

ALANSON LLOYD MOOTE

# The Revolt of the Judges

*The Parlement of Paris and the  
Fronde, 1643-1652*



PRINCETON LEGACY LIBRARY

## THE REVOLT OF THE JUDGES



THE REVOLT OF  
THE JUDGES

*The Parlement of Paris and the Fronde*

1643-1652

BY A. LLOYD MOOTE

PRINCETON UNIVERSITY PRESS

PRINCETON, NEW JERSEY

Copyright © 1971 by Princeton University Press

ALL RIGHTS RESERVED

L.C. CARD: 78-155003

ISBN: 0-691-05191-7

This book has been composed in Linotype Granjon

Printed in the United States of America

by Princeton University Press

*To*

John B. Wolf



## PREFACE

THERE ARE several books which examine the history of the Parlement of Paris and many more that trace the course of the Fronde, but there is, as yet, no comprehensive study of the role played in that mid-seventeenth-century upheaval by the famous high court of law. This book is designed to fill that gap. The scope of this study is much broader than I envisaged at the beginning of my research on the topic. One of the prime reasons for the magnitude of the subject is that what I call the "revolt of the judges" is full of paradoxes, the greatest being the fact that a body of royal officials dedicated to the enforcement of law and the principle of royal absolutism could rebel against the king's administration. To come to any understanding of that paradox, the causes and nature of that parliamentary Fronde have to be placed in their broad historical setting, and at the same time within the specific context of institutional structure, governmental practices, and social conditions of the early seventeenth century. This framework is the subject of the first part of the book. Two additional sections have been required to analyze the complexities of the Fronde itself, a cluster of attacks by virtually every social group, geographic area, and political institution of France on the administration of Louis XIV's youthful years. Though it is perhaps unavoidable that the study of revolutions be undertaken chronologically, given the inherent characteristic of constant, rapid change, there is a weakness in a narrowly narrative approach: the tendency to lose sight of the significance of the interdependence of all the elements of the upheaval. In the case of the Fronde, this problem has been found in the accounts of one historian after another, with the result that the important role of the Parlement of Paris has been obscured. Scholars have succumbed to the convenience of dividing the complex cluster of revolts into neat chronological compartments—the early parliamentary phase and the later princely-noble one—thus confusing and distorting more than they explain. From my initial examination of sources, it became clear that the role played by the Parlement of Paris from the beginning of the movement for state reform, in 1643-1648, to the collapse of the military revolts by the great nobles, in 1652, was the factor that explained most satisfactorily all phases of the Fronde. The parliamentary judges were deeply committed to the



## PREFACE

cause of reform, and yet they were involved in the royal-noble quarrels. In addition, they were inextricably connected with protest movements by wealthy and poor Parisians, peasants in the surrounding area, various social groups in the outlying provinces, and the activities of many other corporations of judicial and financial officials throughout the realm. Hence, while recognizing that the parliamentarians' role was the central theme of the Fronde, I was faced with the task of analyzing the involved social, economic, and political considerations and relating them to the revolt of the judges. After attempting to force the subject into a largely topical mold, which was as unsatisfactory as a chronological account, I compromised by combining analysis and narrative within fairly distinct periods of the Fronde. Thus, as in traditional accounts, I have treated in chronological sections of the book first the parliamentary Fronde, and then the noble Fronde. But within each period, the Parlement's response to changing conditions is related to the activities of other judicial and financial corporations, to the contemporaneous agitations of noble factions and peasant communities, to Parisian politics as well as provincial affairs.

As this study took shape, it had to contend with the arguments of past and present historians over the nature of the Fronde. Therefore, references have been made to interpretations of other scholars, although an effort has been made to keep historiographical issues under control. They are important, but the subject under survey is the history of the Fronde, not the history of its history. The latter should illuminate the former, not vie with it for the attention of the reader. At this point, it may be helpful to mention the three broad areas of historical contention: the dispute between nineteenth-century liberal and monarchist historians over the legality of the rebel movement (in which liberals portrayed the Fronde as a legitimate movement against tyranny on behalf of individual rights and limitations on the state, while monarchists described it as an illegal attempt to strip the monarchy of its legitimate powers protecting the state and its inhabitants); the more recent discussion between Marxists and non-Marxists over the political relations of the various socioeconomic groups involved in the Fronde; and the lively current debate on the so-called "general crisis of the seventeenth century" which links the Fronde with political turmoil elsewhere in the 1640's and 1650's. All three controversies raise important questions about

## PREFACE

the causes, nature, and results of the Fronde, questions that are an essential part of this book.

Ernst Kossman and Boris Porschnev have analyzed in detail the historiography of the Fronde, and hence the issue of its legality. From my own reading of the rather substantial secondary literature, it became apparent that the question was indeed very important, but badly posed because it was taken out of the context of seventeenth-century political and institutional conditions. Monarchist historians have all too hastily branded the noble and parlementary opposition as a destructive assault on the legally constituted royal government, having no aim beyond the vague notion of restoring selfish medieval privileges of some subjects. The reader of such proroyal accounts, if he does agree with their view of the Fronde as illegal, narrowly conceived, and destructive of state order and unity, will nevertheless want to know how such an allegedly pathetic uprising could have lasted as long as it did. Liberal apologists of the Fronde's legitimacy, on the other hand, have made the movement look stronger than it was by describing it as a constructive, constitutional movement firmly rooted in medieval beliefs in individual liberty and at the same time anticipating the French Revolution's modern ideals of liberty, equality, and fraternity. After reading these liberal accounts, the reader will still want to know why such a supposedly strong constitutional movement failed to realize its ideals. In short, instead of trying to resolve the question-begging argument between monarchist and liberal scholars over the Fronde's legality, we must examine the fact that in combining legal precedent with pragmatic activity in a seventeenth-century setting, the Fronde bequeathed a very ambiguous legacy. No exclusive examination of the medieval Parlement of Paris, let alone medieval French history, will completely explain that legacy. This does not mean that there are no connections between the two periods. Indeed there are parallels. The sister court known as the *Chambre des Comptes* of Paris played a role in the Parisian opposition to Charles V in the fourteenth century. In 1415, the same court, along with the Parlement and the Grand Conseil, joined in pressing for state reforms, as it did during the parlementary Fronde. A century later, the Parlement of Paris became the virtual center of French government after François I's defeat and capture by Spanish forces in Italy. And that high court went on to make common cause with the great nobles against

## PREFACE

alleged misgovernment by François' ministers. As late as 1588-1589, the parliamentarians invested agents of the rebel noble League with quasi-royal powers, somewhat as their descendants did for Condé in the last months of the Fronde. During the next decade, the sovereign courts in Paris, led by the Parlement, even tried to organize joint sessions aimed at forcing financial reforms on Henri IV, surely an anticipation of the *Chambre Saint Louis* at the outset of the parliamentary Fronde in 1648. Yet, despite these ties and the court's veneration of the past, the judges of the 1640's and 1650's were dealing with a different political, economic, and social situation, and they knew it. Their interests were broader, their place in that upheaval was much more central, and their impact on events was far more profound.

The lessons to be learned from historians concerned with social relationships are more valuable than those of scholars concentrating narrowly on politics and the question of legality. Boris Porschnev's careful examination of so-called "popular" uprisings by the rural and urban poor on the eve of the Fronde has forced political historians to consider that mid-century upheaval "from the bottom up," to use a phrase now in vogue, rather than only from the perspective of the political and social elite, the judges and nobles. Roland Mousnier, on the other hand, has added another dimension to the Fronde by his emphasis on the connection between peasants and town workers at the bottom of the social scale and the parliamentary judges and great nobles at the top. Yet, though the stress of both men on the social ramifications of the Fronde has helped show why the upheaval was so widespread, neither scholar has succeeded any better than old-style liberal and monarchist historians in explaining its length and intensity. Porschnev argues that the Fronde failed because temporary unity against the monarchy by the peasant-artisan element and the parliamentary-noble class broke down over underlying class hatred between these two groups. However, this view clearly ignores the intensity of the separate, but mutually influencing revolts of virtually all social elements. Equally misleading is Mousnier's assertion that the Fronde, although far more dangerous than Porschnev suggests, was eventually overcome by skillful dividing of the opposition by an astute monarchy. This analysis fails to explore the factor of the limited resources of both sides that helped turn the Fronde into a long and ultimately chaotic conflict. Nevertheless, the provocative

## PREFACE

studies of both Porschnev and Mousnier were of value in that they led me to consider the parlementary Fronde in a much broader social context than I would otherwise have done. And they strengthened my conviction of the centrality of the role played by the Parlement of Paris, itself, in containing both the anarchical and authoritarian potential within the Fronde.

