

***'Les parlements étaient sans doute plus occupé d'eux-mêmes que des choses publiques.'* Discuss.**

By the death Louis XIV, the French monarchy had rid itself of any serious challenges to its absolute authority within its domains. With the passing of the revolts of the Fronde and the Revocation of the Edict of Nantes, the Sun King had clearly considered that had disposed of the challenges posed by religious dissidents and noble intrigues. In both of these ventures, he had been backed by the *parlements*, albeit under the duress of Louis's controls of 1675. In this way clearly the magistracy was ready and willing on occasion to fully support the royal position, and throughout the eighteenth century they continued to do so on a great majority of issues. An example is Louis XV's attempt to address wartime exigencies by the imposition of a first *vingtième* in 1749, which was passed with rapidity by the *Parlement de Paris* and the opposition to it was mainly due to the actions of the First Estate along with some provincial administrations. However, in the absence of effective Estate structures in most of France, with none at all in the *pays d'élection*, provincial opinion and loyalties quickly bound themselves up with their *parlement*. Inasmuch as this meant that the provincial *parlements* sought to maintain local privileges, this allowed them to create considerable resistance to royal attempts to centralise power. The opposition to subsequent *vingtièmes* was consistently led by the provincial *parlements*. The *parlement* in Rennes was a conspicuous example of this parochialism on occasion having considerable effects, and in 1770 the crisis provoked by the Breton *parlement* in refusing to assent to further taxes led to the downfall of the ducs d'Aiguillon, Choiseul and Praslin. The *parlement* of Bordeaux succeeded in 1757 in having the local *intendant* removed after his attempts to reform the system of *corvées*; likewise in 1764 the *parlement* of Toulouse condemned its own Governor for 'having made a plan to tyrannise the people over whom you have given him the command and had tried to impose a yoke on their shoulders which they would have never have carried if he had thought as a citizen.'<sup>1</sup> In this instance, the condemnation of the Governor was connived at by the central government, but in many other points the essential parochialism and selfishness of the provincial sovereign courts brought harsh penalties. The courts at Pau and Rennes found themselves remodelled in 1765 after having attempted in vain to frustrate the lifting of restrictions on the grain trade in their jurisdictions.

The Sovereign Court in Paris rarely showed such levels of particularism, on the other hand. This may be because the huge area under its control obviated this possibility, but as the most senior court in the country, it began gradually throughout the eighteenth century to take on issues relating to the protection of what it perceived as national liberties and traditional customs and laws. Indeed this was the preface and justification for some of its most important obstructions to royal legislation, most notably of all the apparently interminable controversy over the implementation of the papal Bull *Unigenitus*. In all its disputes with the Church and Crown over this matter, the *Parlement* consistently sought to reinforce the image of it as a defender of the traditional laws and rights of France and her king. The main objection to *Unigenitus*, for instance, was article 91 which gave the pope the theoretical right to depose the French king - and even the fact that the Bull was commissioned by Louis XIV himself was insufficient to dissuade the court from attempting to defend his rights against the ultramontane tendencies of the French episcopate. The protracted hostility between *Parlement* and Church hierarchy throughout most of the eighteenth century was crucially contained always within a veneer of maintaining the existing powers and privileges of the Crown. An example is from a remonstrance in 1730 in which it argued that whatever 'external and coercive jurisdiction' the church possessed 'derived from the king; as his subjects they were accountable to the parlements for the misuse of this authority.'<sup>2</sup> In

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<sup>1</sup> Swann: *Politics & the Parlement of Paris under Louis XV* p. 68

<sup>2</sup> Merrick: *The Desacralisation of the French Monarchy* p.56

this way the *Parlement's* own role in questioning the actions of the Church and by extension also the Crown itself is justified by reference to their original purpose. Likewise in 1738 one of its remonstrances maintained that the parlement held jurisdiction over religious status insofar as it affected civil status; the clergy were accountable to them 'even in that which regards the dispensation of sacred things.'<sup>3</sup> Having said that, the outward show of maintaining liberties cannot truly hide the deep antipathy which these quarrels brought with the episcopal hierarchy. An anonymous magistrate said in 1749 'it is surely very dangerous and more so than ever to suffer the clergy to colour their pretensions with the pretext of religion.'<sup>4</sup>, while the *Parlement* refused to condemn Daniel Bargeton's letters of that year denying the sacred character of Church property. Louis XV's condemnation of these includes a significant remark, saying 'under the pretext of upholding the prerogatives of royal authority', Bargeton wrongly questioned the utility of the clergy 'as if to serve religion and the Church were not to render the most useful service to the king and state.'

