In his *Commentaries on the Laws of England*, William Blackstone describes the history of the prosecution of heresy in England as a gradual and unjust intrusion by the Church into the king's jurisdiction and an infringement upon his sovereignty:

Christianity being thus deformed by [the] daemon of persecution upon the continent, we cannot expect that our own island should be entirely free from the same scourge. And therefore we find among our ancient precedents a writ *de haeretico comburendo*, which is thought by some to be as ancient as the common law itself. However it appears from thence, that the conviction of heresy by the common law was not in any petty ecclesiastical court, but before the archbishop himself in a provincial synod; and that the delinquent was delivered over to the king to do as he should please with him: so that the crown had a control over the spiritual power, and might pardon the convict by issuing no process against him; the writ *de haeretico comburendo* being not a writ of court, but issuing only by the special direction of the king in council.

But in the reign of Henry the Fourth, when eyes of the Christian world began to open, and the seeds of the protestant religion (though under the opprobrious name of lollardy) took root in this kingdom; the clergy, taking advantage from the king's dubious title to demand an increase of their own
power, obtained an act of parliament [2 Hen IV, c. 15], which sharpened
the edge of persecution to its utmost keenness. For, by that synod [sic],
might convict of heretical tenets; and unless the convict abjured his
opinions, or if after abjuration he relapsed, the sheriff was bound ex
officio, if required by the bishop, to commit the unhappy victim to the
flames, without waiting for the consent of the crown. By the statute 2
Hen. V, c.7. lollardy was also made a temporal offence, and indictable in
the king's courts; which did not thereby gain an exclusive, but only a
 concurrent jurisdiction with the bishop's consistory.¹

I have quoted Blackstone at length in order to draw out two important points concerning
his discussion of the law of heresy in late-medieval England. The first point concerns the
care with which we always approach anything purporting to be a “history” of abstract
principles such as “justice” or “fairness,” upon which modern institutions--for example
the Anglo-American legal system--have been founded. First published in England
between 1765 and 1769, Blackstone’s *Commentaries* is an exacting and thorough study
of English jurisprudence upon which legal historians and modern jurists continue to rely
when trying to make sense of the convoluted and frequently confusing evolution of the
common law. Yet in spite of his conscientious attention to sources and precedents,
Blackstone also participates in a Protestant, Whig historiography that makes a direct
ideological connection between medieval Lollardy and an Enlightenment political agenda
characterized by religious tolerance and demands for a constitutionally limited monarchy.

Blackstone offers medieval anti-heresy law as an early example of the “daemon of [religious] persecution,” which impeded that reformist program in his own time. His portrayal of the medieval church is thus shaped as much by the Old Whig opposition to an established Church of England, an ecclesiastical institution that sought to use the law against nonconformists in order to protect its exclusive privileges, as it is by any basis in historical fact. Blackstone has a stake, as it were, in telling stories that paint the church as power-hungry and self-interested.

My second point relates to the reason why, in spite of its polemical tenor, I find Blackstone’s discussion of *De heretico comburendo* and fifteenth-century anti-heresy law to be useful. Habermas, in his discussion of the evolution of the public sphere, draws a clear distinction between “claims against the public authority . . . directed against the concentration of powers of command that ought to be ‘divided’” and those that “undercut the principle on which existing rule was based.”2 In this passage, Blackstone, who was arguably himself a member of what Habermas has defined as the public sphere in eighteenth-century England,3 collapses that significant distinction. Unlike Habermas, Blackstone does not separate the problem of jurisdiction, who among the existing authorities should regulate what, from questions of legal substance, what should be regulated, and who should be given regulatory authority in the first instance. He couches

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his substantive critique of the law (for clearly, he thinks criminalizing heresy is a bad idea, no matter who is in command) in jurisdictional terms. In previous chapters, I have attempted to demonstrate how some Middle English authors of the fourteenth century use the exploration of jurisdictional conflicts between and among the institutions within which medieval political identity was thought to be defined to evolve an idea of the political subject that was not so constrained. As a result, these authors redefine the literature of sovereignty within a very broad discursive field as a regulatory framework for thinking about how individuals, regardless of their stations or estates, participate in public life and exercise political agency. Broadly speaking, for these Middle English authors, Habermas’s conceptual separation of jurisdictional from substantive issues was meaningless, which may ultimately explain why he exempts England from his account of medieval politics. After all, what is a constitutionally limited monarchy but a jurisdictional solution for a whole host of substantive legal problems?

In this chapter, I would like to consider how two fifteenth-century authors, Thomas Hoccleve, in his *Regiment of Princes*, and the anonymous author of *Dives and Pauper*, once again configure a substantive question of law in jurisdictional terms. Both authors confront the criminalization of heresy as a sort of turf-war where jurisdictional overreaching threatens to destabilize the political forms and quite possibly criminalize hermeneutic practices that identify the individual subject as both the site and agent of social and institutional reform. Although neither author goes so far as to argue the crime of heresy should be abolished altogether, they are very careful to corral its definition within the confines of a largely theological debate over issues such as the actual presence
of Christ in the eucharist and the role of pilgrimage and the veneration of images in religious observance. At the same time, they continue the cultural work of the literature of sovereignty by absorbing the institutional church, along with the two remaining estates and the various other communities that live and operate within the geographical locus of England, into the broader spiritual *communitas* of the realm. Elucidating more clearly the historical developments to which Hoccleve and the author of *Dives and Pauper* are responding, does however, require a brief return to Blackstone and the origins and evolution of anti-heresy law in England before turning to their texts.

I. Heretical Jurisdiction in England

Blackstone identifies a transition that took place soon after Henry IV ascended to the throne in September 1399, from a common law framework in which the king, at the very least, exercised (or was perceived as exercising) concurrent jurisdiction with the ecclesiastical authorities to a statutory regime that arguably deprived him of that authority. Tinged as it is with teleology, Blackstone’s analysis nonetheless finds support in the historical record. As his source for the existence of a common law writ of *De heretico comburendo*, Blackstone cites Sir Anthony Fitzherbert’s *La Novell Natura Brevium*, first published in 1534, which in turn cites a work that should be familiar from my discussion in chapter two of the emergence of an English literature of sovereignty:

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4 In discussing legal developments in this way, I do not think there is much difference between reality and perception. Even if heresy was prosecuted only rarely before 1400, the historical evidence suggests jurists perceived the law as encompassing heresy as a capital crime prior to *De heretico comburendo*. Further, even if the procedures after 1400 were substantially the same as they were previously, both *De heretico comburendo* itself and the literary works under discussion below support a conclusion that the law effected some sort of power shift, even if it was only in how jurisdiction was described or thought of in the abstract, as opposed to practiced in the courts. To the extent the law provided a framework for rationalizing (I am not going so far as to claim that it necessarily prescribed them) outcomes in particular cases, that framework seems to have been reconfigured early in the fifteenth century with regard to cases involving heresy.
Note, it appeareth by Britton in his Book, that those persons shall be burnt who feloniously burn others Corn or others Houses, and also those who are Sorcerers or Sorceresses; and Sodomites and Hereticks shall be burnt: And it appeareth by that Book . . . that such was the Common Law. But note, that the person who shall be burnt for Heresie ought to be first convict thereof by the Bishop who is his Diocesan where he dwelleth, and abjured thereof, and afterwards, if he relapse into that Heresie or any other, and thereof be condemned in the said Diocese, then he shall be sent from the Clergy to the Secular Power, to doe with him as it shall please the King, etc. And then it seemeth the King, if he will, may pardon him the same. (594)  

According to Fitzherbert, issuance of the common law writ De heretico comburendo rested entirely within the king’s discretion. The bishop of the diocese exercised authority to make a finding of relapse, but at that point, the relapsed heretic was to be “sent from the Clergy to the Secular Power, to doe with him as it shall please the King” (emphasis mine). Britton itself confirms the account given in Fitzherbert, and that text antedates the statute De heretico comburendo by nearly a century, though it does not offer any procedural embellishments:

Let inquiry be made of those who feloniously in time of peace have burnt others’ corn or houses, and those who are attainted thereof shall be burnt, so that they may be punished in like manner as they have offended. The

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5 Anthony Fitzherbert, The New Natura Brevium (London: Rawlins, Roycroft and Flesher, 1686). I have checked the English translation in this edition against the French text that appears in the original 1534 edition), and it appears to be a faithful one.
same sentence shall be passed upon sorcerers, sorceresses, renegades, sodomites, and heretics publicly convicted. (II.17)

Given the author’s preoccupation elsewhere in Britton’s text with clearly delineating the jurisdictional roles of the ecclesiastical and secular courts, his omission of any mention of the church’s jurisdiction in such matters here seems to suggest that heresy could be prosecuted just like any other crime in the king’s courts. Marginal notations to this passage in an early fourteenth-century exemplar of Britton (Cambridge MS Dd. vii. 6) tend to confirm the king in fact exercised concurrent jurisdiction at common law with the church in such matters:

Burners of corn and houses, wives guilty of treason against their husbands, sorcerers, sodomites, renegates, and misbelievers, run in a leash (currunt en une leesse) as to their sentence of being burned. But the inquirers of Holy Church shall make their inquests of sorcerers, sodomites, renegates, and misbelievers; and if they find any such, they shall deliver him to the king's court to be put to death. Nevertheless, if the king by inquest find any persons guilty of such horrible sin he may put them to death, as a good marshall of Christendom (come bon Mareschal de la Chrestiènete). (II.17, n.2)

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7 Regarding the MS from which the note has been drawn, Nichols dates it to the early-fourteenth century. Although the marginal commentary appears to have been inserted after completion of the main text, the layout of the page suggests that it was contemplated in the original plan of the work, and Nichols cites internal evidence drawn from the marginals themselves as well as external historical sources that would place their completion at some point between 1295-1316. In addition, the annotator may have been, not just a contemporary, but also a colleague of Britton’s author (I.lxi-lxii).
The note does not provide any evidence to confirm Blackstone’s contentions regarding the extraordinary nature of the writ, which he maintains was essentially equivalent to an act of Parliament: “[T]he writ de haeretico comburendo being not a writ of court, but issuing only by the special direction of the king in council.” The distinction the annotator makes between the “Burners of corn and houses,” et al., for whom the sentence of burning followed as a matter of course, and those whom “Holy Church” adjudged heretics, who had to be delivered “to the king’s court to be put to death,” does however, imply that the king, via his authority over the secular judicial system, exercised some discretion in sentencing. The final sentence additionally seems to confirm the independent jurisdiction, based on the king’s traditional role within the trifunctional hierarchy as a defender of the faith, of the king’s courts to conduct inquests into and make findings of their own regarding matters of heterodoxy.