Although historical considerations of the so-called seventeenth-century crisis are still in a preliminary stage, and have not yet provided a satisfactory definition of the term, let alone given a clear picture of the place of mid-century France in the broader European situation, we can at least extract some general symptoms of European crisis from the relevant literature. Countries throughout early seventeenth-century Europe were plagued by economic uncertainty, costly and devastating interstate wars, efforts by central administrations to impose law, order, and desperately needed taxes on rebellious subjects, and finally, by the appearance of corrupt ministers, courtiers, or financiers whose virtual embezzlement robbed the royal treasury and private subjects. However, the collision of the imperious state and rebellious subjects varied in intensity from country to country. France's Fronde was a more broadly based cluster of revolts than England's better known and more successful Great Rebellion, and it also had some parallels in abortive Catalonian and Neapolitan revolts against Spain. There were signs, for a while, that Denmark might experience rebellion, and Sweden came still closer to a political upheaval, while Russia and Poland were racked by seething unrest. Even the normally placid Dutch republic witnessed a bitter struggle for leadership which was resolved only when the would-be absolutist William II died suddenly, permitting the rival "regent" class to assume control of Dutch politics. But the diverse nature of these regional upheavals makes it hazardous to suggest any major issue as the same basic reason for tension and polarization within each state, even if Sir George Clark has hinted by his description of the mid-century experience as a great "watershed" that some great issue was at stake.

Fortunately, preliminary studies of the general European situation provide enough clues for a specialist on one state to put that country's mid-century experience somewhat in the broader contemporary context. I am particularly indebted to Hugh Trevor-Roper for the broad picture, and to Ernst Kossman, John Elliott, and Michael Rob-

## PREFACE

erts for their suggestive treatment of not only the European crisis theme but of the particular situation, respectively, in the French and Dutch, Spanish, and Swedish states. Clearly, the general problems which the French state faced at mid-century were not unique to France: its adverse economic conditions, the weight of foreign wars, and corrupt financiers. It also had the clash of wartime centralization with an alienated political-social elite of nobles, officials, and merchants, similar to that in Olivares' Spain and Charles I's England. The sullen hostility by French peasants and artisans to royal taxation which flared into defiant riots was the same as that occurring as far away as the Russia of Tsar Alexei. Yet there were peculiar aspects of the French crisis which defy all attempts to explain its course and denouement purely in terms of broad European forces. My objective has been to explain the role of the Parlement of Paris during the Fronde and, in so doing, to attempt to render the peculiar nature of the French mid-century experience intelligible. For the enigma of the Fronde and the baffling, ambivalent role of the parliamentary judges are two sides of the same coin. General European conditions explain much of the background, and the outcome of the Fronde, in turn, should shed light on the nature of European states in the succeeding age of Louis XIV. However, the unique composition of that peculiarly French institution, the Parlement of Paris, sheds more light on the French version of the crisis than does any other factor, either within France or in Europe as a whole.

It would be relatively easy to place all the foregoing components of the Fronde in a rigid institutional framework, conjuring up an image of an inevitable clash between a monarchy set on governmental centralization and a court of law rallying the diverse opposition. Such impersonal forces, institutions pressed by war on the one hand and ingrained legalism on the other, did clash in the 1640's. Nevertheless, human beings make history, and it was very human administrators and judges who helped to make the Fronde what it was. At crucial moments between 1648 and 1652, as well as before and after those terminal dates of the Fronde, the human element spelled the difference between what might have been and what actually occurred. Errors in judgment, astute tactical moves by the queen mother, chief minister Mazarin, and judges like Mathieu Molé, Omer Talon, and Pierre Broussel, frequently became the deciding factors. It was the blending of institutional responses and individual

## PREFACE

reactions, along with closely connected military, social, and ideological forces, which together shaped the course of the enigmatic cluster of rebellions. In seeking to give proper weight to the role of individuals, there is of course the danger of reading moral judgments into the past, a danger which is magnified by concentrating on one institution. But the evaluations of the roles of persons in this book are, as far as possible, historically based, and are designed to bring more sharply into focus the issues involved and the alternatives which were open to the protagonists.

I am indebted to many persons and institutions. Those who are acquainted with seventeenth-century France and Europe will recognize how much my interpretation has been built on the foundations laid by other historians, even where it differs sharply with their views. This is particularly true of the work of Ernst Kossman, a great historian of the Fronde, and of Roland Mousnier, whose productivity and insight have been demonstrated in a host of studies on the seventeenth century. To John Wolf, who introduced me to seventeenth-century France, guided my doctoral work on the subject, and has given me constant encouragement as scholar, critic, and friend, I am especially grateful. Orest Ranum has contributed immeasurably through discussions ranging over many topics. I owe a particular debt to him and Herbert Rowen, both of whom read the entire typescript. My former colleagues, Ivo Lambi, Richard Grassby, and Edmund Beame, read earlier versions and provided important suggestions and criticisms. Needless to say, I bear sole responsibility for the debatable elements that remain. Institutional assistance has also been gracious and indispensable. A grant from the American Philosophical Society made it possible for me to work in the Cabinet des Manuscrits and Département des Imprimés of the Bibliothèque Nationale and, briefly, at the Bibliothèque Mazarine. At an earlier stage, the University of Minnesota generously provided me with an excellent substitute for archival research: microfilms of several bulky manuscripts held by archival libraries in Paris. Some additional information was uncovered after the book was written, while I was working in archival collections on another project financed by a National Endowment for the Humanities grant. The material has been incorporated, mainly in footnotes. Librarians at a number of institutions have been helpful: at the universities of Minnesota and Toronto, Queen's University, the Widener and Hough-

## PREFACE

ton libraries at Harvard University, the Bibliothèque Nationale, Bibliothèque Mazarine, and Bibliothèque de l'Institut, as well as the Archives des Affaires Etrangères. I wish also to express my appreciation to Mrs. Jane Lenel for her thoughtful and thorough work at the copyediting stage of this study, and to thank Princeton University Press for selecting her to work with me. My greatest debt is to my wife, Barbara, who has contributed by her encouragement, patience, and typing.

*Los Angeles*  
*November 21, 1970*

A. LLOYD MOOTE

# CONTENTS

Preface	vii
PART I. PRELUDE TO THE FRONDE: 1610-1648	
One. French Government and Society in 1610	3
Two. The Reign of Louis XIII: Governmental "Revolution" and the <i>Officiers</i>	36
Three. Anne of Austria as Regent: Faltering Leadership and the Continuing Governmental Revolution	64
PART II. THE PARLEMENTARY FRONDE: 1643-1649	
Four. The Development of an Effective Opposition	91
Five. The Chambre Saint Louis and State Reform	125
Six. The Royal Siege of Paris: Parlement, Nobility, and the Defense of Reform	177
PART III. THE NOBLE FRONDE: 1649-1652	
Seven. Frondeurs, Condéans, and Mazarinists: A Confusion of Interests	223
Eight. Condéan Rebellion and Parliamentary Mediation	254
Nine. The Anti-Mazarinist Coalition and the Fall of Mazarin	279
Ten. Condéan Rebellion, Universal Anarchy, and Royalist Revival	316
Epilogue: After the Fronde	355
Conclusion	368
Bibliography	377
Index	391



PART I

PRELUDE TO THE FRONDE

1610-1648



# CHAPTER ONE

## FRENCH GOVERNMENT AND SOCIETY IN 1610

IN THEORY, the governmental structure that Louis XIII inherited in 1610 was deceptively simple.<sup>1</sup> The king (or regent, if he were under thirteen) exercised sovereign authority in executive, legislative, judicial, and military affairs. He was assisted by a small number of loyal, efficient, and very able persons who constituted what can be called the royal "administration."<sup>2</sup> Originally a single council, the administration had become divided into four councils: a *conseil d'état* or *conseil des affaires*, for general policy; a *conseil d'état et des finances*, for financial policies; a *conseil des finances*, in charge of the actual acquisition and allocation of revenues; and a *conseil des parties*, an organ of executive justice. The personnel of the councils included councilors of state, who participated in discussions on policies, and *maîtres des requêtes*, who provided the councils with pertinent information. These councils worked closely with a select num-

<sup>1</sup> The standard legal and institutional histories contain much of the information in this chapter. See especially F. Olivier-Martin, *Histoire du droit français des origines à la Révolution*, Paris, 1951; R. Doucet, *Les Institutions de la France au XVI<sup>e</sup> siècle*, 2 vols., Paris, 1948. However, the actual practices of the French government at the beginning of the seventeenth century did not always fit the somewhat rigid, mechanical pattern described by legal scholars. I have had to draw my interpretation of those practices as much from a wide reading of contemporary sources as from the facts as established by historians.