The apparent insistence on the maintenance of jurisdictional rights was both openly and covertly a defence of the particular interests of the members of the court. Clearly there was a concentration of the court on maintaining its own prestige against attempts to curtail it by the Crown. When in 1732 the members of the court resigned *en bloc* they justified themselves by saying 'it is for the sovereign to make the laws and it is for the magistrates to see that the laws are executed with all the authority which he has vested in them for that purpose'<sup>5</sup> - they were therefore just carrying out the commission they had been entrusted with. More covertly, though, the ongoing confrontation with the Church was also to the direct benefit of the small Jansenist minority of *parlementaires* who succeeded in dominating debate for thirty years. The *Parlement's* actions in the crisis over the dispensation of the last rites to people who did not accept the Bull *Unigenitus* were couched consistently in terms of prosecuting royal laws. This is especially true in the aftermath of the law on silence of 2 September 1754. That the actions of a handful of true Jansenists - Swann counted just fifteen active - could mark the tone for the whole institution reaffirms the extraordinary *esprit de corps* which existed - an solidarity which if anything increased the tendency to look after its own.

Yet the jurisdictional dispute went well beyond the mere protection of the Jansenist minority, since many of the *Parlement's* actions were designed solely to protect the institution from proposed royal reforms. Tensions were continuing to arise due to the central administration taking over many of the *Parlement's* previous roles in public welfare and security. Thus when in 1740 it was able to upbraid the church's policy of refusing last rites to persons without *billets de confession* on grounds of causing a threat to public order, as the century went on, provincial *intendants* increasingly took this burden on themselves. Indeed some of the fiercest fights for the *parlements* were to maintain themselves at all - such as the opposition to their replacement in 1755 by a *cour supérieure*. Even more serious was Maupeou's coup of 1771 which reorganised 19 courts and had the considerable merit of abolishing venality in favour of judicial salaries. The number of judges who were persuaded to come out of exile to work in the new courts before the accession of Louis XVI shows quite how weak the *parlements* were in the face of resolute royal government. Yet even if Maupeou's reforms could be reversed at the beginning of the new reign, their essential effect could not. By demonstrating unambiguously and dramatically the danger of despotism in a no longer well-tempered monarchy, Maupeou had cast existing political tensions into a new and more compelling light. Upon their reinstatement in 1774, the traditional claims to be protecting the Crown's ancient authority and rights against usurpers - in this case the bad ministers who surrounded him - were greatly enhanced.

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<sup>3</sup> Merrick: *The Desacralisation of the French Monarchy* p.69

<sup>4</sup> Merrick: *The Desacralisation of the French Monarchy* p.73

<sup>5</sup> Merrick: *The Desacralisation of the French Monarchy* p.68

Despite all the points I have mentioned, the *parlements* did not constitute a standing obstacle to all royal legislation, nor was all the rhetoric of maintaining royal powers merely words. They did do a very loyal job in for example attempting to control the influx of new books critical to the existing régime. Pamphlets such as *l'Ami des lois* and *Le catéchisme du citoyen* were burned as being 'seditious, subversive of royal sovereignty and contrary to the fundamental laws of the realm.'<sup>6</sup> *Parlements* across the country condemned practically all the works by celebrated *philosophes*, even if ironically *soi-disant philosophes* were in charge of the boards of censors. The work of the sovereign courts in protecting the régime from dissenting opinions even included the Church that in other areas they were doing so much to oppose. Surely the ultimate expression of this must surely be the trial of the Protestant Jean Calas in Toulouse on the grounds of murdering his Catholically-inclined son. Although crude and self-interested, the *parlements* genuinely did attempt to fulfil their commission to enforce the royal laws.