So far, on the question of the king’s jurisdiction at common law in cases of heresy, Blackstone appears to get it mostly right. The church had the power to adjudge someone guilty of heresy, for which the customary punishment prior to 1400 was burning at the stake, but ecclesiastical authorities were dependent upon the secular court system when it came to imposing and carrying out the death sentence via the common law writ De heretico comburendo. Whether the writ issued or not was left entirely up to the secular

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8 Although the description of the king as a “marshall of Christendom” could imply that his jurisdiction was subordinate to that of the church, the term “mareschal” seems to have been used solely in connection with describing secular officers. “mareschal n.m.,” Dictionnaire de l’ancien français, 2nd ed., Algirdas Julien Greimas (Paris: Larousse, 1992). In addition, in the context of Britton, which is so clearly focused upon describing how the king’s courts operate within a system of multiple, concurrent jurisdictions, each with its own clearly bounded area of competence, it seems logical to interpret the annotation as I have done here.

9 A.K. McHardy, “De Heretico Comburendo, 1401,” in Lollardy and the Gentry in the Later Middle Ages, ed. Margaret Aston and Colin Richmond (New York: St. Martin’s Press, 1997), substantially confirms Blackstone’s account as well, arguing that the statute De heretico comburendo was not necessary to give the king power to consign a heretic to burning at the stake (113-15).
courts, and may even have depended upon a personal act by the king himself. The writ that appears as an example in the *Natura Brevium* is that condemning William Sawtre to be burnt at the stake. Since Sawtre was executed in 1401, after the enactment of the first statutory re-incarnation of *De heretico comburendo* in 1400, the writ calling for his execution does not, standing alone, provide compelling evidence of practice prior to that legislation. Given the fact, however, that Sawtre’s prosecution spanned the divide between the common law and statutory regimes--he was first tried for and abjured heresy before the 1400 statute went into effect, and was prosecuted as a lapsed heretic after its enactment--Sawtre's case does indicate the existence of a civil, criminal penalty before 1400. Further, and here is where the problem of jurisdiction becomes particularly important as far as the substance of the law is concerned, the secular courts also held concurrent jurisdiction with the ecclesiastical courts to initiate proceedings prior to 1400. Thus the king, through those courts, controlled at least part of the precedent according to which heresy was to be defined in any individual case.


11 In her recent work, *Books Under Suspicion: Censorship and tolerance of Revelatory Writing in Late Medieval England* (Notre Dame: Univ. of Notre Dame Press, 2006), Kathryn Kerby-Fulton argues that legislative and legal responses to the Wycliffite heresy must be viewed within the larger context of a history of religious censorship in England, and on the continent, that substantially pre-dates both Wyclif and his most controversial ideas. I do not take issue with Kerby-Fulton’s contention that the church in England and elsewhere went to great lengths to prevent the publication and dissemination of work that it viewed as heretical long before Wyclif and his followers appeared on the scene. Nevertheless, to the extent “heresy” was something defined at English common law and that came under the jurisdiction of the secular courts, the statute *De heretico comburendo* does appear to mark a distinct shift in how heresy was to be defined and the procedures through which it was to be policed. In the statute, the “Lollard problem” is explicitly identified as the motivating force behind the break with previous standard operating procedure that the statute professes to make. In addition, to respond to Kerby-Fulton’s argument regarding the continuity of practice in pre- and post-Wycliffite England, I do see a clear distinction between the suppression, through ecclesiastical administrative procedures, informal acts of intimidation, and the occasional public book burning, of works that espouse suspect doctrine, and the wholesale attempt to clamp down on vernacular religious activity more generally by burning authors and owners, both clergy and laymen, along with their books.
Regarding Blackstone’s contention that the act of 1400 represented a power grab by the church that deprived the sovereign of both discretion and jurisdiction, one really has only to read the text of the legislation. The “desperate times call for desperate measures” preamble with which it begins signals that the statute does more than simply codify an existing state of affairs. That preamble reads as follows:

Whereas, it is shown to our sovereign lord the king on the advice of the prelates and clergy of his realm of England in this present Parliament, that although the Catholic faith builded upon Christ, and by his apostles and the Holy Church, sufficiently determined, declared, and approved, hath been hitherto by good and holy and most noble progenitors and predecessors of our sovereign lord the king in the said realm amongst all the realms of the world most devoutly observed, and the Church of England by his said most noble progenitors and ancestors, to the honor of God and the whole realm aforesaid, laudably endowed and in her rights and liberties sustained, without that the same faith or the said church was hurt or grievously oppressed, or else perturbed by any perverse doctrine or wicked, heretical, or erroneous opinions. Yet, nevertheless, divers false and perverse people of a certain new sect, of the faith of the sacraments of the church, and the authority of the same damnably thinking and against the law of God and of the Church usurping the office of preaching, do perversely and maliciously in divers places within the said realm, under the color of dissembled holiness, preach and teach these days openly and
privily divers new doctrines, and wicked heretical and erroneous opinions contrary to the same faith and blessed determinations of the Holy Church, and of such sect and wicked doctrine and opinions they make unlawful conventicles and confederacies, they hold and exercise schools, they make and write books, they do wickedly instruct and inform people, and as such they may excite and stir them to sedition and insurrection, and make great strife and division among the people, and other enormities horrible to he heard daily do perpetrate and commit subversion of the said catholic faith and doctrine of the Holy Church . . . . Upon which novelties and excesses above rehearsed, the prelates and clergy aforesaid, and also the Commons of the said realm being in the same Parliament, have prayed our sovereign lord the king that his royal highness would vouchsafe in the said Parliament to provide a convenient remedy.\textsuperscript{12}

Where in previous times the efforts of the king and his noble ancestors might have been sufficient to defend the faith, something more was required to keep at bay the “diverse and perverse people of a certain new sect” who were coming out of the woodwork to “make unlawful conventicles and confederacies, . . . hold and exercise schools, . . . make and write books” and otherwise “wickedly instruct and inform people,” exciting and stirring them to “sedition and insurrection.”\textsuperscript{13} Gestures are made in the text toward the role played by “the commons of the said realm” in its enactment, but the claims of “the prelates and clergy” are presented from the outset as the driving force behind the

\textsuperscript{12} Statutes of the Realm, 2.127-28.  
\textsuperscript{13} Ibid.
Substantively, although it preserved the role of the secular court when a fine was to be levied against a first-time offender who abjured his heretical beliefs, in the case of a lapsed or unrepentant heretic, sheriffs mayors, and bailiffs of the city, town and borough were charged with carrying out the death sentence as a matter of course after a finding of relapse or obdurance had been made. To that end, the act required their presence at the ecclesiastical proceeding if it was requested and provided that “credence” should be given to any determinations of the bishop or his “commissaries in this behalf.”

What becomes clear from a careful reading of the history of English anti-heresy law is that the statute *De heretico comburendo* marks a shift in the law, though not necessarily because it transformed heresy into a civil, capital crime. Heresy was already a crime punishable (like most felonies) by death at common law. Rather, the act of 1400 changed the state of affairs by redefining that crime in terms of commonplace public activities such as preaching, teaching and writing, where previously heresy had been identified along with what we can probably safely presume were rather extreme and relatively isolated practices such as arson and sorcery. Arundel’s Constitutions, which followed in 1409, explicitly targeted actions—such as unlicensed preaching, vernacular biblical translation and religious debate—without regard to the doctrinal orthodoxy of the beliefs expressed by the actor (or his books), confirming the church’s intent to police the

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14 McHardy, see note 8 above, even suggests the possibility that the statute “originat[ed] in the administration of Archbishop Arundel,” and that, “[i]f that were so, the drafters could be found among Arundel’s advisers.” (118).
16 Here again, as in note 9, above, I want to distinguish my argument from that of Kerby-Fulton in *Books Under Suspicion* by clarifying that the timeline I am giving here has to do primarily with how heresy was defined at common law in accordance with secular legal precedent, rather than how heresy was interpreted by ecclesiastical authorities pursuant to canon law.
faith by criminalizing previously lawful (or at least unregulated) expressive activity. Nicholas Watson, for example, has observed, “While the legislation clearly has Lollardy primarily in mind throughout, it at no point distinguishes Lollard from other vernacular theological texts (as, for example, does the De heretico comburendo); rather, its regulations apply to writers and owners of all vernacular religious texts, except the simplest.”

The emphasis on action, as opposed to mental state, is not unusual in medieval law. The idea that a crime requires both an overt act or *actus reus* as well as criminal intent or *mens rea* is a relatively modern development. Medieval criminal law, as Richard Firth Green and any number of other scholars have pointed out, was more focused on the harm done to the community than individual culpability. In the legal environment within which both *De heretico comburendo* and the Constitutions came into being, heresy was in essence a strict liability crime. One could be guilty regardless of whether or not one even understood the difference between heresy and orthodoxy or intended to promote one over the other. Consequently, when we read both pieces of legislation, we are not out of bounds in reading a legislative intent to criminalize or at least bring under suspicion the enumerated expressive activities, largely without regard to knowledge or intent.

The statute *De heretico comburendo* also transferred substantial control over the judgment and sentencing of heretics to the church, depriving the king’s courts of their

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19 The process of abjuration acted as a sort of “safety valve” whereby mistakes could be remedied, but an
traditional role in such proceedings. It was arguably perceived by some--particularly someone who, like Hoccleve, worked within the judicial system as a privy seal clerk--as a real and immediate intrusion by the church upon the king’s jurisdiction. Further, the activities that it targeted for regulation were the primary avenues through which the emerging ideas regarding individual political agency that have been under discussion in previous chapters were disseminated, as well as the means by which such agency could be exercised. By confronting the problem of jurisdiction and trying to contain the church’s new-found authority by defining heresy largely as a matter of conscience--as personal adherence to a set of erroneous doctrines--both Hoccleve and the author of *Dives and Pauper* attempt to preserve the public forum for political action. To put it another way, in response to criminal legislation that arguably transforms anyone who complains, preaches, teaches or writes into a suspect, these two writers offer elaborate performances of doctrinal orthodoxy that not only shield them to an extent from charges of heresy, but also attempt to cut the church’s prosecutorial authority back down to an acceptable size.

II. Reform and Exemplarity in *The Regiment of Princes*

As James Simpson has observed, John Bale calls Hoccleve a Wycliffite in his *Catalogus*, asserting--astonishingly given Hoccleve’s own repeated and vociferous

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abjured heretic was still guilty of heresy. Given the relative indifference of medieval law generally to questions of justification or intent, the insistence of both Hoccleve and *D&P*’s author that heresy requires a sort of knowing adherence to false doctrine is even more surprising. By in effect expanding the definition of heresy to include previously lawful, or at the very least unregulated activity, *De heretico comburendo* and the Constitutions may have presented, perhaps more clearly than at any point previously, a situation where intent was actually a significant factor in determining whether the harm caused to the community by an action justified its criminalization.

rejections of such a position--Hoccleve adhered to the doctrine of Wyclif and Berenger that the physical bread and wine remain after consecration.\textsuperscript{21} We could, of course, dismiss as Reformist propaganda Bale’s identification of Hoccleve with the Wycliffites as proto-Protestants, even though Bale does cite to Walsingham and the \textit{Historia Anglicana} as the source of his information.\textsuperscript{22} I prefer, however, to interpret Bale’s reading of Hoccleve as a very early effort in a long critical tradition that has struggled to come to terms with Hoccleve’s complex relationship to and participation in the political, social and literary events that shaped his historical moment and his writing.

