

The Political Theory of the Huguenots

WORKS of polemical political philosophy may be roughly divided into those which make revolution and those which revolution makes. But it must be confessed that the former are extremely rare, for the essential requisites are difficult to find in combination. The creative conception may be there, and the material may be in a fitting state for manipulation. But that which is most frequently found wanting is the restraint which keeps the creative mind in due subordination to the capabilities of its material. Thought is apt to run too far ahead of the possibilities of action, to range beyond polemics into prophecy. Few as are the works which have been commonly admitted into this class, their number has probably been exaggerated. It is natural and easy for men of letters, writing after the event, to overrate the prowess of their literary predecessors, to exaggerate the intellectual element in revolution, to see cause where there was only co-ordinate effect, to credit with the creation of ideas those who were but their exhibitors or colporteurs. In the future, such instances of the precedence of pure intellect in revolution may possibly be less uncommon, at all events the press will make men think so.

On the other hand, it is certain that every revolution contributes its quota to the history of political thought. Such contributions, are, however, of more than one kind, and the distinction is not unimportant. Either it may be that, more or less unconsciously, at the close of an epoch of change the practical issues will shape themselves into a philosophical system; and it is not only the victorious but the vanquished order of ideas which may thus be crystallised. Or else it is that men engaged in action for practical or perhaps personal ends look around for a philosophical programme or an intellectual justification which may satisfy themselves or others.

It is to this latter section that the political thought engendered by the French wars of religion distinctly belongs. It is seldom, indeed, that so great a political and social upheaval has been prefaced by so few premonitory symptoms within the area of thought. This is, no doubt, in great measure to be ascribed to the fact that other issues besides political and social were at stake, and were, indeed more prominent to the outward view. It was through the

medium of the religious revival, and in a theological form, that the inarticulate social discontent found its utterance. Thought, therefore, was turned into religious channels, and even where there was a political element in its composition it was overlaid by strong biblical colouring. It is true that the study of the bible itself led necessarily to the formularisation of political conceptions; but, the bible being unable to supply a complete political system applicable to modern life, these conceptions tended to take extreme forms. Either they were caught up by the proletariat and translated at once into action with all the rigid logic of ignorance and suffering, or they led more thinking men into a doctrine of non-resistance. The latter has, indeed, a political basis, but is unlikely to trouble itself with the elaboration of a political theory which is necessarily the task either of government or of opposition. On the other hand the socialist outbreaks with which the reformation period in Germany opened, and which characterised, though far less universally, the early rising of the Huguenots, served to check the development of steady political thought on liberal lines, which was the possession of the middle or upper middle classes. Consequently Germany in the first quarter-century of its religious struggle was singularly unproductive of political theory; and the same was for some time true of France. The one great group of exceptions is, indeed, not unimportant—ultimately, indeed, all-important. The relation of church to state must necessarily be a matter of discussion from the first, but it was discussed generally within narrow theological lines, and as a doctrinal rather than as a political question.

There were other reasons of a more general character for the stagnation of political thought. To this, at all events, the atmosphere of the latter half of the fifteenth and the first half of the sixteenth centuries had not been stimulating. The great theoretical questions which had agitated the fourteenth and, to some extent, the beginning of the fifteenth century had been settled by practical compromises. These questions had been eminently theoretical and essentially European. The original discussion on the limits of civil and ecclesiastical power had widened into debate on the origin and sanctions of government, on the respective claims of universal monarchy and nationality. Such subjects readily adapted themselves to literary treatment. This was not so much the case with the problems of the succeeding century—the consolidation of nationalities and the centralisation of government. The character of the power of the new monarchy was as practical as was that of the old nobility which it had been gradually replacing. In so far as the former had a theoretical basis at all, it rested on authority or Roman law. Moreover, the current of thought would naturally be the product, not of the collision between the force of the present and that of the expiring past, but of its first contact with the forces of

the future. In England under the Tudor monarchy it was not long before popular forces were set in motion, and, therefore, symptoms of the new growth of political thought soon manifest themselves. More complicated is the case of Germany. Here, indeed, theory did continue to gather round the office of the emperor, because it was of an eminently non-practical character, but, as under Maximilian and Charles V it began to assume a practical shape, theoretical discussion on its nature died away. The more important form, however, which monarchy was assuming in Germany was that of the territorial prince. This was essentially *de facto*, and was unaccompanied by any theoretical justification. Nevertheless in Germany the new popular forces were more actively at work than in other parts of Europe; and it is perhaps owing rather to the lack of literary form than to the absence of political thought that no great work was there engendered. Italy must be regarded as being *hors de ligne*, as she stood on an entirely different intellectual level. The power of the monarchy was, it is true, more practical there than elsewhere, but, on the other hand, it was brought into constant contact with other forms and other forces, and that within very limited areas. Machiavelli's works may be said to comprise a summing up of the conflict of these forces in the past. But it should be remembered that the 'Principe' owes its great importance, not to its immediate effect, but to the use which was made of it on the revival of political theory.

In France, at all events, circumstances had been most unpropitious to the development of theory. The encroachments of the monarchy had been gradual and practical, and, moreover, the energies of the nation had been concentrated on foreign wars. To the dearth of political thought the 'Contre Un' of La Boétie is only an exception in appearance. It was, indeed, long after his death published and freely used with a view of rousing resistance to the monarchy. But it was written with no such object; for the existing order it had nothing but panegyric. It is, indeed, little more than an academic exercise inspired by a study of the classics, and its value consists chiefly in its literary excellence. It can hardly be said to contain a philosophic basis of government or of resistance; at all events the principles which it enounces are followed to no definite conclusions.

