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Royalist Rhetoric during the French Wars of Religion: Jean Bodin's "Royale" Monarchy

Abstract: The French Wars of Religion (1562-1598) were the scene of the greatest doctrinal challenge the French monarchy had to face before the 1789 Revolution. While the medieval political theory had always accepted the idea of a royal power restrained by specific limitations, as the feudal character of the monarchy presupposed the existence of mutually-binding obligations between king and vassals and it involved the idea of consent by the ruled, the civil wars which devastated France during the second half of the sixteenth century brought with them the development, first by the Huguenots, then by the radical Catholics, of theories of popular sovereignty, which argued for a right of lawful resistance, for deposition of tyrannical kings and, in some cases, even for tyrannicide. But, in face of this challenge, the monarchy and the partisans of a strong royal power did not remain passive, but instead reacted with vigour, with political treatises and pamphlets of their own, which exalted the role of the king and bitterly attacked the arguments of their opponents. One of the most celebrated such treatises was Jean Bodin's *Les Six livres de la République* (1576), which represented a seminal work in the development of early modern absolutism. Bodin's book brought many significant contributions to the early modern understanding of the state and kingship, chief among them being the shift in the king's main role, from that of supreme source of justice to that of legislator, and the definition of sovereignty as unique and indivisible – which turned the model of the "mixed constitution", previously so much admired, into a corrupt form of state. But Bodin's most direct answer to the dramatic circumstances of the 1570s and to the theories of popular sovereignty was to propose the so-called "royale" monarchy as the ideal form of the state – a monarchy where the absolute power of the king could coexist, without contradictions, with some limited

constraints on royal authority derived from the respect for natural justice and the king's own moral fortitude.

Keywords: Jean Bodin, France, Sixteenth Century, Monarchy, Wars of Religion

1. The French Renaissance Monarchy

The medieval monarchy possessed a double character, theocratic and feudal: the former had emerged during the seventh and the eighth century, when "the king, hitherto tied to the people, began to detach himself from those to whom he originally owed his position as leader", a detachment which "began in a visible and easily understandable form by the king's adopting the title of a «King by the grace of God»" (Ullmann 1968, 130). The theocratic monarchy was a descending form of government, where authority was granted to the king from above, by the divinity, and placed no restraints on the king's powers other than God's will: but it took shape as more of a governmental practice, rather than a well-defined political doctrine supported by a corresponding literature. There were pronouncements along these lines as late as the twelfth and the thirteenth century: the *Dialogue of the Exchequer* during the English Henry II (1154-1189) stated that "nobody and no one may presume to withstand a royal decree which had been made for the good of the peace" and, in the next century, Louis IX of France (1226-1270) was to assert that "because the king had plenitude of power, his governance was unfettered by human laws and human agencies" (Ullmann 1968, 133). Yet the theocratic kingship displayed significant weaknesses, because "the theoretical possibility of ecclesiastical jurisdiction over the king always existed within the theocratic framework" (Ullmann 1968, 134) and it was an opening which the popes had no hesitation to exploit. But the greatest check on the unbridled power of the theocratic kingship was provided, at least in daily government practice, not by the pope's pronouncements, but by the feudal relationship between the king and his vassals.

If the theocratic kingship involved the king's unlimited right to change or create law, the feudal character of the medieval monarchy severely diminished this possibility, because it implied mutual obligations which could not be altered without the consent of both parties. In the words of Walter Ullmann, "the customs which had grown within the feudal sphere were, after the tutorial function of the king, perhaps the most severe check on the exercise of any kind of unbridled royal

absolutism" (Ullmann 1975, 216). The contractual relationship between the king and his subjects expanded further with the emergence of the first representative institutions, the Parliament in England, the Estates in France and the Cortes in Castile and Aragon. John Russell Major describes the French monarchy as a consultative government, which ruled based on the consent of its subjects. Major attributes this to practical concerns, because the French kings did not possess the necessary administrative machinery or sufficient military force in order to impose their decrees upon their subjects, against their will (Major 1960, 8-10). This led the French Crown, starting from the fourteenth century, to seek the consent of the Estates (general or provincial) whenever it wanted to extract new financial contributions from its subjects: the kings of France certainly did not see the Estates as a potential rival, but as a useful tool of government. But there were not only practical considerations pushing the French monarchy down this path. The late Middle Ages saw significant doctrinal developments arguing in favour of a limited monarchy: such was Jean Gerson, who claimed, in several of his works, that the power of the king should not be unrestrained, that there existed mutual obligations between king and subjects which were binding upon both parties and even admitted in one instance the possibility of the community correcting and even deposing a transgressing king (Carlyle 1962, 160-163). But one of the most celebrated theories of a limited monarchy with respect to the Crown of France was developed by Claude de Seyssel, in his work *La Grande Monarchie de France* (1519), where he argued that the power of the French kings was restrained by three "bridles" – religion, justice and "police" (by which it was meant the ordinances and the laws of the kingdom).

