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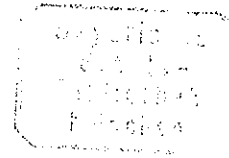
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REFLECTIONS ON THE MEDIEVAL STATE

THE literature about the medieval state is enormous. Many very distinguished scholars, especially in Germany, have given their ripest thought to the problems which the word "state" suggests when it is applied to medieval society. In recent years several manful efforts have been made to extricate the subject from the trammels of law and philosophy. In Germany, for example, Georg von Below, Fritz Kern and, latest of all, Heinrich Mitteis,¹ have, each in his own way, tried to deal with it as earlier writers, like Waitz, Ranke and Ficker, dealt with it. They have approached it from a political or social or economic point of view, and have made themselves independent, so far as they could, of the categories of the jurists and the generalisations suggested by a study of medieval political thought. Even these exceptional men have not found it easy to avoid categories of their own. If we concern ourselves with something more than a description of institutions, we cannot

¹ G. von Below, *Der deutsche Staat des Mittelalters*, vol. i (Leipzig, 1914); F. Kern, *Gottesgülden und Widerstandsrecht im früheren Mittelalter* (Leipzig, 1915); H. Mitteis, *Lehrecht und Staatsgewalt* (Weimar, 1933).

disregard legal and political ideas, yet it requires more insight and ability than most historians possess to treat the impressive law books and political treatises as raw material, which has no greater claim upon our allegiance than a charter or a chronicle. We in England have so far had only one great scholar of whom it would be hard to say whether he was greatest as historian, lawyer or philosophical thinker. This was Maitland. No wonder, therefore, that the ordinary man feels uncomfortable when he is asked to take account of legal and political ideas by people who are neither lawyers nor philosophers. He prefers to pick the brains of the lawyers and philosophers who have condescended to write legal and philosophical history with due regard to the history which he does understand; and, indeed, he has been well served. Brunner in Germany, Maitland himself in England, Olivier Martin in France are, for example, great and good guides to the political historian, and if the political historian wishes to pillage the rich storehouse of medieval speculation, other good guides are about him everywhere.

At the same time, I feel—and I should be surprised if others did not feel—that by co-operation of this kind, political, legal and philosophical historians will never succeed in explaining the medieval state. The impressive treatises may satisfy the mind, but they do not help us much to see the medieval state. We continue to repeat generalisations about what we think we see which bear little relation to what we know for ourselves. “All medieval law was supposed to be custom”; “the medieval state was not a national state”; “the division between the clerk and the layman was fundamental”; “the feudal system was based on a series of private contracts.” “There was no conception of sovereignty in the Middle Ages.” Do we really know these things? Are they as a lamp to our feet as we try to pick our way along our own chosen tracks? I doubt it.

We are often content to draw the conclusion that, as we are not polymaths, and do not wish to be humbugs, the

safest course is to leave this problem to settle itself. There are two objections to this prudent attitude. In the first place, we cannot as reflective beings altogether disregard the wider issues raised by our studies. In the second place, we have to distinguish between what is possible for us and what should be possible for our successors. For example, we now all agree, I imagine, that, unless the divorce between linguistic and historical studies is ended, work on medieval history may well come to a standstill. The student of pre-Norman English history has learned to face philological problems; and the political historian of the future will have to take an equally intelligent part in the use and criticism of medieval texts which most of us now either disregard or study timidly at second hand. The same is true of legal and speculative literature. Our successors will be safe and able to stand on firm ground just in so far as they are able to use this literature without being frightened by it, or distracted by it, so long as they can follow the lead of the expert without the suspicion which is born of incomplete understanding. The distrust of legal categories and abstract ideas is good if it is the deliberate and clear-headed result of an informed comparison between established facts and contemporary or modern theory; it is not good, if it is the result of ignorance. Whatever we may mean by the state, we do mean that it is a condition only possible to intelligent beings who possess a faculty which we call the power of choice. If man were nothing but a creature of instinct, the “state” would endure unchanged in historic time, like the organisation of the ant or the bee. However intricate it might be, it would have reached a stage of arrested development and could have no history. But intelligent and self-directing beings respond, within the environment possible for existence in historic time, to the changes in circumstances and the movements of thought which their own energy has helped to create. There is constant interplay between creation and response in political as in every other kind of human development. Hence, in