<sup>2</sup> By adopting the modern term "administration," there is a danger of misleading the reader, for the word implies that the inner circles of seventeenth-century royal government had a far more clear-cut position within the governmental structure than was actually the case. Indeed, the lack of a seventeenth-century descriptive noun attests to the absence of an administration in the modern sense. However, alternative phrases being still less satisfactory, this term must be used to describe the machinery and personnel in charge of royal policy-making. "Government" refers to every agent and agency of the state, including the very judicial and financial officials who were in conflict with the central administration during the Fronde. "Ministry" is not used because it might allude too narrowly to the chief minister. "Council of state" denotes the formal, leading council which was often bypassed by the ruler and ministerial aides. The once accepted use of "Crown" is totally misleading except in very specific instances; all officials, and particularly the Parlement of Paris which was the central element in the opposition of the Fronde, claimed to be part of the Crown since they represented the king in dealing with his subjects.

ber of great state functionaries, who were either ministers or in the process of assuming a ministerial role. The minister of finance (*surintendant des finances*) was assisted by a *contrôleur général* and a few *intendants des finances*. The titular head of justice was the chancellor, who appended the royal seals to legal documents drafted in the councils. The other major persons of the administration were the four secretaries of state, who signed state letters and were just beginning to emerge as embryonic ministers for war, foreign affairs, the royal household, and other internal affairs. Beneath this conciliar-ministerial administration were thousands of officials entrusted with the implementation of the king's conciliar decisions, the enforcement of his laws, collection of taxes, and the maintenance of order.

In practice, this pyramid of king, conciliar personnel, and judicial, financial, and police officials was far from a perfect instrument of royal authority. Over the centuries, it had helped the monarchy break down the virtually independent status of *les grands* (the highest ranking nobles and the royal princes), as well as some basic privileges of the clergy, municipal authorities, and provincial assemblies of estates. Royal authority became absolute in the sense that the king was considered to be "absolved" or freed from any formal controls by subjects or their moribund Estates General. Ministers, councilors, and officials believed in the principle of the divine right of kings which made the king accountable to God alone for his actions, and all swore to uphold the king's will.<sup>8</sup> There remained serious governmental weaknesses which were to hamper the "absolute" monarchy's efforts to meet the gigantic problems of war, economic depression, and endemic rebellion, facing all states in the first half of the seventeenth century.

Although some of the difficulties can be traced to inefficiency at the conciliar-ministerial level, on the whole the royal administration was to prove as obedient and effective in the future as it had in the past. Councilors, *maîtres des requêtes*, and ministers actively participated in the decisions of the king, and, therefore, had little reason to feel alienated; moreover, most of them were *commissaires* (a term which derives from the fact that they held temporary commissions), serving at the pleasure of the regent or king. The authority of the few who held permanent offices could be circumvented if necessary.

<sup>8</sup> On contemporary divine-right beliefs, see R. Mousnier, "Comment les français du XVII<sup>e</sup> siècle voyaient la constitution," *XVII<sup>e</sup> Siècle*, nos. 25-26 (1955), 9-36.

The secretaries of state, who bought their positions, could simply be stripped of important duties. The chancellor, who held office for life, could be deprived of the royal seals, and his functions transferred to a specially appointed keeper of the seals (*garde des sceaux*). The *maîtres des requêtes*, who purchased their offices and had the right to bequeath them at will, could be kept from the council chambers or ignored by the king when he chose members of special commissions. Personal rivalries of ministers, jurisdictional disputes between councils, or sheer confusion over the functions of different types of conciliar agents could be smoothed over by an inner council composed of the king, his most trusted adviser or favorite minister, and a few additional friends, ministers, and councilors who had the monarch's confidence.

A more basic weakness emerged in the form of permanent officials (*officiers*) entrusted with the execution of decisions by the king and his commissaires. These state servants blanketed the country with a complex network of governmental corporations. To simplify the picture, France in 1610 can be described as divided into broad geographic regions, each with its own set of corporations for civil and criminal justice, taxation and financial litigation, and examination of officials' accounts.<sup>4</sup> Within each broad category, a quasi-hierarchical arrangement existed. For civil and criminal affairs, each broad district had a parlement, which was theoretically sovereign, though subject to royal review. Beneath that tribunal were several regionally based, intermediate courts (*présidiaux*), and beneath them many types of petty courts, most notably those headed by *baillis* in northern France and *sénéchaux* in the south. The same geographic area had a "sovereign" court for tax suits—*cour des aides*—and a host of subordinate officials headed by the *élus*, entrusted with the initial imposition of taxes. For accounting, there was a "sovereign" *chambre des comptes*, and beneath it several bureaus of *trésoriers de France*, which supervised royal domains, roads, and the work of the *élus*. Thus central France, composed of the oldest provinces in the realm, had a parlement, chambre des comptes, and cour des aides, seated in Paris, and a host of *présidiaux*, *baillis*, *sénéchaux*, *trésoriers*,

<sup>4</sup> However, boundaries were not always drawn with any precision for judicial districts, and there were often minor variations in the area (*ressort*) under the common jurisdiction of criminal and financial tribunals. See E. Esmonin, "Données statistiques sur le règne de Louis XIII," *Etudes sur la France des XVII<sup>e</sup> et XVIII<sup>e</sup> siècles*, Paris, 1964, p. 243.

and *élus* in various towns. Each of the more recently acquired provinces on the periphery of the realm had its own complement of these tribunals and bureaus: in Normandy, Brittany, Guienne, Provence, Languedoc, Burgundy, Dauphiné, and by the late 1630's also in Metz-Toul-Verdun and Navarre. In addition, the entire realm was under the jurisdiction of the *Grand Conseil*, a "sovereign" court which adjudicated ecclesiastical disputes affecting the state from its base in Paris. Finally, there existed in every province a few military-administrative officials who were not, strictly speaking, officers. These were the provincial governors, their *lieutenants généraux*, and the governors of fortresses. Members of the high nobility, or princely families, holding temporary commissions rather than permanent offices, they acted as executors of the royal will just as did the judicial and financial officials. Originally, they had been the chief military officers in an area; by the beginning of the seventeenth century, they were used chiefly to add weight to the king's decisions by personally authorizing their implementation. A governor might cooperate with the financial and judicial officials of his province in maintaining law and order, or he might antagonize them by trying to make them his underlings, or entice them into joining a rebellion by nobles against the Crown.<sup>5</sup>

These officers constituted an important group of subjects who were part of the government and yet lacked the consultative role which bound the ministers, councilors, and *maîtres* so closely to the monarchy. In the early seventeenth century they numbered some forty thousand persons, or one official for every four hundred subjects.<sup>6</sup> Closely attached to them was the still greater number of

<sup>5</sup> We need a thorough examination of sixteenth- and seventeenth-century governors to supplant the vague descriptions in legal histories, and to test the diametrically opposed interpretations by G. Zeller, "L'Administration monarchique avant les intendants: Parlements et gouverneurs," *Revue Historique* cxcvii (1947), 180-215; and R. Mousnier, "Notes sur les rapports entre les gouverneurs de province et les intendants dans la première moitié du XVIIe siècle," *ibid.* ccxxviii (1962), 339-350. One can still read with profit the perceptive comments on the subject in G. d'Avenel, *Richelieu et la monarchie absolue*, 4 vols., Paris, 1895, iv, 108-129.

<sup>6</sup> This figure is generally accepted. By 1664, according to Jean-Baptiste Colbert, there were 30,000 financial officials and 70,000 judicial offices. A list made in 1665 by the *bureaux des finances* limited the total figure to 45,780, with an evaluation of 419,630,000 *livres*. J. P. Charmeil, *Les Trésoriers de France à l'époque de la Fronde*, Paris, 1964, pp. 16-18, 456-479, has the most precise information for a single category of officials.

marshals, pages, clerks, and legal assistants (*avocats, procureurs, notaires*) who crowded the law courts and financial bureaus. Each of these officials was deeply committed to his profession, holding a permanent office, in contrast to the temporary commissaires in the royal administration, and protected against arbitrary removal by a law of 1467. As a deeply entrenched bloc of career servants, the officers posed a threat from within the government which was potentially far more serious than a rebellion by outside social groups. If they were antagonized by the monarch or chose to support revolts by his subjects, they could make the task of ruling France virtually impossible. By merely failing to carry out their functions, or by exercising their powers independently of the royal will, they could make a mockery of absolute monarchy.

The existence of these officers made the early seventeenth-century French state unique in an age noted for its variety of governmental forms. Central and eastern European states were dominated by the aristocracy. Whether they acted as lords on their estates or as royal servants at the central or local levels of government, these nobles tended to think and act as members of a social group. The change from private to public posture was largely a change of title. The situation in the Dutch republic was not very different, despite the fact that non-noble elements constituted the governing elite. Town officials, members of the provincial assemblies and States General, and well-to-do commoners (such as bondholders, landowners, and a few merchants) were often one and the same, combining public and private affairs in the interest of their loose social grouping. The Spanish empire was closer to the French state in the development of a career service. Yet the phenomenon was largely confined to Castile; in the other Iberian provinces, the Italian possessions, and the Spanish Netherlands, few royal officials stood between monarch and subject. England was notorious for its rudimentary governmental structure. Its elementary machinery for collecting taxes and its system of law enforcement at the local level by a few unpaid representatives of the landed classes are proof that England was one of the most undergoverned states in Europe. Different from all these were the French officers, a broad governing "class," acting as state servants rather than as members of a social group, and serving as intermediaries between king and subjects.