The sixteenth century also saw the development of doctrines pushing in the opposite direction, exalting the authority of the king and eroding the constitutional limits imagined by Seyssel and other like-minded theorists: the promoters of this greatly strengthened royal authority were jurists like Jean Ferrault, Charles de Grasaille, Pierre Rebuffi and Barthelemy Chasseneuz or even humanists like Guillaume Budé. The jurists, in particular, gave political shape to the so-called "regalian rights", such as the principle of exclusive legislation, independence from foreign law (feudal, civil or canon), the title "Most Christian", the power to work miracles, the exclusion of women from royal succession and a variety of particular secular and ecclesiastical privileges, all which "represent the particulars of that principle of sovereignty *(majestas)* which Bodin would provide with philosophic form" (Kelley 2008, 78-79). Their theories of kingship preserved the

checks of religion, justice and fundamental law, albeit in a slightly altered form, but there was a marked tendency to give the king more authority to override customary law, and much less was said about the various types of consultative assemblies that Seyssel had treated, though, of course, the advisability of taking council was still insisted upon (Major 1960, 141). Chasseneuz's ideas are a poignant example of how the nascent absolutism was still counterbalanced by the still powerful conception of a limited monarchy. Chasseneuz wrote that the king had a double authority, one ordinary and another absolute: the latter allowed him to break positive laws, but it was to be resorted to only in exceptional circumstances; additionally, the kings of France submitted to the judgments of their officers and permitted decisions which went against themselves to be carried out (Church 1969, 64; 68-70). This process of doctrinal development was accompanied by changes in the practice of government as well: the shift from supreme judge to legislator, which will be given theoretical form by Jean Bodin, was helped by the steady incorporation of seigneurial jurisdictions within the framework of public authority, which resulted in the feudal pyramid being dismantled and all subjects being positioned in an equal direct relationship with the king (Parker 1996, 8). Tyler Lange attributes a significant role in this process to the Parlement of Paris, which, from the 1440s onwards, "harnessed reform to motivate and to justify extending the king's universal appellate sovereignty over ecclesiastical, seigneurial, and municipal courts, transforming a feudal suzerain with limited jurisdiction into a legislating sovereign with universal jurisdiction within his kingdom" (Lange 2014, 260). The French Wars of Religion will provide the arena where these theories, of limited monarchy and of proto-absolutism, will be taken to the next level and will clash furiously in a propagandistic conflict which will determine the future doctrinal development of the French kingship.

2. The Debate on Royal Authority during the First Half of the French Wars of Religion (1562-1576)

When the 10-year old Charles IX assumed the throne at the end of 1560, it was obvious for even less astute observers that France was heading towards an existential crisis, which its future hinged upon – and the ascent of an underage king was not an event likely to calm the apprehensions. With Charles too young to rule himself, the French government was in the hand of his regent, the queen-mother Catherine de Medici, supported by the chancellor Michel de l'Hôpital. The latter tried

as best as he could, together with the queen, to avoid the impending civil war, by promoting a policy of religious coexistence: l'Hôpital's argument, which was going to become the cornerstone of the "politique" (a term coined during the 1560s to designate those Catholics which, in the opinion of the radicals, put the interests of the state ahead of those of the Catholic faith) political thought in the later phases of the French Wars of Religion, was that restoring religious unity by force had become impossible and that any attempt to do so would lead to the ruin of the state. Therefore, it was better to accept the presence of the Reformed faith in France, on terms deemed acceptable to the Crown and to the Catholic majority, because, in his opinion, preservation of the state took precedence over preservation of religious unity.

Michel de l'Hôpital also promoted a strengthened monarchy, continuing the trend began by the jurists of Francis I (1515-1547) and Henry II (1547-1559), one where the "bridles" imagined by Seyssel were weakened or even completely eliminated. This strengthening of royal power was not just a matter of personal conviction for l'Hôpital, but an acute political necessity: his idea of religious coexistence between the two faiths was anathema to the Catholic radicals, who pushed for war against the heretics no matter the costs. A monarchy whose power of legislation was restricted by the necessity of obtaining the consent of the governed and whose acts could be censored by institutions such as the Estates General or the Parlements could have never imposed the edicts of pacification which were supposed to end the conflict by offering concessions to the Huguenots. Even before the ascent of Charles IX, at the opening of the Estates General at Orléans in 1560, Michel de l'Hôpital expressed his disapproval of the theories which had circulated in the past (and still did at that time) tending to make the Estates General an institution possessing of sovereignty equal or even superior to that of the king, with the power to control his actions: in his address to the Estates, the chancellor pointed out to the assembled deputies that their role was simply to advise (Franklin 1973, 21).

One of the biggest obstacles during this period to the policy pursued by the chancellor (and the queen) was the Parlement of Paris, which claimed that all king's edicts had to be registered by the respective institution in order to gain force of law (within its jurisdiction), and stubbornly obstructed the registration of edicts favourable to the Huguenots. In order to counter this opposition, in August 1563, the majority of Charles IX was proclaimed during a *lit de justice* held at Rouen and the royal theory of government was set forth by l'Hôpital: "the

king was sole legislator in matters of state (public or constitutional); Parlement's jurisdiction was restricted to the private sphere, the application of law among individuals" (Roelker 1996, 297). Yet, l'Hôpital's policy of conciliation ended up in failure, with the chancellor himself being pushed aside after 1568. It is rather a historical irony that the impossibility to increase the royal authority up to the point it could have succeeded to impose its peace policy led in turn to attempts by the Huguenots (who would have been the main beneficiaries of l'Hôpital's policies, had they succeeded) to put forward the most radical doctrines, up to that time, of limited monarchy – doctrines which envisaged not just the existence of certain restraintsplaced upon the king, but also the possibility of active resistance if those restraints were broken.