dealing with that development, we have to take account of abstract ideas, and, as a matter of fact, however sceptical we may be, however anxious to confine our attention to what we honestly know, we use abstract terms at every step. Take two sentences from two of our best scholars, men whose concrete attitude to history is beyond dispute and is sometimes even aggressively expressed. "Those private charters of the twelfth century in which the characteristics of Anglo-Norman feudalism find their most authentic expression"¹; "the evolution of civilised government is reflected in the history of the charter, which is the vehicle of the King's will and pleasure."² In order to understand these sentences we must attach clear meanings to the abstractions: private, feudalism, authentic, evolution, civilised, government, to say nothing of characteristic, expression, reflected, vehicle, etc. And both writers wish to emphasise the changes resulting from interplay of thought and circumstance. The one speaks of the evolution of a new order from the ancient simplicity of social relations. The other refers to the development of a variety of forms in accordance with the new uses to which the charter was put. Their language is steeped in Aristotelianism and Darwinism. They are making their contributions to the history of that abstraction, the medieval state. At the same time, there is all the difference in the world between the attitude of these scholars, commenting on definite bits of parchment, and the attitude of men who insist on interpreting the Middle Ages from such an acquaintance with glossators, theologians and publicists as can be derived from their systematic exposition in modern treatises. I am urging here that the political historian, if he really wishes to understand the development of the state, can no more afford to neglect the glossators and the publicists than he can afford to neglect the charter, the

¹ F. M. Stenton, *The First Century of English Feudalism* (Oxford, 1932), p. 6.

² V. H. Galbraith, "The Literacy of the Medieval English Kings," from *The Proceedings of the British Academy*, vol. xxi, being the Raleigh Lecture, 1935, p. 18.

plea roll and the chronicle; but I am also urging that he must use them in the same spirit of critical detachment. If we deal, as we must, with the interplay of facts and reflection, we can set no arbitrary limits to the range of our inquiry; but, on the other hand, we must treat all the material alike. The more a historical theme is concerned with abstractions, the more incumbent is it upon the historian to realise that history depends upon direct and sensitive observation. He must avoid the "unsubstantial day-dreams, inspired evasions of the real problems," which tempt him, just as they beset the poet and the artist.

When we speak of the medieval state we do not intend to use a technical term, but we do imply more than a complex of institutions. We think vaguely of organised public life, of the relations between men which enabled them to discuss, plead and act together in councils, law courts, armies and business. Although we find associations of this kind in every stage of development, and though what nowadays we describe as functions of the state can be performed by primitive groups of men, the word "state" does suggest to us something self-conscious and sophisticated. One word for the public community in the Middle Ages was *civilitas*, and we associate the state with civilisation. Now, if we are considering groups of this kind, we must allow the men who inherited and elaborated them the capacity to be influenced in their normal daily life by abstractions. They will not necessarily use big words of Greek and Latin origin, but there will generally be some relation between their thinking and talking and the speech of the clerks who do use abstract terms to express contemporary ideas. Take, for example, the word *utilitas*. It is true that this word is found in Frankish charters merely as part of the pompous and redundant vocabulary in which the clerks delighted. It occurs frequently in the sense of "worthiness" in the formula "Noverit itaque sagacitas et utilitas fidelium nostrorum." But it also frequently occurs in such phrases as "utilitas regis" and "utilitas regni," to signify the purpose

