A RELATIVISTIC VIEW OF SOVEREIGNTY

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THE place of the concept of sovereignty in political science has been sufficiently agitated during the last thirty-odd years. After a time of destructive attack, the world of politics awaited with some expectancy the constructive case of the pluralists, and this case is exemplified as fully as possible, perhaps, in Laski's *A Grammar of Politics*. As Rockow has suggested, "In the last five years [since the *Grammar*], there has been no new departure in English political thought. The books published may indicate strategic withdrawal."[1] In general, it is probable that the more effective attack on sovereignty will come, in the future, from the exponents of international law and the principle of a world community of legal values which transcends the state. Pluralistic criticism is becoming more a general theory of the social structure of the state and less an attack or even a denial of the state as a coördinating agency.[2] The defense of sovereignty, on the other hand, seems to be reaching a new and more respectable synthesis, which is not, however, materially different from certain earlier monistic ideas.[3] It is, no doubt, too optimistic to believe that some integrated notion of this conception may be accepted by both critics and defenders, or that they both will proceed to the examination of the state as a functioning institution.

The starting point of this paper is the recognition that both the monists and the pluralists attack the question of sovereignty in terms of universals. This is true of both the formal doctrine of sovereignty and the general theory of social functions which grows out of pluralism. But one peculiar aspect of this battle of universals is that the seemingly close lines of conflict run

[1] Lewis Rockow, "The Doctrine of the Sovereignty of the Constitution", *The American Political Science Review*, Vol. XXV (1931), p. 574.

[2] *Ibid.*, p. 587.

[3] See A. D. Lindsay, "Sovereignty", *Proceedings of the Aristotelian Society*, New Series, Vol. XXIV (1924), pp. 235-54; W. Y. Elliott, *The Pragmatic Revolt in Politics* (New York, 1928). Other publications will be cited in the course of this paper.

parallel more often than they cross. In the first place, the monists and pluralists disagree as to what is claimed as a universal in the doctrine of the other, and, in the second place, in the construction of their own systems, the universals which are postulated are frequently not in conflict with the fundamental ideas of the thinkers they attack. To be specific, much of the criticism leveled against John Austin in recent years would have been admitted as true by Austin himself, though somewhat irrelevant; and at the present time much of the critical reception of pluralism is based on the assumption that the pluralists have made more extensive claims than they actually have as to the nature of political authority.

Our problem here is to state the genuine and the pseudo-conflicts between monism and pluralism, to indicate what may be common to both types of interpretation, and to show the relativistic character of the doctrines of monism as well as of those which deny the sovereignty of the state.

Both monists and pluralists claim their theories are founded on the facts of society, or at least that what we know of the history of the state is not inconsistent with such ideas. Both claim that the conceptions they present are the best explanations of the legal and social foundations of political society; and both find the facts for which they are looking. Both would admit, conceivably, that the state could so change that their universals would be inapplicable. The monists will admit that the facts upon which sovereignty is built might disappear, and the pluralists should admit that facts might develop which would make the state genuinely sovereign. Yet, why should it not be admitted that the concept of sovereignty and the factual foundations of statehood are in constant evolution, and that such an evolution must weaken the universal character of political ideas both in space and time? On pragmatic and positivistic principles the pluralistic view must be limited spatially and temporally, just as must the monistic system of universals. Both pluralism and monism have one foot on the ideal and the other on the actual,[4] and it is difficult in different cases to determine

[4] Laski shifts in this respect as is well indicated by E. D. Ellis, "The Pluralistic State", *The American Political Science Review*, Vol. XIV (1920), pp. 400-401.

whether or not a statement of doctrine implies that it is factual or ideal. Monism is at least more coherent than pluralism since it contends that if, in a given case, the facts do not bear out the conception of sovereignty, the monistic position is more reasonable as a long-run interpretation of the state as it should be.[5] Pluralism, on the other hand, asserts itself to be pragmatic and scientific, and, with fundamental inconsistency, it postulates its ideas as of universal application. This is, in all probability, the essential logical weakness of the pluralistic attack on the doctrine of sovereignty. If pluralism is really pragmatic, room should be made for the eventuality in which the theory of sovereignty fits the facts.

While monism is very old in that some of its primary qualities reach back into the thought of antiquity, the pluralistic attack may be conveniently dated from Maitland's translation in 1900 of a part of Otto von Gierke's *Das deutsche Genossenschaftsrecht.* It was by asserting the real will and personality of the group that the unity of the state formulated in monistic theory was attacked.[6] If the issue between monism and pluralism has not been drawn by this time it is not likely to develop. We are, in fact, in an excellent position now to undertake a statement of the main outlines of the debate. The suspicion may arise, however, that there have been few occasions on which the issue has been joined and consequently the answers of each camp to the other have not been very effective in clarifying the situation. After a brief statement of the nature of the case made by these traditional opponents, an attempt will be made to evaluate the extent of real conflict in points of view.

[5] Professor Sabine admits this when he concedes that stable political systems will always show a tendency toward the ideal of monism, that is, a self-consistent legal system. G. H. Sabine, "Pluralism: A Point of View", *The American Political Science Review,* Vol. XVII (1923), p. 49.

[6] Otto von Gierke, *Political Theories of the Middle Age,* translation and introduction by F. W. Maitland (London, 1900); see also H. A. L. Fisher (editor), *The Collected Papers of Frederic William Maitland* (Cambridge, 1911), Vol. III, pp. 304 *et seq.*, "Moral Personality and Legal Personality." It is interesting to observe that the pluralistic attack really begins in earnest just where Professor Merriam's study ends. See C. E. Merriam, *History of the Theory of Sovereignty since Rousseau,* Columbia Studies, Vol. XII, No. 4, 1900.