The Huguenots had shown some preference towards the concept of a limited monarchy from the beginning of the wars: during negotiations with Michel de L'Hôpital in 1562, the prince of Condé declared "the ancient constitution of France to be a monarchy limited from its origin by the authority of the nobility and the communities of the provinces and the great towns of the kingdom" (Salmon 1979, 170). But when the Crown engaged in what seemed to be at the time a deliberate campaign of extermination of the Huguenots, with the massacre of the Night of Saint-Bartholomew, in 1572, the Huguenots came to accept the idea, which they had previously shied away from, of rebelling against the king itself. The Protestant political literature of 1572-1579 developed a doctrine of popular sovereignty, by emphasizing the contractual nature of the monarchy, where mutual obligations existed between the king and the people: while this was not necessarily a revolutionary idea, the Huguenot theorists innovated by devising an actual constitutional mechanism which could be used in order to take action as needed against the king. This mechanism involved first the existence of a representative institution, the Estates General, which, contrary to the arguments of Michel de l'Hôpital, was not limited to an advisory role, but possessed a sovereignty independent and superior to the king, taking an active part in the governance of the kingdom and which had the right to depose a tyrannical monarch; second, the Huguenots' constitutional doctrine granted the magistrates of the kingdom the right to actively resist a tyrant (but not to overthrow him), by virtue of the responsibilities vested in their office, which required them to protect the people against the depredations of a tyrant. In this manner, the Huguenots were able to overcome the biggest obstacle which previous doctrines of resistance had come against, namely the unlawfulness of the act, and were thus able to provide a legal

justification for opposing a monarch who was abusing his powers. But, if the Huguenots' reaction to the event of 1572 was to put forward this template of a proto-constitutional monarchy, whose ruler could be held accountable by the people, there were many for whom the solution to the crisis France was going through was a stregthening of the royal power and the most prominent proposal of this sort was advanced in 1576 by Jean Bodin, in his book *Le Six livres de la République*.

3. Jean Bodin and the "Royale" Monarchy

Jean Bodin's *Six livres de la République* was divided, as the title itself implies, into six parts, each dealing with different aspects of the nature and the governance of the state. In the opinion of Frederic Baumgartner, Bodin hoped to justify a potent monarchy that could re-establish law and order without depending on traditional religious sanctions for political authority, because, when religion itself was openly subject to divisive interpretations, its ability to provide a solid basis for the well-ordered state was destroyed: the king had to have the power to prevent religious zealots from disrupting the state and force them to obey the law, but the source of that power could not be religious, since that would simply add to the divisions, not prevent them (Baumgartner 1995, 306). In this, Frederic Baumgartner is correct, as Bodin's opinion on religion is similar to that of many of his fellow "politiques" and of the (former) chancellor Michel de l'Hôpital: while having only the one true religion practiced in the state would be the ideal situation, religious persecutions were dangerous because they pushed people towards atheism. For Bodin, the foundation and the end of the state is no longer religious: on the contrary, the interests of the Church are subordinated to those of the commonwealth. For him, the purpose of religion is not merely eschatological, but to serve as the cement of the community and provide moral guidance for its members (Bodin 1577, 508-510). More so, for Bodin, the clergymen served as the enforcers of the moral discipline of a people, something which they would not be able to keep doing if the practice of religion fell into disarray. On the other hand, by rejecting the intransigence of the radical Catholics, which were requiring an relentless war against the Huguenots until the latter would have been either converted, banished or exterminated, Bodin removes from the hands of the Monarchomachs one of their most potent weapons: if a prince should not try to force the conscience of his subject, then there was no basis for active resistance in the name of religion either. But Bodin's argument was

also evidence of his political realism, which acknowledged the failure of the military campaigns against the Huguenots to bring the re-establishment of religious uniformity in France any closer. He was not alone in this, as recognition of this situation was starting to gain ground even among previously staunch Catholics, as proven at the Estates General of Blois, from December 1576 - February 1577, when important factions of the Second and Third Estates argued against a renewed war with the Huguenots and, in the words of the Duke of Montpensier, for "the toleration and sufferance of those of the new opinion for a short time", because (as stated in a remonstrance presented to the king) "the war is so entirely contrary to the establishment of proper order and the increase of your [the king's] grandeur..." (Holt 2002, 84-85).