Far greater weight might justly be attributed to the political aspect of the writings of Rabelais. Yet it is doubtful if they had any influence on the coming struggle. That this was so was probably due to the association of political grievance with the spirit of Calvinism. But for this it is conceivable that Rabelais might have held a place among the thinkers who have begotten revolution.

It was only in the general dislocation and *désœuvrement* of society that followed the cessation of the foreign wars that the

French began to realise the weight of the burden which their governmental system laid upon them. At this moment also the religious question naturally began to become acute. If reform had been confined to the higher nobility or to the proletariat, its political effects would probably not have been great, or at all events permanent. But it took strong root in the classes which were becoming conscious that they had a constitutional career before them, whose material interests were injuriously affected by a monarchy that was at once oppressive and disorderly, and which, though naturally silent, had the latent capacity of speech. It is true that these classes were much divided in the struggle that ensued. Quite apart from influences of one or other religion on individuals or localities, it was natural that part of the gentry and part of the professional and bureaucratic classes should cling to the court, and that the *bourgeoisie* should hesitate between the crown and the great nobles who put themselves at the head of reform.

Until, however, the religious revival gave a voice to the dumb discontent, social or political, first in the Huguenot rising and afterwards in the outbreak of the league, there was little to show the real force of the opposition to the established order. The French press had been working in the full consciousness of its young powers ; but what leisure it could spare from classical learning it devoted to the exposition of doctrine, neither of which, indeed, was without influence on the political products of the future. Even when the struggle began it was not at once that the philosopher joined in the fray. Political manifestoes and military memoirs there are in plenty, but no political philosophy. Few men had realised that the wars of religion contained the germs of revolution. The Huguenot leaders sought to blind themselves to the fact that they were in arms against the crown, that they were fighting against principles and not persons. From the pulpit, indeed, the real issues were occasionally thundered out, but the nobility, who were as yet the prominent element in the party, were anxious to stifle the preacher. The monarchy were still only apparently at strife with the forces of the past.

It was the massacre of St. Bartholomew that produced the great change not only in the political but in the philosophical aspect of the conflict. However successful catholic writers may have been in their attempt to minimise the number of the victims, it cannot be doubted that it was a shock which shook France to its foundations. Social gases hitherto cooped up found vent, and new forces were brought into activity. The reaction against absolutism now found free expression. The Huguenot party, profoundly altered in its component elements, began to cast about for a permanent basis of resistance, for a philosophical justification of rebellion. Mere precedent, which had sufficed for political manifesto, was now in-

adequate ; a conscious philosophical system was required. Hitherto it had been at persons rather than principles, at ministers rather than monarchy, that literary attacks had been directed. Now there is advance through pasquinade and pamphlet to philosophy. Political thought, indeed, took an epidemic form, and the agency of the press spread contagion wider and faster than had previously been possible.

The war which immediately followed the massacre was the life-and-death struggle of the reformed religion. The losses inflicted on the Huguenot nobility gave a greatly increased importance to the ecclesiastical element in the councils of their party. Yet the influence of Calvin and Beza on the literature of this period is not so marked as might have been expected. It is by no means exclusively in Calvinistic leading-strings, indeed the secular element may almost be said to predominate over the ecclesiastical. But it must be remembered that very shortly after the massacre a section of catholic malcontents broke away from the crown, whose friendship it was important to propitiate. Moreover, the political literature apparently emanated chiefly from a group of diplomatic agents, who, however genuine their religious convictions, regarded the inconvenient intermeddling of the ministers with no great favour. It is worthy of notice also that the party of rebellion not only elaborated a theory for themselves, but also fastened one on to their opponents. The theory of absolutism had, as they urged, been formulated by Machiavelli and had been brought into practical application by the crown through the agency of Catherine de' Medici. The 'Principe,' therefore, was the point at which the attacks of the advocates of limited Franco-Gallic monarchy were expressly or by implication directed.¹ The party of rebellion employed the reverse order to that attributed by it to the crown. The practical resistance was followed, not preceded, by the formulation of the theory. The supreme importance of the massacre of St. Bartholomew to the literary history of the wars may be proved by the fact that all the important works of genuine Huguenot parentage are written within seven years of the event. Within this period fall the 'Franco-Gallia,' the 'Vindiciæ contra Tyrannos,' the 'Réveille-

¹ An early edition of the *Vindiciæ* has a Latin translation of the 'Principe' printed as an appendix. But the most elaborate and methodical of the works written against Machiavelli is the *Discours sur le moyen de bien gouverner et maintenir en bonne paix un royaume, contre Nicolas Machiavel*, ascribed to Gentillet. The author states and refutes the maxims of the 'Principe' one by one. The Latin edition of 1577 ascribes the happiness of England to its immunity from Machiavellism: *Vos vero ô quam fortunatos cum tali Regina, tum quod pestilens Machiavellicæ doctrinæ afflatus in Angliam non penetravit*. The Dedication to Francis Hastings and Edward Bacon is a diatribe against Catherine de' Medici. The French edition of 1576 is dedicated to the duke of Alençon, and the personal attacks on the queen-mother are therefore absent, but the dedicatory address is an adaptation of Machiavelli's Exhortation for the expulsion of the foreigner.

