

11 Medieval Contributions to the Tradition of Liberty

In several ways the Middle Ages contributed to the development of liberty in the Western world. Townspeople organized themselves into revolutionary associations called communes to demand freedom from the domination of feudal lords. They successfully won personal liberties, the end of feudal labor services and arbitrary tax levies, and a system of municipal self-government. Another development crucial to the tradition of liberty was the resistance of lords to kings who attempted to interfere with the lords' customary rights. These actions helped to establish the tradition that kings were not above the law and could not rule arbitrarily or absolutely. There is a direct link between modern parliaments and medieval representative institutions, particularly in the case of the English Parliament.

By justifying resistance to tyrannical authority, medieval theologians made a significant contribution to the growth of liberty. They held that a monarch's powers were limited by God's laws and by what was for the common good of Christian people. Some argued that a monarch who ignored or violated the laws and liberties of the people or the church became a tyrant and forfeited his right to be ruler. Such rulers could be, and some in fact were, deposed.

John of Salisbury *POLICRATICUS* A DEFENSE OF TYRANNICIDE

One prelate who opposed the rule of tyrants was an Englishman, John of Salisbury (c. 1115–1180), who became bishop of Chartres, France, in 1176. He composed a statesman's handbook, *Policraticus*, explicitly defending the assassination of tyrants. Paraphrasing the Roman statesman Cicero, John held that it was right, lawful, and just to slay a tyrant.

... A tyrant, then, as the philosophers have described him, is one who oppresses the people by the rulership based upon force, while he who rules in accordance with the laws is a prince. Law is the gift of God, the model of equity, a standard of justice, a likeness of the divine will, the guardian of well-being, a bond of union and solidarity between peoples, a rule defining duties, a barrier against the vices and the destroyer thereof, a punishment of violence and all wrong-doing. The law is assailed by force or by fraud, and, as it were, either wrecked by the

fury of the lion or undermined by the wiles of the serpent. In whatever way this comes to pass, it is plain that it is the grace of God which is being assailed and that it is God himself who in a sense is challenged to battle. The prince fights for the laws and the liberty of the people; the tyrant thinks nothing done unless he brings the laws to nought and reduces the people to slavery. Hence the prince is a kind of likeness of divinity; and the tyrant, on the contrary, a likeness of the boldness of the Adversary [the devil], even of the wickedness of Luci-

fer. . . . The prince, as the likeness of the Deity, is to be loved, worshipped and cherished; the tyrant, the likeness of wickedness, is generally to be even killed. The origin of tyranny is iniquity,

and springing from a poisonous root, it is a tree which grows and sprouts into a baleful pestilent growth, and to which the axe must by all means be laid.

MAGNA CARTA

Feudal nobles sought to limit the arbitrary powers of kings by compelling them to issue written charters of liberties. These earliest constitutions spelled out the rights of subjects and the obligations of rulers. In 1215 King John of England (1199–1216) was compelled to recognize the liberties of his vassals, the clergy, and the towns in the Great Charter (*Magna Carta*). The king and his agents were forbidden to act arbitrarily, and the king swore to govern by due process of law. Similar written constitutions checking the powers of kings and princes were achieved in other parts of Europe.

The Magna Carta asserted the feudal rights of the subjects of a monarch who allegedly tried to rule by personal will rather than by law. Though many of its detailed clauses subsequently lost their significance, three notions embedded in the Magna Carta became rooted in English constitutional tradition: that the king cannot levy a tax without the consent of his feudal council (later Parliament); that no one may be imprisoned or otherwise damaged except through due process of law and trial by jury of his (or her) peers; and that the king himself is subject to the law, and if he violates the rights of his subjects, he may be legally disobeyed and deposed. Significant portions of the document follow.

1. In the first place [I, John,] have granted to God and by this our present Charter have confirmed, for us and our heirs in perpetuity, that the English church shall be free, and shall have its rights undiminished and its liberties unimpaired. . . . We have also granted to all the free men of our realm for ourselves and our heirs for ever, all the liberties written below, to have and hold, them and their heirs from us and our heirs. . . .

12. No scutage¹ or aid² is to be levied in our realm except by the common counsel of our

realm, unless it is for the ransom of our person, the knighting of our eldest son or the first marriage of our eldest daughter; and for these only a reasonable aid is to be levied. Aids from the city of London are to be treated likewise.

13. And the city of London is to have all its ancient liberties and free customs both by land and water. Furthermore, we will and grant that all other cities, boroughs, towns and ports shall have all their liberties and free customs.

14. And to obtain the common counsel of the realm for the assessment of an aid (except in the three cases aforesaid) or a scutage, we will have archbishops, bishops, abbots, earls and greater barons³ summoned individually by our letters; and we shall also have summoned generally

¹Scutage was a tax paid by knights to the king of England, their feudal overlord, in place of performing actual military service. In the absence of danger of war, the levying of scutage was considered an abuse of the king's authority.

²Aid, in this sense, was any obligation, usually financial, due from a vassal to his lord. The word was later used to indicate a tax on income or property paid by his subjects to the English king.

³Barons were vassals holding fiefs directly from the king; earls ("counts" in other lands) were nobles who managed counties or shires.