of public policy. When a king and his counsellors are considering affairs with a view to the well-being of the kingdom, they have got a long way from the predatory instincts of the war-band and the conception of kingship to be found even in the noble poem *Beowulf*, where the king is "the giver of treasure." We have no right to assume that the phrase, Roman, abstract, clerical though it is, did not reflect some regard for the general well-being in the minds of those whose decisions are described. We have here the expression of a simple conception of statesmanship in a rudimentary state. Again, if we turn to a much more sophisticated period in the Middle Ages, the reign of Philip the Fair of France (c. 1300), we can see, in the discussions of the royal court, a precocious familiarity with the subtleties of political speculation. It seems to me quite impossible to suppose that contemporary political pamphlets, which sought to justify the king in his quarrel with the pope, did not repeat, in a more systematic form, the arguments used during the debates in the king's council. The men who took the lead were knights as well as clerks, lawyers rather than theologians. They emphasised the duty of the laity in times of stress; their Latin and their French were easily convertible into terms of each other. If this be so, then the lords and knights about Philip the Fair were familiar with a conception of *utilitas* which carries us very far in the theory of statecraft. They could express or at least appreciate the expression of public utility in terms of *necessitas*, and by necessity they meant more than the public need. They meant the right and duty of the king and his agents, indeed of the ordinary man, to override positive law in the common interests for which they were responsible. The word "necessity" had had a long history in ecclesiastical literature. Pope Gregory VII had asserted that the pope in case of necessity could make new laws. A century later we find, applied to policy, the phrase "necessity knows no law." Innocent III speaks of "*necessitas regni*." The law of the Church admitted the duty of clerks to come to the

aid of the lay power in case of necessity. St. Thomas Aquinas developed a theory of necessity. He argued that, in certain circumstances, necessity knows no law; also that a tyrant can be removed on the ground of necessity; and he justified this view by an appeal to Aristotle's discussion of "*epieikeia*" or equity, when he says that gaps in the law must be filled from the standpoint of equity. In the meantime the argument had been taken up by the civilians who expounded the case of the Emperor Frederick II. The emperor must maintain the integrity of his charge. He could not allow himself to be crushed at the expense of the general well-being. The call of necessity was a call of nature. The legists of Philip the Fair gave a more positive direction to the argument. Necessity, in their mind, was more than a sanction of self-protection; it was a call to assert the power of the king, over and above the limits set by custom and tradition, in the interests of his kingdom and of the Christian community of which his kingdom was a responsible part. It proclaimed that the king, in the interests of natural law, was above positive law; he could revoke old laws and supply their defects by new laws. He was responsible, in all matters affecting his and his kingdom's well-being, to no other power, and at the call of necessity could exert his authority to maintain the spiritual power against the head of the Church itself, to oppose the Church in the interests of the Church.¹ The next step was to identify the natural law of necessity with the natural impulses of a political community, its rights to natural frontiers and self-assertion, or even to identify necessity not with natural law but with the dictates of history. In their frontier policy, the French kings from Philip the Fair to Louis XIV seem often to be hovering on the edge of asser-

¹ The appeal to necessity in mediæval political literature has received much attention in recent years, especially from German writers. Richard Scholz emphasised its significance in his treatise, *Die Publizistik zur Zeit Philipps des Schönen und Bonifaz VIII* (Stuttgart, 1903), e.g., pp. 365, 369. For later discussion see a useful collection of references in H. Wieruszowski, *Vom Imperium zum nationalen Königtum* (Munich, 1933), *passim*.

tions of this kind in the course of their elaborate legal arguments and the practice of their elaborate legal devices.

To-day I am concerned, not with these anticipations of the modern state, but with the way in which medieval political groups, as they grew in complexity and in the capacity for orderly and self-directed expression, were compelled to think and to think abstractly. We cannot define the medieval state in terms of political categories; we can only describe it or suggest descriptions of it in its varied and elusive development; and, if we try to do this, we cannot afford to separate legal and political thought from the humanity about it and set it on one side as irrelevant or remote, for, however abstract it might become, it was essentially an expression of contemporary life. In its turn, it must be used, though not slavishly interpreted, to illustrate the development of what is often called a "political sense" in the men who had counsel with kings, devised the constitutions of city-republics, sat in judgement, transacted local affairs or attended parliaments. These men had brains as well as experience, and they were not dumb. They did not continue in the indulgence of their savage appetites until civilisation came to them like manna in the wilderness. They gradually civilised themselves; in becoming civilised they neither consciously adjusted themselves to some type of civilisation nor shut their ears to the guidance which clerks and lawyers were ready to give to them out of their stores of experience and learning. They did not say, on the one hand, "We insist on being civilised," nor on the other, "We refuse to listen to anything that these hypocritical self-seekers and pedants say." It is easy enough to collect instances to justify the dictum that "laymen are notoriously hostile to clerks," and illustrations of perfectly useless dialectic—it would perhaps be even easier to do so in our own age—but this is not the point. If it were, the study of history would be a much simpler thing than it is.