Matin,' the 'Tocsain,' the 'France-Turquie,' or 'Anti-Machiavel,' Gentillet's 'Discours sur le moyen de bien gouverner et maintenir en bonne paix un royaume, contre Nicolas Machiavel,' 'Le Politique,' 'Du droit des magistrats sur leurs sujets.'

At the close of this short period of literary activity the Huguenots and the United Catholics of the south of France had secured a working autonomy, and in the straggling conflicts that ensued personal and factious motives were predominant. Consequently it is only with the outbreak of the league that there is a fresh revival of political thought. It is the catholic democracy which is now seeking its philosophical justification, and the Huguenots swing back to the doctrine of strict succession. Thus not only can the effects of the general upheaval of the wars of religion be traced in the history of thought, but the results of each distinct seismic wave. It is thus that the inconsistency of the Huguenot or catholic philosophical attitude is to be accounted for. Political thought was the effect rather than the cause. The practical issues were determined by religious passion, by the reaction of the social forces of the past or the germination of those of the future. But it was an age of apologies, and each passion had to find its justification, and each social force its *raison d'être*. Hence the political philosopher is from the first a pamphleteer, however abstract the principles which he enounces, and however colourless the language in which they are expressed. This is true even of the 'Respublica' of Bodin, which is in form a comparative grammar of previous political thought and institutions, but in substance a panegyric of French catholic monarchy, of absolutism in government, and authority in religion. It is perhaps least true in substance of the philosophical interludes in the memoirs of Tavannes, which look rather to the future than the past, and point onwards through the Fronde to the revolution. But the soured democratic philosopher noble should perhaps be placed in another category, for he wrote when intellectual depression had succeeded to the feverish excitement of the wars, and melancholy is the mother of prophecy.

Conspicuous among the political writings of the short period to which reference has been made, are the 'Franco-Gallia' of Hotman, and the 'Vindiciæ contra Tyrannos' of somewhat uncertain authorship.³ They were both directly inspired by the massacre of St.

³ Since Bayle's dissertation on the authorship of the *Vindiciæ contra Tyrannos*, it has generally been attributed to Hubert Languet, and will always be found catalogued under his name. Herr Max Loosen, however, has recently renewed his attacks upon this theory (*Sitzungsberichte der philosophisch-philologischen und historischen Classe der k. B. Akademie der Wissenschaften zu München*, 1887). He makes out a strong case for the authorship of Du Plessis-Mornay. The question should at least not be regarded as settled in favour of Languet. The advocates of Bayle's theory believe the book to have been edited and published by Du Plessis-Mornay after Languet's death,

Bartholomew. The author of the one, and probably that of the other, had difficulty in saving their lives. They both wrote when the subject was fresh in all men's minds, and both works are therefore, to some extent, *livres de circonstance*. But while other contemporary pamphlets are chiefly of interest to the student of the history of the wars of religion, these two books deserve a permanent place in the history of political philosophy. Pointing to the same conclusions, to the right of resistance to authority when wrongfully exercised, and using, in a large degree, the same historical material, they are radically distinct in method. There is this curious contrast, that, while the method of Hotman, the distinguished legist, is eminently historical, that of the one of two diplomats who wrote the 'Vindiciæ' is essentially philosophical. While the pointed personal applications of its principles tend to detract from the latter as a work of political philosophy, it is the political aim of Hotman's book which lifts it out of the range of historical antiquarianism and gives it its philosophical value. The interest of the 'Franco-Gallia' consists in the rigid application of the inductive historical method, that of the 'Vindiciæ' in its statement of the theory of contract from which all government is derived. It is for these reasons that the authors deserve a somewhat detailed examination, and in close connexion with each other. Pages of illustrations from the 'Vindiciæ' are almost identical with those to be found in the 'Franco-Gallia.' But a close inspection will show that they are of far greater importance in the latter. Here they are really the premisses from which the conclusion is drawn, while in the 'Vindiciæ' they are merely illustrative conclusions drawn from the same premisses from which the author derives his own. His theory would be equally complete without them.

The characteristic features of Hotman's literary work are distinctly of Teutonic rather than Romanic type. They are patient researches amounting to pedantry, conservatism, appeal to precedent rather than to principle. His sympathies all point in the same direction. His book is dedicated to the elector palatine; he holds up the constitution of the German empire for admiration. In other works he points out the overwhelming predominance of Teutonic custom in French law; it pleases him to show that even in the French language there is a not inconsiderable German element.

and that it was ante-dated to 1579, the real date of publication being 1581. Herr Lossen is of opinion that it was edited by Villiers, chaplain to the prince of Orange, a notorious stylist, and that the date ascribed to it is correct. There is no doubt that the alleged place of publication, Edinburgh, is a blind. It seems certain that the bulk of the book was written shortly after the massacre of St. Bartholomew, probably in 1574, before the accession of Henry of Anjou. The preface, which purports to be by a different hand, is dated 1 Jan. 1577, Solothurn; but on this point there appears to be no certainty. The question is, no doubt, complicated by the fact that Languet was, in a manner, the literary godfather of Du Plessis-Mornay.