Yet we must also ask ourselves how exactly in many cases did the *parlement's* attempts to uphold royal authority actually serve to increase royal authority? The long-running dispute over *Unigenitus* instead succeeded in undermining many important aspects of the *ancien régime*. Firstly the Parisian court called into question the competence of the royal council on several occasions, such as in 1730 with a petition after the report on the Church's quinquennial assembly called for the reconciliation of the language of the consultation with the traditions of the kingdom and to disavow 'any other interpretations.'<sup>7</sup> As Barbier said at the time this petition amounted to 'saying in plain French that the royal council was wrong.' He carried on to claim that the dispute 'would undermine submission and subordination to the Church... which are necessary for the *police* of a sizeable state.'<sup>8</sup> In this way he foresaw the *Parlement's* actions as jeopardising the very reason for its existence. Indeed it even called into question the traditional laws upon which it based most of its justification, if François Richer d'Aube is to be believed when he said 'everything seems to be uncertain in the realm such that no-one can rely with confidence on its most incontestable laws and maxims.'<sup>9</sup> Finally, on many occasions, the *parlements* explicitly adopted an equivocal attitude to royal authority. In 1751 the *Parlement de Paris* said 'Genuine obedience consists of never consenting to anything which might violate the public order, the laws & principles of the kingdom, and the rights of sovereignty.'<sup>10</sup>

These equivocations and resistance were not necessarily ever entirely the fault of the *parlementaires* themselves, since much of the blame must lie squarely with the government of Louis XV and his grandson. Why indeed should a parlement make any effort to support the programme of a particular minister when there was such a constant turnover at Versailles? Louis XIV had only 26 secretaries of state in his long reign, while Louis XV had 35; nine men held the post of *contrôleur-général* between 1750-74.<sup>11</sup> Worse still than this was Louis XV's style of government which allowed if not encouraged extremely damaging ministerial rivalries and intrigues which served to deliberately and directly humiliate opponents by ensuring that their legislation either failed or was never registered. In this the parlements were merely pawns of the various patronage circles. According to Miromesnil, much of the agitation of the *parlements* was due to stirring by various ministers in order to unseat their own rivals. An example of this would be Maupeou deliberately encouraging the bile of the Brittany affair in the successful hope of dislodging Choiseul from his post. Miromesnil's second claim was that other incidents of parliamentary resistance came from

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<sup>6</sup> Baker: *French political thought at the accession of Louis XVI* Journal of Modern History 1978

<sup>7</sup> Merrick: *The Desacralisation of the French Monarchy* p.56

<sup>8</sup> Merrick: *The Desacralisation of the French Monarchy* p.68

<sup>9</sup> Merrick: *The Desacralisation of the French Monarchy* p.72

<sup>10</sup> Merrick: *The Desacralisation of the French Monarchy* p.79

<sup>11</sup> Swann: *Politics & the Parlement of Paris under Louis XV* p. 76

the stirring by the judges to allow them to claim credit from the government for having arranged a subsequent compromise.<sup>12</sup> Certainly patronage circles existed that were large enough to encompass magistrates, even if not to confirm Turgot's lament that: 'the misfortune is that the government 'buys' the *Parlement* when it is the interest of the people which is at stake.' However, rumours continued to circulate that for example L'Averdy allegedly paid the President of the *Parlement de Paris* 100,000 livres in return for smoothing through his fiscal edicts.<sup>13</sup> In a time when the value of judicial offices had fallen from 100,000 livres in 1715 to 34,000 in 1751 the lure of money certainly could ensure support if not guaranteed passage of legislation.

None of this would have mattered if the central government had either a strong leader in the shape of the king or a consistent set of policies. As it was the continual confusion and lack of clear direction left no reason for the *parlements* to do anything other than protect their own interests and the particularist interests of the regions they served. It is noticeable that the very people who made the most attempts to reform the *parlements* in the interests of the central government, Maupeou and later Lamoignon, were in fact previously from the very same sphere. Yet had proper guidance and clear purpose been available from the king himself, there is no reason to suppose that the *parlements* at the end of the 1780s would have been any more obstructive than they were fifty years and a hundred years previously. Instead, with different ministerial factions attempting to use them as weapons to beat their rivals with, it is not surprising that they grew cynical of the central government. Indeed, their most consistent charge after 1774 - that of ministerial despotism - although less accurate than the ruling ministers would have liked, had more than a ring of truth to it. Yet if the king was receiving bad advice, it did eventually remain his own personal fault this was the case.

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<sup>12</sup> Swann: *Politics & the Parlement of Paris under Louis XV* p. 76

<sup>13</sup> Swann: *Politics & the Parlement of Paris under Louis XV* p. ?