In fine, most of the elements of the theory of the state which pluralism has advanced can be accepted by the defender of the doctrine of sovereignty. The monist is not primarily concerned with social norms, and therefore he can accept or at least not deny the utilitarian, pragmatic or positivistic ethics upon which the pluralistic case is based. However, as Professor W. W. Willoughby has shown by implication in *The Ethical Basis of Political Authority,* the monist is likely to retain, in the face of positivistic criticism, as much as possible of a rationalistic approach to the problem of political obligation. The monist may accept a public law status for groups or associations, and he may even admit them *qua* groups to political participation and accept the implied functional decentralization of the state. But what the monist insists upon is that one of the valid elements in the institutional framework of the state as we know it is its legal unity. He does not assert by any means that the legal unity of the state is physically unqualified though he might agree with Jellinek that that which characterizes the modern state is its overcoming of the medieval dualisms of church against state and king against people.[7]

The monistic state is the legal state, the *Rechtsstaat,* which moves within the *cadre* of the law. The making and the enforcement of law is the characteristic method of political action; in fact the state attains its legal unity by having a formal monopoly of the right to say what the law is.[8] The absolutism of the state for the monist is generally simply a legal absolutism which is more negative than positive, in that it precludes any other group or organization from having the capacity of making law in a formal sense on a parity with the state. In

[7] Georg Jellinek, *Allgemeine Staatslehre* (Dritte Auflage, Berlin, 1929), p. 323.

[8] The statement of the case in Hobbes and Austin, for instance, is the power of the state to issue commands to its subjects. Rousseau in general regarded law as a command of the body politic to the governmental agency. See A. R. Lord, *The Principles of Politics* (Oxford, 1926), p. 192. Professor Robert T. Crane has suggested, as a modification of Willoughby's juristic conception of the state, that the law should be defined as a command addressed to the agents of the state. R. T. Crane, "Discussion" (of W. W. Willoughby, "The Juristic Conception of the State"), *The American Political Science Review,* Vol. XII (1918), pp. 209-214.

its broadest sense, then, sovereignty is the peculiar capacity of the state to recognize what the law shall be.[9]

It cannot be said that on the ethical side modern monism makes any general claim to absolutism.[10] Those states which under present-day dictatorships assert an ethical or social absolutism are little concerned with the refinements of the doctrine of sovereignty, for the very word is eloquent of historic constitutionalism. It is one of the peculiarities of Fascism, National Socialism and Communism that they are pragmatic as to the means to be employed to attain the technological integration of the state, which seems to be one of the first objectives of such a socio-scientific monism.[11] It is true, of course, that nineteenth-century Idealism, whether German or English, asserted the unity of the state in both legal and ethical terms. For Bosanquet in *The Philosophical Theory of the State* true sovereignty is the ultimacy of the general will. A moderate statement of social monism from the ethical point of view, which

[9] W. W. Willoughby, *The Fundamental Concepts of Public Law* (New York, 1924), p. 71. Professor Laski has defined his position as follows: "I have termed this view the pluralistic theory of the state because it is rooted in a denial that any association of men in the community is inherently entitled to primacy over any other association." The title to the preëminence which Laski in fact grants depends always on the consequences of performance. H. J. Laski, "Law and the State", *Economica*, Nov. 1929, No. 27, p. 283. In contrast to this the monist would assert that, as a matter of fact, one of the primary allegiances of the individual is to the law as a permanent means of securing social peace. Social peace, for the monist, is a consequence of the supremacy of the law. The monist would agree, however, with Carl Schmitt, *Die Diktatur* (München, 1928), p. 178, ". . . . was dem Recht wesentlich ist, nämlich die Form."

[10] Professor Coker states the elements of monism as follows: (1) in a given society there is only one system for the enactment and enforcement of civil laws; (2) the usual name for "the organization comprehending these institutions is the state"; (3) within such an organization there is a legal sovereign, an organ or group which possesses ultimate legal control over other organs in the state; (4) and the state has a practical and moral utility as an agency of unification and coördination among the coöperative groups of society. F. W. Coker, "The Technique of the Pluralist State", *The American Political Science Review*, Vol. XV (1921), p. 211.

[11] This statement is probably less true of Germany than of Italy, since the National Socialists support the principle of "Germanic democracy", which consists in the free election of the leader who is subject to full responsibility. See Adolf Hitler, *Mein Kampf* (one vol. ed., München, 1933), p. 99.

contrasts sharply with the social monism of a pragmatic slant, is found in Hocking's *Man and the State*. Here, from an ethical point of view, the significance of the unity of the state is its monopoly of force, which means a denial of force to others than the rulers of the state, and which demands that political ends be attained by persuasion and motivations to action whether rational or propagandist. Hocking does not, on the other hand, claim for the state a morally absolute integration.

A curious phase of the development of recent years is that the concept of the state as a legal person does not seem to be regarded as significant support of the pragmatic dictatorship. It cannot be said that the idea of the state as a legal person is of any independent importance in contemporary totalitarian political science. On the other hand, Duguit has regarded the notion of the state as a legal person as a great metaphysical danger, while in fact it has been his non-metaphysical, sociological and syndicalistic interpretation which has given impetus to the absolutism of the state which he so greatly feared. History seems to show that the idea of the state as a legal person, which has served as a concept of operative criticism for the *Rechtsstaat,* is fundamentally inadequate for the sociological monism of the dictatorship.[12]

If we turn to the leading ideas of pluralism we find that the variety of its attack makes pluralism as well as the state pluralistic. Beyond certain principles of method which spring from positivism and pragmatism, there is little unity of front in the pluralistic onslaught.[13] In the work of Laski, for in-

[12] See Elliott, *op. cit.*, ch. xi, especially p. 324. For Duguit's attack on the monistic theory of the state with particular reference to German doctrines of the nineteenth century, see Léon Duguit, "The Law and the State", *Harvard Law Review*, Vol. XXXI (1917), pp. 1-185. See Morris Ploscowe, "La Procédure criminelle dans l'Italie fasciste", *Revue des sciences politiques*, Vol. LV (1932), p. 497, citing Michele Bianchi, "L'État, pour Mussolini, est une réalité non seulement politique, mais idéale et morale. La Personne vivante de l'État n'est pas un concept abstrait, une formule juridique, mais un sentiment et une volonté, le sentiment et la volonté de la nation."

[13] See F. W. Coker, *Recent Political Thought* (New York, 1934), chs. xviii-xix; *id.*, "Pluralistic Theories and the Attack upon State Sovereignty", in Merriam, Barnes and Others, *Political Theories: Recent Times* (New York, 1924), ch. iii; *id.*, "The Technique of the Pluralist State", *The American*

stance, as *A Grammar of Politics* will show, sovereignty is defined as power rather than as legal will in the monistic interpretation. It is easy for him, therefore, to show that since the power of the state is not absolute, the whole superstructure of political monism falls to the ground. Groups have power because they retain the loyalty of the individual, and this power of the groups is a counter-weight to the power of the state. The final positive principle of the functional state is that society is federal rather than unitary.