But, above all, the whole drift of the argument of the 'Franco-Gallia' is to prove the substantial identity of the Gallic and Teutonic political systems, and to eliminate the Romanic factor in the national life. This predilection for things German was made a charge against him by his adversaries. It is an object for the satire of Matharellus (Masson). He speaks contemptuously of Hotman, *qui nos etiam Germanos faceret si posset*, and twits him with his bad taste in admiring the German language: *ejus enim gentis euphonia delectatur*. But Hotman was not ashamed of his preference, and replied to the former criticism. *At idem* (Hotomanus), *si posset, levitatem Gallicam cum moderatione Germanica libenter temperaret*; and again: *Multi respondent tibi quod esset multo utilius toti regno Gallie fieri Germano-gallos quam Italo-gallos, ut nunc sunt quamplurimi*. This sentiment is the key to the 'Franco-Gallia.'

The French nation, as the author holds, is the result of a fusion of the Gallic and Frankish elements. The political system of the Franks, which he proves to be indubitably Teutonic, is but a continuation, a revival, of that of the Gauls. The Roman system ran counter to the national system; the Roman rule in Gaul was an interruption of national life. The function of the Franks was to liberate the Gauls from the domination of the Romans. The first Frankish settlers were invited by the Gauls; by the native subject population they were regarded not as conquerors but as allies. The accession of Childeric marked the fusion of the two races; his election was the act of both. The essence of the system which resulted from this fusion was the responsible elective magistracy. This was indigenous on both Gallic and Frankish soil. It is true that some of the Gallic states were ruled by one magistrate, and others by several; but this is a difference of detail. Whether in the single states or in the great national councils the essential feature was the election of the ruler. On this depend the theory and the practice of the limited monarchy of the united nations, a form still existing among other Teutonic races. It has none of the three criteria of tyranny, for the people is not ruled against its will, there is no foreign bodyguard, the government is for the advantage of the people and not for that of the ruler. It thus reversed the characteristics of the Roman domination, under which the country had been administered by magistrates in whose election it had no part, had been held down by a foreign garrison, had been taxed for the benefit of its masters.

From the elective principle it results that the sovereign power is not in reality the king, but the *publicum consilium*, afterwards named the Three Estates. Its title is the principle, *Quod omnes tangit debet ab omnibus approbari*; its method is the maxim, *Salus populi suprema lex*. The functions of this council are co-extensive with the interests of the people. It creates and deposes the king,

it declares peace or war. Legislation and jurisdiction are in its hands. It appoints to the higher offices of state; it determines the appanages and dowers of members of the royal house. No power within or without the realm is its superior. No, not the pope; for Zacharias did but advise the election of Pippin; he approved the election, but could not elect.

From this it results that the king is an official—a minister. He exists for the nation, not it for him. The kingdom can be conceived as apart from the king, not he from it. The king is mortal, the kingdom immortal. He may lose his senses, the kingdom cannot err. Though he be a prisoner, the kingdom is no captive. The king's true place is at the head of his council. Of the two functions of Teutonic monarchy—the administration of justice, and the leadership of the host—the former is the higher. This is illustrated by the old royal seals which show, not a warrior on a war-horse or in a chariot, but a judge who sits *togatus et coronatus*, on his throne, holding in one hand the staff of majesty, and in the other the staff of justice. Then, and then only, should the term *Majestas regia* be applied, whereas now it has become the vulgar form of address whether the king be playing tennis or dancing or flirting.

Such is Hotman's account of the normal Franco-Gallic constitution, founded on a very considerable mass of erudition, and embedded among learned disquisitions on the original cradle of the Frankish race, the language of the Gauls, the long hair of the Merovingian kings, the real bearings of the Salic law. It remained for him to point out the causes of the decadence in the national polity. The essential features of the old system were that it was popular, founded on the people, and indigenous, the natural product of soil and race. The decadence was caused by the displacement of the popular element and by the introduction of exotic institutions. The former he ascribes to the house of Capet, and he would seem to mark three stages in the deterioration, due respectively to the founder of the house, to Philippe le Bel and his sons, and to Louis XI. There is yet a lower stage, but this he does not directly mention, though his readers would draw their own conclusions. The transference of the papacy to Avignon is made mainly responsible for the second cause of decadence, though it is closely connected with the first. This subject, however, is, as will be seen, more fully developed elsewhere.

It was, then, the action of Hugh Capet which first began to thrust the national council into the background. He artfully bound the nobles to his house by converting what were national elective and revocable offices into hereditary dignities. With the Capets also originated the peers—at least there is no certain evidence of their previous existence. At all events they have no place in the national system of either Gauls or Franks; they may be survivals of Roman

or of Arturian domination. Under the Capets their functions were to add magnificence to the royal coronation, and to watch the magnates when the judicial parliament became professional and stationary. This professional judicial parliament is the canker which has eaten into the national life, and this also France owes to the Capets. The term 'parliament' was originally applied, as in England, to the national council. The Capets, however, wishing to diminish its authority and to substitute a limited number of senators, transferred its name and its functions to the judicial body. This, now, has usurped the authority of the three estates. Its consent is required to all legislation and to all appointments; from it there is no appeal. The rapid spread of the evil may be said to date from the erection of the Basilica Regia, the work of the gallows-bird Maurigny, in the reign of Philippe le Bel or Louis Hutin. From Paris it has overspread the kingdom. There are seven parliaments and seven tyrannies. As the Egyptian Pharaohs employed their subjects in making pyramids, so do the kings of Franco-Gallia employ their subjects in making lawsuits. It was intercourse with papal Avignon that brought the seed *artis Romanæ rabulariæ* and sowed it among the old French customs. Of old there were but few cases; the king himself could try them, and the ecclesiastics, the barons, and the people could take their part. Now, one third of France was engaged in lawsuits. In Paris, and in the other seats of parliament, the lawyers numbered one-third of the population.*

