same time it was the almost necessary inference from the doctrine of a "higher law." For, after all, Kings and governments and organized communities had no peculiar prerogative to know and enforce that law; it was binding upon them no less than upon private individuals, and knowledge of it was the result of grace and wisdom, and not of official position. If this view was honestly and fully accepted there was nothing inherently objectionable in the idea that a private individual might enforce the law by private action; for its precepts were definite and uniform and were as accessible to private persons as to officials. The doctrine of a higher law carried with it an inevitable implication of what to-day would probably be called philosophic anarchism.⁴

It is not hard to see that this philosophic anarchism forms an important strain running through the thought of the Policraticus. It emerges in John's yearning for a condition of society where there would be no princely rule, but men in a state of innocence would live together under "the law" in Christian love. "For if iniquity and injustice, banishing charity, had not brought about tyranny, firm

¹ Bracton, iv, 10.
³ viii, 20.
⁴ For John's individualism, see Paul Gennrich, Die Staats- und Kirchenlehre Johanns von Salisbury, p. 14; E. F. Jacob in The Social and Political Ideas of Some Great Mediaeval Thinkers (ed. F. J. C. Hearnshaw, New York: Holt, 1923), pp. 61 ff. Gennrich, loc. cit., points out the significant absence from John's thought of any consideration of the connection between individual and social life, or of the "transition" from one to the other.
concord and perpetual peace would have possessed the peoples of the earth forever, and no one would think of enlarging his boundaries. Then kingdoms would be as peaceful, according to the great father Augustine, and would enjoy as undisturbed repose as the separate families in a well-ordered state, or as different persons in the same family; or perhaps, which is even more credible, there would be no kingdoms at all, since it is clear from the ancient histories that in the beginning these were founded by iniquity.” ¹ Here comes to the surface that combined current of Christian and Stoic thought which church tradition was to carry forward from the days of the Apostles to the days of Godwin and Shelley. The same thought lies behind John’s reiterated assertion that it is the function of the prince to reign and not to rule ² — the true prince says, “I will not rule over you, but God shall rule over you”; ³ under a good prince, it is not the prince himself who governs, but the law.

In other words, the existence of a complete code of intelligible laws of divine authority practically eliminates the necessity of government except as a purely ministerial instrumentality of enforcement; and in so far as men are good, they will obey without being forced. There need not be, there must not be, any subordination of one merely human “will” to another; for men can find agreement and harmony in their contacts only by being shaped, or by shaping themselves, to the passionless reason of the divine law. It is better that they should shape themselves than that they should be shaped by the power of government.

III

It is the very inconsistencies in the political thought of the Poli- craticus, and its blending of apparently incompatible elements, which give it its principal value; for it discloses still in combination a number of separate strains of thought whose later dissociation was to form the main currents of opposing doctrine for many succeeding centuries. It presents the patriarchal theory of monarchy which, in union with ideas derived from Renaissance Italy, was to culminate

¹ viii, 17. ² viii, 20, 22. ³ viii, 22.
in the seventeenth-century conception of personal absolutism. It foreshadows the doctrine of the divine right of kings in its derivation of the ruler's title directly from God. In its insistence on the superiority of spiritual over temporal rulers and on the primacy of the Apostolic See it contains the elements of the theory of universal papal supremacy. In its emphasis on a "higher law" supreme over all governments it has its place in the tradition leading up to Coke's doctrine of judicial supremacy. In its insistence that men insofar as they are free from sin can live by the law alone and need no government, it anticipates the Christian communism of the more advanced Reformation Sects and modern doctrines of philosophic anarchism. The one outstanding current of thought of which absolutely no trace is present is that which was to prove ultimately the most fruitful of all — the thought, namely, that the community can organize itself for the accomplishment of its common purposes by developing institutions for pooling the ideas and harmonizing the ends of its members.

It seems a futile question to ask which of these various strains of thought was dominant in the Policraticus or to seek some way of harmonizing their divergent tendencies. The very point for emphasis is that their diversities are the product of the distinctness which was to be given them by centuries of subsequent controversy. They were able to live together side by side in the Policraticus simply because they were not conceived with modern distinctness. Early thought, Maitland has somewhere said, is confused thought. "Simplicity is the outcome of technical subtlety, it is the goal, not the starting point. As we go backward, the familiar outlines become blurred; the ideas become fluid, and instead of the simple we find the indefinite." 1 It is from this point of view that we must read the Policraticus. We must not ask exactly where John of Salisbury would have drawn the line between princely power and priestly supremacy; or between royal discretion and the "higher law." The point is that he draws no clear line. Every important idea is deeply tinged with much of what we conceive to be its opposite; and it

1 Domesday Book and Beyond, p. 9.
carried this tinge with it into its later history. The significance of the *Policraticus* for students of the political ideas of after times consists precisely in the fact that it discloses the more or less confused mass of contradictory ideas in which they were originally embedded, and which served to limit and correct them.

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