That pluralism is a general social theory of the state much more than a theory of the legal disunity of the state can be seen in the pictures drawn by John Dewey and Léon Duguit. Both found the state on fact, somewhat in contrast to Laski's attention to the individual conscience, and while Duguit leads finally to the principle of the responsible state which may be constructed on the conceptions of French administrative law, Dewey builds in *The Public and Its Problems* a responsible and realistic state on the indirect consequences of conduct. With both thinkers the formal legal unity of the state is illusory, for the law is not found in the formality of its declaration but in the coincidence of rules with social forces. That law must be

Political Science Review, Vol. XV (1921), pp. 186-213; E. D. Ellis, "The Pluralist State", *ibid.*, Vol. XIV (1920), pp. 393-407. G. H. Sabine, "Pluralism: A Point of View", *ibid.*, Vol. XVII (1923), pp. 34-50, gives a distinctly American interpretation of pluralism and rests his case principally on the incompleteness of municipal systems of law. See W. W. Willoughby, *The Ethical Basis of Political Authority* (New York, 1930), pp. 447-51, for a criticism of the views of Professor Sabine. It may be questioned whether "looseendedness" in a system of municipal law is a basis for the denial of legal sovereignty. See Jellinek, *op. cit.*, p. 358: "Das Dogma der Geschlossenheit des Rechtssystems verkennt das Grundverhältniss von Recht und Staat. An dem Faktum der staatlichen Existenz, hat alles Recht seine unübersteigliche Schranke. Daher kann eine Änderung in den Grundlagen des staatlichen Lebens zwar Recht vernichten, dem Recht wohnt aber niemals die Macht inne, den Gang des Staatslebens in kritischen Zeiten zu bestimmen." *Cf.* G. H. Sabine, "Political Science and the Juristic Point of View", *The American Political Science Review*, Vol. XXII (1928), pp. 553-575. For a discussion which shows distinct pluralistic tendencies, see Max Radin, "The Intermittent Sovereign", *Yale Law Journal*, Vol. XXIX (1930), pp. 514-531. See also P. W. Ward, *Sovereignty* (London, 1928).

formal in some sense is not denied, but it is contended that the formal element is the least significant thing about the law.[14]

Another theory attacking the sovereign *Rechtsstaat* is that of Krabbe in *The Modern Idea of the State*. Here, as in Duguit, a jural principle superior to the state is sought, but, in contrast with Duguit, the law itself is found in the ethical sense of the community. Real law is perhaps the *legal* consciousness of a community, and the test of law is its conformity with the sense of right, whether in the national or international community. State action can be declaratory of the law but not creative of legal validity, and therefore the state is bound by the law as is the individual. As in other pluralistic theories, the character of legal validity demands a synthesis of functional decentralization and international coördination.

The neo-Kantian attack on the formal sovereignty of the state is best expressed probably in the works of Kelsen.[15] On rational postulates as to the legal order, there rests a world community of legal values. The state itself does not possess a peculiar legal order; it constitutes such an order. Sovereignty is merely a hierarchy of legal norms culminating in a world system. In common with the pluralistic attack generally, the neo-Kantian school views the state as not only limited and subordinated internally but also internationally. Somewhat below the philosophical postulates of an international legal order is the standpoint of those international lawyers who contend that the state must not be considered to be even formally free to reject the rules of international law.[16]

[14] See J. M. Mathews, "A Recent Development in Political Theory", POLITICAL SCIENCE QUARTERLY, Vol. XXIV (1909), pp. 284-95, for an early criticism of Duguit.

[15] See Hans Kelsen, *Allgemeine Staatslehre* (Berlin, 1925). A convenient summary of this work is given by Kelsen, "Aperçu d'une théorie générale de l'État", *Revue du droit public et de la science politique*, Vol. XLIII (1926), pp. 561-646. Consult Johannes Mattern, *Concepts of State, Sovereignty and International Law* (Baltimore, 1928), ch. x.

[16] It would hardly be contended that at the present time there is an objective world sovereignty, and, on the other hand, international lawyers still assume frequently the doctrine of acceptance of international legal rules as the basis of actual domestic legality of these rules. The monist is in no sense an enemy of a developed world law. In fact, it is recognized as one of the chief of

Is it possible to reconcile these conflicting points of view? In the first place, it may be said that the fundamental issue between monism and pluralism comes to rest on the problem of the nature of law. The monist contends that at least one aspect of the problem of the law must be a formal examination of the conditions under which a declaration of a legal value is to be accepted. The pluralist contends that no unity of the state can be established on the principle of formal unity, that whatever unity is discovered in the state must be found in the real forces which constitute a society. The difficulty of this position is seen in the case of an irreconcilable conflict between political forces, for if no formal point of reference is to be recognized the state has no means *per se* of appealing to the principle of order and public peace as a superior value, though such a formal value might well be accepted. The principle of a formal legal unity of the state serves an immensely valuable purpose in enabling a people to find some legal values, which may be right or wrong, but which in any case have a degree of definiteness that the claims of competing groups cannot have. Even the pluralists must admit that the coördinating function of the state must be sometimes more formal than real, and that the declaration of the state, though it may be registrative of

present-day problems. See R. Emerson, *State and Sovereignty in Modern Germany* (New Haven, 1928), p. 273: "The problem of the future—or, more accurately, of the present—is the building of the federal state of the world." Laski seems uncertain himself as to the basis of international law. In his paper, "Law and the State", *Economica*, Nov. 1929, No. 27, pp. 267-95, he asserts that the validity of law comes, not from its source, but from the acceptance which it secures (p. 275), but in discussing international law he declares that it must be objective both to the state and the individual (p. 286). It might be suggested that nationalism itself and isolationism may be justified on pragmatic grounds on the basis that is used by Laski to justify his pluralistic concept of the state, i. e., the loyalty of the individual is stronger to the state than to the world community. It is also difficult to see why Laski should postulate a "will" for the international community, that is, the recognition of a kind of general will, when he will not do this for the state (p. 289). For a criticism of sovereignty from the international law standpoint, see Emerson, *op. cit.*, pp. 171 *et seq.*; E. M. Borchard, "Political Theory and International Law", in Merriam, Barnes and Others, *op. cit.*, ch. iv; Jean Morellet, "Le Principe de la souveraineté de l'État et le droit international public", *Revue du droit public et de la science politique*, Vol. XLIII (1926), pp. 369-89.

the facts of society, must be formal to exist at all. Both the formal and the social side of the law are real, but that there must be a death-grapple between them at all times is not admitted by the monist. The formal principle of the law is regarded merely as the organizational aspect of social action, which is the peculiar function of the state.