Simpson, who contends “the discursive forms of both humanist and Christian reformist writing are significantly more liberal in the [late-fourteenth and early-fifteenth centuries] than [in the sixteenth century],”\textsuperscript{23} maintains the \textit{Regiment} is one of a number of fourteenth and fifteenth century political poems that not only advocated for limited sovereignty but in and of themselves exercised a “power . . . to constrain the king.”\textsuperscript{24} In contrast, in his study of the “language of legitimation” that pervades Lancastrian literary production, Paul Strohm has described the \textit{Regiment} as an “unabashedly partisan” work that defines and dramatizes the legitimacy of Lancastrian accession and succession “via the creation of a decidedly unorthodox and illegitimate group [i.e., Lollards] internal to the realm.”\textsuperscript{25} Nicholas Perkins reads in Hoccleve’s work an anxiety about ecclesiastical regulation of vernacular literary production in the name of preserving orthodoxy, but

\textsuperscript{22} Ibid.
\textsuperscript{23} Simpson, \textit{Reform and Cultural Revolution}, 33.
\textsuperscript{24} Ibid., 202-03.
ultimately concludes Hoccleve, in an effort to reinforce the integrity of the state, becomes an apologist for Lancastrian royal prerogative, albeit a reluctant one. More recently, Andrew Cole has argued Hoccleve produces a careful and nuanced “political criticism,” as opposed to revolutionary discourse on the one hand or Lancastrian “propaganda” on the other, by “rethinking and revising the official images and topics [most notably those concerning heresy] that were taken up in a range of contemporary sources.”

For those scholars who have tended to emphasize the role public images--of kings and heretics, coronations and executions--play within Hoccleve’s writing, the subject or problem of Hoccleve’s religious and political leanings has been, and continues to be, a contentious one. We can see a similar back-and-forth taking place among those scholars who bring to the fore a consideration of the role autobiography and authorial self-fashioning play in Hoccleve’s poetry. Larry Scanlon, for example, views Hoccleve’s own literary authority as closely tied to the authority he manufactures for both Henrys in the Regiment. By generating images of “powerful and unconstrained” kingship and then “identifying” himself with the king, Scanlon argues, Hoccleve “share[s] the king’s power, 26 Nicholas Perkins, Hoccleve’s Regiment of Princes: Counsel and Constraint (Cambridge: D.S. Brewer, 2001), 11, 146-50.
27 Andrew Cole, Literature and Heresy in the Age of Chaucer (Cambridge: Cambridge Univ. Press, 2008), 105.
28 In identifying how Simpson, Strohm, Perkins and Cole emphasize the “political” over the “personal” in Hoccleve’s writing, I do not mean to suggest these scholars are not attentive to the role that autobiography and private concerns play in Hoccleve’s work. Rather, their readings begin from the point of considering Hoccleve as a public poet and then turn to an evaluation of how Hoccleve’s own authorial and autobiographical personae become imbricated with the public subject matter of his poetry. Scanlon and Knapp reverse this critical turn, using the issue of autobiography as the initial point of access into Hoccleve’s texts and moving from there to a consideration of the public, political dimensions of his work. John Meyer Lee, “Thomas Hoccleve: beggar laureate,” in Poets and Power from Chaucer to Wyatt (Cambridge: Cambridge University Press, 2007), 88-124, engages perhaps most directly with how the public and the personal evolve together in Hoccleve’s writing. Meyer Lee argues that Hoccleve’s search for an “authentic” perspective from which he could speak with authority ultimately led to his rejection of what Meyer Lee calls a “laureate poetics” in which the poet’s status as the heir of a great literary tradition depends upon the poet’s ability to leverage his royal patronage without acknowledging his absolute dependence upon it (80-87, 89).
even when that power distinguishes [the king from the poet], because such power still distinguishes both [of them] from all those below.” Arguing for an alternative reading that situates Hoccleve, his authorial identity and his autobiography within an emergent bureaucratic culture, Ethan Knapp focuses on the Prologue and maintains that, in the Regiment, “Hoccleve pursues a connection between the work of the scribe and the vulnerability and mortality of the human body, a connection in which we can read both a claim about the importance of writing as a technology for supplementing the body and also a corresponding fear that writing is made at the cost of the scribe’s body, literally wasting the writer as he labors.” Although, Knapp does consider how Hoccleve’s participation in the Lancastrian politics of succession may have influenced the Regiment’s composition, he concludes Hoccleve remained “wary” of “authority and paternal figures” in a political environment where “notions of paternity, inheritance, and counsel could not be used simply and innocently.”

Various as the field of Hoccleve studies may appear at first blush, the critical discord might actually be read as a sort of consensus regarding Hoccleve’s interest in and deployment of the political forms and practices of what I have been calling a Middle English literature of sovereignty. As I have attempted to show in the preceding chapters, Middle English ideas about kingship, sovereignty, self-governance, and political identity and agency seem to have been influenced as much by early English contributions such as De Legibus et Consuetudinibus Angliae (Bracton) and Britton as they were by continental

31 Ibid., 126-27.
texts such as the *De Regimine Principum*, the *Secretum Secretorum*, and the *Chessbook*. Competition between the two versions of kingship offered in Bracton and *Britton*, as it played out in the ongoing debate over the meaning of the coronation oath and in the depositions of Edward II and Richard II, highlighted the role jurisdictional conflicts played as the sources of political and social discord. It also presented the problem of ordering the polity as first and foremost a matter of bringing the individual will into alignment with the public interest as expressed in the laws and customs of the realm. If Hoccleve appears in the *Regiment* to be as interested in petty bureaucrats as he is in princes, it is because he deploys an idea of the political subject that transcends the jurisdictional boundaries that separate them. Further, if he seems to argue for the absolute sovereignty of the king over the law, while at the same time maintaining the young prince will make a good monarch only if he submits to it, the contradiction arises from his interpolation of Bracton’s self-reinforcing “king-centered” jurisprudence, wherein strong laws make a strong king who makes the laws even stronger (thereby elevating his own majesty even further) by conducting himself in accordance with them. Finally, if Hoccleve seems suspicious of fifteenth-century anti-heresy legislation while also enthusiastically embracing rather narrow, doctrinal definitions of the heretic and his crimes, we are reading his attempt to limit church “meddling” with or intrusion into the administration of the realm while also establishing the orthodoxy of his politics and hermeneutic practices.

A. Addressing the Prince as Political Subject

32 A great deal of the “Prologue,” for example, is given over to Hoccleve’s personal complaint, which deals with the trials and tribulations that he experiences as a clerk of the privy seal, and as discussed in more detail below, a number of the exempla seem to be directed as much towards those who would serve the prince as they are to the prince himself.
I intend to show that in the *Regiment* Hoccleve imagines a secular regulatory system that embodies divine as well as positive law and can therefore bind the king and his subjects. In doing so, like the other Middle English authors discussed in previous chapters, he effectively absorbs the institutional and moral authority of the church into the king’s jurisdiction. He strategically blurs and even erases conceptual boundaries between crime and sin and merges the individual’s duties as a member of the church with his or her obligations as a subject of the realm. In such a conception of the polity, where political participation becomes a form of religious observance, the purview of the institutional church really is appropriately limited to policing doctrine, both to avoid jurisdictional conflict and also to preserve important outlets for the exercise of political agency. As a poet writing for a public, royal audience after 1401, the statutory enactment of *De heretico comburendo*, and the Constitutions, Hoccleve certainly could not openly sympathize with heretical opinions. Because the English literature of sovereignty includes Wycliffite as well as orthodox contributions, however, Hoccleve attempts to mark his own work as legitimate by bracketing off the political discourse that he shares with, and perhaps even borrows from, heterodox authors. He does so by segregating it from the more recognizable (at least to us) forms of Wycliffite heresy: controversy over the eucharist and the use of images in worship.

The re-staging of John Badby’s execution, which of course stages an opportunity for Hoccleve to establish his orthodoxy, comes early in the *Regiment*’s Prologue. Before turning to that scene and its implications, however, I would like to discuss those aspects of the poem that identify it as participating in the Middle English literature of
sovereignty. Hoccleve acknowledges three sources, Giles of Rome’s *De Regimine Principum*, the pseudo-Aristotelian *Secretum Secretorum*, and Jacob de Cessolis’s *Chessbook*. Where the first two works represent that line of Aristotelian (largely French-authored) political theory given over to king-centered notions of the polity, the *Chessbook* comes out of an Italian tradition that concerns itself with more republican political forms. Consequently, even though, as Scanlon and others have noted, Hoccleve draws upon the *Furstenpiegel* tradition, he weds his discussion of the king’s absolute sovereignty to an exposition of the roles that private individuals of all classes play in public life. This interest in a political subject that transcends the jurisdictional boundaries that segregate king and commoner is evident as well from the hybrid generic form of the *Regiment*. Any number of scholars have remarked upon the lengthy Prologue, which is in essence an extended begging letter, and its relationship, or lack thereof, to the body of the poem. Simpson, however, comes closest to explaining how the two work together when he notes:

> The politics of the *Regiment* emerge from the lack of congruence between different jurisdictions: the household and the state each unsuccessfully compete for domination over the other, and out of this stand-off emerges a potential contact between household and king. This is not ‘constitutionalism’ in the sense of applying preformed ideas to the practice of politics, but a political practice does emerge that constrains both

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33 I discuss this topic in more detail in chapter two.
household and state. The same is true of near-contemporary texts written out of parliamentary concerns. . . .

I agree with Simpson that, as with the fourteenth-century texts discussed previously, the political discourse of the Regiment emerges out of and attempts to resolve jurisdictional conflict. Even though Hoccleve is ultimately interested in institutional reform, e.g., of the king, however, he does not locate the agency for reform within any particular institution, e.g., the household or parliament. Rather, Hoccleve personalizes such conflicts by mapping them onto the subjects who populate the Regiment and in doing so represents the problem of reform in terms of individual regulation, as a question of how the individual will can be transformed by the law of the realm into an instrument of the public good.

The poem begins with Hoccleve’s midnight musings on how Fortune and death are the ties that bind all men together, regardless of their respective stations in life:

Me fil to mynde how that nat longe agoo
Fortunes strook doun thraste estat rial
Into mescheef, and I took heede also
Of many anothir lord that hadde a fal.
In mene estat eek sikirnesse at al
Ne saw I noon, but I sy atte laste
Wher seuretee for to abyde hir caste.

In poore estat shee pighte hir pavyloun

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34 Simpson, Reform and Cultural Revolution, 214.
To kevere hir fro the storm of descendynge
For shee kneew no lower descencion
Sauf oonly deeth, fro which no wight lyvyng
Deffende him may; and thus in my musynge
I destitut was of joie and good hope,
And to myn ese nothyng cowde I grope.