With this onslaught on the lawyers the 'Franco-Gallia' somewhat abruptly closes. Hotman evidently ascribed considerable importance to this last chapter, and yet its full relation to the general scope of the treatise is not entirely clear. But a comparison with what may be termed the author's book on education, the 'Anti-Tribonian,' will show that this somewhat loosely hung chapter is of vital importance to the argument. Moreover, the 'Anti-Tribonian' gives perhaps even a clearer idea of Hotman's method than the 'Franco-Gallia' itself. In the latter he means to point out the disastrous political effects of the study of Justinian, as in the former he ridicules its educational value. This study he believes to be radically opposed to the historical method, which he holds to be the only true method, whether in politics or in research. The

* It may be noted that Gentillet's *Commentaria* also conclude with a chapter directed against the parliaments. He joins issue with Machiavelli's dictum that the parliaments were the safeguard of French liberties as putting a check upon the nobility. *Nam quæ audacia est persuadere velle regnum Gallia pessum iturum, nisi nobilitati parlamenta ultro adversa et infesta sint? . . . Quid aliud est dicere, longe melius actum iri cum regno Gallia, si omnis semel aboleatur nobilitas?* He admits that the nobles have partly brought their fate upon themselves by their neglect of law and letters. But France was better without her parliaments. *Ex nostris Annalibus liquet, Gallia regnum felicius ac multo melius administratum fuisse antequam ulla parlamenta existerent, quam ex quo sunt instituta.*

law of Rome, of the Roman empire, and above all of the Roman empire when transferred to Constantinople, could have no applicability to France. Why should a free country derive its laws from tyrants? French law, notwithstanding certain survivals from the period of Roman rule, is in its main features Frankish. It is in French history that French law must be studied. The historical method must alone be followed. The historical value of a study of Justinian, on which so much stress is laid, is a complete chimera.⁴ Justinian itself cannot be understood without a previous reading of Julius Capitolinus, Vopiscus, Ammianus, Procopius, and Zonaras. More can be learnt from a single book of Livy, Suetonius, or Tacitus, than from all the five big volumes of Justinian. This can be tested by results. *Il n'y a jeunesse au monde plus ignorante des histoires ou étrangères ou françoises que celle qui revient des universitez.* And again: *Quant à l'histoire, comme c'est folie à envoyer la jeunesse aux universitez de loix pour en apprendre beaucoup; aussi l'expérience monstre que les jeunes hommes reviennent aussi bien garnis comme on les y avoit envoyez.* But equally disastrous had been the social effects of the study of Justinian, and it is in the exposition of these that the 'Anti-Tribonian' serves to supplement the 'Franco-Gallia.' France flourished for eight hundred years without Justinian; it was only three hundred years ago that the doctors crossed the Alps. The influence of Roman law was then enormously increased by the rapid progress of canon law, which was merely a selection of its utterances on ecclesiastical subjects with vast subsequent accretions.⁵ The somewhat clumsy introduction of the influence of papal Avignon in the 'Franco-Gallia' is explained by the development of the attack on canon law in the 'Anti-Tribonian.' Of old law was founded on custom, that is on history. This was true of the laws of Clovis, of Charlemagne, of Louis IX. Even the parliament of Paris was not at first professional, and customary law is mentioned as being still usual in the charter to the university of Orleans in 1312. Then came the deluge; the date of the overflow of Roman law corresponds with that of the settlement of the papacy at Avignon. Throughout

⁴ For the inapplicability of a study of Justinian to the French constitution see Hotman's *Responsio ad Matharellum*: *Quasi vero simile Justiniani et regum quondam nostrorum imperium aut eadem regni administrandi ratio fuerit. Certe nunquam reperitur in authenticis quod Justinianus tenuerit tres status.*

⁵ Hotman descends to commentary on the doggerel '*Magnus Canonista magnus Arinista*:' *Et aujourd'hui il n'y a canoniste, sinon qu'il soit du tout stupide et abestry (comme toujours il se trouve des asnes en forme d'hommes qui prennent goust aux chardons), qui n'ait honte de sa profession.* (*Anti-Tribonian*, ch. xiii. edit. 1581.) Gentillet makes an attack upon canon law in the course of his onslaught on the mendicant orders. *Nec totius quidem juris canonici [jactura] molesta esset nec damnoza. Etsi enim nonnihil intermixtum est boni, tantum tamen palea est, tantum nugurum, et tam multa quae nulli usui esse possunt, nisi ad artem rabulariam Romanam et superstitiones fovendas, ut dum cloaca illa fetida, ex qua tot animorum corporumque pestes fluverunt, obstruatur obruaturque, quantumcumque in eo boni aut sani est, id simul totum aboleri expedit* (book iii. ch. xxxiii.).

Europe it was found that the amount of litigation in a country was in inverse proportion to the amount of study expended on Justinian. Of this Hotman gives an amusing illustration in the case of Hungary. This country was peculiarly free from litigation until the marriage of Matthias Corvinus with his Neapolitan wife. It was then flooded by lawyers from Italy, and the passion for litigation became so intolerable that Matthias turned them out bag and baggage, and forbade the name of Justinian to be mentioned in the land. In this illustration is found the precise point of contact with the 'Franco-Gallia.' Hotman was throughout fighting for the expulsion of Italian law, as Henri Estienne was combating the invasion of Italian language. The 'Anti-Tribonian' concludes with an appeal for a reform of law on an historical basis, and for educational and social ends. The last chapter in the 'Franco-Gallia' is practically an appeal for a return to old national customs from the imported institutions which have corrupted the national polity.