It is clear that law implying political action is both will and power. The monist contends that the formal aspect of the law is embodied in a declaration of will, that is, the legal unity of the state is to be expressed by legal will. The reality of the limitations of the power of the state is nowhere denied by the monist, and he is willing to accept as valid the pluralistic indictment of the limited physical capacity of political society. Even the Idealists have contended for the most part that the state is external and therefore limited in power, and Bosanquet showed that the means available to the state is not *in pari materia* with its ends.[17] It is difficult to see that the mere assertion that the state is not physically omnipotent is an attack on the viewpoint of the monists. Nor does the principle of decentralization as the operative statement of limited power imply clearly that the unity of the state conceived by the monists has no valid foundation.[18] Whatever value there is in the pluralistic concept of the functional state, or in the public position suggested for groups, might be embodied easily in the state as

[17] Bernard Bosanquet, *The Philosophical Theory of the State* (London, 1899), pp. 187-88.

[18] See Emerson, *op. cit.*, p. 272: "Suppose it be established that the existing form of the sovereign state is both morally and practically inadequate: is it not possible that the fault lies less in the principle of sovereignty than in the method of organization. . . . The organization of the sovereign power of the community—whether it be the national or the world community—must be such as to make its will as far as possible identical with the general will of the community." Laski attacks this view by denying the general will, that is, the state is not based on any general community of interest. This denial is in sharp contrast with his belief in the general international community of interest. Laski's recent paper "Law and the State" (cited above) is an exhaustive denial of the propositions of recent defenders of sovereignty that there must be some organ in the community to resolve disputes. The recent defense of sovereignty has not been in any sense a denial of the social program of pluralism. It cannot be said, however, that the issue is clearly joined even in this splendid paper by Laski, since he does not actually define law otherwise than in very ambiguous terms.

pictured by the defender of sovereignty. The monist would suggest that such social principles springing from a general theory of the state could be most easily attained under a régime of legal unity.

Where the monist is opposed to a vital international law, such opposition must be based on more general political principles than those which arise directly from the principle of sovereignty. It has already been suggested that a formal theory of the legal unity and personality of the state is not significant in the contemporary repudiation of the liberal political order. Monism in its purer forms may attach some immediate legal importance to the international discretion of the state, but it does not deny the value of recognizing social interdependence between states. When the word sovereignty is used in the defense of an actual discretion in international policy which is contrary to vital and generally recognized interdependence, more is clearly being attributed to the concept than is read into it in a juristic sense by the monists. The same can, of course, be said of the principle of group independence within the state, for groups are denied a proper sphere of autonomy not because of sovereignty but because of erroneous public policy.[19]

[19] The several references which have been made to groups raise the problem of corporate personality. While the emphases of this paper do not suggest an extended examination of this problem, a few observations need to be made. The monistic view, of course, places the corporate personality of any group below the corporate personality of the state when, and if, the latter is assumed, while the pluralistic conception may, if corporate personality is admitted at all, place the group as a corporation on a level with the state. But it must be noted that for the most part there is no general or necessary correlation between monism and the fiction-concession theory of corporate personality on the one hand, and pluralism and the theory of the real corporate personality of groups on the other. Otto von Gierke believed in real personality, but he accepted the sovereignty of the state. Duguit denies sovereignty in the course of his denial of all forms of corporate personality. Austin and Dicey, who were little interested in the corporate or juristic personality of the state, accepted the fiction theory of corporate personality; and the neo-Kantians drain all independence from corporate life since the norms which constitute the law must be supreme.

It can be said, naturally, that the fiction-concession theory implies the supremacy of the state and sovereignty, and to this extent corporate personality must be considered in relation to theories of sovereignty. See Frederic Hallis, *Corporate Personality* (London, 1930), pp. 15, 28, 85-86. It is reasonable to assume that if the state is regarded as a corporation one must also consider the corporate entities within it, whether or not the state is classified as a sovereign corporation. *Ibid.*, p. 243. To deny the fiction-concession theory of corporate personality may mean a denial of certain conceptions of sovereignty, but it does not mean necessarily the denial of a highest authority vested in the state. One can hardly assert that all corporate groups must be accorded the same treatment, nor deny that the legal character of corporate personality is bound up with social character and purpose. It is instructive to observe here the emphasis placed by Hegel on the organisms which compose the state, the communes, municipalities, corporations, etc. See L. Lévy-Bruhl, *L'Allemagne depuis Leibniz* (Paris, 1890), p. 405. Consult Hallis, *op. cit., passim;* S. Mogi, *Otto von Gierke* (London, 1932).

This discussion has led to the assumption that most of the apparent issues between monism and pluralism are capable of reconciliation; that much of the current discussion has been parallel rather than conflicting. One may assume either that the defenders of sovereignty are at fault in not constructing immediately upon their conceptions a general theory of the state, or that the pluralists have gone beyond the necessities of a social theory (which pluralism is for the most part) and attacked an essential principle of legal and constitutional unity in the state. In any case, the value of pluralism is in its delineation of a system of policies which might make the state more of a reality to the individual and which might conceivably vitalize the principle of consent in political life. Much of the value of the pluralistic attack is in its diversity, for as a result of pluralism a number of emergent public policies have been called with great force to the attention of political science.

We have indicated that one of the logical weaknesses of pluralism is the attempt to establish the universal negation of sovereignty on pragmatic grounds. On his own philosophical statement of the case, the pluralist has failed to distinguish between the ideal and the real, and he has failed to admit, as he logically should, that situations may exist in which sovereignty must be admitted as a fact. From the monist's point of view this must be admitted whenever in fact there is a formal legal unity in the state. On the other hand, the pluralistic logic has not been pushed to its limit in the case against *particular* monistic systems. For, on pragmatic grounds, it might be conceivable that a particular monistic synthesis should

lack the elements of universality ascribed to it. In other words, if pragmatism can be of further service in the amplification of the principles of pluralism, it can be of service likewise in refining the principles of monism. Had the pluralistic attack been developed in detail as to particular monistic points of view, certain important consequences might have resulted. In the first place, the pluralist might have been forced to admit that some monistic systems are pragmatically sound; and, in the second place, it might have been shown that monism is extremely uncertain, viewed broadly, of its own universals.[20] The remainder of this paper will be devoted to the examination of this problem.