For right as blyve ran it in my thoght,
Thogh poore I be, yit sumwhat leese I may.
Than deemed I that seurtee wolde noght
With me abyde; it is nat to hir pay
Ther to sojourne as shee descende may.
And thus unsikir of my smal lyflode,
Thogh leide on me ful many an hevy lode. (22-42)\textsuperscript{35}

Rather than dwelling upon how Fortune operates idiosyncratically within any single estate, in a mere twenty lines Hoccleve collapses the high, middle and low estates into the single category of those brought low and then ultimately abandoned by Fortune on her race to the bottom. From the outset, therefore, Hoccleve signals his interest in a political subject that operates and can therefore be regulated independently from traditional social categories. In addition, lest we fail to see how these particular examples provide the contours of a general subject of address, Hoccleve proffers his own state of mind as an

\textsuperscript{35} All citations are to Thomas Hoccleve, \textit{Regiment of Princes}, ed. Charles R. Blyth (Kalamazoo: Medieval Institute Publications, 1999).
example of what happens when readers lack the sort of “lateral visibility” that is so central to the operation of the exemplum within the Middle English literature of sovereignty:

Whan to the thoghtful wight is told a tale,
He heerith it as thogh he thennes were;
His hevy thoghtes him so plukke and hale
Hidir and thidir, and him greeve and dere,
That his eres availle him nat a pere;
He undirstandith nothyng what men seye,
So been his wittes fer goon hem to pleye. (99-105)

Although Hoccleve continues to target the individual auditor here, he also cautions against the processes of differentiation that threaten to undermine a project that attempts to produce socio-political unity through individual regulation. The “thoghful wight” is so caught up in a consideration of his “hevy thoghtes,” that he does not realize how stories of other men might be applied to resolve his own situation. Rather than being immersed in a tale, “He heerith it as thogh he thennes were,” as if he is distant from it. Hoccleve’s restless, sleepless, and troubled mind not only reflects the “worldes stormy wawes” (51), it is also to an extent the cause of that instability. For Hoccleve in the 

Regiment, as for Gower in the Confessio Amantis, social and political turmoil are caused not so much by Fortune, as by a failure of self-regulation. Men, including Hoccleve, all

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36 These include the potential for social fragmentation caused by the division of labor within the estates hierarchy, which Mann details in Chaucer and Medieval Estates Satire (Cambridge: Cambridge Univ. Press, 1973), or the isolation of the individual through social and political conflict that Turner discusses in Chaucerian Conflict: Languages of Antagonism in Late Fourteenth-Century London (Oxford: Clarendon Press, 2007).
too often allow their wits to “pleye” and consequently fail to understand how the regulatory discourses in circulation around them might apply to them.

Further, like his Wycliffite predecessors and contemporaries, Hoccleve intervenes in disputes between and among the institutions of the realm in order to explore how self-regulation, for both prince and commoner, involves navigating the perceived jurisdictional dislocation or conflict created by debates over the ultimate locus of authority. As it often does within both Wycliffite literary production as well as more orthodox estates literature such as Chaucer’s General Prologue, friction between obligations to the secular and religious authorities figures prominently in The Regiment. For example, Hoccleve identifies the problems created when priests are torn between the duties imposed by their benefices and their hopes for courtly preferment:

“A dayes now, my sone, as men may see,
O chirche unto o man may nat souffyse;
But algate he moot han pluralitee,
Elles he can nat lyven in no wyse.
Ententyfly he keepith his service
In court; his labour there shal nat moule;
But to his cure looketh he ful foule.” (1415-1421)

Here, the anonymous old man whom Hoccleve the narrator meets while out walking on the morning after another sleepless night offers a familiar catalogue of the sins of the clergy. The practice of holding multiple benefices figures in this passage as a conflict not only between the responsibilities one owes to multiple congregations but also a conflict
between “cure” and “court.” Hoccleve directs the old man’s critique, however, not to the church or the court, the institutions that permit the practice to continue, but to the individual who elevates his personal desire for wealth above the obligations that he owes to his office, or in this case offices:

“Thogh that his chauncel roof be al totorn
And on the hy auter it reyne or sneewe,
He rekkith nat, the cost may be forborn
Crystes hous to repeire or make neewe;
And thogh ther be ful many a vicious heewe
Undir his cure, he takth of it no keep;
He rekkith nevere how rusty been his sheep.

"The oynement of holy sermonynge
Him looth is upon hem for to despende.
Sum person is so thredbare of konnynge
That he can naght, thogh he him wys pretende;
And he that can may nat his herte bende
Therto, but from his cure he him absentith,
And what therof comth, greedyliche he hentith.” (1422-35)

Hoccleve does seem to acknowledge that the priest’s neglect of his country parish arises in part from a dislocation of institutional authority: Is the church at fault for failing to regulate or appropriately discipline its priests? Or does the fault lie with the secular lord
who has taken the priest into his service, thus keeping him from his country flock? He locates ultimate responsibility for the situation with the priest, however. Neatly sidestepping larger jurisdictional issues involved in regulating institutions, Hoccleve locates agency for institutional shortcomings, and by implication institutional reform, with the individual who must avoid or at least negotiate the conflicts that arise when ecclesiastical and secular authorities come into contact and conflict with one another.

This sort of jurisdictional dislocation even shapes Hoccleve’s biographical self-fashioning in the Prologue. In explaining to the “poore old hoor man” why he is in such dire financial straits, Hoccleve describes how “sum lorde man” would come to the office of the Privy seal to have a writ prepared:

“But if a wight have a cause to sue
To us, sum lorde man shal undirtake
To sue it out, and that that is us due
For our labour, him deyneth us nat take;
He seith his lord to thanke us wole he make;
It touchith him, it is a man of his,
Wher the revers of that, God woot, sooth is.” (1499-1505)

In these lines, the simple, arm’s-length transaction between hard-working scribe and a petitioner to the king’s courts is needlessly complicated by the intervention of the middleman who claims, falsely, to be acting under color of his lord’s authority. Inequity arises from the uncertainty created when individuals can represent institutions, in this case the lord’s household, as well as themselves. The scribe has no way of knowing on
whose behalf he is working, whether for the individual petitioner or the institution that he claims (through the middleman) to represent. By the time the scribe discovers the deception, it is too late:

“And whan the mateere is to ende ybroght
Of the straunger for whom the suyte hath be,
Than is he to the lord knowen right noght;
He is to him as unknowen as we;
The lord nat woot of al this sotiltee,
Ne we nat dar lete him of it to knowe,
Lest our conpleynte ourselfen overthrowe.” (1520-26)

The lord is under no obligation to pay court costs on behalf of a stranger, and Hoccleve cannot pursue a claim against his man because doing so would not only be an exercise in futility, but would also put him in bad graces with them both:

“What shul we do? We dar noon argument
Make ageyn him, but faire and wel him trete,
Lest he reporte amis and make us shent;
To have his wil we suffren him and lete.
Hard is be holden suspect with the grete;
His tale shal be leeved but nat ouris,
And that conclusioun to us ful soure is.” (1513-19)

Implicit in Hoccleve’s complaint is the suggestion that the law, both as embodied in the chancery courts whose inner workings Hoccleve describes, and as an abstract framework
for resolving disputes, works best when it treats with individuals, as opposed to the
estates or institutions they represent. Making distinctions between and among
participants in the system on the basis of their social or institutional affiliations only leads
to uncertainty and injustice.

Although these examples may certainly be read as the particular pitfalls that
priests, liveried servants, and chancery court clerks encounter in fulfilling their respective
offices, as with the high, middle, and low estates who are all subject to Fortune’s whim,
Hoccleve emphasizes the similarities among them. Institutions may be the source of the
problem, both because they assume jurisdiction where they perhaps should not, and also
because they fail to act where they should. He presents the individual office holder,
however, again and again as the party responsible for institutional failure and reform.
Like Chaucer’s pilgrims, Hoccleve’s “lorde man” and absentee priest serve as
metonymies pointing to the fundamental political problem that shapes the poem, and
indeed the literature of sovereignty as a genre, how to regulate the will so that it serves
the common weal. Hoccleve locates the solution, not in a more rigorous definition of and
adherence to the separate duties of the individual estates, but in an alternative regulatory
system that focuses on the individual, and the common principles of charity and
moderation that all men and women should observe as subjects of the realm.

He first makes this point at the end of his long discursion on how contemporary
social climbers flaunt the sumptuary laws. As Scanlon has argued, these stanzas do help
to establish important parameters of the social order.37 Hoccleve, however, concludes, by

37 Scanlon, *Narrative Authority and Power*, 304-05.
arguing that lords could secure an end to such abuses by adopting moderate dress themselves:

“Ther may no lord take up no neewe gyse
But that a knave shal the same up take.
If lordes wolden wirken in this wyse
For to do swiche gownes to hem make
As men dide in old tyme, I undirtake,
The same get sholde up be take and usid,
And al this costlewe outrage refusid.” (505-11)

Although one would never find such guidance in any sumptuary law, clearly, for Hoccleve, the best solution is to eliminate the double standard altogether and offer uniform advice to both lord and commoner.

In the Prologue, Hoccleve uses the form of the begging letter as an opportunity to re-imagine the relationship between the individual sovereign of medieval theories of kingship, and the increasingly sovereign individual who, over the course of the fourteenth century, seems to have become the real political subject of Middle English contributions to the literature of sovereignty. Traditionally, in the begging letter the poet addresses his wealthy patron as the source of inspiration and financial support that will allow him to emerge from whatever dire straits he is in presently. Thus the Prologue begins as a petition to the king to see that Hoccleve’s annuity is paid. By the end of it, however, Hoccleve has effectively reversed the position of patron and supplicant. The king has become the one who needs something “to dryve foorth” his presumably sleepless nights,
and Hoccleve is now in a position to offer the counsel by which the king may profit (2136-42).

For Hoccleve, as for the fourteenth-century authors treated in previous chapters, this new idea of the political subject resolves the problem of jurisdictional multiplicity because it cuts across class boundaries. It is something that every member of the polity, including possibly the king, potentially shares with every other member of the polity, regardless of social rank or station in life. In the body proper of the poem, Hoccleve places the secular ruler in the framework of the generic political subject that gradually takes shape over the course of the Prologue. The main body of the poem is loosely, and some have argued rather arbitrarily, divided into three sections. The first “De justitia,” is concerned primarily with the intersection of legal and moral definitions of justice, and how they shape or should shape one’s understanding of “virtue.” The second, “De pietate,” explores the particular virtue of pity or compassion.38 In the final section, “De misericordia,” Hoccleve turns to an exposition of mercy, which is arguably an embodied form of pity that has been put into the service of justice.