It is clear that Hotman's method differs entirely from that of the legists, the political philosophers, and the pure idealists. He does not discuss the origin of the state in general, nor the sources of its authority. The relations of church to state are only mentioned incidentally as having a bearing on the elective principle of succession. He does not even enter into the merits of different forms of government, though he does indeed quote the authority of Plato, Aristotle, Cicero, and Polybius for the advantages of a limited monarchy. But as a rule his authorities are not Aristotle, nor, as is common with Huguenot authors, the bible. He is concerned with the growth of an actual nation; facts are his only principles, the historians of Gaul and Germany his only real authorities. The basis of his work consists in a thorough examination of these authors, of whom Cæsar and Tacitus, Sidonius and Gregory of Tours, Aimon, Eginhard, and Otto of Freising are but the chief. The series ends with Joinville and Commines. From his readers he exacts what would now be regarded as a high standard of preliminary information. *Quæ de gentis origine et antiquitate, de bellicis laudibus, de regionis situ, privatorumque moribus, apud Cæsarem, Polybium, Strabonem, Ammianum et reliquos scripta extant, nota sunt omnibus, mediocriter quidem eruditis.* Of his own industry he is justly proud. *Veteres Franco-Galliæ nostræ historicos omnes et Gallos et Germanos evolvi, summamque ex eorum scriptis confeci ejus status quem annos amplius mille in Republica nostra viguisse testantur.*

From this point of view Hotman may claim to be one of the parents of modern history. His historical method and his political principles are thoroughly in accord. His premisses are facts, his law is derived from precedents—*antiquitas facit legem*. It may be said that from an artistic point of view the 'Franco-Gallia' lacks a conclu-

sion, but the logical conclusion is to be found in the preface. He who would determine the future of a nation must look back into its past. Every people has a natural principle of growth, from which departure cannot be made without danger to its health. The first step towards a recovery to health is the diagnosis of disease. Remove the causes of disease and the constitution will be restored. Whatever may be Hotman's errors as to the facts of the past, his diagnosis of the disease from which France under the Capetian dynasty was suffering was unerring. The internal dissensions to which it was generally ascribed were not, he said, the cause, but merely the occasion. For the cause he points to the loss of the official character of the nobility, the consequent growth of the bureaucracy, the abandonment of a national representative council for a royal judicial council, the growing idea that royalty lies not in the office but in the person of the king, and that the chief function of the king was to be, not the judge and administrator, but the warrior. No political philosopher could have more conscientiously carried out the precept of Machiavelli: *A volere che una setta o una repubblica viva lungamente, è necessario ritirarla spesso verso il suo principio*.⁶

For a philosophical view of history it may perhaps be claimed that there is no previous or contemporary work that so nearly deserves to be put on a level with Machiavelli's 'History of Florence' and his 'Discourses on Livy.' The author's work is so minute in point of detail and so laborious that the reader is apt to overlook the boldness and novelty of his design. This can best be judged by comparing him with his contemporaries. If they discard the present political system, they can but cling to their classics and their scripture; they cannot shake themselves loose from old feudal traditions; their most democratic conclusions are drawn from feudal principles.

It is true that Hotman at times reads more into his authorities than they perhaps contain. Under the influence of a *parti pris* facts, like figures, become strangely pliant. In the constitutional life of France he saw more continuity than may have existed, though it is possible that his modern critics may be as much at fault as he. He paints his Merovingian and Carolingian distances in a *couleur de rose*, not in accordance with the rules of realistic colouring. His belief in the sudden conversion of revocable officials into hereditary dignitaries is curiously in disaccord with his general belief in the gradual growth of custom. Such an act, even had it taken place, would but give sanction to a custom. His illustrations were so freely borrowed that they soon became commonplace, and in the course of the next half-century so many followed in his steps that his merit as a pioneer may easily be overlooked. Yet his chapters on the origin

⁶ *Discorsi*, book iii. ch. i.

of the Franks and on the Salic law may still be regarded as attaining to a very high standard of critical research.

The disquisition on the Salic law is a characteristic example of the author's treatment of a subject which has an antiquarian aspect, and it is important from an entirely contrary point of view. It is in this chapter and in that on the administration of the state by women, which is its natural pendant, that the most immediate personal and political application of the book may be said to lie. It should be borne in mind that long before the strict order of succession became of supreme importance to the Huguenot party, they were usually ardent adherents of the Salic law, because, rightly or wrongly, the house of Lorraine was suspected of basing a claim to the throne on the female side of all three dynasties. Hotman, however, points out that the received doctrine on the Salic law was founded on a mistake—a mistake indeed so old *ut jam error propemodum jus fecisse videatur*. Yet documentary evidence proved that the Salic law had no reference to the succession to the Franco-Gallic throne. It did not concern the Franks in Gaul at all; it was confined to the original settlement on the Saal. It had nothing to do with public law, with the succession to the throne, or even to fiefs, but only referred to private allodial property. It did not exclude male descendants in the female line. The exclusion of women from the Franco-Gallic throne was based on custom, and custom only. Hotman's historical conscience no doubt revolted against the general misconception on this subject, but it must also be noted that the existence of any fundamental law on the subject of succession was radically opposed to his theory of elective monarchy. It is just within the bounds of possibility that he may have had a more direct political motive for invalidating the theory on which the existing order of succession rested. To Hotman has been ascribed, though probably on insufficient grounds, a share in the authorship of the 'Réveille-Matin.' This pamphlet contains a very remarkable passage, to the effect that the Huguenots would not be displeased to see the house of Valois replaced by that of Lorraine, which was descended from Charlemagne, and had been unjustly deprived by the Capets.⁷ In the years immediately succeeding the