In a previous work, *Methodus ad facilem historiarum cognitionem*, published in 1566, Bodin had expressed opinions closer to Seyssel's ideas of a "bridled" monarchy or to the Huguenot theories of popular sovereignty, by insisting in particular on the necessity for the king to obtain the consent of the Estates in order to change the existing custom (Church 1969, 235); but, by 1576, Bodin had reversed himself, although not completely. It is extremely likely that the radicalization of the Protestant political theories under the impact of St. Bartholomew stirred his apprehensions: Bodin could go along with the concept of a limited monarchy as depicted by Claude de Seyssel and others, where the king governed within limits imposed by tradition and by the consent of his subjects, but the use of the existing constitutional mechanisms and institutions (such as the Estates) to develop a doctrine a popular sovereignty, where the people was superior to the king and active resistance or even the deposition of the monarch for cause of tyranny was made lawful, was a step too far for him. Bodin's opinion shift and his intent in writing *Les Six livres de la République* is made clear from the preface of the book, where he expresses his despondence at the current state of the French kingdom and, at the same time, launches a criticism against those which "have profaned the sacred mysteries of political philosophy": first, Machiavelli and his followers, who are blamed for advising princes to embrace injustice, "the greatest way which can be imagined to ruin them", second, those which under the pretext of "popular liberty, make the people rise against their natural princes, opening the door to a licentious anarchy worse than the harshest tyranny". Mack Holt regards this anarchy as the ultimate target of *Le Six livres de la République* (Holt 2005, 103). It is quite obvious that Bodin's statement from the preface is an allusion to the Huguenot resistance literature which

had emerged between 1572 and 1576, but Bodin would repudiate their theory only in part: Bodin's absolutism would not go as far as the seventeenth-century version did, because he rejected only the most daring aspect of the Monarchomach (as the Protestants writers in favour of resistance would come to be known later) doctrine, the possibility of active resistance and deposition of the king, while concurring with the Huguenots that the king was not the absolute master of his subjects' property and there was still a necessity for consent on matters of taxation. What Bodin does with respect to the Monarchomach's theories is to propose an alternative form of kingship, one which was sufficiently removed from the tyranny which traditional political theory abhorred that it could calm the apprehensions of those who feared an arbitrary exercise of royal power and, at the same time, would be free of most of the constraints the resistance theorists were trying to bind it with.

There is a significant doctrinal difference between Bodin and the Monarchomachs which pushed them on different paths from the very beginning: the latter had insisted on the contractual character of their monarchy, as, in their opinion, kingship originated from a covenant between God, king and people, which established a specific set of conditions which legally bound the king. The obedience of the subjects depended upon their observation and they remained legally in force until that day, the Monarchomachs argued, as testified by the coronation oaths of the kings and the various municipal and provincial privileges[1]. For Bodin, on the other hand, there was no original contract, but instead kingship initially came about through force and violence (Bodin 1577, 49-50). Therefore, there is no contractual relationship between king and subjects of the kind imagined by the Huguenot writers: if it did, then the king would have ceased to actually be a king and would have become a mere magistrate – the first magistrate of a commonwealth, indeed, but nothing more than that. But while Bodin denies the historical reality of such an original founding pact, he also goes to argue that such a covenant would also be a theoretical impossibility. His concept of sovereignty forms the basis of his argument: sovereignty is unique and cannot be shared, having only one *locus* in the commonwealth. It defines the nature of a state, since its possession by one man, one specific group or by the multitude of the people determined whether the commonwealth was a monarchy, an aristocracy or a democracy. According to William Farr Church, the purpose for which Bodin developed his theory of sovereignty

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[1] For a thorough analysis of the contractual nature of the monarchy in Huguenot political literature, see Sălăvăstru 2018, 512-539.

was to allow the ruler to carry out changes within the state (albeit only in case of manifest necessity) and, therefore, he regards Bodin as the first theorist which substituted for the traditional, static conception a dynamic theory of state (Church 1969, 221-223). If sovereignty cannot be divided, then it also results that a mixed constitution is an impossibility and Bodin rejects the examples of states like Rome or Venise, whose classification as such he considers to be an error. Coming to France, which concerns him the most, to ascribe such a character to the French constitution was not only a mistake, but a treasonable act, because it would have meant making the subjects "the equals of the sovereign prince": the humble attitude of the assembly of the Estates in the presence of the king is, in the opinion of Bodin, proof that they cannot possess sovereignty and therefore cannot represent the democratic aspect of the state; equally, the Parlement cannot be the aristocratic aspect, because its authority was derived entirely from the king (Bodin 1577, 223-227). In the opinion of Julian Franklin, Bodin's opposition to mixed constitutions came from his inability to consider the possibility of a sovereign power as a *persona ficta*, which the people, the nobles and the king would have all been parts of, with each part sharing in the making of sovereign decisions: he was always thinking of the sovereign as one part of the society that rules the rest, according to the familiar model of a kingship and, therefore, if all three parts should share in sovereignty the entire relation of ruler and subject would evaporate, along with the state and sovereignty itself, as the sharing of sovereignty seemed to negate the relation of subjection, and therefore the state itself (Franklin 1973, 26-27).