THE EMERGENCE of the officers had given the theoretically unitary monarchy a governmental dualism: the king had his administrative commissaires to help him establish policies, and his permanent officers to implement them. In theory, this implied separation of powers was innocuous enough. But in actuality, it provided such unanticipated latitude for the judicial and financial officials that it thwarted the efforts of successive kings to enforce royal sovereignty over the so-called sovereign courts and lesser corporations in judicial, legislative, and administrative matters. For underlying the seeming separation of powers was a chaotic overlapping of powers. This confusion was fostered in large part by the lack of a coherent and common set of laws for the realm; and, one might add, the absence of unified laws even within each governmental region. Only constant directives from the king and his councils could have prevented the individual courts and bureaus from making their own decisions about the applicability of laws. In effect, the officers became legislators and administrators, initiating as well as implementing policies.<sup>7</sup>

This overlapping of functions was reinforced by a "police" authority inherent in every corporation of officers. Police authority was the obligation to issue regulatory *arrêts* (in some cases, *ordonnances*) in the collective name of law, order, and justice, and all officials issued such orders on behalf of what was called "good administration." Some of these quasi-executive decrees applied to a single, unprecedented case in dispute, many were binding for similar cases in the future, and all went beyond past laws, being applicable to situations never anticipated by royal legislation, or simply closing gaps in the existing body of law.<sup>8</sup> Moreover, the officers, especially in the parlements, kept an excellent record of these *arrêts*. Indeed, as late as the 1650's, the future minister of Louis XIV, Jean-Baptiste Colbert, lamented that for some matters the Parlement of Paris had a better archival system than the royal administration. Therefore, the officers had an obvious advantage over the monarch. Before the king

<sup>7</sup> Zeller, "Parlements et gouverneurs," pp. 184-185, 187; G. Pagès, "Essai sur l'évolution des institutions administratives en France du XVI<sup>e</sup> siècle à la fin du XVII<sup>e</sup>," *Revue d'Histoire Moderne* vii (1932), 8-57. The phrase "confusion of powers" was used by d'Avenel (*Richelieu* iv, 130-132), in a brilliant, but often overlooked discussion.

<sup>8</sup> P. A. Chéruel, *Dictionnaire historique des institutions, mœurs et coutumes de la France*, 2 vols., Paris, 1910, II, 1053.



in his councils might even be aware of an issue that had come to a tribunal's attention, the judges would already have glanced at their archives, found a precedent for an appropriate response, and issued a decree which might very well conflict with royal interests.<sup>9</sup>

Though in the strict sense, the officers never legislated, the famous judicial review of the law courts and some of the financial corporations gave them an important role in legislation. Just as police authority made them administrators, their uncontested right to register all new laws made them legislators. The monarch had to submit legislation for registration in the appropriate bureau or court so that the officials who enforced the laws could know their contents, and publish this information for subjects. This provided the registering body with an opportunity to modify or reject new laws.

In part, this use of registration to block the king's will was an illegal procedure; the officials simply usurped the king's role as legislator by "verifying" a projected law: deciding whether it was in the interest of the king, conformed to existing laws, or would be obeyed by subjects. If the answer to any of these questions was negative, the officers could remonstrate to the king through written or oral objections. Whenever the officials considered remonstrances to be too mild a form of criticism, they simply refused to register the legislation or appended their own amendments, thus, in effect, altering the new law. Illegal as this procedure was, it did have some justification in current governmental procedures; otherwise, it would have been suppressed by the monarchy.<sup>10</sup> The officers argued persuasively that their police powers included the right to object to legislation that might cause rebellion, or at the very least a weakening of respect for the king. Judicial review also stemmed from the officials' duty to hear appeals by subjects against new laws affecting the latter. And it followed faithfully the practice at the chancellery, where the

<sup>9</sup> J.-B. Colbert, *Lettres, instructions, et mémoires*, ed. P. Clément, 7 vols., Paris, 1861-1882, I, 252; VI, 5, 20-21.

<sup>10</sup> P. R. Doolin, *The Fronde*, Cambridge, 1935, pp. 11, 68, seems to be using modern notions of legislation when he interprets judicial review as a legislative matter. Nevertheless, his somewhat formalized categorization of the distribution of functions between monarchy and the sovereign courts comes closer to an understanding of early modern practices than the completely unhistorical criticisms of judicial review to be found in the works of legal historians, e.g., E. D. Glasson, *Le Parlement de Paris, son rôle politique depuis le règne de Charles VII jusqu'à la Révolution*, 2 vols., Paris, 1901. The excellent study by J. H. Shennan, *The Parlement of Paris*, Ithaca, 1968, especially pp. 159-160, does place judicial review in the proper context.

chancellor reviewed all royal acts affecting justice before deciding whether he would seal and dispatch them.<sup>11</sup> To be sure, French kings had always objected that judicial review could not be construed to include outright rejection or crippling amendments, but they had never questioned the right to verify and remonstrate. Having conceded this, monarchs found it very difficult to prevent verification from leading logically to a veto. Judicial review became such a regular practice that even remonstrances were serious affronts to royal authority. Until the king answered the objections and either convinced or compromised with his officers, the new law remained unregistered, unenforced, and unacceptable to subjects.<sup>12</sup>

It was also virtually impossible to control the judicial functions, per se, of criminal, civil, and financial tribunals. Monarchs claimed royal monopoly over cases of high treason against the king's sovereignty (*lèse-majesté*), and permitted judgment by tribunals of crimes affecting only subjects. But in practice, it was difficult to make a clear distinction between ordinary and state crimes. And though there was also a broad "reserved authority" of the king, which gave him the right as the embodiment of justice in the state to take back from any court at any time the judicial functions the monarchy had bestowed on it, it was impossible for the king to interfere constantly with litigation in the courts. By default, and often with royal approval, the courts took charge of great state trials as well as petty suits.

It cannot be emphasized too strongly that the above-mentioned powers of the officers were not only deeply embedded in traditional governmental practices, but proceeded logically from the very nature of French government. Had the officials' power lacked such a solid base, monarchs would have dealt much more easily with courts and bureaus. Historians who have argued categorically that the officers were acting illegally through their use of judicial review, or that they were usurping the king's executive and legislative roles, have misunderstood the governmental problems facing the monarchy in 1610, and consequently rendered the Fronde unintelligible. The

<sup>11</sup> Olivier-Martin, *Histoire du droit français*, pp. 452, 542.

<sup>12</sup> *Ibid.*, pp. 573-604; E. Maugis, *Histoire du Parlement de Paris de l'avènement des rois Valois à la mort d'Henri IV*, 3 vols., Paris, 1913-1916, I, 674-703; A. de Boislisle, ed., *Chambre des Comptes de Paris*, Rogent le Rotrou, 1873, intro.; Zeller, "Parlements et gouverneurs," pp. 155-156.

danger to the king from his officers actually stemmed more from the legality than the illegality of their actions.<sup>13</sup> Nor is it appropriate to argue, as generations of scholars have, that the officers should have left the task of mediating between king and subjects to the much more representative Estates General, an assembly composed of clergy, nobles, and commoners. The truth is that the French Estates General was not an institution, but only an irregularly summoned body that had no real power and was on the point of extinction in 1610. Considering its impotence during the religious wars, which brought forth a flood of pamphlets urging the sovereign courts to fill the vacuum,<sup>14</sup> nothing could have been more natural than for the officers to use their powers to become mediators between king and subjects. Indeed, the French parlements were in one major respect far more potent political institutions than their English namesake, the Stuart Parliaments. Generations of historians have erroneously inferred that the parliamentary judges were doomed to political impotence because they lacked Parliament's legislative and representative traits,<sup>15</sup> while the truth is that French parlements combined many of the powers of Parliament and the chief English courts, King's Bench and Common Pleas. The only correct conclusion is that the corporations of French officials were more powerful, and better suited to the French situation than any legislative, representative assembly could have been, whether it was an Estates General, a Parliament, or a modern type of legislature.

Just as perplexing as this confusion of powers was the ability of the officers to hide behind the principle of divine-right absolutism. One would think that this weapon of the king could not have been

<sup>13</sup> The comments on the officers' adherence to correct governmental forms, in d'Avenel, *Richelieu* IV, 137, and the emphasis on the legal-judicial nature of the medieval-early modern French government, in Shennan, *The Parlement of Paris*, come closest to my interpretation on this point.