What is the universal element in the state which the various historic monisms have attempted to formulate? A careful examination should reveal that much that has been claimed as of universal application is nothing more than the peculiarity of a distinctive system. Since the concept and the practice of sovereignty has been subject to a rapid evolution, it is clear that, just as early systems postulated absolutes which were soon outmoded, modern theories have attempted to universalize the historically temporary. The enduring value of the idea of sovereignty is in its adaptation to and explanation of particular moments in the history of the state rather than in developing hypotheses of universal validity both in time and space. Viewed in this light, sovereignty has had a relativistic character historically, and it can be shown, no doubt, that the same is true of the contemporary situation. The suggestion is made

[20] James Bryce, *Studies in History and Jurisprudence* (New York, 1901), pp. 541 *et seq.*, attacks the defenders of sovereignty, especially the Austinian school, for their failure to realize the complexity of attempting to state a theory of sovereignty which is universally applicable. Bryce believed, however, that the problem of universals may be solved by the distinction between *de jure* and *de facto* sovereignty. Sir Paul Vinogradoff, "The Juridical Nature of the State", *Michigan Law Review*, Vol. XXIII (1924), p. 139, suggests that sovereignty has passed through various stages in its development. G. H. Sabine, "Political Science and the Juristic Point of View", *op. cit.*, pp. 553-75, suggests at various points that sovereignty has been adjusted to or grew out of differing circumstances without admitting that the notion of sovereignty was actually valid at any given time. Hallis, *op. cit.*, p. 195, notes that Jellinek considered sovereignty an historical rather than an absolute category.

here that the idea of sovereignty should be advanced beyond whatever is assumed to be the universal element in the state. The concept of the universal should then be adequate for the foundation either of pluralism or monism, and both of these two broad attempts to explain the principles of state action should be analyzed in relative terms.

It is difficult to make a statement of the universal element or elements in the state that will be of any striking value. Perhaps, for this discussion, the mere concept of such universal elements should be retained in something of a formal sense, without any serious attempt to establish a specific content. Our concern here is not primarily to make a statement of the conceptual universality of the state, for our chief objective is to show by an examination of the theories that both monism and pluralism are in fact particular and relativistic in character. The defense and the criticism of sovereignty involve the state as a functioning unity, not as a formal universal. The diversity in the actual theories of sovereignty is reflective merely of different concepts of the proper organization of political unity. The modern state is the idea and the organization of territorial and associative unity; it is the structural expression of the existence of historic and recognized common purposes.[21] The bases of this unity differ, but all ideas of the state have one

[21] In contrast with the pluralistic "facts" of contingent anarchy, may it not be asserted that one of the profoundest facts of political life is that men do give an allegiance to an orderly and non-violent existence? Does not the continued existence of the state show this? It may be noted that resistance to the principle of the general strike is evidence of allegiance to social coherence. The lack of organization internationally may be taken as showing a fundamental attachment to the state. This common interest in the general will is Krabbe's basis for the defense of majority rule. See H. Krabbe, *The Modern Idea of the State*, translation and introduction by G. H. Sabine and W. J. Shepard (New York, 1922), pp. 74-75, but see in general ch. ii. See also William Orton, "Social Theory and the *Principium Unitatis*", *The American Political Science Review*, Vol. XXI (1927), p. 32: "That issue . . . centers about the relation between *de facto* and *de jure* sovereignty . . . ; and its importance may be suggested by the generalization that security in social relations is attainable . . . only when the *de facto*, or political sovereign — whatsoever the form it may take — has been substantially integrated with the immediate source of ethical or moral authority." As R. M. MacIver has said, the general will "is not so much the will of the state as the will *for* the state, the will to maintain it." *The Modern State* (Oxford, 1926), p. 11.

element in common, whether pluralistic or monistic, and that is that there is some sort of unity or social integration involved. The principle of the *organization* of this unity in terms of law or legal sense is sovereignty; the unity itself is an attribute of the state.[22] Sovereignty is thus not the unity, but its legal expression; it is the body of prevailing legal principles upon which public power is exercised.

An immediate consequence of this conception is that no one interpretation or organization of sovereignty need be regarded as exclusively true, since a theory of sovereignty is constructed beyond the universals necessary to the conception of the state. Sovereignty lies between the universals in the state conception and the principles of public policy which characterize pluralism. It consists of certain principles which seem valuable in making manifest the conceptual unity of the state. This is not to say that the problem of policy does not enter into the diverse political conceptions of sovereignty, but it does mean that only those questions of policy are involved in sovereignty which are relevant to the organization of public power. Sovereignty, in other words, is and has been a problem in the constitutional organization of the state. The test of the truth of a theory of sovereignty, therefore, should in no sense be its universal applicability or its logical self-consistency. The value of a theory of sovereignty should lie in its appeal to the public lawyers of a particular state. It can be seen readily that this *localization* of the idea of sovereignty must of necessity eventuate in situations in which it is recognized that a given form of the theory does not apply.

The localization of sovereignty may be further observed in the distinction between legal and social sovereignty. Legal sovereignty is a formal explanation in terms of law of the

[22] See John Dickinson, "A Working Theory of Sovereignty", Political Science Quarterly, Vol. XLII (1927), p. 527: "The *legal* doctrine of sovereignty can therefore be summed up as fundamentally nothing but a demand for the unified organization of authority within the community in order to provide the necessary basis for a system of legal order. It was this *legal* form of the doctrine of sovereignty which earliest emerged, and which made sovereignty a fundamental concept of political thought. It was the answer of an advancing civilization to the unbearable legal confusion of the middle ages."

unifying force of the state, while social sovereignty is an explanation of the interests or forces which predominate in the state. Juristic sovereignty as a political value depends upon the significance of some sort of formal validity attached to a declaration of law, while social sovereignty is generally an expression of ethical ideals which should or may dominate in the action of government. The monist *per se* is not primarily interested in the types of social policy which a state should adopt, but a sociological monist, that is, one who would realize in the state a vital integration of social and institutional life, must of necessity adhere to some sort of juristic conception of sovereignty, though the form of this sovereignty is by no means predetermined. Let us first turn to a consideration of the historic forms of juristic sovereignty.