The use of the word "state" in medieval times helps us to understand how, in an increasingly intricate network of

social and economic relations, the growth of a body-politic was directed by what may be described as moral considerations. In Greek and Latin the word meant stand or stance, as when the rhetoricians take their stand on a particular line of argument. It implies something central, fundamental, a ground or basis. Hence the word "state" could come to mean that which gives validity to a thing, and in due course validity in itself to a thing, so that it is more than fleeting or capricious. This seems to be the meaning which in medieval times survived most commonly from the multi-form usages of classical Latin. When Eginhard says that Charles the Great went to Rome in the year 800 "propter reparandum . . . ecclesiae statum," he means something more, I think, than we should mean by the state of the Church. Of course, he did not mean anything concrete like the papal patrimony, but he meant more than the gentlemen do who write letters to *The Times* deploring the state of the Church of England. What exactly he, or rather Charles, meant is still a matter of controversy; many volumes have been written about it.

The word recurs incessantly in medieval documents and treatises, and there always lies in it some such implication as I have noted. The preamble or *arenga* to a Charter of Hugh Capet in the late tenth century begins: "The sublimity of our piety cannot have a due and orderly stand (*recto stare valet ordine*) unless it does justice to all and in all things and observes with intelligence (*mentaliter*) the just decrees of former kings." There is here, of course, no conscious and technical use of the verb. A king takes his stand on the thoughtful administration of justice. But usually we find the noun (*status*), either accompanied by another noun in the genitive or alone, with a more deliberate intention. So far as I have noticed, it is never used in our sense of the word, as a geographical and political entity. We can say, "the well-being of the state"; but the medieval ruler spoke of the state of the commonwealth, *status regni* or *status republicæ*. When the word is used by itself it is

charged with the significance of our word "condition," with a sense of value.

When a king maintained his "state" he did so with a due sense of moral responsibility. He did not assert a naked right to exist or to assert himself. Edward I, in replying to a clerical petition in 1280, explained that he could not answer otherwise, without completely departing from the advice of his magnates, a thing which would be in no wise profitable either for himself or the church, or for the state of the realm of England. In the next year he told the bishops that they must not presume to take council together about any matter which affected the crown or touched his person or state or the state of his council. The first passage helps to explain the significance attached to the word *status*, whether of king or of council or of kingdom. It would be detrimental, says Edward, to the state of the kingdom if decisions made by the king and his counsellors were not observed; he himself was bound—he means, I think, morally bound—by these decisions. In other words, the maintenance of the state of the kingdom implies deliberate, orderly and effective action, action which is not arbitrary. The word "state," as contemporary thought shows, was charged with moral significance. For example, there are two kinds of perfection, personal and *secundum statum*; a man may aim either at the perfection which comes of serenity and a clean conscience or at the perfection which is demanded of his "state," in the exercise of power and jurisdiction.¹ A really good man will aim at both, but they are not the same; indeed, it was sometimes maintained that the standard of personal perfection to be expected of a layman was not so exacting as that to be expected of a man of spiritual state. A king had, so to speak, a duty to his own state. If this is healthy, his judgement will be healthy. "The straight (*rectum*) is judge of itself as well as of the crooked," just as a man with an undefiled palate will distinguish between

¹ Aegidius Romanus, *De ecclesiastica potestate*, lib. i., cap. 2; edited R. Scholz (Weimar, 1929), p. 6.

savours correctly. The thoroughgoing papalist argued that there were grades of perfection in states of this kind, and that the judgement of the higher had the right to correct the judgement of the lower; but he did not deny that each state had its own perfection, and that its possessor had the power and the opportunity to attain it. This conception of human responsibility to whatever state a man might possess explains why the plea of necessity was not divorced from a regard for equity. The state of the realm itself, impersonal though it was, was instinct with obligation; it was something to be maintained in accordance with principle, and was not conceivable to a barbaric mind, for the idea of it implies a capacity for abstract thought which goes much further than the instincts of shame and fidelity in which it is ultimately rooted.