⁷ *Au reste, à quoy tient-il que ceux de Lorraine (qu'on scait bien estre descendus de Charlemagne et prives de la couronne de France) ne la recouvrent maintenant? Il ne tient ia qu'à une habileté de main: Que s'ils y veulent aller à force ouverte (mais qu'il n'en desplaie au Roy) messieurs de Lorraine mettront deux fois plus de gens en campagne, qu'il n'y en scauroit mettre. Ils ont plus d'amis, et plus de villes partisans qu'il n'a. Et tenes vous pour tous asseures, qu'à tout evenement, si la couronne de France se va perdre, ou changer de maistre, ils l'aimeront mieux sur leur teste, que sur celle d'un Prince estranger. Pour ma part, ayant veu le peu de seureté qu'il y a sous le regne d'à present, je l'aimeroiy beaucoup mieux en la maison de Lorraine que là où elle est. Et diray une chose que le Huguenot (despités pour jamais et desgoutés en toutes sortes de la maison de Valois) seroit bien aise, voire s'employeroit à ce que la maison de Lorraine recouvrasst ce qui leur appartient, s'assurant bien qu'elle lairroit*

massacre of St. Bartholomew the Guises were in no small favour among certain sections of the Huguenots, many of whom they had saved. It was believed that they would be liberal in the matter of religion. This idea of a union between the house of Lorraine and the Huguenots long continued to ferment in the brains of the diplomatic agents who haunted the frontiers of France and Germany, and with whom Hotman in his exile at Strasburg is known to have had intercourse. The superstitious respect for the Salic law was the great obstacle with which the ambitions of the house of Lorraine had to contend. The chapter on the administration of the state by women shows that it is unreasonable that women should govern where they may not reign; but that, apart from this, experience has proved that the administration of women in France has always been attended by tragedies. In proof of this a long list of infamous queen-dowagers is adduced, beginning with Chrochild and Brunchild, and ending with Blanche of Castille and Isabel of Bavaria.

On these chapters his enemies naturally fastened. They believed them to be intended to convey a direct attack upon the queen-mother, while the numerous references to the deposition of kings by the national council were a threat to the reigning Capet. Their author would found a republic, or he would set up a fourth dynasty.⁸ Hotman, in his reply to Matharellus, indignantly denied that there was any reference to contemporary politics; *Cum Matharellus unicum literulam in toto Franco-Galliae libro non ostendere possit qua præsens regni politia vel summo digitulo attingatur*:⁹ he had produced facts only; the conclusions were due to his opponents. But it is impossible to believe in the sincerity of this disavowal. It is inconsistent with his original preface, in which he states that his studies were due to the miserable condition of his country, and were intended to discover the remedy that should be applied. The reference to Brunchild and her Italian favourite, whom she loaded with honours, to the two sons whom she brought up in such vicious habits that they ended by being at deadly feud, is too direct to be mistaken, especially at a moment when the

la conscience du Huguenot libre et l'exercice de sa religion, et luy garderoit la foy qui luy auroit esté promise: se souvenant du malheur que la desloyauté auroit apporté à son maistre. Desia ont ils donné quelque occasion aux Huguenots, de croire qu'ils ne leur sont pas si aspres comme on croit. Ils en ont sauvé, comme l'a dit l'Historiographe, beaucoup et en sauvent secretement tous les jours. (Réveille-Matin, 1574, pp. 104, 105.) For the negotiations for an alliance between the houses of Lorraine, Condé, and John Casimir directed against the kings of France and Navarre in 1580 and 1582, see *Mémoires de la Huguerye* (Paris, 1878), vol. ii. pp. 89-60 and 177-191; Bezold, *Briefe des Pfalzgrafen Johann Casimir*, vol. i. pp. 361-63 and 395-96; also a document in *Mémoires de du Plessis-Mornay* (Paris, 1824), vol. ii. p. 424.

⁸ *Reges enim nostros et regni nostri politiam subvertere conatur.* (Matharellus *Responsio*, ch. xx. edit. 1575.)

⁹ P. 53.

hatred between the king and his brother was notorious. Catherine's chief element in French eyes was her Italian blood, and Hotman's reply to Matharellus rings with a fresh diatribe upon the foreign minions of the court, the Italo-Gauls, who were the contrivers of massacres, the inventors of taxes, and the enemies of peace.¹⁰

The 'Franco-Gallia,' notwithstanding its antiquarian form, is really a *livre de circonstance*, in the same sense that Machiavelli's 'Principe' was a *livre de circonstance* in spite of its philosophical form. The antiquarianism partly connected itself with old hobbies and old quarrels, partly perhaps it was a blind. But for the preface an uninstructed reader would scarcely know at what period the book was written. But contemporaries had no doubt as to its intention. The extreme section of the opposition represented by the 'Réveille-Matin' warmly welcomed it. The moderates perhaps shook their heads. It pleased some Huguenots, says Palma-Cayet, but not all. Friends and foes at once regarded it as no academic thesis, but as being distinctly within the range of practical politics. And it is this combination of a new historical method with a great political object which gives the 'Franco-Gallia' its interest and its permanent value.