There are four outstanding ideas of juristic sovereignty, and these are the French, the English, the German and the American. The French conceptions must be divided between those prevailing before the Revolution and those coming after. Jean Bodin in his *Six Livres de la République* is clearly the magistral apologist of the principles of state unity to be found in the *ancien régime*. Sovereignty was vested in an organ of the state, in the monarch, and the peculiar characteristic of the monarch was that he was above most positive restrictions.[23]

[23] Professor McIlwain takes the theory of Bodin and the French jurists of the sixteenth and seventeenth centuries as the foundation of a true juristic conception of sovereignty. He does this because the French thinkers, as contrasted with Hobbes, recognized always a fundamental law or laws behind the sovereign organ. McIlwain's position seems to approximate in some degree the basic idea of Lindsay of the sovereignty of the constitution, but McIlwain insists that in advanced political society "the highest organ is the true sovereign, and the only one, because it is the highest body legally able to make rules for the subjects, and itself free of the law." C. H. McIlwain, "Sovereignty Again", *Economica*, Vol. IV, Nov. 1926, p. 257. McIlwain suggests, however, that from the French jurists we derive one of the richest and most profound generalizations of modern political thought, that is, the inherent nature of the constitution of the state imposes limitations on the sovereign organ (p. 263). The French conception of sovereignty was above all juristic in nature. "It was reserved for John Austin and his followers . . . to grant to a definite person or body of persons what St. Thomas denied even to God" (p. 263). *Cf.* Max A. Shepard, "Sovereignty at the Crossroads, A Study of Bodin", Political Science Quarterly, Vol. XLV (1930), pp. 580-603; and C. H. McIlwain, "A Fragment on Sovereignty", Political Science Quarterly, Vol. XLVIII (1933), pp. 95-106.

The power and the will of the monarch were the means of escape from warring civil and religious factions, and the unification of the feudal claims of the nobility in the higher synthesis of the state. In Bodin, as since, sovereignty was a means of escape from anarchy and revolution; it was the foundation of public order and peace. The historic service of the theory of Bodin was in formulating a stable constitutional principle for the attainment of some sort of coherence in political life; in the theory was the principle by which those forces not desiring to recognize the primary claims of external peace were brought to task for their presumption.[24]

The French conception of sovereignty since the Revolution has been that of *souveraineté nationale.* This principle grew out of the social contract and natural rights theories of the epoch. The primary assumption is, of course, what we may call popular sovereignty, but popular sovereignty itself does not constitute the idea of national sovereignty. If public opinion is the primordial and necessary political force, if it is the sovereign in fact, when legal sovereignty is located elsewhere than in the nation from which comes this opinion, opinion cannot but exercise its authority in an imperfect, irregular or revolutionary fashion. Sovereign opinion can then be translated only by inefficacious or confused expression; it comes before the legal sovereign with humble requests or with revolutionary agitation. Therefore, there is a lack of harmony between the fact and the law. But should we place legal sovereignty necessarily where we find the fact or the opinion, we may reëstablish harmony. The law will become under these circumstances as exactly as possible a reality. To respect, recognize and organize national sovereignty is to give to public opinion a superior force, a precise expression, a juridical value and a legal authority. To perfect, on the other hand, this rulership of opinion, to prepare for its juridical expression, modern liberty has given it also other means of manifesting

[24] Modern Japanese ideas of sovereignty are somewhat similar to those of Bodin, but in Japan the emphasis falls upon the sovereignty of a person—the Emperor—rather than upon the sovereignty of the emperorship. See Kenneth Colegrove, "The Japanese Emperor", *The American Political Science Review,* Vol. XXVI (1932), p. 649.

itself through individual initiative, that is, the liberty of the press and the right of association.[25]

The traditional British doctrine of sovereignty is comparable to that of Bodin, except that the British do not accept the juristic character of fundamental constitutional principles. Whether we take a modern analysis of the British constitution such as is given by A. V. Dicey in *The Law of the Constitution,* or an earlier one such as is found in John Austin's *The Province of Jurisprudence Determined,* or even in Sir William Blackstone's *Commentaries on the Laws of England,* the same principle prevails. This conception is the sovereignty of the highest organ of the government.[26] Legal sovereignty is not vested in the state as a legal person or in the nation, nor is it vested in the monarch or a class, but in the legislative power which includes the King, the Lords and the Commons. The French doctrines of monarchical and national sovereignty are alike excluded. The reality of the British doctrine is seen in the fact that legal values do come from a juristically supreme and determinate organ, to which the people do render habitual obedience.[27]

[25] See A. Esmein, *Éléments de droit constitutionnel français et comparé* (8th edition, Paris, 1927), Vol. I, pp. 318-19. This interpretation of national sovereignty must be completed by noting the fact that Esmein accepts the legal personality of the state or of the nation. *Ibid.,* Vol. I, pp. 46-50. Likewise, he universalizes the principle of national sovereignty. *Ibid.,* Vol. I, pp. 48-49, 317.

[26] It is possible that Austin's theory of sovereignty residing in a determinate superior composed of persons who receive habitual obedience should not be regarded as a theory which vests sovereignty in an organ. The concept of an organ, however, plainly involves a functional relationship, or an organized relationship. *Cf.* Bryce, *op. cit.,* p. 505. For Bryce's criticism of Austin on this point, see *ibid.,* pp. 537-38.

[27] Austin's inclusion of the electorate in the determinate superior is clearly a confusion of legal and social sovereignty, and it might be interpreted as an attempt to synthesize the modern French and British doctrines. For a criticism of the idea that the electorate may be a part of the sovereign organ, see Dickinson, *op. cit.,* pp. 531, 532, note 1. Ritchie argued that the lawyer is seeking a determinate superior which has the right to declare what the law is, and that it is illogical to include the electorate in the determinate sovereign as Austin does, since the electorate is not a determinate law-making body. D. G. Ritchie, "On the Conception of Sovereignty", *The Annals of the American Academy of Political and Social Science,* Vol. I (1891), p. 392.