The "state" in our sense of the word is possible when the ruling power has firmly established its authority over the "states" of other classes or persons, and when the range within which this power is exercised is naturally and normally expressed in territorial terms. The state of the realm comes to be the expression of corporate activity within a definite area; but, when this happens, and the word "state" is used without any qualification, as, for example, by Machiavelli, its moral content tends to drop out. Its complexity survives: it means more than *regnum* or *civitas*; but it loses much of its life. It is debased in quality, though it is charged with more meaning. How this happened, first I suppose in Italy, has often been discussed, but I am not concerned with the development to-day.

In the light of the discussion of *utilitas*, *necessitas*, *status*, I should like to approach one of the *clichés* or commonplaces with which we are so familiar. This discussion does seem to make it unlikely, to say the least, that law was fundamentally the expression of custom. The insistence by medievalists upon custom is in itself largely due to a conscious reaction against the Austinian conception of sovereignty as applicable to medieval society. Scholars felt, and felt rightly, that

whatever the medieval state was, it was not inspired by that hard abstraction. But the conception of the sovereign state in its stark nakedness now stirs in our minds the revulsion which we feel at the thought of the "economic man." Both historians and theorists see that its realisation, if it ever has been realised, is a perversion, and that recent attempts to embody it in practice are a calamity. Hence they are now prepared to find both that the reverence for custom is not so remote from modern political life as was implied, and that the idea of sovereignty is not so modern as was supposed. Sovereignty does not necessarily require an articulated state and regard for custom is not necessarily inconsistent with legislation. When, in one of Miss Sayers's books, an old lady protests that the law could never have allowed parliament to make a certain change in the rules of succession to property, she is not speaking as a strange survival from the medieval world, but as an ordinary indignant conservative-minded and rather foolish person of any civilised age or country. Similarly, when a medieval churchman or lawyer said, "I never thought this change could be made, but as it has been made, we must accept it as right," he was not speaking as a man born centuries before his proper time. A changing society, driven forward by new spiritual and economic opportunity, cannot exist, whether it is medieval or modern, without both a regard for custom and the recognition of an ultimate authority, which can enforce change. A political society, however crude it may be, which can appreciate the political value of conceptions like utility, necessity, and states of social activity, has reached this stage.

The reverence for custom is, indeed, one of the essential characteristics of medieval life. We have to start from it and never forget it. At the same time, it was not a religious dogma, but a very practical way of maintaining the social realities. I have already quoted a charter of Hugh Capet. Here is a passage from another: "It is the function of kings, after a sagacious survey of the laws (*iura*) of their

kingdoms, to take anxious care to cut away the harmful and to give wide effect to all that are profitable."¹ A custom might be a bad custom, and to commit it to writing was not advantageous. For example, one of the supporters of St. Thomas Becket expostulated with King Henry II for giving a longer life to evil customs by putting them into writing as the Constitutions of Clarendon. The word custom did not necessarily mean something which had ancient use. We read in the record of the great arbitration of 1258 between the archbishop, Conrad of Hochstaden, and the citizens of Cologne that "the city officials, meeting in the city hall, decree whatever they like without the archbishop's knowledge, and a statute of this kind they wish to be observed as a special custom and right (*pro speciali consuetudine et iure*) without any archiepiscopal authority." In the history of any community, at any time, custom might be challenged in the name of some higher law or maintained as in accordance with some higher consideration. In the year 1131 some Benedictine abbots of the province of Reims formed themselves into a kind of congregation. They met in chapter and agreed to enforce a stricter and simpler life than that required by the Cluniac customs under which they had been living. The papal legate, Cardinal Matthew of Albano, a strong Cluniac, tried his hardest to stop the movement. The abbots replied: "We do not profess the customs of Cluny but the law and rule of St. Benedict. Do we then destroy the customs by the rule? God forbid. We establish the customs."² When the English barons said that they did not wish the English law of bastardy to be changed, they were not mere reactionaries, holding to

¹ Cf. Romoald of Salerno on the work of Roger II of Sicily. After speaking of the universal establishment of justiciars and chamberlains in 1140, he continues: "[Rex Rogerius] leges a se noviter conditas promulgavit, malas consuetudines de medio abstulit" (*Annales*, ed. Arndt, in *Mon. Germ. Hist., Scriptores*, xix, 423).