<sup>14</sup> W. F. Church, *Constitutional Thought in Sixteenth-Century France*, Cambridge, 1941, pp. 137-139, 145. Antiabsolutist scholars of the so-called "liberal school" have attacked the sovereign courts for usurping the role of the Estates General, thereby completely confusing nineteenth- and twentieth-century notions of government with those of an earlier age. See, e.g., G. J. de Cosnac, *Souvenirs du règne de Louis XIV*, 8 vols., Paris, 1866-1882, I, 164, 172-173, 242-244; C. Normand, *La Bourgeoisie française au XVIIe siècle*, Paris, 1908, p. 320. Historical apologists of absolute monarchy, understandably, have criticized opposition by either the Estates or courts.

<sup>15</sup> Such was the interpretation of E. Lavisse, ed., *Histoire de France depuis les origines jusqu'à la Révolution*, 9 vols., Paris, 1900-1911, VII, pt. I, p. 34.

deflected by the officials' corporations, for the officers thought of themselves as royal representatives, or, more precisely, as an integral element of the "Crown." This peculiar position of the courts and bureaus as inseparable from the monarchy has led at least one distinguished scholar to the brilliantly expounded, but untenable conclusion that the officials' brand of royalism made them weak threats to royal absolutism.<sup>16</sup> The truth is that the officers deftly fashioned their role as "part of the Crown" into a flexible, double-edged weapon of offense and defense. On the one hand, they had developed the technique of acting against royal interests by feigning ignorance of the king's wishes, thereby giving their own rebellious *arrêts* and judgments the prestige of being acts of the Crown. On the other, they never broke formally with the principle of royal absolutism, thereby making it difficult for the monarch to tar them with the brush of rebellion or treason.<sup>17</sup>

To be sure, the officials were maintaining a difficult, ambivalent position. Even if successful, it threatened to place them in the position of antagonizing the king, at the same time preventing them, by their avowed royalism, from attempting any fundamental changes in the political structure of France. Assuming the fact that they were only moderate, almost reluctant, opponents of royal authority, one can accept the thesis that the officers were not true revolutionaries. But they maintained a great deal of maneuverability, and could force the monarchy into concessions it might never have granted if they had broken cleanly with the principle of absolute monarchy. Then, too, their position as part of the Crown made them very desirable allies in the monarchy's conflicts with subjects, however strong the king's aversion to their elusive opposition might be. After all, the officers were defenders of law and order, and had helped monarchs subdue overmighty subjects in the past. The Parlement of Paris, for example, also had played a major role in placing and keeping Henri IV on the throne in the 1590's (by ruling that a foreigner or a female could not become ruler of France), and had been even more royalist than the king in defending the rights of the secular state against the Papacy.<sup>18</sup> Louis XIII's first minister, Cardinal Riche-

<sup>16</sup> E. H. Kossman, *La Fronde*, Leiden, 1954, especially chap. 1.

<sup>17</sup> Mme Cubells, "Le Parlement de Paris pendant la Fronde," *XVIIe Siècle*, no. 35 (1957), 173-177, gives an excellent analysis of the parlementarians' political thought.

<sup>18</sup> P. Blet, *Le Clergé de France et la monarchie, 1615-1666*, 2 vols., Rome, 1959, especially II, 34, fn. 134, 54, 406-413.

lieu, was to urge that the parliamentarians must not be dealt with too harshly, admitting that they were "on many occasions . . . necessary for the maintenance of the state," in defending royal interests against the clergy.<sup>19</sup> All things considered, it seemed best for a monarch to court the parliamentarians and other officers, whenever the issue of law and order arose.

As an opposition, hiding behind the principle of royal absolutism, the French officials were a unique force in seventeenth-century Europe. For all the unfavorable comparisons historians make between the institutional opposition of the mid-century rebellions in France and England, the fact remains that England's Long Parliament was unable to survive the revolution when caught between the forces of Charles I and the rebel army of Roundheads, whereas the Parlement of Paris was to outlast the civil wars of the Fronde. Although the comparison takes us ahead in our story, it is a point well worth emphasizing. The English House of Commons lost control over the course of the revolution partly because it openly defied the king whose approval alone made its acts legal. That situation was prevented in France during the Fronde because the parliamentarians knew how to employ the governmental confusion of powers, so that they could act independently of the monarch and still remain part of the Crown.

## 3

THE MAJOR weakness of the officers was the existence of divisions and rivalries within their ranks. A member of the Parlement of Paris, for example, was most concerned with the affairs of his tribunal, somewhat less interested in the interaction of parliamentary and royal power, and least concerned with the affairs of officers in other corporations. The same could be said of members of all other judicial and financial bodies, large or small. The compartmentalization of the officers into distinct corporations reflected the structure of early modern French society, which was composed of separate, almost self-contained groups, such as guilds and religious orders. Just as each guild or other professional group had its *esprit de corps*, so, too, did each court or financial bureau. Ironically, the very legalism that made the officers as a whole such a formidable rival of

<sup>19</sup> Cardinal de Richelieu, *Mémoires*, ed. Société de l'Histoire de France, 10 vols., 1907-1931, v, 336.

royal authority also helped nourish the isolation of their individual corporations. Each was concerned with preserving its legal powers to the fullest. Despite serious differences of opinion and quarrels within a corporation, its members agreed on one thing: the perpetuation of their institution could not be sacrificed by internecine feuds. When they looked beyond their narrow world to the broader world of the officers as a whole, it was usually to defend their own corporation against another which might seem to be encroaching on their territory or their functions.

The institutional history of early modern France is replete with examples of such wrangles.<sup>20</sup> Not even the quasi-hierarchical arrangement within a region prevented this legal warfare of pen and *arrêt*. Each parlement sought to prevent inferior *présidial* courts from judging suits which it felt were within its competence. Courts of *baillis* were suspicious of the *présidiaux*'s encroachment on their functions. Similar quarrels turned *chambres des comptes* against bureaux of *trésoriers*, and *trésoriers* against *élus*. The parlement, *chambre des comptes*, and *cour des aides* in the same area were equally hasty to compete for control over financial matters that were so complex that they were partly within the jurisdiction of them all. And where legalism did not envenom relations, geographic separation did. A provincial parlement was not likely to understand the quarrels which pitted the Parlement of Paris against the royal administration, or to sympathize with a comparable struggle involving another provincial parlement (unless their jurisdictional territories bordered on each other).

Fratricidal struggles, geographic separation, and narrow vision within the family of officers threatened to turn governmental dualism into self-defeating pluralism. Obviously, the greatest corporations could survive, although even their narrow *esprit de corps* gave the monarch an opportunity to play the game of dividing and ruling, keeping corporations from uniting against royal policies by encouraging their family squabbles.<sup>21</sup> The lesser corporations were

<sup>20</sup> See, inter alia, Boislisle, *Chambre des Comptes*, intro.; Charmeil, *Les Trésoriers de France*, pp. 274-355; P. Goubert, "Les Officiers royaux des présidiaux, bailliages et élections dans la société française au XVIIe siècle," *XVIIe Siècle*, nos. 42-43 (1959), 59-60.

<sup>21</sup> R. Mousnier, *La Vénalité des offices sous Henri IV et Louis XIII*, Rouen, 1945, stresses the royal tactic of dividing and ruling. That interpretation probably merits reexamination as a result of the discovery of numerous instances where the royal

not so likely to survive without support. Their functions were far more restricted, the territory within their jurisdiction much smaller, and their prestige far less. They had to watch both the encroachment of the sovereign courts on their functions and the constant attempt by the king, ministers, and councils to place them more firmly under royal control. By 1610, the *baillis* and *sénéchaux* had already lost many of the functions they had held in the Middle Ages, although some of those powers had simply been transferred to the *présidial* courts and the *trésoriers*. The *élus* and *trésoriers*, in turn, were beginning to lose prestige and power in the face of unrelenting encroachment by the financial branch of the central administration headed by the *surintendant*. All the officers were threatened by the gradual emergence in recent decades of special royal commissioners, sent to individual provinces, *généralités*, or *élections*, to supervise their work.<sup>22</sup> And there was also the disturbing rise of tax farmers (*partisans* or *traitants*), who loaned money to the king. Whether these private financiers drew their interest from state revenues or actually collected the money themselves, they were deeply interested in the assessment and collection of royal taxes. There was a very real possibility that they might take the place of local financial bureaus and sovereign courts in all matters related to taxation and fiscal litigation.<sup>23</sup>

Yet, despite these numerous problems, the officers had the ability to overcome their divisiveness if the need arose. That they would ever act as a united force against the monarchy was very doubtful. That they could find ways to cooperate against encroachments by the royal administration, or to follow one another's lead in the midst of a major conflict with the central administration, was much more likely.<sup>24</sup> Subordinate courts could swallow their pride and appeal

---

administration tried to be an impartial mediator. See Charmeil, *Les Trésoriers de France*, passim, and my review, *American Historical Review* LXX (1965), 861-862.