Within each section, Hoccleve uses the exempla, as in a more traditional mirror for princes, to illustrate abstract principles of good governance for the prince himself. Yet in the beginning of “De justitia,” he constructs a model of the polity in which these abstract principles apply not just to the secular ruler but, through his person, to the individual, setting a universal standard of behavior for society as a whole. Hoccleve’s interest in kingship specifically thus becomes an exploration of individual political

38 Cole, *Literature and Heresy*, 118, argues that Hoccleve represents pity as a passion that only becomes virtuous when it is channeled through or disciplined by justice in the form of mercy.
identity more generally. In describing the social organization of the polity, Hoccleve uses language drawn from the Secretum:

By feith is maad the congregacioun
Of peple and of citees enhabitynge;
By feith han kynges dominacioun;
Feith causith eek of men the communynge;
Castels by feith dremen noon assailynge;
By feith the citees standen unwerried,
And kynges of hir sogettes been obeied. (2206-12)

The context of this passage clarifies that Hoccleve is using the word “feith” in its sense of “trust” rather than “a system of religious belief.” His repetition of the word suggests that it means more than simple faith in the king’s coronation oath (2199-2205), however. Faith is of course that which runs from subject to prince and underlies the “kynges dominacioun.” It also runs from subject to subject, making the “congregacioun,” and causing “eek of men the communynge.” Because it connects the subjects to one another as well as to their king, “feith” elides the potential geographic boundary between the “congregacioun” of the realm, and that “of citees enhabitynge,” as well as the jurisdictional boundary between sovereign and subject. Hoccleve’s depiction of the community as a “congregacioun,” seems to draw upon the multiple meanings of that word, as a guild or, as it is used in Wycliffite texts, a congregation of the faithful. He clearly departs from estates discourse that imagines a singular body politic comprising fundamentally different “members” and formulates a new model for the polity composed
of **bodies** politic, all of whom share a certain fundamental similarity on account of the
“feith” through which they are joined first into a “congregacioun” and then into a polity
where the “feith” that joins man to man is the same “feith” that joins king and subject.

He reinforces the idea that the king is not only a ruler, but also a member, of the
political community when, glossing Giles of Rome with language drawn from Bernard of
Clairvaux, he speaks of a “right of brethirhede,” by virtue of which the good ruler has an
obligation as a “brothir,” not somewhat surprisingly as a father, to teach his subjects by
example:

> Every man owith studien and muse
> To teche his brothir what thynge is to do
> And what behovely is to refuse;
> That that is good, provokynge him therto.
> And thus he moot conseille his brothir, lo,
> Do that right is and good to Goddes pay,
> In word nat ooly but in werk alway.

> Lawful justice is, as in maneere,
> Al vertu, and who wole han this justice,
> The lawe of Cryst to keepe moot he leere.
> Now if that lawe forbeeded every vice,
> And commande al good thyng and it cherice,
> Fulfille lawe is vertu parfyte
And injustice is of al vertu qwyt. (2500-2506)

Hoccleve describes a king whose duties and obligations to the community flow from his status as a member of that community, as well as from his position as princeps, the first among many. Like his citizens, the secular ruler has an obligation to keep the “lawe of Cryst,” doing what is right “In word nat oonly but in werk alway.” The obligations imposed upon the sovereign by his office are in essence the same as those imposed upon “Every man” within his realm. Exemplarity, one’s duty “To teche his brothir what thynge is to do,” is a universal condition of community membership, rather than something that arises on account of one’s special status or privilege within that community. In this passage, we can see echoes of Bracton’s idea of the jus gentium, the law “common to men alone, as religion observed toward God, the duty of submission to parents and country, or the right to repel violence and injuria (II.27)”

We can also read the influence of Bracton’s idea of what Kantorowicz has called “law-centered” kingship, or what I have referred to previously as “king-centered” law:

The king must not be under man but under God and under the law, because law makes the king. Let him therefore bestow upon the law what the law bestows upon him, namely, rule and power. For there is no rex where will rules rather than lex. Since he is the vicar of God, . . . that he ought to be under the law appears clearly in the analogy of Jesus Christ, whose vicegerent on earth he is . . . . There ought to be no one in his kingdom who surpasses him in the doing of justice . . . . If it is asked of

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him, since no writ runs against him there will [only] be opportunity for a petition, that he correct and amend his act; if he does not, it is punishment enough for him that he await God's vengeance. No one may presume to question his acts, much less contravene them (II.33).

By imagining within *The Regiment* a polity that is a congregation or brotherhood of the faithful, as well as a collection of subjects beneath the king, Hoccleve describes how the “lawe of Cryst” might be absorbed into the law of the realm. He seems to aspire to a Bractonian polity in which men become subjects of the realm, entitled to “Lawful justice,” by learning to keep God’s law. Further, to the extent that the “lawe,” a referent that seems to encompass both the “lawe of Cryst” as well as secular “Lawful justice,” forbids vice and commands men to “cherishe” all “good thyng,” fulfilment of it “is virtue parfty.” Through a deliberate commingling of juridical and moral language Hoccleve blurs the line between crime and sin, and erases the distinctions between one’s obligations as a member of the church and as a subject of the realm. By a sort of rhetorical sleight of hand that merges the secular and spiritual realms, he imagines that the law of England might be an agency that could bind even the king because it is the earthly embodiment of God’s law. He describes an ideal polity in which only a weak or immoral person, or a weak or immoral king, would dare to contravene the law since “injustice is of al vertu qwyt.”

In such a regulatory framework within which the law binds everyone equally, the king not only sets an example for his subjects, but those subjects, through their obedience
to the law and their observation of Christian moral precepts, set an example for the king.

As Simpson has noted:

Royal ethics, this poem implies, are largely coincident with subtle hermeneutics. Once read as a subtle act of communication itself, the ethical advice so often derided as naive can be redescribed as a sustained performance of royal instruction. Hoccleve offers Henry a mirror for princes in which Henry is taught to read the reflection of his subjects’ bodies.40

Just as significantly, the king’s subjects set examples for one another. Immediately following upon his discussion of the realm as a congregation bound together through the law of Christ, Hoccleve turns to an exposition of several exempla concerned with the role advisors play in enhancing, or far more often, diminishing the king’s majesty:

Ful often sythe it is wist and seen
That for the wrong and the unrightwisnesse
Of kynges ministres, that kynges been
Holden gilty; whereas, in soothfastnesse,
They knowen nothyng of the wikkidnesse;
Unjust ministres ofte hir kyng accusen,
And they that just been, of wrong hem excusen.

If the ministres do naght but justice
To poore peple in contree as they go,

40 Simpson, Reform and Cultural Revolution, 214.
In this passage Hoccleve once again emphasizes the political ramifications of individual actions. Ministers who disobey their king, whether for evil or virtuous reasons, cannot be said to be acting on his behalf. Nevertheless, their actions reflect back upon him. Further, he suggests that the king’s ministers have an obligation to see that justice is done, even when the king himself is unjust. The most obvious implication of these lines is that just kings should be discerning in whom they choose as their advisors, since what those justices do as individuals will determine how the king’s subjects view his rule, and a number of the exempla offer variations on this theme.

Yet, in addition to the stories of an idealized Edward (2556-62) and the fictional Camilus (2584-2632), kings who embody the qualities of good judgment and political subtlety, Hoccleve offers tales such as that of Lysimachus:

I fynde how that Theodorus Sireene,
For that he to the kyng of Lysemak
Tolde his deffautes, the kyng leet for teene
Crucifie him, and as he heeng and stak
Upon the Crois, thus to the kyng he spak:
“This peyne, or othir lyk therto, moot falle
Upon thy false conseilloures alle.

“Nat rekke I thogh I rote on hy or lowe,
As he that of the deeth hath no gastnesse;
I dye an innocent, I do thee knowe;
I dye to deffende rightwisnesse.
Thy flaterers enhaunced in richesse
Dreden to suffre for right swich a peyne,
But I therby nat sette risshes tweyne.” (2570-86)

Although negative exempla often figure as prominently as positive ones within the *Gesta Romanorum* and *Furstenspiegel* traditions, as in the previously quoted passage, Hoccleve seems to shift the focus in this narrative away from the king and onto his advisors. Theodorus Cyrenaicus, an “innocent” crucified for speaking his mind, clearly serves as a figure for Christ, and he directs his parting shot, not at Lysimachus who apparently gets away with being a tyrant, but at his counsellors who acquiesce in the king’s injustice:

“This peyne, or othir lyk therto, moot falle / Upon thy false conseilloures alle.” The exemplum thus provides a further extension of Hoccleve’s discussion of the obligations imposed by faith upon the brotherhood of the realm. It is not just the king himself or the saintly Lysimachus who have a duty to lead by example. All of the king’s advisors, like all of his other subjects, share in the responsibility “to deffende rightwisnesse,” and to prevent the king’s unlawful persecution of innocent men.
As we have seen, within the political rhetoric of kingship that took shape in the parliamentary rolls and chronicle accounts over the course of the fourteenth century, the personal failures of Richard II inevitably include not only his inability to rid himself of advisers who led him to make poor decisions, but also his failure to follow the advice of those who counseled restraint. Hoccleve turns the tables, so to speak, and suggests that the advisors who remained silent should bear part of the blame as well. As deployed within *De Legibus*, the idea that subjects have a duty to curb the excesses of tyranny or misrule by speaking their minds leads to Bracton’s concern with educating subjects as well as kings. Hoccleve continues this tradition by offering exempla that speak to the future subjects of the prince, even perhaps more than to the prince himself. In this particular instance, Theodorus provides a positive example of a subject whose “obedience” to the king consists of speaking out, even unto death, against the king’s injustice. The kind of political agency that Hoccleve seems to offer here works within, and highlights all the contradictions of the Bractonian model. Subjects such as Theodorus can, and even have an obligation to petition the king and ask him to conform his behavior to the law. Beyond that, however, they have little recourse because ultimately the king exercises an absolute sovereignty over his own person and the bodies of his subjects. With the example of Theodorus, Hoccleve teaches an object lesson in the heavy obligations that men and women bear and also the substantial risks they confront as subjects of the realm.

### B. Segregating the Political Subject From the Heretic

41 While depicting the king as having been led astray by sycophantic yes-men and advisers with evil motives is perhaps a familiar trope, blaming advisors for their failure to restrain the king when he himself is the source of the problem recalls Bracton and the *addicio de cartis*, addressed in the preceding chapter.
Hoccleve’s exploration of the king’s majesty as an expression of how well or how poorly his subjects exercise the limited political agency with which they are endowed in the Bractonian model takes on an added topical dimension in “De pietate,” with Hoccleve’s retelling of the story of Perillus and the burning bull. Cole has already examined this exemplum as a commentary upon the virtue of mercy and a critique of the Lancastrian campaign against heresy.42 I do agree that in this episode, Hoccleve criticizes Lancastrian endorsement of the use of capital punishment in defense of orthodoxy. What I would like to do is recontextualize Cole’s analysis of this exemplum and its relationship to the account of John Badby’s execution in the Prologue within the narrative of the juridical evolution of English anti-heresy law that I have outlined above. Such a recontextualization reveals how and also explains why Hoccleve’s critique takes the form of an attack against De heretico comburendo as a sort of jurisdictional “lese majeste.” That is to say that, rather than a frontal assault on the statute’s substance, Hoccleve launches an end-run that targets the jurisdictional concerns raised by the law in order to call into question its moral, and hence its juridical authority.