The British doctrine of sovereignty is to be found in the practice of the constitution, and because of the early and successful attempts to limit the powers of the higher governmental organs, it was not found necessary to resort to more complicated theories. Obviously, the most complicated of all the interpretations of the principle of sovereignty is to be discovered in the conceptions of the German jurists of the nineteenth century.[28] The involved character of German theory is a result of the more entangled situation with which the jurists had to deal. Not only was the position of the monarch more distinct legally than in England, but there was also the problem of federalism which deprived the idea of sovereignty of some of its possible coherence. The German theory is the theory of state sovereignty (*Staatssouveränität*). Sovereignty is an attribute of the state as a juristic person with a legal will. The monarch thus becomes a representative of the state will, but the sovereignty of the state itself is not inherent in him. The value of this principle lay in the fact that it was possible to limit the state, and consequently the ruler, in the name of law and by the action of the state itself. However, in Bluntschli sovereignty is not vested exclusively in the state, since a remaining but different sovereignty of the monarch is accepted.[30] The German theory developed likewise the idea of the non-sovereign state to enable the doctrine to be held that though the German states had lost their sovereignty in the *Reich* they had not lost their statehood. This conception is,

Ritchie quotes with approval the idea of G. C. Lewis that "irresponsibility" applies more to the electorate than to parliament. *Ibid.*, pp. 389-90. See W. J. Brown, *The Austinian Theory of Law* (London, 1912).

[28] See Emerson, *op. cit., passim;* Léon Duguit, "The Law and the State", *Harvard Law Review*, Vol. XXXI (1917), pp. 1-185.

[29] Merriam, *op. cit.*, ch. vii. Emerson, *op. cit.*, p. 51, declares: "As the 'basic idea' of his reconstruction of public law in terms both of its necessary concepts and of the modern state, Gerber put forward the personality of the state, a personality not analogous to or derived from that of private law but unique and original in public law." It may be observed that the idea of subjective right, while more prominent in German than in other theories, is present in most of the interpretations of sovereignty.

[30] J. K. Bluntschli, *The Theory of the State* (translated from the 6th German edition, Oxford, 1892), Bk. VII, ch. ii.

of course, a peculiar adjustment of the Germans to their own situation.[31]

With the exception of the suggestion of monarchical sovereignty, the German theory is a denial of the sovereignty of an organ, and it is likewise the negation of the principle of popular sovereignty or national sovereignty. Those jurists, like Waitz,[32] who asserted the American principle of divided sovereignty, did not succeed in getting their position accepted. The world of the German jurists, isolated perhaps in their kingdom of jural postulates, was dominated by the assumption of an undivided sovereignty, though there were differences of opinion as to the exact relation of the states to the total German state in the expression of this sovereignty.

A further original statement of the principle of sovereignty which is of historical importance is to be found in the American doctrine of divided sovereignty. The American principle is one of constitutional organization and the distribution of the powers of government.[33] Sovereignty is viewed in fact in this doctrine as the totality of governmental powers, rather than as an attribute or a subjective right; these powers may be distributed to organs of final jurisdiction, subject to the reservation of some competence for the settlement of conflicts as to jurisdiction. This doctrine contrasts sharply with the German

[31] Emerson, *op. cit.*, pp. 100 *et seq.;* W. W. Willoughby, *The Fundamental Concepts of Public Law*, ch. xv; Mattern, *op. cit.*, p. 146, remarks: ". . . the term Staatsgewalt is applied in German jurisprudence to denote the supremacy of the State in the sphere of constitutional law, covering the activities of the State within the sphere and reach of its own territory. The term Souveränität is used to describe the independence (Unabhängigheit) of the State in relation to other States, i. e., in international relations and law." However, this usage is not uniform among German writers. *Ibid.*, p. 147.

[32] Emerson, *op. cit.*, pp. 94-95.

[33] This point of view dominates the discussions of the new federal system in *The Federalist*. In No. LXII, it is stated: ". . . the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States, and an instrument for preserving that residuary sovereignty." In No. XL Madison affirms that the principle of the Articles of Confederation that "the States should be regarded as distinct and independent sovereigns" is preserved in the Constitution. For the influence of this doctrine on German thinkers, see Merriam, *op. cit.*, ch. x; Emerson, *op. cit.*, ch. iii. Bryce, *op. cit.*, pp. 520-22, accepts the principle of the division and limitation of legal sovereignty.

theory in that the personality of the state is not an essential ingredient, though recognition of this idea has been given by the Supreme Court of the United States.[34] The principle of the Founding Fathers was that sovereignty could be divided, and in so far as sovereignty has continued to be regarded as a congeries of governmental powers exercised under constitutional restraint, the doctrine has survived. Sovereignty was divided between the states and the United States by the constitution itself, though there was conflict until after the Civil War as to the proper organ or organs to settle disputes of competence. The state rights view was that the states should make such decisions, while the nationalists believed the Supreme Court to be the proper organ. While German theory developed the idea of the non-sovereign state, many of our publicists and judges continued to look upon the component commonwealths in the federal union as states and as having sovereignty.

There is no question but that the concept of divided sovereignty is dying a slow death, if it is not already dead. The Southern contentions of the indivisibility of state sovereignty and the right of secession forced the national government in fact to assert the sovereignty of the nation and the principle of unity embodied in the constitution. It cannot be said that we have reached a doctrine which postulates state sovereignty in the German sense, and our complex system of governmental organization makes it difficult for us to assume that any one organ is the possessor of sovereignty, unless it be the system of organs which can amend the constitution. We have, no doubt, replaced the older theory of divided sovereignty by a

[34] See Willoughby, *The Fundamental Concepts of Public Law*, p. 51. In Poindexter *v.* Greenhow, 114 U. S. 270, the Supreme Court remarked that "The State itself is an ideal person, intangible, invisible, immutable. The Government is an agent, and within the sphere of the agency, a perfect representative. . . ." It should be noted, however, that the Court does not explicitly affirm that the personality of the state is purely juristic, and it was further observed that "both Government and State are subject to the supremacy of the Constitution of the United States and the laws made in pursuance thereof." If this observation is correct it may be contended that A. D. Lindsay's principle of the sovereignty of the constitution more nearly fits this interpretation by the Supreme Court than the conceptions advanced by Professor Willoughby. See Rockow, *op. cit., passim;* Lindsay, *op. cit., passim.*

theory of the legal sovereignty of the constitution which is exercised through a complex of state organs. But it is a sovereignty which is organized hierarchically internally, and has within it the power of adjustment to new situations.[35]

What we have tried to do in these brief notes is to indicate that there are at least four major historic conceptions of sovereignty which have been accepted and formally acted upon in the public law of modern states. The fact that each of these doctrines has endured for a time, or endures at the present time, shows that in all probability they are ways in which the unity of the state as an institutional fact may be legally expressed. These doctrines have been realities because they have been the basis of governmental action, and the diversity and prevalence of the idea of sovereignty itself indicates that there is a universal urge toward the formulation of a legal basis for the manifestation of the coherence of political life.