<sup>22</sup> Pagès, "Essai sur l'évolution des institutions administratives," has an excellent treatment of the previous points.

<sup>23</sup> There are fresh studies of this bewildering subject: A. D. Lublinskaya, *French Absolutism: The Crucial Phase, 1620-1629*, trans. B. Pearce. Cambridge, 1968, chap. 5, "The Financiers and the Absolute Monarchy"; and A. Chauleur, "Le Rôle des traitants dans l'administration financière de la France de 1643 à 1653," *XVIIe Siècle*, no. 65 (1964), 16-49.

<sup>24</sup> To document the points in the following two paragraphs would require a needlessly extended footnote crammed with a mass of citations. Some notion of a few

for help from the sovereign tribunal above them. Sovereign courts within the same area could also communicate easily, especially if they resided in the same city. Communication between courts or bureaus with the same rank and functions, however, was rarer, since they were geographically separated. Nevertheless, parlements had occasionally appealed to each other for assistance against the royal administration.

The form of assistance varied considerably, but the most common type was one in which a superior court helped an inferior one within its jurisdiction. The sovereign tribunal would place the prestige of its name behind the grievances of the appellant, and perhaps issue *arrêts* against the interfering royal council if the law was clearly on the side of the beleaguered corporation. Between corporations of the same rank, relationships were more complicated. No parlement had the right to pass an *arrêt* binding on another parlement, or the authority to order a *chambre des comptes* or *cour des aides* to resist the king. What could be done, however, was more dramatic. A sovereign court would send a letter of sympathy, or even an *arrêt* of union, to a comparable tribunal within another area of the realm. "Union" implied that the assisting tribunal pledged its full support, and would use all its influence with the royal administration to bring redress of grievances. The letter of sympathy, vaguer than outright union, acted as a warning to the monarch and an announcement to subjects that the tribunal might issue an *arrêt* of union if the situation worsened. Most dramatic of all were exchanges between different sovereign courts within the same region. This rallying of the highest officers in an area to a common cause was a frightening prospect for the royal administration. (Henri IV had been forced in 1597 to cut short his absence from the capital in order to prevent such brazen cooperation.) Although the form of this common protest might be limited to letters of mutual sympathy, or *arrêts* of union, it could also include joint sessions. At Paris, since the *Chambre des Comptes*, *Cour des Aides*, and *Parlement* shared the Palace of Justice, under extreme provocation each could send delegates to a special assembly in the building's *Chambre Saint Louis*.

---

sources can be found in A. L. Moote, "The Parliamentary Fronde and Seventeenth-Century Robe Solidarity," *French Historical Studies* 11 (1962), 330-348. That article was written at a time when the author was more interested in the weakness of the officers' legendary *esprit de corps* than in analyzing their means of overcoming the problems of separatism and rivalry.



The officers had one common interest overshadowing all traditional divisions: a determination to perpetuate officeholding and the numerous benefits it bestowed on every official, from petty collector of taxes to a parliamentary president. Their offices were becoming virtual private property through the practice of venality of offices (*vénalité*).<sup>25</sup> During the sixteenth century, the French monarchy had ceased to exercise its right to choose officials, preferring to turn the selection into a financial transaction. A person with wealth offered to buy an office; the monarch readily accepted, and the individual was installed with only a perfunctory examination of his qualifications or his loyalty to the monarch. In 1604, Henri IV took *vénalité* to its logical conclusion. The famous *paulette*, renewed every nine years, permitted judicial and financial officials to bequeath their offices at will in return for an annual fee (*droit annuel*). The fee was modest—one-sixtieth of the estimated value of the office; the prize was a handsome one: the assurance that the office could be kept within the family. Sale of offices and the privilege of the *paulette* may have helped increase natural jealousies and rivalry between the sovereign courts and the lower echelons of officers, since holders of offices in financial bureaus or petty courts could not aspire to the much more costly judgeships of the sovereign tribunals. Yet, all officers had a common interest in holding their offices and in protecting them through the *paulette*. Any attack by a monarch on the principle of the *paulette* or the suggestion that sale of offices be ended was bound to cause anxiety throughout the ranks of the officers, regardless of what specific institution was threatened.

The salaried income (*gages*) from the "investment" in most offices was not as significant as the fringe benefits which had accumulated in recent times. Officials were exempt from many taxes, the most important being the basic land tax (*taille*). Then, too, officers collected fees for their services, and these were sometimes quite lucrative. Perhaps the greatest advantage of officeholding was the opportunities it gave for further acquisition of wealth and land. Judges were in an excellent position to know when local landowners were in financial distress, and could either use this information to purchase property at low prices, or press landowners into selling cheaply by harassing them with legal action in their tribunal. Tax officials could manipulate assessments so that they were excessive for their

<sup>25</sup> Mousnier, *Vénalité des offices*, is an exhaustive study of the subject and has not yet been fully utilized by historians.

enemies, and light for their servants, tenants, or themselves (if the officers paid directly). Administrative *arrêts*, court decisions, and judicial review could also be employed to manipulate the law to the advantage of officials, as property owners or litigants. It is difficult to determine just how self-seeking and corrupt the officers were as a group.<sup>26</sup> In the early seventeenth century all civil services fed on such unsavory transactions, but in France, because of the number of officials, the vested interest in officeholding was far more significant than elsewhere.

This vested interest reinforced the connections and common concerns existing between individual corporations. But even the sale of offices and the paulette could not provide the judicial and financial officials with the means to act as an all-inclusive unit. It was the Parlement of Paris which exploited the common bond of officeholding, providing a degree of leadership and coordination which otherwise would not have existed. That tribunal could not dictate to its sister courts in Paris or any of the remaining sovereign tribunals of the realm, and its legal control over lesser officials was limited to the subordinate courts within its district. Nevertheless, it was so superior to all other corporations that its actions could influence the most distant sovereign court or the least significant bureau, regardless of the jealousies the rest of the officers had toward its members. And even the legally restricted connections it had with other courts and bureaus provided a network of communications far greater than those between any other corporations in the realm. Royal control over the officers clearly depended to a large degree on the administration's relations with the parliamentarians in the capital city. If the Parlement of Paris became engaged in a conflict with the king over a grievance common to several corporations, its resistance might encourage the others to take similar action. If that sovereign court

<sup>26</sup> Historians have tended to defend the particular group of officials which they have studied, while engaging in polemics against rival officials. Unfortunately, it is difficult to discover precise documentation on the alleged malpractices, and one should not take too seriously the irresponsible, if sincere, accusations of persons sympathetic to the early modern French monarchy. For varying interpretations, see Charmeil, *Les Trésoriers de France*, chap. III, "Pourquoi l'on devenait trésorier de France"; R. Mousnier, "Recherches sur les syndicats d'officiers pendant la Fronde. Trésoriers généraux de France et élus dans la révolution," *XVIIe Siècle*, nos. 42-43 (1959), 76-117; M. Venard, *Bourgeois et paysans au XVIIe siècle. Recherches sur le rôle des bourgeois parisiens dans la vie agricole au sud de Paris au XVIIe siècle*, Paris, 1957.

clashed with the absolute monarchy over the common issue of office-holding, the entire world of officials might follow its lead and join in the struggle—each corporation in its own way.<sup>27</sup>

As sovereign court for civil and criminal suits in central France, the Parlement of Paris decided an immense number of disputes, either in the first instance, or by appeal. No provincial parlement could claim so large a territory as it held within its jurisdiction. None of the other types of sovereign tribunals could rival its functions; they were too specialized. It is no exaggeration to say that the Parlement of Paris was *the* court of the realm. It was the court of peers, judging suits involving the “dukes and peers” of the realm—the highest ranked nobles of France. Its police decrees were binding on the entire realm, and most royal legislation found its way into the parliamentary registers. During the sixteenth century, the Parlement of Paris had started a campaign of encroachment on the functions of the other sovereign courts of Paris. According to a distinguished scholar, it wished to have no superior, at least in fiscal legislation, with the exception of the king himself.<sup>28</sup>

Through the pageantry and ceremony that were such an important aspect of the *ancien régime*, the Parlement of Paris received added luster. Kings’ wills were deposited with it (and in these same chambers their successors broke those wills with parliamentary approval). The peers of the realm—great nobles and distinguished ecclesiastics—had the privilege of sitting in its sessions when major affairs of state were discussed. International treaties involving France were solemnly registered in that august tribunal. The king, himself, visited the Parlement when he wished to override its judicial review (the other sovereign courts had to be satisfied with royal princes as representatives of the monarch). There was scarcely a public event in the life of the *ancien régime* that was not in some way noted at the Parlement of Paris.