² See Dom A. Wilmart, "Une riposte de l'ancien monachisme au manifeste de Saint Bernard," in *Revue bénédictine*, April-July, 1934, pp. 299, 300. Dom Wilmart uses the texts published by U. Berlière, *Documents inédits pour servir à l'histoire ecclésiastique de la Belgique*, i (1894), p. 103.

custom for its own sake; they were guided, rightly or wrongly, by considerations of social expediency—were maintaining their state, shall we say?—just as Grosseteste in his denunciation of them appealed to the higher law of the Church. The truth is that our incurable habit of thinking in categories makes us slow to realise how readily medieval society responded, in its legislation, to social needs. Legislation was, from our modern standpoint, comparatively rare, not because it was distrusted, but because, in a slowly moving and more agrarian manner of life, it was less needed than it is to-day. The hard and fast distinction which we draw between administration and legislation, and between customary law and the civil law, has blurred this fact. We are apt to dismiss a great change as merely administrative, forgetting that it might fundamentally alter customary law, and so go on to deny that it was legislative. I believe, on the contrary, that the assizes of Henry II, the ordinances of St. Louis, the acts of Frederick I at Roncaglia and of Frederick II at Melfi or in the German diets, were legislative, and that the judgements in the medieval courts, at any rate in the thirteenth century, implied a practice of conscious adjustment to circumstance, an attempt to cope with new problems. The plea rolls of King John's reign in England, for example, abound in cases where suitors seek the considered opinion (*consideratio*) of the court. A man holds a tenement by servile custom. His holding is in villeinage. But he makes an arrangement by which he can render an annual payment in cash for all services and he does this for twenty years. Has his tenement become a free tenement; does an action lie against his lords for disseisin? Or again, can an action be brought against a "simple Hospitaller" acting on behalf of his prior? I pick out puzzling points like this at random; they show how the judges were suddenly called on to deal with problems of prescription and agency and the like, whose solution would help to shape the law and to define social relations. The right solution was often hard to find and was certainly not dictated by

custom alone. Martin of Pattishall, as we have recently been reminded, changed his answer to the question whether a layman could or could not bring an action under the assize *utrum*, and finally decided it in a way which Bracton deplored. Where the local custom differed, as in the cases where the rights of commoners were hard to reconcile with the tendency to agricultural development, one custom had to be preferred to another: so the famous Statute of Merton adopted the "law of Arden."¹ Outside England, we find that the civil or Roman law was frequently used as a model for new practice, or to meet unusual circumstances or to guide national custom along a coherent path. In the later twelfth century it began to affect Lombard feudal law; in the middle of the thirteenth it served as an example for the introduction of general legislation in the French monarchy. Philip Augustus had disliked it because he feared the emperor; Philip the Fair welcomed it because he felt more independent than any emperor; indeed he defines the relation between custom and the civil law with exactitude. Schools of civil law are required, he says in an ordinance in favour of the University of Orleans (1312), to encourage the principles of equity and reason which are applied in the litigation of this kingdom, "when the judgements, customs and ordinances of our forefathers and ourselves, which we regard as superior to all custom, are defective and no custom exists by which judgement can be given."²

Now, behind all this, we have the consciousness of a living, changing, yet continuous society, of a society which does not depend upon individual caprice, does not die, and has its own "state" and traditions. This quality in feudal society impressed the Moslem world as soon as the Latin states of Syria were established. When Jocelin of

¹ D. M. Stenton, *Rolls of the Justices in Eyre . . . for Lincolnshire, 1218-19, and Worcestershire, 1221* (Selden Society's Publications, vol. liii, London, 1934), pp. xxxii-iii, lxvii.

² M. Fournier, *Les statuts et privilèges des universités françaises*, vol. i, no. 27. See especially E. M. Meijers in *Tijdschrift voor rechtsgeschiedenis*, vol. i (Leiden, 1921), pp. 108 ff.