The exemplum of Perillus and his bull begins with a description in which king and subject are aligned in the delight they take in cruelty:

Whilom ther was a tirant despitous,

That so delytid him in crueltee

That of nothyng was he so desyrous.

Now shoop it so, a man that to pitee

Fo was and freend unto iniquitee,

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A sotil werkman in craft of metal,
Wroghte in this wyse, as I yow telle shal.

His lord the kyng he thoghte plese and glade,
And craftily he made a bole of bras,
And in the syde of it he slyly made
A litil wyket that ordeyned was
To receyve hem that stood in dethes cas,
Undir the which men sholden sharp fyr make
Tho folk to deeth for to brennen and bake. (3004-17)

Hoccleve has taken some liberties with his source. Jacob de Cessolis writes of Perillus that he fabricated the bull thinking to please (“credens complacere”) the tyrannical Phalaridus.43 In Hoccleve’s version, Perillus becomes an enemy of pity and friend of iniquity, so that the bull’s construction fulfills the cruel desires of its maker as well those of the king he thinks to serve. By giving Perillus personal as well as political motivation for his fiendish invention, Hoccleve exaggerates his status as a “bad” advisor, someone whom the king should know better than to imitate. Thus, when the king sinks to his subject’s level, so to speak, his failure of insight is rendered all the more obvious. I also want to take a moment here to highlight how the diminuition of the king’s majesty in this exemplum flows primarily from his acquiescence in a brutal punitive scheme designed by one of his subjects. That Perillus is “guilty” and deserving of some form of punishment

is without doubt. Hoccleve’s characterization of Perillus makes that even clearer in *The Regiment* than it is in *The Chessbook*. The king does not err when he judges Perrilus. Rather, he errs when he substitutes the dehumanizing and mechanistic cruelty of the bull for what should instead be his own merciful justice.

The significance of this distinction becomes clearer when we turn to the Badby episode in the Prologue:

“‘My lord the Prince - God him save and blesse -

Was at his deedly castigacioun

And of his soule hadde greet tendrenesse,

Thristynge sore his sauvacoun.

Greet was his pitous lamentacioun

Whan that this renegat nat wolde blynne

Of the stynkyng errour that he was ynne.

“This good lord highte him to be swich a mene

To his fadir, our lige lord sovereyn,

If he renounce wolde his error clene

And come unto our good byleeve ageyn,

He sholde of his lyf seur been and certain;

And souffissant lyflode eek sholde he have

Unto the day he clad were in his grave.”
“Also this noble prynce and worthy knyght -
God qwyte him his charitable labour -
Or any stikke kyndlid were or light,
The sacrament, our blessid Sauveour,
With reverence greet and hy honour,
He fecche leet, this wrecche to converte,
And make our feith to synken in his herte.

“But al for naght, it wolde nat betyde;
He heeld foorth his oppinioun dampnable,
And caste our holy Cristen feith asyde
As he that was to the feend acceptable.
By any outward tokne resonable,
If he inward hadde any repentance,
That woot He that of nothyng hath doutance.” (295-322)

As Cole has noted, Hoccleve rewrites historical sources as well as perhaps his own eyewitness testimony in order to erase the institutional church from his account of Badby’s execution. Consistent with his merger of the secular and spiritual realm in “De justitia,” Hoccleve transforms the young prince Henry into a spiritual as well as legal intercessor. In addition to writing against the received historical discourses of this particular event, Hoccleve is also writing in opposition to the clear intention of the statute
De heretico comburendo, and the jurisdictional shift that its clerical proponents arguably meant to effect.

The language of the statute expressly commandeered the secular bureaucracy and pressed it into service of the church authorities, demanding the presence at ecclesiastical proceedings of secular officials and mandating swift and unquestioning execution of the death sentence once a finding of lapse or obdurance had been made. The statute, in essence, wrote the king, whose efforts it deemed no longer effective against the new threat posed by “lollards” and heretics, out of the picture, replacing his traditionally concurrent jurisdiction to pronounce on who was and was not a heretic with the exclusive jurisdiction of the ecclesiastical courts. It further substituted a very specific and mandatory penalty, i.e., death by fire in some highly visible place, for the flexible sentencing that Britton and its witnesses suggest existed prior to the statute. If the status quo prior to the statute created jurisdictional ambiguity and provided the king with an out by placing final authority for sentencing in the hands of the king and his courts, the state of affairs after the statute arguably brought the king, should he decide to exercise his power to pardon the offender, into direct conflict with the archbishop and the law itself. After 1401, in cases of heresy the king’s mercy was conceptually circumscribed by his obligation, as understood by Bracton and Hoccleve, to submit to the law where it was backed by the moral authority of God’s law. Although no act of parliament could deprive the king of his sovereign prerogative to offer a pardon to one of his subjects should he so choose, the statute De heretico comburendo went as far as it could to make the case for a pardon extremely difficult to argue.  

44 To this end, the statute provides that the unrepentant or relapsed heretic shall be “burnt, that such
By writing ecclesiastical authorities out of the picture in *The Regiment*, Hoccleve reclaims the jurisdictional space within which the king’s powers of pardon traditionally operated in criminal cases, including cases of heresy. He also goes some of the way towards bringing the machinery of justice in the chancery courts and his own place therein firmly back into the exclusive purview of the king, thereby shielding both from the threat of jurisdictional conflict between church and sovereign presented by the statute. Further, by making the claim that jurisdictional space for mercy should exist, Hoccleve calls into question the moral authority of the law itself by suggesting that it could be just only in its application, not in the abstract. To put it another way, the judgment (as distinguished from the punishment) of Perillus carries a moral authority of its own; it is justified by Perillus’s own poor character as well as his behavior as a “bad” political subject who led the king astray. In contrast, Hoccleve represents the judgment passed against Badby pursuant to *De heretico comburendo* as potentially lacking the sort of moral authority that would normally, in the Bractonian model of the polity upon which Hoccleve seems to draw, bind the king to acquiesce in the law’s operation. The fact that Hoccleve rather masterfully separates issues of crime and punishment in the burning bull

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punishment may strike fear into the minds of others, whereby, no such wicked doctrine and heretical and erroneous opinions, nor their authors and fautors, in the said realm and dominions, against the Catholic faith, Christian law, and determination of the holy church, which God prohibit, be sustained or in any way suffered; in which all and singular the premises concerning the said ordinance and statute, the sheriffs, mayors’ and bailiffs of the said counties, cities, boroughs and towns shall be attending, aiding, and supporting to the said diocesans and their commissaries.” *Statutes of the Realm*, II.127-28.

It attempts to close off the possibility of mercy by specifying that neither heretical beliefs and practices, nor their “authors and fautors” are to be “sustained or in any way suffered,” since such sustenance or sufferance would be in opposition to “Christian law” as well as the “Catholic faith, . . . and determination of the holy church.” The statute then ends by reiterating its claims upon “the sheriffs, mayors’ and bailiffs of the said counties, cities, boroughs and towns” who are charged with carrying out the will of the “said diocesans and their commissaries.”

45 Fitzherbert’s construction suggests that the king’s power of pardon in heresy cases (“and then it seemeth the King, if he will, may pardon him the same,”) stemmed from the king’s jurisdiction to “doe with [the heretic] as it shall please the King, etc.”
exemplum suggests that his blurring of such issues in the Badby episode is a deliberate attempt to get at the substance of the law through a critical erasure of the jurisdictional quagmire that it created.

Such a conclusion also finds support in Hoccleve’s repeated attempts to redefine heresy in terms of doctrinal heterodoxy regarding matters of religious observance and privately held belief, rather than as public participation the host of vernacular expressive activities enumerated in De heretico comburendo and the Constitutions. In the Prologue, he characterizes Badby’s crimes, which in the historical record include openly espousing and teaching heretical opinions, as a problem more of personal belief than of public dissemination of those beliefs: “The precious body of our Lord Jhesu /In forme of brede he leeved nat at al;” (288-89). He also uses the Badby episode to provide himself with an early opportunity to deflect any accusation that he holds Wycliffite sympathies when the old man demands of Hoccleve the narrator, “Sone, if God wole, thow art noon of tho / That wrappid been in this dampnacioun?” (ll.372-373). With the old man’s question, when Hoccleve the narrator has said nothing to indicate the doctrinal heterodoxy for which the poem insists Badby was executed, Hoccleve the author signals his own anxiety that the law as it stands brings under suspicion all of those who complain and call for reform, regardless of their religious motivation or lack thereof. He has the narrator respond with the orthodox, if still somewhat equivocal, “Of our feith wole I nat despute at al, / But at o word, I in the sacrament / Of the auter fully byleeve and shal.” In so answering, Hoccleve frames heresy once again within the narrow confines of the
eucharistic debate. Later, in the main body of the poem, he denounces the belief that images lead to the sin of idolatry.

Hoccleve’s rather insistent definition of the Wycliffite heresy as a debate over the personal, interior experience of the sacrament of communion and the use of images selectively identifies what is and is not heretical about Wycliffism itself, and omits significant and more broadly applicable aspects of Wycliffism, including the more political features of Wycliffite discourse that have been outlined in the previous chapter. By attempting to limit both the jurisdictional and substantive scope of *De heretico comburendo*, Hoccleve does accomplish an elevation of Lancastrian majesty vis a vis a diminishment of the church’s authority to intervene in the administration of civil judicial matters. Just as significantly, though, by containing the statute’s reach, he attempts to preserve outlets for political agency that are created and maintained by the Middle English literature of sovereignty in which *The Regiment* participates and establish as orthodox hermeneutic practices and political ideas that he shares with his Wycliffite as well as orthodox contemporaries and predecessors.

**III. Sovereign Obedience in *Dives and Pauper***

My interest in whether *Dives and Pauper* engages the literature of sovereignty is two-fold. First, the work and its author, from very early on in the fifteenth century, occupied an ambivalent space between orthodoxy and heterodoxy. In attempting to ward off suspicion of heresy, *D&P*’s author engages in rhetorical strategies similar to those Hoccleve employs in the *Regiment of Princes*, giving rise to the question: If it is not the heterodoxy of the religious doctrine espoused in *Dives and Pauper* that explains its
equivocal position, what then was it?\footnote{As noted below, \textit{D&P}'s author also appears to have authored the Longleat sermons, which were previously attributed to Wycliffite authorship. See Anne Hudson, “Old Author, New Work,” \textit{Medium Aeum} 53.2 (1984): 220-38.} Second, in the process of incorporating and explaining subject matter arguably drawn from the literature of sovereignty, \textit{D&P}'s author discovers a political space where individuals exercise sovereignty outside of the jurisdiction of secular, as well as religious authorities. My goal here is not to attempt a comprehensive analysis of this truly compendious work, but rather to answer the narrow question of whether and to what extent its anonymous author may have been influenced by the ideas of political subjectivity, individual sovereignty, and law-centered kingship with which his near-contemporary Thomas Hoccleve was more centrally concerned. Towards that end, much of my discussion will focus on the section dedicated to exposition of the fourth commandment, to honor one’s father and mother, wherein the most pointed remarks about such subjects can be found.