This was the institution which sprang from the medieval *curia regis*, the original king’s council, and the parliamentarians never forgot their heritage. If all courts and bureaus were integral elements of the Crown, the Parlement of Paris was preeminently so. At times,

<sup>27</sup> On the history of the Parlement of Paris, see the admirable synthesis of older studies by Shennan, *The Parlement of Paris*. Maugis, *Histoire du Parlement de Paris* is still indispensable for the details, and Glasson, *Le Parlement de Paris*, can be used to supplement Shennan, although it is to be used with caution.

<sup>28</sup> Zeller, “Parlements et gouverneurs,” p. 197.

its members spoke and acted as if they were the king's council. They naturally also saw themselves as superior to the Estates General, while it still survived, and as the symbolic center of royal government; they contended that all measures proposed in the Estates General "must be verified in the [Parlement] in which lies the seat of the royal throne and the bed of royal justice."<sup>29</sup> During the Fronde, one judge had the audacity to stress an argument for parliamentary authority which made the king himself look inferior by comparison: the Parlement acted without interruption as an institutional arm of the monarchy, while the monarch was a mortal being who eventually had to transmit his personal authority to an heir.<sup>30</sup>

A glance at the early seventeenth-century institutional map will illustrate the important position of the Parlement of Paris. Within the capital, it had direct surveillance over the important lesser court known as the *châtelet*, and could quickly communicate with the Cour des Aides, Chambre des Comptes, and Grand Conseil in Paris. It also frequently corresponded with the other parlements of the realm over common issues concerning criminal justice and the maintenance of law and order. Its orders to inferior civil and criminal courts within its jurisdiction could not easily be ignored, and in matters such as the royal domains and law enforcement it had some claims to superiority over the financial bureaus of its area. In short, it had wide connections outside and within its own territory, an area encompassing a major section of France, including the capital.<sup>31</sup>

Because the Parlement of Paris was to play a major role in the Fronde, its internal organization is of more than passing interest.<sup>32</sup> All told there were ten parliamentary chambers, and some two hundred judges.<sup>33</sup> Five *chambres des enquêtes* and two *chambres des*

<sup>29</sup> Quoted by M. Marion, *Dictionnaire des institutions de la France aux XVIIe et XVIIIe siècles*, Paris, 1923, p. 423.

<sup>30</sup> Archives Nationales, U 336, pp. 47-48.

<sup>31</sup> Its *ressort* encompassed the Ile de France, Picardy, Orléanais, Touraine, Maine, Anjou, Poitou, Angoumois, Champagne, Bourbonnais, Berry, Lyonnais, Forez, Beauvais, and Auvergne.

<sup>32</sup> The only way to understand the Parlement's organization is to read its records. However, there is a good outline in Cardinal de Retz, *Oeuvres*, ed. A. Feillet et al., 10 vols., Paris, 1870-1896, I, 304, fn. 4.

<sup>33</sup> Numbers and personnel changed constantly through royal creation of new offices and deaths or resignations. I have found no foolproof figures for the early seventeenth century, but there are fairly complete lists for the late 1640's in A.N. U 336 and Cosnac, *Souvenirs* I, 441-451.

*requêtes* carried on preliminary work, the latter hearing subjects' requests for justice, and the former inquiring about the facts of a suit. These chambers were composed of junior judges. Above them were three senior chambers. Most prominent of all was the *grand chambre*, staffed with senior judges and theoretically having final authority in judicial matters coming before the Parlement. In practice, it cooperated with a criminal chamber (*chambre de la tour-nelle*), and a *chambre de l'édit*, which judged suits involving Huguenots in accordance with the terms of the Edict of Nantes. Both chambers were composed of officials from the other parliamentary chambers on a rotating basis, but senior judges predominated. When the Parlement was recessed in autumn, a skeleton body of parliamentary judges (*chambre des vacations*) conducted the business that could not await the return of the full court. All chambers met together in plenary sessions whenever the Parlement had occasion to install new judges or to discuss internal disciplinary matters. Matters of political importance, such as judicial review or administrative decrees, could also lead to plenary assemblies, but the three senior chambers had the right to decide if this was to be done, and for years such meetings might be avoided. However, during a prolonged political crisis such as the Fronde, the regular judicial functions of the Parlement were overshadowed, or even totally neglected, as plenary sessions on state affairs consumed the judges' working hours.

In terms of personnel, the Parlement of Paris was equally complex. Each chamber had its councilors, both lay and clerical, as well as its presidents. The eight presidents in the great chamber (*présidents à mortier*)—who towered above the other presidents in prestige and importance—were, in turn, headed by the first president; the latter acted as both speaker and head of the Parlement during plenary sessions, taking a leading role in discussions and controlling debating and voting procedures. There were three royal representatives or attorneys (the *procureur général* and two *avocats généraux*, called collectively the *gens du roi*)—in essence members of the Parlement rather than royal agents—who presented legal opinions and read royal messages to their fellow judges, usually through the senior *avocat général*. Formal membership in the Parlement was also granted to the *maîtres des requêtes*, who were best known for their prominent role within the royal councils. The *maîtres'* relationship

with other parlementarians was clearly an awkward one, since only four were permitted to attend the Parlement's plenary sessions at one time, and they usually defended the interests of king and councils against parliamentary criticisms.<sup>34</sup> Plenary sessions could also be attended by numerous honorary councilors, and by the dukes and peers of the realm. Like all other courts, the Parlement of Paris had many lawyers to plead cases before the judges, and an army of scribes, pages, and clerks.

The Parlement was thus a mixture of elements—clergy and laymen, judges and royal attorneys, presidents and councilors, older and younger men. The most likely to initiate action against royal interests were the junior judges of *requêtes* and *enquêtes*. Their tendency toward political radicalism was balanced by the conservatism of the three senior chambers, which were traditionally less inclined to oppose the king's policies except under extreme provocation. At times, the older judges who dominated the senior chambers verged on obsequiousness to royal commands. The first president and the royal attorneys were in a peculiar position because of the way in which they were chosen. *Vénalité* applied to their offices, but the paulette did not. The royal administration handpicked the candidate, and then subsidized his purchase of the position. Usually, this gave the administration a staunch ally within the Parlement, although such was not always the case. The king might choose an individual he thought he could rely on, only to find that either he became independent once in office or the monarchy's own policies shifted direction and the incumbent became a political liability.

Plenary parliamentary sessions on political issues brought the court's internal divisions and rivalries into the open,<sup>35</sup> and voting was a complicated process. The junior judges had the advantage of superiority in numbers and every judge had the right to debate. But the three senior chambers decided whether a plenary session should be held in the first place, and the junior judges could only request a favorable decision. Henri IV drafted a decree prohibiting the junior chambers from even attending plenary sessions, and Louis XIII was to renew it in 1642, but that heavy-handed measure was not

<sup>34</sup> The *maîtres des requêtes* are not to be confused with the councilors and presidents in the *chambres des requêtes*.

<sup>35</sup> The treatment of plenary sessions is based on a close reading of parliamentary debates during the early seventeenth century.

enforced—it was simply a royal threat to keep the junior judges under control.<sup>36</sup> During a plenary session, debate proceeded from the recommendations voiced by the *gens du roi* through speeches by the *présidents à mortier*, dean, and councilors of the *grand chambre*, to the presidents and councilors of *enquêtes* and *requêtes*. If this procedure gave the senior judges the advantage of speaking first, voting was arranged to effect a compromise between conservative and radical opinions. A first count reduced all opinions to two or three, and another tally decided between or among these. Where three opinions were in question, conservatives could shift to the middle position to turn aside the most radical of the three proposals. Conversely, some radicals would tend to shift to the center in order to arrive at a decision acceptable to the entire Parlement.

Though cumbersome in procedures and troubled by divisions, the plenary sessions of the Parlement of Paris were a frightening prospect for the monarchy, and their complex workings made the Parlement highly unpredictable. Under extreme provocation by the administration, the tribunal could very easily prove a formidable opponent of royal policies; rivalries could be smoothed over, compromises achieved, and a true corporate identity attained. Its internal weaknesses, its unrepresentative nature, and the fact that it was neither English Parliament nor French Estates General are far less significant than its members' ability to act as a body, their prestige and strategic position among the many judicial and financial corporations of the realm, and their claim to be the symbolic center of the Crown of France.

## 4

ALTHOUGH judicial and financial officials were set apart from the rest of French society by their common bond of officeholding and their position within the government, they did have connections with all kinds of outside groups. No matter how hard they tried to keep those connections separate from professional interests, their relationship with the royal administration was bound to be affected by the social setting. They had helped the monarchy overcome opposition by *les grands*; they stood firmly for royal absolutism against

<sup>36</sup> Mathieu Molé, *Mémoires*, ed. A. Champollion-Figeac, 4 vols., Paris, 1855-1857, II, 321-324, and 470, fn. 1; Omer Talon, *Mémoires*, Michaud and Poujoulat collection (ser. III, vol. VI), Paris, 1839, pp. 45-46, and 45, fn. 1.

the Papacy and clerical privileges; they knew that it was their duty to impose the king's will on peasants, artisans, merchants, and vagabonds (*gens sans aveu*, *gens de néant*) by collecting taxes and maintaining law and order. But they also had economic and social interests—and occasionally a social conscience as Christians—which made it difficult for them to hold to their past role as defenders of the Crown.