Courtenay, count of Edessa, was captured in 1122, he was offered his freedom on condition of surrendering his county. An Arab historian records his reply: "We are like laden camels; when one falls, the baggage is transferred to another; our possessions have already passed to other hands."¹ The Moslem world lacked stability because it denied custom the power to adjust itself. I cannot close this part of the discussion better than by quoting two passages from the legist, Pierre Dubois.² They illustrate the difference between West and East. In the first passage Dubois, referring to methods of warfare, urges his readers to deliberate with diligence and sadness of heart on the spiritual and temporal dangers which adherence to custom involves. In the second he says:

Does not Averroes say that the Arabs have suffered greatly from their belief that laws are universally and externally binding? Was not every law made for a good and expedient end? The laws and statutes of men differ as places, times and persons differ. Many philosophers have taught that this is right, for *utilitas* obviously requires it to be so. The Lord God changed many things in the New Testament which he had decreed in the Old.

In these reflections I have tried to find a "stance" from which, as it seems to me, the various aspects of a great subject should be examined. It is from this point of view that we should regard the development and the variety of feudal custom, the relations between rulers and vassals or subjects, the maintenance of public law, the rise of corporations, the growth of parliaments, the attempts at majority-rule, the belief in divine right and in the right to resist. Instead of trying to define medieval public life as idealists sought to define it, we should examine its different expressions and try to explain the "state of the case"; and in doing this we should be prepared to realise the

¹ R. Grousset, *Histoire des croisades*, vol. i (Paris, 1934), p. 584.

² The passages are given from the *Summaria* and the *De recuperatione terrae sanctae* (§ 48) by Hellmut Kämpf, *Pierre Dubois* (Leipzig, 1935), p. 17, with interesting comment. He seems to me to read too much into the first passage (*Summaria*, ed. Kämpf, Leipzig, 1936, p. 2).

importance, in everyday life, of what we call abstract ideas, but what I prefer to call man's capacity to think. We should not confine the influence of religious thought to ecclesiastical circles, of legal ideas to those who practised in the courts or sat in the schools, of political conceptions to the theorists. If we do, we may find ourselves building walls in our reflections on the past which did not exist in the past itself. The problem might be summed up in a sentence as that of the education in political experience of the ordinary man, and especially, though not only, of the layman. Starting from the words spoken by Marsiglio of Padua, "the things which touch the well-being and the ill-being of all men ought to be known and heard of all," we should go on to inquire how far, in this place and that, in this time and that, they actually were known and heard. Recently, in a forcible and stimulating lecture, which I have already quoted, Mr. Galbraith has invited us to remember the layman, but he seems to imply that, so long as the layman could not read or write, his political experience was acquired in isolation, apart from the movements of thought about him—movements which, in Mr. Galbraith's view, have very little relevance to the essentially formative factors in history or even, if I understand him aright, to our conception, whatever that may be, of civilisation. Now it is true enough that the layman could not fully come to his own until public business was transacted and recorded in the vernacular; but, on the other hand, we must not minimise the importance of the vernacular as a vehicle of thought in those times when the educated man wrote in Latin, nor the extent of its use behind the screen of Latin. The fact that we have to approach the layman through this screen is one thing; whether he himself was cut off from mental intercourse with the kinsfolk and neighbours who can talk to us is a very different thing. As yet we know far too little about the individual layman and his vernacular thoughts, of the influences which played upon him in his assertiveness, as he became conscious of the validity, the duty, the opportunity which lay in his "state,"

whether he was a peasant in a manorial court or a baron debating with bishops and kings. Yet I am sure of this, that the more responsible he felt, the prouder he was of his position in life, the more determined to face the issues about him in his own way, the more use he made of the experience and thoughts of others. "The evolution of civilised government is reflected in the history of the charter." No doubt; but the charter is not the measure of civilised government. The hawk does not soar by this wisdom, and stretch her wings toward the South. The common store of proverbial wisdom and the traditional expedients of practical life cannot, when men talked together, have continually been enlarged and adjusted to changing circumstance without some give and take between the active and the contemplative, between the shrewd stay-at-home and the wanderers among the riches of space and time. In Chaucer's wealth of English speech the results of centuries of mental intercourse were precipitated. One of the most profound and enduring conceptions of the layman's place in a mysterious universe was reached, in the days of Pope Innocent III and Hubert Walter, by an obscure German knight—as he says, a bit of a poet whose poem fared without the aid of books. Yet Wolfram von Eschenbach was, in the best sense of the term, a very sophisticated person. Who of us could set bounds to the influences which stirred his imagination as he meditated on the story of Parzival?