\textit{Dives and Pauper} was composed sometime during the first two decades of the fifteenth century.\footnote{Priscilla Heath Barnum, ed., \textit{Dives and Pauper} (London: Early English Text Society, 1976), Lxxiii-xix. Barnum establishes a \textit{terminus post quem} of 1402 based on the author’s descriptions of the spectacular appearance of a comet in 1402 and the \textit{De heretico comburendo}.} As Priscilla Heath Barnum, the text’s modern editor has observed, the author’s deployment of a dialogue form in which “he presents not just two speakers but two speakers with distinct and often clashing points of view”\footnote{Ibid., II.xxxv.} is unique among both decalogue commentaries specifically and manuals of lay instruction more generally. Barnum offers a Latin provenance for the form, but perhaps \textit{D&P}'s author draws as well upon a vernacular tradition exemplified in Gower’s \textit{Confessio Amantis}, Langland’s \textit{Piers Plowman}, and Trevisa’s \textit{Dialogue on Translation Between a Lord and a Clerk}, among
others, all of which enliven the magister/discipulus exchange by merging it with the
debate form. Further, like his contemporary Hoccleve, D&P’s author engages the
problem, central also to Wyclif’s De mandatis divinis and the vernacular Wycliffite works
discussed previously, of “Can God’s laws and man’s laws be harmonized?” In addition
to sharing these formal characteristics and broad thematic concerns with the Middle
English literature of sovereignty, D&P’s author seems to draw upon a model of the
political subject offered in both orthodox and Wycliffite contributions to that genre.

Before turning to a more thorough exploration of what, if anything, Dives and
Pauper seems to borrow from the Middle English literature of sovereignty, though, I
would like to take some time to consider the equivocal legal status of the text, as well as
the manner in which its author attempts to shield his literary endeavor by limiting the
reach of heretical jurisdiction. As Anne Hudson notes in The Premature Reformation,
one Robert Bert underwent prosecution for heresy based largely on his possession of a
copy of Dives and Pauper while at almost the same time, the abbot of St. Alban’s
monastery could commission a copy for his library without reprisal. Barnum has
identified passages within D&P itself and within the Longleat sermon cycle, which he
also authored, where this “radically” orthodox writer expresses fear of reprisal. She
concludes that “[t]he writer’s attitude towards the sacraments of the Church [along with
other controversial subjects such as confession, images, and oath-taking], to the extent
that he discusses them at all, is unexceptionally orthodox,” and reasons “that suspicions

49 Ibid., II.xvi.
51 Ibid., 420.
52 Barnum, Dives and Pauper, II.xx-xxvi.
53 Barnum, Dives and Pauper, II.xlvii.
about *D&P* . . . were based not on its content but on the fact that it was a book.” Among the laity, where book ownership in general was relatively rare, the possession of any vernacular literature at all might be suspicious, less so among the bookish clergy. Given the fact *Dives and Pauper* consists in large part of vernacular translations and glosses of biblical material, and considering the potentially sweeping breadth of the Constitutions, which were likely in effect prior to its completion, Barnum’s inference is a logical one. It also goes part of the way towards explaining why *D&P*’s author, in spite of the fact he was clearly aware that the church’s jurisdiction to police the faith was in reality very broad indeed, takes pains insistently and somewhat repetitively to allow a very narrow scope for that regulatory authority, even while he concedes the point in matters of doctrinal orthodoxy.

For example, in the middle of his discussion of the fourth commandment, the author has Dives observe:

> Resoun 3euith þat men schuldyn techin her childryn Godis / lawe & goode þewys & for to takyn hed to God þat made us of nout & bou3te us se dere. But now men seyn þat ðer schulde no lewyd folc entrymettyn hem of Godis lawe ne of þe gospel ne of holy writ, neyþer to connyn ne to techyn it. (I.327.1-5)

In this passage, *D&P*’s author reduces the substance of the Constitutions to a mere rumor, passed around among the relatively ignorant laity. He then has Pauper confirm Dives’s inference regarding the demands of reason, and here his critique echoes the Bractonian
legal model in which the strength of the law’s juridical authority varies in direct correlation with the moral imperative behind it:

Þat is a foul errour & wol perlyous to mannys soule, for iche man & woman is boundyn aftir his degre to don his besynesse to knowyn Godis lawe þat he is bondyn to kepyn. And fadris & moodris, godfadris & godmodris arn boundyn to techyn her childryn Godis lawe or ellys don hem be tau3t. (I.327.5-8)

In effect, D&P’s author ridicules the very idea that one could outlaw things such as vernacular transmission of scripture because doing so would be counter not only to reason, but to God’s law as embodied in the ten commandments. He is quite comfortable allowing the institutional church to define the appropriate attitude toward the sacraments, the use of images in worship, the role of pilgrimage as a form of religious observance, the correctness of swearing oaths, etc., even when the members of the clergy doing the defining are themselves in the wrong (I.338.39-44, I.340.1-12). He is not, however, willing to confirm that the church’s authority to police doctrine necessarily includes jurisdiction over the channels through which it is disseminated.

Neither, as it turns out, is D&P’s author willing to concede that sort of jurisdiction to the secular authority. In his discussion of the first commandment, which is by far the longest section of the treatise, the author criticizes the use of the death penalty to punish those who “speke with the trewthe a3ens here falshed”:

And so I drede me that God wile maken an ende of this lond, for we louen no pees, we seken no mercy, but oure lykyngge is al in warre and wo, in
mordre and shedyng of blood, in robrie and falsked. And oure besynesse be nyght and day is to meyntenen synne and to offend en God. And ouermore, so welawey, they haue ordeyned a comoun lawe that what man speke with the trewthe a3ens here falsked he shal ben hangen, drawen and heuded. (I.148-49.42-46)

Barnum identifies the “comoun lawe” at issue in this passage as *De heretico comburendo*. She ascribes the “confusion” regarding the penalty either to the relative “novelty” of punishing heresy with death by immolation, or to a veiled reference to a 1402 case in which a Franciscan of Ayelsbury convent was executed for treason because of his continued loyalty to Richard II. She also notes that as the fifteenth century progressed, heretics were increasingly punished as traitors, especially after the “Lollard Rebellion” of 1414. I find it difficult to give any credence to the idea that *D&P*’s author made a mistake about the penalty imposed by *De heretico comburendo*, particularly since death by fire was the penalty traditionally associated with the crime of heresy at common law. Further, if the composition of *Dives and Pauper* continued, as Barnum contends it did, until after the Constitutions, then *De heretico comburendo* was arguably already a legal fixture, not a novelty, when its author was writing. If this passage is a reference to *De heretico comburendo*, then the author has deliberately substituted the penalty traditionally associated with treason--hanging, drawing and quartering--for the real statutory penalty.

I also believe it is possible that the author may not be referring to *De heretico comburendo* at all but rather to the second parliamentary statute enacted to deal with the

54 Barnum, *Dives and Pauper*, II.xix, n. 148/44.
Lollard problem, 2 Hen. V. cap. 7. Although my hypothesis would push the earliest possible end date of the text’s composition back by at least four years from the date Barnum gives, from 1410 to 1414 or 1415, it would make a great deal of sense in context. The statute to which I am referring, and to which Blackstone also refers, returned to secular courts the power to indict and arrest subjects on charges of heresy. Where the preamble of *De heretico comburendo* locates motivation for the statute with the prelates and clergy of the realm, the preamble to this legislation has the king’s fingerprints all over it:

> Whereas for as much as great Rumours, Congregations and Insurrections, here in the Realm of England by divers of the King's liege People, as well as by them which were of the Sect of Heresy commonly called Lollardry, as by other of their Confederacy, Excitation and Abetment, now of late were made, to the Intent to adnull destroy and subvert the Christian Faith and the Law of God and Holy Church within this same Realm of England, and also to destroy the same our Sovereign Lord the King and all other Manner of Estates of the same Realm [of England], as well Spiritual as Temporal, and also all Manner of Policy, and finally the Laws of the Land: the same our Sovereign Lord the King, to the Honour of God and in Conservation and Fortification of the Christian Faith, and also in Salvation of his Royal Estate, and of the Estate of all his Realm, willing against the Malice of such Hereticks and Lollards to provide a more open Remedy and Punishment than hath been had and used in the Case heretofore, so
that for ear of the same Laws and Punishment, such Heresies and Lollardries may the rather cease in time to come, by the Advice and Assent aforesaid and at the Prayer of the said Commons hath ordained and established . . .\textsuperscript{56}

Regarding the continued jurisdiction of the church, the law gave with one hand and took away with the other. It conceded exclusive jurisdiction over determinations regarding heterodoxy to the ecclesiastical courts, but it provided that, in cases where the suspect had also been indicted on charges “whereof the conisance belongeth to the secular judges and officers” suspects were to be delivered into the hands of church authorities only after “they be acquit or delivered before the secular Judges of such [Things].”\textsuperscript{57} The secular indictments were not to be used as evidence in the ecclesiastical proceedings, but were rather to be provided “for information before the spiritual Judges” who were directed to “commence their Process against such Persons in the same manner as though no Indictment were, having no Regard to such Indictments.” In other words, the king’s courts were given the first bite at the apple. The church retained its exclusive jurisdiction in matters spiritual, but its jurisdiction was also by implication clearly limited to those matters alone. The references in the preamble to preserving the king’s “estate” and the “estate of all his realm” imply that treason is chief among the secular offenses of which heretics may also be guilty.

Whether \textit{D&P}’s author is referring to \textit{De heretico comburendo} or the later statute, the literary context of the reference to a “comoun lawe” that turned truth-telling into

\textsuperscript{56} \textit{Statutes of the Realm}, II.181.
\textsuperscript{57} Ibid., II.183.
treason, suggests the author’s critique is aimed at the king and the secular authorities, rather than the church. Not only does he invoke the penalty for treason, a crime that to this day remains closely connected with the physical person of the sovereign as well as his (and now, her) office, but at this moment in the text Pauper is bemoaning the general state of the realm, not the state of the church in particular. The chapter also ends shortly thereafter with Pauper’s citation of a biblical passage, Ecclesiastes 10:8, that deals with the transitory nature of secular “remes” that fail to heed divine mandates. Like Hoccleve, D&P’s author attempts to limit definitions of heresy in order to prevent jurisdictional encroachment upon the limited discursive space--that of advice, petition and complaint--that Bracton and the Middle English literature of sovereignty carve out for the exercise of individual political agency. Unlike Hoccleve, who seems content to wrest jurisdiction over that space from the church in order to put it into the hands of the king, D&P’s author takes the much bolder position that neither the secular nor the ecclesiastical authorities should be vested with jurisdiction to control the expressive channels through which “truth” is disseminated. Hoccleve depicts heresy as a jurisdictional tug-of-war between the church and the king. In Dives and Pauper, heresy becomes something even more revealing, a three-way struggle among the church, the king and the sovereign individual.