Closely linked to the concept of sovereignty is the concept of law – which undergoes a significant transformation in Bodin's doctrine: if, previously, law was mostly understood as custom (and therefore linked to the consent of the political community), for Bodin law becomes, first and foremost, "the command of the sovereign, by use of his power" (Bodin 1577, 150) and, in turn, sovereignty becomes the power to create or change the law, as long as it remains within the boundaries set by divine and natural law. This provision is important, because it separates the legitimate absolute power of the king from actual tyranny: Bodin only loosened the restrictions placed upon royal authority by the likes of Seyssel and expanded by the Monarchomach, but did not dispense with every one of them altogether. The authority of the king (in a "royale" monarchy) extended only upon civil laws and custom, but divine and natural laws remained beyond his reach. In Bodin's opinion, sovereignty is perfectly compatible with such limits: in fact, that is the only situation

when conditions can actually be imposed upon a king, when conferred sovereignty, and the sovereign and absolute character of his power be preserved (Bodin 1577, 129). On the other hand, if the law represents a command, then the immediate consequence is that the king becomes automatically placed above the human law: someone who possesses sovereignty cannot, regardless of the circumstances, be subjected to the command of another. In Bodin's scheme, that would be a factual impossibility, because, in such a situation, the sovereignty would be transferred to the latter and Bodin invokes in his support the Roman law tradition of the prince as *legibus solutus* (Bodin 1577, 132). In the opinion of Jean-Fabien Spitz, this creative role of the sovereign, as author of positive laws, represents a major innovation with respect to French constitutional tradition: it was a major step towards the development of the modern state, because the Bodinian "république" possesses a dynamic character which distinguishes it from the static character of the medieval polities (Spitz 1998, 21).

Jean Bodin identifies three types of monarchies: seigneurial monarchy ("monarchie seigneuriale"), tyrannical monarchy ("monarchie tyrannique") and royal monarchy ("monarchie royale"). In each case, the sovereignty is vested in the prince: the difference is given by the way they were created and the manner in which they are governed. The first is defined as a regime where the prince is the absolute ruler of his subjects and their goods, governing them "as a head of family would govern his slaves" (Bodin 1577, 234). At first sight, this would look no different than tyranny, but, for Bodin, such authority was obtained as a result of a just war, in which case the victor had the right to dispose of those defeated in any manner he saw fit. The tyrannical monarchy, on the other hand, was one where the prince "tramples under his feet the laws of nature, abuses the liberty of his free subjects, like of his slaves, and the good of others, like his own" (Bodin 1577, 245). Finally, the royal monarchy is the one where the king "obeys the laws of nature, just like he wishes his subjects to obey his own laws, allowing to each person their natural freedom and their property" (Bodin 1577, 238). According to Arlette Jouanna, by placing between royal and tyrannical monarchy this intermediate regime which was the seigneurial monarchy, Bodin increases the distance between absolute and tyrannical power, which the Monarchomachs considered so short, and frees the word "absolute" from its arbitrary connotation (Jouanna 2009, 537).

For Bodin, the "royale" monarchy (or "just monarchy", as he calls it on some occasions) is the most excellent among all types of

commonwealth, not only because it can provide better for its subjects, but also because it is better equipped to withstand any possible threats, while democracy and aristocracy are prey to "many ills" (Bodin 1577, 698-699). In his opinion, the sovereignty which a king possesses in such a state can still coexist with some formal limits (besides the goodwill of the prince). Christian Nadeau points out that the concern of tempering the sovereign power had not disappeared, but it passed from the constitutional register to the register of government, as Bodin established a clear distinction between the legal foundation of a state and the exercise of its government: state and government receive each a specific definition and independent of each other (Nadeau 2005, 96-100). For instance, while the king of a royal monarchy is not bound by positive laws, he is actually bound by agreements he made with his subjects: unlike laws, these have a limited scope, but the prince also cannot repudiate or amend them at will (Bodin 1577, 134-135). By acknowledging this situation, Bodin was likely paying tribute to the many privileges embedded in the fabric of the French polity and which still persisted during the sixteenth century. The cause for this much greater binding power of the contracts, in comparison to edicts or ordinances, lies with the fact that the latter might not necessarily reflect divine or natural law: a royal edict may be issued simply for his utility and, in such a case, it can be abrogated by the prince as he saw fit. More so, even if a law does actually reflect some principle of natural justice when issued, if that ceases to be the case afterwards, then its binding power over the prince disappears as well. But, on the other hand, the requirement that someone must respect the contracts he has willingly entered represents a tenet of natural equity, which no human authority could overrule, and it also involves the king's status as the ultimate source of justice (Bodin 1577, 147-148). In addition, the king's self-interest dictates as well the observance of contracts, since "the word of a prince must be like an oracle and loses its dignity when people have such a poor opinion of him that he is not believed without having taken an oath, nor bound by his promise unless he is paid" (Bodin 1577, 134). Second, and far more importantly, Jean Bodin does not admit that the absolute power of the king, in a "royale" monarchy, actually includes the power to tax his subjects according to his will. For Jean Bodin, a person's right to his own property is a natural right and, therefore, one of those which the sovereign cannot infringe upon without consent: the Estates General, which otherwise was supposed to have a subordinate and purely consultative role, remains the institution which a fundamental part of the act of governance, taxation, depends upon – and the necessity of popular

consent was attested not only by French governmental tradition, but it was also an established rule in Spain, England and Germany (Bodin 1577, 634-635). In the opinion of Howell Lloyd, if taxation gave rise to a difficulty in Bodin's argument, this was through his admission not of the right of consent, but of the sovereign's capacity to dispense with that right, in circumstances of necessity: this principle meant the identification of public welfare with the preservation of the state and it also underpinned Bodin's denial that magistrates might disobey the sovereign power even when they believed its command to contravene the law of nature, because it might give ordinary subjects an example of sedition (Lloyd 1983, 160).