Those doctrines which involve the idea of social sovereignty in contrast with juristic sovereignty are interpretations, in fact, of the social basis of the unity of the state. They touch more upon the morality than upon the legality of politics. For purposes of contrast certain of these notions should be mentioned. When Duguit traces the validity of law to the facts of social solidarity, or when Krabbe sees the validity of law in the content of the sense of right of the community, whether national or international, theses as to the proper social values to be recognized in the organization of the state are being advanced. The principle underlying the Russian dictatorship is the justice of the sovereignty of a class, the proletariat, while Fascism and National Socialism seek the unitary principle of society in the historically organic and the culturally and racially organic nation respectively. Likewise, from Rousseau to Bosanquet the

[35] It is thus suggested that Lindsay's theory of the sovereignty of the constitution is well adapted to the American political system. Lindsay remarks (*op. cit.*, p. 243): "The main fact about all modern constitutional governments is not that the bulk of society obey certain persons, but that they accept a certain constitution." Lindsay regards constitutional principles more as positive morality than as commands of the sovereign. The sovereignty of the constitution connects the social and juristic aspects of the state by a general adherence to a definite principle of settling disputes.

Idealists have sought the social foundation of the state in the conception of a general will, which is certainly unitary by definition.[36]

But the most far-reaching of all the social theories of sovereignty is the liberal doctrine of popular sovereignty, which goes back historically to the principles of the social contract and natural rights. Implied in the social contract and in national sovereignty is the right of the individual to a measured participation in political life. As T. H. Green suggests in his *Lectures on the Principles of Political Obligation,* each individual must be given the opportunity to contribute to the general will. Popular sovereignty is primarily a doctrine of the unity of the state itself, and aside from the principle of national sovereignty few attempts have been made to identify the actual expression of public opinion with the formal declaration of the will of the state.[37] It is the keystone principle of

[36] Lindsay, *op. cit.*, p. 238, classifies the theories of sovereignty as determinate and indeterminate, the latter being those which vest sovereignty in the nation, the state (as a person) or in the general will. He does not see, however, any conflict between the ideas of Bosanquet and Austin, since the former's elaboration of the concept of a general will need not be regarded as a theory of sovereignty in fact. See A. D. Lindsay and H. J. Laski, "Symposium: Bosanquet's Theory of the General Will", *Aristotelian Society*, Supplementary Volume VIII (1928), pp. 40-41. Since Bosanquet indicated that the general will and public opinion are not identical, his theory of the sovereignty of the general will cannot be regarded as an interpretation of popular sovereignty. *Ibid.*, p. 36. Hallis, *op. cit.*, p. 244, has affirmed that we do not need to assert sovereignty as the highest subjective right of the state will, since the sovereignty of the state "is the sovereignty of its ideal purpose." This author (pp. 23-24) classifies the kinds of sovereignty as the sovereignty of the law, the sovereignty of the state, and royal sovereignty. Sovereignty, he declares, is not in essence bound up with the metaphysics of subjective right.

[37] The modern Chinese theory of sovereignty as advanced by Sun Yat-sen must be accepted as a doctrine of national sovereignty very much on the French model. If such devices as the initiative, the referendum and the recall, as well as the suffrage, may be regarded as primarily consistent with the French theory, then there is no question about the above statement, since these devices will enable a coincidence to be realized between opinion and the law. These views must be qualified, however, by the fact that the preliminary dictatorship of the Kuo Ming Tang is accepted as a matter of doctrine. Sun Yat-sen, *San Min Chu I* (*The Three Principles of the People*) (Shanghai, 1928), Part II. See Kong Chin Tsong, *La Constitution des cinq pouvoirs* (Paris, 1932), pp. 10-11, for insistence on the originality of Dr. Sun in distinguishing the people's sovereignty from the power of government (the five-power constitution). On p. 23 this author observes that, in contrast with the West, the theory of Dr. Sun will enable a genuine democracy to be attained in China.

social or political as contrasted with legal sovereignty. Thus Dickinson declares:

> Professor McIlwain performs a welcome service in insisting that the two ideas [political and legal sovereignty] are quite distinct, and directed to altogether different problems. Juristic sovereignty denotes only the existence of a definite organ for drawing the line between what is and what is not law. Political sovereignty has reference to the forces, or rather some of the forces, which operate on the juristic sovereignty to determine it where to draw this line.[38]

What conclusions should be drawn from the above discussion? It should be repeated that on pragmatic grounds the attempt to universalize any one explanation of the legal manifestation of the unity of the state or the foundations of its formal or positive law goes against the existence and successful practice of a number of monistic theories. Thus monism must be localized, just as the pragmatic attack on sovereignty should recognize in principle that it is difficult, if not impossible, to universalize the attack on sovereignty. A relativistic monism must accept the fact that there are situations in which a given interpretation of the theory will not apply, and that there may even be circumstances in the breakdown of the coherence of the state implying the non-existence of sovereignty.[39] It may be recognized, furthermore, that there are situations in which

[38] Dickinson, *op. cit.*, Vol. XLII (1927), pp. 532-33. In connection with this distinction see Bryce, *op. cit.*, pp. 511-15; A. V. Dicey, *The Law of the Constitution* (8th edition, London, 1915), p. 71; Ritchie, *loc. cit.*; Willoughby, *The Fundamental Concepts of Public Law*, p. 112. Mattern, *op. cit.*, p. 59, believes that the use of the distinction between legal and political sovereignty in England indicates the acceptance of the theory of national sovereignty. He distinguishes popular sovereignty from national sovereignty by showing that the latter implies that sovereignty is vested in the nation as a state, while the former conception leads more directly to the right of revolution. Popular sovereignty means to him the supremacy of the masses rather than the citizen. *Ibid.*, pp. 26-30.

[39] Dickinson, *op. cit.*, p. 548.

none of the theories of sovereignty seems to apply, as in the case of mandates under the League of Nations. The very existence of such anomalous relations shows the need of a pragmatic and localized conception of monism. As a general principle, it may be added that when a monistic theory does not vest juristic sovereignty in the state as some sort of legal person or in the general will which is the moral personification of a common interest, juristic sovereignty must be vested in some organ or organs of government. While with the pluralist it may be admitted that there have been times when sovereignty has ceased to exist, we must take the position that monism, as an historical fact, has taken several validly different forms.

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