As I have noted above, Dives and Pauper shares both formal and thematic similarities with Hoccleve’s Regiment and with a number of the fourteenth-century works discussed in previous chapters. The lively dialogue form, which marks it as unique among decalogue commentaries and other manuals of lay instruction, is a narrative strategy that one sees frequently in Middle English works dealing with the problem or
question of secular political identity. The text’s author also tends to emphasize the
correlations, rather than the distinctions, between and among the various estates in the
process of formulating moral and legal standards that seem to (or at least should) regulate
the behavior of all individuals, regardless of status or station. For example, Barnum has
observed how, in the “Holy Poverty” prologue, within a discussion of the active versus
the contemplative life, the distinction between the two modes of living begins to break
down as Dives and Pauper explore how they both might obtain “hye perfeccioun” in an
uncloistered setting. Pauper describes the two ways in this manner in the prologue:

Overmore, þu shalt vnderstondyn þat þere been too maner of lyuys be qheche man may be sauyd. The ferste is clepyd a lyf contemplatyf. þe secunde is clepid a lyf actyf. The ferste staant princepaly in besynesse to knowyn God and Godys lawe and louyn hym abouyn alle thyngge. The secunde staant princepaly in goode dedys and good reule and helpe of oure euene cristene. The thre ferste preceptys of þe ferste table longyn to alle, but princepaly to hem þat been in lyf contemplatif, þat han forsakyn þe word and wordly besynesse for þe loue of God. The seuene preceptys of the secunde table also longyn to alle, but princepaly to hem þat been in þe lyf actyf and in besynesse of þis word. The lyf contemplatyf is in eese and reste of herte. The lyf actyf is in doyngge and trauayl and besynes of body and soule. (I.68-69.42-54)

As the work progresses, however, it becomes clear that the highest duty of the clergy,
even those who choose the cloistered life, is not to retreat from but to minister to the laity.

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58 Barnum, *Dives and Pauper*, xvii-xviii.
Thus the “lyf comtemplatyf,” rather than consisting solely of “eese and reste of herte,” instead seems to require something of the “doyngge and trauayl and besynes of body and soule,” that characterize the “lyf actyf.”

Nor do the clergy leave behind all of their worldly obligations when they take the cloth. As Pauper explains in response to Dives’s question, “What 3if fader & moder fall in myschef aftir þat her sone is profes in religion?” (I.316.31-33):

3if he be a religious mendyant, he may beggyn for his fadir & moodir as he doth for hymself & so helpyn hem & releuyn hem be menys elmesse . . . . And 3if he be a religious possessioner induyd be temperil goodis, he may releuyn hem in þe same maner, or ellys be elmesse of þe hous, whyche is enduyd princypally to helpyn þe nedy, & namely fadir & modir. (I.316-18.44-52)

Mendicants, even though they may forsake most worldly concerns, are still obligated to honor their parents, and therefore must provide for them using what means are available to them. With regard to those who pursue the active life, the very fact that the text’s extended discussion of “God and Godys lawe” is directed to a layman indicates that the active life requires its fair share of contemplation. Though some commandments may have more relevance for those who take up a place within the institutional church, all of them apply to and regulate the lives of all individuals who make up the larger congregation of the realm. Within the text, priests, lords and commoners are taken out of the hierarchical context of estates satire and redeployed within a new setting that makes
the examples they set laterally visible as expressions of a regulatory framework, that of
the ten commandments, that binds them all equally.

For *D&P*’s author, reimagining the community of the realm as a collection of
individual bodies that are all marked to one extant or another by a set of rules common to
them all offers the same advantage as it does to those authors discussed previously. It
permits him to reframe the problem of institutional reform as a matter of individual self-
regulation, thereby avoiding the jurisdictional conflict and dislocation that often attends
any attempt to regulate the institutions themselves. Where, however, the authors
discussed previously tend to resolve jurisdictional conflict by absorbing one’s religious
identity into one’s identity as a subject of the realm so that crime effectively becomes
synonymous with sin, *D&P*’s author maintains a distinction between the two. In
response to the following inquiry from Dives:

> Y suppose þat my lyche lord, þe kyng, byddith me don a þing & myn
> maystir or myn soueryn byddith me don þe contrarie, or 3if my curat
> byddith me don a þing contrarie to my buschopys byddynge, to whom
> schal Y obeyyn? (I.338.1-4)

The author has Pauper provide a standard answer with a somewhat surprising caveat:

> In þat cas þu schalt obeyyn to þi kyng, þat is þin soueryn & þin maystrys
> souereyn also. And þu schal obeyyn to þin buschop, þat is þin curatis
> prelat & þin also, 3if þe kyngis byddynge & þe buschopys ben nout
> a3enys Gods worchepe. And 3if þin kyng, þin pope, or þin buschop, or
> ony souereyn bydde þe don onyþing þat þu wost wel is a3enys Gods
In this passage, *D&P*’s author takes the analogy that the Middle English literature of sovereignty draws between kings and their subjects to its final, logical extreme. If kings are only bound by the law when it embodies God’s will, then—to the extent the king’s subjects are like the king—their duty of obedience is to God first, king and his law second.59 Elsewhere in the same section the author, through Pauper, may opine that sufferance of tyrants is man’s God-given fate (I.336.3-14). Here, though, out of a jurisdictional conflict between the individual, and his or her secular and spiritual sovereigns, *D&P*’s author carves a space within which the individual operates relatively independent of institutional control.

In another equally telling exchange, the author has Pauper give the following reply to Dives’s question, “Whan þe offýceris of þe kyng wetyn wel þat a man or woman is dampnyd to þe deth vngyltyche, schul þei obeyyn to þe iuge þat byddith hem slen man or woman withoutyn gilte?” (I.342-43.1-3):

3if þe officer be sykyr þat he is vngylty, he schal nout slen hym but he schal obeyyn to God þat byddyth hym slen no man ne woman vngylty.

But 3if he be in doute weyþer he is gyłty or vngylty, þan he schal obeyyn

59 David Aers, *Faith, Ethics and Church: Writing in England, 1360-1409* (Cambridge: D.S. Brewer, 2000), notes that both Aquinas and Okham provide similar answers to the same question when considering how reason and knowledge contribute to faith and the understanding of one’s political duty of “obedience” (1-10). While the idea presented in this passage may be a commonplace in Latin works of theology, it is still somewhat surprising to see in a vernacular manual of practical instruction addressed to a layperson. Further, as Aers describes it, both St. Thomas and Okham emphasize the role that participation in embodied social institutions plays in generating the knowledge of God or God’s will that should inform one’s sense of what is right and wrong (11-14). In this passage, Pauper’s argument relies heavily on personal logic and the language of individual sovereignty, not reason or knowledge passed down through institutional or associational forms, to make its point, resulting in an abstract morality that precedes and also supersedes both church and realm.
to þe iuge & don his byddyng, & he is excusyd be his obedience, . . . .
Netheles þe sogetis must bewar in swyche doutis þat þei presumyn nout to mychil on hir owyn wit, for wol ofte a man wenyth to knowyn a þing & ben certeyn of his knowynge & 3it is he deseyuyth & it is nout as he wenyth. . . . And þerfor Y wolde conseylyn þe sogetis and þe officerys in swyche þinges to stondyn to þe conscience & þe ordinance of her souereynys & obeyyn with sorwe of herte, hauynge pyte of manys deth & of his dishese & no lykynge in cruelte. (I.343.4-18)
The question as well as its answer resonate in an historical context where *De heretico comburendo* and possibly the later legislation, 2 Hen. V cap. 7, mobilize the secular bureaucracy in a crusade against heresy that criminalizes any number of previously lawful activities. By hedging his answer with the qualifier, “sogetis must bewar in swyche doutis þat þei presumyn nout to mychil on hir owyn wit,” Pauper makes it clear that the sort of “civil disobedience” that he is excusing here results from the substitution of divine for institutional will. The political subject is still a subject in the sense that his or her political identity and agency are derivative of a sovereign. Nevertheless, the sovereignty that an individual subject exercises on behalf of God is apparently unconstrained by any earthly institution.

Reasoning in this manner, *D&P*’s author ultimately arrives at a definition of virtuous obedience that marks out a wide swath of territory where the individual is on his or her own with only God and the ten commandments for a guide:
According to Pauper, some things are clearly prescribed by the ten commandments, and one is therefore bound by God’s law to do them. Other things are clearly proscribed by the same set of mandates, and one is therefore bound by God’s law to abstain from them. Obedience, as a virtue, rests only in submitting to one’s sovereign in those matters that fall in between, in doing those things that might be good or wicked, well done or evilly done, depending upon the circumstances. In reading this statement, we should remember the context. *Dives and Pauper* is a work given over to reconciling God’s law and man’s law. Its author does a creative and relatively thorough job of demonstrating that most of one’s daily life can be regulated through reference to the decalogue, God’s law. Given
that as the case, it seems institutions in general, be they secular or religious, play a limited role in defining how one participates in community of the realm.

If Custance in the *Man of Law’s Tale* is the political embodiment of an orthodox religious ideal that we can also identify with the model of royal sovereignty prescribed in *Britton*, the political subject that emerges in *Dives and Pauper* embodies, to its fullest extent, the Wycliffite ideal of a contemplative, questioning and sovereign spiritual identity that seems to borrow a great deal from Bracton. In Bractonian jurisprudence, the juridical authority of the law stems in large part from its status as an expression of divine, as opposed to merely royal will. Within such a system, where there is virtually no distinction between “crime” and “sin,” the duty of “persons” to obey the law is always qualified by their responsibility to avoid sin. “Obedience” to God sometimes includes a qualified sort of disobedience of one’s secular superiors. As a number of Middle English authors discovered over the course of the late-fourteenth and early-fifteenth centuries, the Bractonian legal model maps rather neatly onto a Wycliffite model of the polity in which one’s identity as a Christian is merged with one’s identity as a member of the *communitas* or *congregatio* of the realm. In combining these two ideas, the Middle English literature of sovereignty opened the door to an individual political subject, which though it does not experience “subjectivity” in the clichéd modern sense, nevertheless precedes and exercises political agency independent of the jurisdictional authority of not only the

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60 As Aers notes in *Faith, Ethics and Church*, the version of the Christian duty of obedience that comes to be associated with the orthodox position after the statute *De heretico comburendo* in works such as *The Testimony of William Thorpe* counsels submission to tyrants even against the demands of reason (18-25). The version offered in *Dives and Pauper* and Bracton, wherein the demands of faith occasionally require one to stand up to abuses of secular power that contravene God’s law, is associated with heresy in the same text (19).

61 Even for the relatively “sovereign” political subject of *D&P*, truly subjective, and therefore individualized, interiority is displaced by the divine mandate of the decalogue.
institutional church, but the king and his law as well. Once one allows that rational men can critique and even ignore their spiritual “betters” when those above them in the institutional hierarchy of the church fall short of the mark, then to the extent the secular realm is constituted as a community of the faithful charged to live according to God’s law, it is a rather short leap to say the same goes for their secular superiors.