Even though the Estates have a decisive say in the fiscal policy of the state, the fact remains that Jean Bodin made the king the legislator of the realm and it comes to reason that, in such circumstances, the role of the Estates-General was seriously diminished: often envisioned as a legislative institution by the Monarchomachs[1], it is now returned to the consultative role to which it was limited by Michel de l'Hôpital. Bodin refers directly to the Huguenot Monarchomach literature when claims that "those who wrote on the duties of the magistrates and other similar books are greatly in error when asserting that the authority of the Estates of the people was greater than that of the prince": such a pernicious doctrine was nothing, in his opinion, but an incitement to rebellion (Bodin 1577, 137). If there is no sovereignty vested in the Estates, Bodin does not hesitate to remind his readers that there is even less in inferior assemblies or even individual magistrates. French governmental practice was a great help in this regard for Bodin, since the judicial authority of the Parlement ceased in the presence of the king, something which made possible the procedure so-called *lit de justice*, when the king came in person in the Parlement to impose the registration of an edict which the Parlement was otherwise unwilling to approve. Therefore the author can rightfully claim that all power derived from the king and no individual magistrate had the right to issue commands in the presence of the monarch (Bodin 1577, 227). But even though the role of the Estates as a key policy-maker is thus significantly reduced, for Bodin it is important that the institution was treated with the deference it deserved, because, based on the French political tradition, it still retained a consultative role in matters of legislation. To dispense altogether with this institution would have been unsound policy, because the Estates represented, even for absolutists like

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[1] For a more thorough exploration of the Monarchomachs' attitude towards the Estates General, see Sălăvăstru 2017, 654-680.

Jean Bodin, the best channel of communication between king and subjects, thanks to its right to present the people's grievances to the king in the so-called *cahiers des doléances* and petition him for redress. Accordingly, the sovereignty of the prince is strengthened through the assembly of the three estates, because it represents the stage where a formal recognition of the former, by his subjects, is carried out (Bodin 1577, 136-140).

There is a direct connection between the status of the "royale" monarchy as the best type of state and the existence of institutions like the Estates or the Parlement, which are suppressed under a tyrannical regime: although deprived of any power to oppose the monarch, it could be said that they still constituted a sort of moral check on the king's will and, at the same time, a useful tool of governance. The actual consent of the community, either through the Estates or through the Parlement, even though a formality in the kind of monarchy imagined by Jean Bodin, served to secure the obedience of the subjects to the king's enactments (Bodin 1577, 145). The idea that the Estates and other such institutions increased the power and the prestige of the monarchy was thus a common ground between the partisans of a more limited royal authority and absolutists like Jean Bodin: just like the former, Bodin does not hesitate to point out that the respective institutions, from the highest Estates to the lowest corporations, contribute to the preservation of the well-ordered state, but, on the other hand, they represent a major threat for tyrannies, which try to eliminate them completely (Bodin 1577, 398-400). If the Estates do not possess sovereignty in a well-ordered monarchy, it is also perfectly true that the sovereign must respect their jurisdiction: in Bodin's scheme, sovereignty is undivided, but actual governmental practice can and should be shared amongst the many parts of the commonwealth. Medieval political theory had always asserted that each member of the "body politic" must be content with their share and not seek to intrude upon another's sphere of attributes. The distinction which Bodin establishes between the type of state and the manner in which a government is actually run allows him to preserve this principle without contradicting his definition of sovereignty. The holder of sovereign power could lawfully attempt to trespass on the authority of the "Senate or the magistrates", but to do so would diminish his own authority and "would engender an insufferable arrogance and tyranny in a prince" (Bodin 1577, 494-495).

The existence of the Estates is perfectly possible in Bodin's political system because he establishes a clear distinction between the form of the state and the form of the government: a "royale" monarchy can very well include such representative institutions, allowing them to take part in

the government, as long as the sovereignty is retained by the monarch alone. To completely remove the Estates from the equation would have been too great a breach with French political tradition and would have run contrary to Bodin's purpose, more so since there were situations when even absolutists admitted that the Estates could rightfully become a deciding factor in French politics. During the Estates General of 1484 at Tours and immediately before those at Orléans and Pontoise in 1560-1561, it was claimed that the Estates had the right to decide on the regency when the king was still minor – and that was a pretension respectful enough of the king's sovereignty to meet with Bodin's approval.