The social structure of France in 1610 was almost as complex as the organization and relations of the various corporations of officers. Owing to the corporative nature of society at the time, individuals gave their greatest loyalty to their limited professional group rather than to their town, province, or country. There was really no such person as a Parisian or a Breton, and, in a modern sense, not even a Frenchman. Legal compartmentalization and deeply ingrained hierarchical instincts led to rivalries even among the six major guilds of Paris merchants (drapers, grocers, mercers, furriers, hatters, and silversmiths), set them above and apart from the would-be seventh guild of wine merchants, and placed them at some distance socially from the inferior craft guilds. Divisiveness could also be detected within early modern France's most exclusive social group, the nobility: the uncle or cousin of the king was a prince, unrivaled even by a duke and peer; a prince, duke, count, or marquis—collectively *les grands*—was certainly incapable of treating a mere *gentilhomme* as an equal.<sup>37</sup>

There were, nonetheless, connections cutting across these professional, social, and legal boundaries. These connections led to constant alignments and realignments among the various corporative groups of society. Neither the emphasis by Marxist historians on broad class conflicts nor non-Marxist scholars' stress on patron-client relations provides a satisfactory explanation of what was happening; but, together, they give us some clues.<sup>38</sup> General socioeconomic dif-

<sup>37</sup> The corporative nature of early modern France is lucidly illustrated in O. Ranum, *Paris in the Age of Absolutism*, New York, 1968, especially pp. 25-31.

<sup>38</sup> B. Porchnev, *Les Soulèvements populaires en France de 1623 à 1648*, Paris, 1963 (for the Marxist "horizontal" argument); R. Mousnier, "Recherches sur les soulèvements populaires en France avant la Fronde," *Revue d'Histoire Moderne et Contemporaine* v (1958), 81-113 (for the "vertical" patron-client thesis); and for critiques: R. Mandrou, *Classes et luttes de classes en France au début du XVIIe siècle*, Florence, 1965; W. F. Church, "Publications on Cardinal Richelieu Since 1945. A Bibliographical Study," *Journal of Modern History* xxxvii (1965), 421-444;



ferences divided society along horizontal lines, pitting a broad group against those which were either their social superiors or inferiors. Peasants could not help feeling some common hostility toward their noble lords, who treated them as inferior and exacted heavy rents. And the division between town, *faubourg*, and countryside was not sharp enough to preclude the uniting of poor wage earners and peasants against merchants, especially during market days or economic recessions when peasants swarmed to the local towns. The wealthier merchants could sometimes forget their interguild rivalries in the face of rioting and looting by poorer persons, who were driven by hunger and fear into attacks on property. *Les grands* could agree with the *hobereaux*, or lesser noblemen, that both were threatened with a watering down of their privileged position by the upward social thrust of lawyers, guildsmen, and officers into noble status. It would seem, however, that vertical connections between a patron and a client of different status were stronger than "class conflict" at the end of Henri IV's reign and during the following decades. In the absence of an all-powerful central government that could maintain order, such private connections were frequent, *les grands* being the most adept at forging alignments with individuals in all socioeconomic groups. Despite the growing decay of provincial assemblies, the three estates of clergy, nobles, and commoners retained that vehicle of common action in several provinces (notably in Brittany, Languedoc, Provence, Burgundy, and Dauphiné). And the multiple role of *les grands*—as commanders of royal armies, governors of provinces, relatives of bishops or abbots, or patrons of other nobles who were governors of provinces or fortresses—also broke down barriers throughout the realm and within every social group.

The complex compartmentalized nature of early seventeenth-century French society, and the latent distrust between broad social groups, made a massive, coordinated revolution against royal absolutism impossible. Such an occurrence was as unthinkable as a unified revolt by the officers, even if antagonism toward the king's policies became acute as a result of a grave political crisis, fiscal oppression, or economic recession (all of which developed in the

---

E. H. Kossman, "Een Blik op het Franse absolutisme," *Tidj. voor Gesch.* LXXVIII (1966), 52-58; A. L. Moote, "The Parliamentary Fronde," pp. 348-354; and the same author's review of Mandrou's book in *American Historical Review* LXXI (1966), 970.

succeeding decades leading up to the Fronde). The pathetic conclusion of the last early-modern meeting of the Estates General in 1615, amid bitter words between clergy and commoners and between commoners and nobles, underscores that fact.

But the threat of several simultaneous group protests was very real. Such upheavals could be drawn together by the leadership of a provincial governor, by temporary bonds within a town between rich and poor forged by intimidation from below or tax-weariness from above, or by a network of patron-client relationships. Therefore, if French rebels could not fully unite, they could at least cause such confusion throughout the realm that a decisive military repression of all the rebellious elements would be impossible. In France, the townspeople, peasants, and clergy were not as obsessed with the hatred of nobles as they were in central and eastern European countries. The possibility of the French monarchy turning the antinoble estates against nobles, as was to be done in mid-seventeenth-century Sweden and Denmark, was very remote. Nor was France as sharply divided into hostile geographic areas as Spain, whose mid-seventeenth-century rebellions by Portuguese and Catalan separatists failed to arouse sympathy within the central, Castilian region. One suspects, also, that the vertical connections in French society were stronger than those in either the Dutch republic or England. Certainly the involvement of the lesser social orders in England's Great Rebellion was minimal by comparison with the "popular" role in the Fronde. The apparent relative detachment of the urban and rural poor from the Dutch quarrel of 1647-1650 between the House of Orange and the "regent class" of landowners, great merchants, and officials, reinforces the impression of France's unique potential for widespread upheaval.<sup>39</sup>

What was the place of the officiers in this uncertain social picture? They were clearly ambivalent toward the fluctuations and strains within contemporary society. In 1610, the judicial and financial officials were neither truly nobles nor commoners, but rather most often bourgeois in background and noble in aspiration. In the Estates General, they sat with commoners as the Third Estate, yet the members of the sovereign courts and the bureaus of *trésoriers* had the privileges of noblemen by virtue of their offices (and in some cases by

<sup>39</sup> See A. L. Moote, *The Seventeenth Century: Europe in Ferment*, Lexington, 1970, pp. 174-185, 197-230.

noble birth or acquisition of noble lands). Contemporary writers on officeholding, such as Charles Loyseau, also asserted that after two generations in the same office in one of these high corporations, this "personal nobility" became hereditary or true nobility. By the 1640's, the monarchy was actually conferring hereditary nobility on first-generation members of the parlements of Grenoble and Paris, and on officials in some *chambres des comptes* and bureaus of *trésoriers*.<sup>40</sup>

Despite jurisdictional disputes between judicial corporations and municipal governments (*bureaux de ville*), and a tendency for officers to treat merchants as social inferiors, there were connections between town and court which could forge ties of sympathy, if not outright unity, in a political crisis. Judges and merchants invested in semistate bonds (municipal *rentes*). Both had property in the same town quarters and in some cases rural estates as well. Individual officers were chosen as frequently as merchants to high positions in the *bureau de ville*, although the highest municipal positions of *prévôt des marchands* and *échevins* were frequently conferred by the monarch on proroyalist, antiparlementary persons. And the guildsman, *prévôt des marchands*, and officers all had a common interest in maintaining order, protecting property, and preventing new royal taxes on their towns. While jurisdictional rivalry continued to pit the *bureau de ville*, as a body, against the officials' corporations, even at the height of a royal-official conflict over taxation, the well-to-do merchants realized that this type of tax dispute could be turned to their own advantage. These so-called *bons bourgeois* not only relished royal repression of the socially superior officers, but, at the same time, lobbied for royal concessions to their guilds under cover of the separate quarrels between officials and monarch.<sup>41</sup>

The social gulf between officers and peasants or artisans was greater, and relationships were very uncertain. Judges and tax collectors obviously did not have the same fiscal grievances as these social inferiors because of their own tax-exempt status. They were clearly terrified at the prospect of a popular uprising, or *émeute*, fearing that it might threaten their lives and property. But the mem-

<sup>40</sup> Charmeil, *Les Trésoriers de France*, pp. 72-73.

<sup>41</sup> On urban society and politics, see J. L. Bourgeon, "L'Île de la Cité pendant la Fronde. Structure sociale," *Paris et Île de France, Mémoires* XIII (1962), 23-144; L. Lecestre, *La Bourgeoisie parisienne au temps de la Fronde*, Paris, 1913. Normand, *La Bourgeoisie française*, is now outdated.