In addition to the already-mentioned limits ascribed to all "royale" monarchies, there were two other constraints, one which was specific to France, and which all French absolutists accepted without question, Bodin included. First, there was the principle of the inalienability of the royal domain, which prevented the king from (permanently) selling or conceding parts of the domain and made any attempt to do so legally null and void (Bodin 1577, 618-619). The rationale behind this interdiction, in Bodin's scheme, was that, by alienating the royal domain, the king was undermining his own sovereignty. With respect to this, Bodin had the chance to move from theory to practice very soon, when, during the Estates General from Blois in 1576-1577, Henry III tried resorting to this measure, only to be met with opposition by the Third Estate, urged by Bodin himself – something which likely cost him the royal favour (Lloyd 2017, 166-167). The second limitation, specific to the French monarchy this time, concerned the matter of succession to the throne, which was regulated by the so-called Salic Law, establishing the principle of agnatic succession, and which, again, was beyond the king's power to alter or cancel (Bodin 1577, 136). In the opinion of Preston King, sovereign power was as much created by, as it created, the state and, therefore, the sovereign "could not merely act as he pleased, but his acts must be conditioned (and this means limited) by the total historical process in which he was only one, though the most important, participant" (King 1974, 134). The Salic Law was a rule which influenced the very existence of the state. More so, it concerned not the exercise of the sovereignty, but its transmission – and, were the king to attempt to change it, any such alteration could have taken effect only after his death, when his power was no longer extant.

On the question of tyranny, Jean Bodin is categorically opposed to the doctrines advanced by the Monarchomachs, because the political system he imagined does not allow for any possible action against an

absolute sovereign without the entire political edifice being torn down. Since sovereignty means that all power derives from the one who possesses it and all jurisdiction belongs to him, then there is no judicial recourse against an evil sovereign, like the Monarchomachs had proposed (Jean Bodin 1577, 256-257). Bodin's attitude is basically a return to the original stance of Luther and Calvin on the issue of resistance: while active resistance is never lawful, on the other hand, a subject cannot simply obey commands which contravene the laws of God and nature. In such a situation, the subject could choose to flee, hide or simply accept whatever punishment the evil ruler had in store for him. This provision allows the magistrates some room of manoeuvre, albeit with some caveats: fundamentally, a magistrate, since he derives his power only from his sovereign, cannot take action against him, but he could attempt to see that an edict which is obviously against divine and natural law will not be enforced or he could even leave his office (albeit resignation is not allowable if the magistrate's opinion on the injustice of the edict is in minority and does not have the sovereign's permission). On the other hand, if a command is contrary only to human law (be it the law of nations, civil law or customary law), the magistrate is allowed to remonstrate with the king, but must carry out the king's will if his protestations had been rejected (Bodin 1577, 337-343). Bodin's allusion obviously refers to the Parlement of Paris' previous obstructionism, which had constantly tried to stall the registration of the king's edicts of pacification, judged too favourable to the Huguenots. Such interminable remonstrances of the Parlement were not only incompatible with the logic of Bodin's "royale" monarchy, but they also constituted a massive hurdle for his goal of finding a way for the pacification of France.

If the first Protestants justified their opinion against active resistance to lawful authority on the basis of Saint Paul's statement in Romans 13 that all power, no matter how tyrannical, comes from God, Bodin's argument is much more pragmatic: he simply asserts what many absolutists will repeat after him in the future, that tyranny is often determined according to one's self-interest (Bodin 1577, 259-260). That Bodin had not completely abandoned his previous constitutionalism depicted in *Methodus*, to the extent that the logic of his new political system permitted, and was not dominated by a slavish devotion to royal power is shown by the fact that there are two exceptions, when taking action against a tyrant actually becomes acceptable: if the tyrant is not an absolute sovereign or if the action is initiated by someone who is not in any relation of subjection with him. No recourse against a sovereign ruler

is possible, but this is a rule which applies only to his subjects and has no bearing on someone who does not owe him any fealty: on the contrary, it is a "beautiful and magnificent thing for a prince to take up arms to avenge a people unjustly oppressed by the cruelty of a tyrant" (Bodin 1577, 255). This particular situation remains the only common ground between Jean Bodin and the Monarchomachs on the matter of resistance.

John Russell Major asserts that Bodin was not an absolutist, on the basis that he preserved several safeguards against an unrestricted power of the king, such as the already-mentioned notion that property was a natural right and therefore the consent of the Estates was necessary for levying of taxes, and the concept that the king was bound by the contracts he had made (Major 1980, 257-258). But there was a theoretical loophole in this framework, which was the acceptance of necessity to enable the king to bypass normal governmental procedures and that needs to be accounted for when assessing whether Bodin's theory of the monarchy could be rightfully classified as absolutist. There is a good chance that Russell Major's assessment of Bodin was influenced by his theories on the pre-Bodinian French monarchy of the Renaissance, which he regards, despite the authoritarian tendencies of kings like Francis I (1515-1547) or Henry II (1547-1559), as a consultative regime, needing the consent of representative institutions such as the Estates, especially on matters of taxation. Yet, it can be convincingly argued that the litmus test for absolutism was not the king's ability to appropriate the goods of his subjects as he saw fit, but his relationship with the positive law: the king being subordinate to the latter (through some formal constraint independent of his own will and disposition) or above it, determined, in our opinion, the absolutism of his regime. Absolute royal power did not mean that the king could take the goods of his subjects absent any necessity, because this would have pushed the respective government into the sphere of tyranny. There was always a strong distinction between absolute and arbitrary power and absolutist theorists accepted the existence of limits on royal authority, as Bodin himself did. The existence of such "safeguards", as John Russell Major names them, does not annul the absolute character of a monarchy, because these "safeguards" are not supported by any mechanisms designed to constrain the king: an absolute monarchy can very well tolerate those safeguards, as long as they do not imply any coercive power and they remain only moral imperatives. Jean Bodin's royal monarchy passes this test as well, because, when he accepted the right of the Estates to consent to taxation, he did not grant them the right to oppose the king if the former was ignored and, instead,

he relies that the good faith and self-interest of the king would determine him to operate within these boundaries – a principle which absolutist doctrines assumed to be always valid.

4. Conclusions

Bodin's ideas about the nature of the monarchy and sovereignty had a powerful echo during that time, especially since he was not an outlier, but merely the exponent of a line of thought which gained more and more ground over the next decades and which regarded the strengthening of the king's authority as the only way out of the crisis. This doctrine was associated mostly with the so-called "politiques", but it became supported by the Huguenots as well, after they reversed themselves from 1584 onwards, as a result of Henry of Navarre becoming heir apparent to the throne of France and in the face of the threat posed by the Catholic league. When pope Sixtus V excommunicated Henry of Navarre and the prince of Condé in 1585 and declared them deprived of their rights of succession to the throne of France, both the Huguenots and the royalist Catholics made common cause to reject what was considered by anyone but the most ultramontane Catholic an inacceptable interference in the governance of the kingdom. It was an alliance made possible by the fact that both Huguenots and the Catholic "politiques" tended, in the face of necessity, towards a secularization of the politics, at least to the extent that it was possible in the sixteenth century: except during their "monarchomach" phase between 1572 and 1579, the Huguenots had always maintained that they remained loyal subjects to the Crown and their religion represented no impediment for this. This was a radical idea in the sixteenth century, when it was thought that the loyalty of the subjects could not be counted upon unless they shared the same faith as their monarch, and one treated with derision by many Catholics; but the "politiques" had come to, begrudgingly, accept this proposition, for want of a more palatable alternative. In the words of Janine Garrisson, "the sense of belonging to an entity named France, which was embodied in the person of the king according to the fundamental laws, gripped both Catholic and Protestant Politiques, distancing them from the ultramontane and 'hispanicised' League and keeping them on the side of authoritarian kingship" (Garrisson 1995, 327).

Pierre de Belloy, a Catholic jurist, asserted forcefully in his tract *Moyens d'abus, entreprises et nullitez du merit et bulle du pape Sixte V^e* the divine right of kings, since "kingdoms have heaven as their sole

foundation" and the authority of kings "is established by, and takes its origin from, the divinity whose place they hold upon earth" (Salmon 2002, 168). In another work, *De L'authorité du roy* (1587), the same Du Belloy expanded his theories and reiterated the principle of the king as *lex animata*, which made the king the source of all law (Church 1969, 265). The circumstances surrounding the rebellion of the Catholic League, which started in 1588, strengthened significantly the position of the partisans of royal absolutism: the League's open willingness to embrace the tutelage of Spain allowed the royalists to portray themselves as well-meaning patriots, endeavoring for the salvation of France, and seemed to vindicate their argument than only a powerful monarchy could guarantee the preservation of the kingdom. The Leaguer rhetoric tried to discredit this trend, by accusing its supporters of impiety and making the term "politique" almost synonymous with atheism. Certainly, accepting the coexistence of the two faiths – something so contrary to the spirit of the sixteenth century – was not an easy decision and many struggled with their choice, but an apparent resolution was provided, first, by the conversion of Henry IV, in 1593, and, finally, by the Edict of Nantes of 1598, which, in the words of Thierry Amalou, "contributed to the elimination of the differences between the political conceptions and the religious zeal of those Catholics favorable to a civil concord with the Protestants" (Amalou 2007, 305).

The absolutists from the beginning of the seventeenth century, just like Bodin some decades before, while exalting the power of the king, were not pushing for complete arbitrariness. Absolutism did not mean tyranny, which retained its old stigma, and even someone like William Barclay, who maintained in his work *De Rege* (1600) that royal authority was divine and therefore not bound by positive laws, admitted that the prince could be resisted in two situations: if he behaved with intolerable cruelty and tyranny not to private individuals, but to the whole commonwealth or important parts of it; and if he endeavoured to destroy the community, because in such a case he had deprived himself of lordship and had ceased to be king (Carlyle 1962, 446-449). Bodin, for all his arguments in favour of an absolute monarchy, had steadfastly maintained that divine and natural law were beyond the king's power to alter and he was just as bound by them as any of his subjects. William Farr Church argues that a theory of state which justified all acts of the sovereign simply on the basis of force could not be accepted and, therefore, even during the absolutism, the moral purpose of monarchy in terms of the aims and ends of human existence was preserved (Church

1969, 334-335). Bodin himself had heavily criticized in his *République* those "flatterers" which aimed to convince the kings that their power justified any inequity. Yet, it emerged in the first half of the seventeenth century, during Richelieu, the notion that the king could actually derogate from natural justice, but that was an outcome not of the Bodinian absolutism, but of a doctrine which Luc Foisneau described as a "distinct way of considering modern politics", a "rival view" even, (Foisneau 2013, 323): the doctrine of "reason of state".

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