Whatever doubts a reader might feel as to the immediate purport of Hotman's book, he could have none whatever with regard to the 'Vindiciæ contra Tyrannos.' It may be said to take the form of a case put to counsel, with his opinion thereon, recommending an immediate appeal to arms. Of the four *questiones* into which the work is divided, three relate to the right of disobedience and resistance of subjects to the throne, while the fourth is a justification of the intervention of foreign powers, on the ground that the unity of the church overrides national distinctions. Notwithstanding its philosophical method it is eminently a political pamphlet, and indeed professes to be so. Although contemporary names are not mentioned, there is no attempt to conceal the object at which the attack is directed. The meaning of the references to Athaliah and to Brunchild, to those women who bring up their children in wantonness and idleness that they may usurp the throne, is even less unmistakable than in the 'Franco-Gallia.' Herr Lossen has pointed out a yet more complete and detailed reference to current events.¹¹ It must be re-

¹⁰ *Qui fuerunt conductores et executores massacrorum et carnificinarum? Italo-galli. Qui fuerunt consiliatores belli et promotores tantæ infamiæ quam nos catholici accepimus in Delphinatu? Italogalli. Qui sunt adhuc hodie qui impediunt pacem in Gallia suis mendaciis et sophisticis inventionibus? Italogalli. Qui fuerunt inventores tot talliarum et impositionum quibus pauper populus excoriatur? Italogalli.*

¹¹ He would substitute the names Charles IX, Coligni, Condé, Montmorency, Catherine de' Medici, and the elector palatine for those given in *Vindiciæ*, p. 235 (edit. of 1679). *Consimiliter cum Carolus Calvus, rex Francorum, præsidem ejus regionis, quæ Sequanam et Ligerim amnes interjacet, Lambertum ducem et Jamatium per tyrannidem de medio sustulisset, ac cæteri Gallia optimates ad Ludovicum Germanice*

membered that in contemporary Huguenot pamphlets the key is freely applied to the names of the infamous kings and queen-dowagers of antiquity. Again, among those tyrants who are placed beyond the pale of the law are included those women who usurp the administration of the country in contravention of the privileges of the Salic law. And here the reference is all the more pointed, because the picture of the tyrant is drawn almost entirely from classical models. Yet the work, as a whole, rises high above these personalities. It claims, like the 'Franco-Gallia,' to be an attempt to bring back the state to its first principles, which have been subverted by the doctrines of Machiavelli. *Pugnant enim (quæstiones) ex diametro cum Nicolai Machiavellii Florentini, quem in gubernanda republica ducem illi habent, malis artibus, pravis consiliis, et falsa pestiferaque doctrina.* In the preface alone the name of Machiavelli is eight times mentioned. But with this apparent coincidence in the aims of the two books the resemblance ceases. The discussions in the 'Vindiciæ' affect a wider area, and the conclusions have a wider application. The author's material does not consist of French precedents alone. The principles involved in his four questions are proved by the evidence of Scripture; they are confirmed by moral and political philosophy, by the law of nature, by civil law and imperial rescripts; they are fortified by the usages of divers nations, are clearly shown as in a looking-glass by a variety of examples drawn from the most noted historians. Whoever the author may have been, his interest is evidently not, like that of Hotman, in history, but in the comparative study of existing institutions, and in that strange commingling of the classics and the scriptures which was the result of the fusion of renaissance and reform. If the former characteristic points more to the authorship of Languet, the latter is more applicable to the life and writings of Du Plessis-Mornay. However this may be, the application of this wide learning and observation is not altogether an advantage to the book. It is overloaded with references and illustrations. They divert the attention from the thread of the argument. They were no doubt fresher and more real to contemporary readers than to us, to whom they are merely the stock-in-trade of an old-fashioned republicanism. In the 'Franco-Gallia' it is possible to be patient with page after page of illustration, because it is felt that upon these the conclusions are built. In the 'Vindiciæ' little depends upon them. The real value of the book consists not in its research but in its deductive method, in the principles from which the author deduces the right of government and the right of resistance, and in the place which his work consequently holds in the history of the theory of contract.

The subject of the 'Vindiciæ' is thrown into the form of four

regem confugissent . . . auxilium in Calvum ejusque matrem Juditham, sceleratissimam feminam, petituri: is in amplissimo principum Germaniæ cœtu audiuit.

questions, of which the fourth concerns the duty of interference on the part of foreign powers, and is only of topical interest. The others are (1) Whether it is the obligation or duty of subjects to obey a prince's ordinances when contrary to God's law. (2) Whether they may lawfully resist a prince who is setting aside God's law or laying waste his church. If so, to whom, by what means, and to what extent is it lawful? (3) Whether and how far they may resist a prince who is oppressing or ruining a state. To whom is this lawful, by what means, and by what title?

It is obvious that this division is likely to lead to some repetition and confusion in treatment. But the philosophical groundwork of the distinction consists in the triple contract on which all government depends, the contract between God and king, between God and people, and between people and king. On these contracts all power and all obedience rest; they are the postulates of government, eternal principles applicable not merely to this state or to that, but to all. The apparent exceptions, the dominions of the Russian or the Turk, are not *imperia sed latrocinia*.

The relation of God to the earth is that of *proprietary* to *coloni* and *emphyteutæ*; those who exercise government are *Dei beneficiarii et clientes*, and receive their investiture from God. The more ample the estate which the vassals enjoy, the larger the return which is due; the greater the honour the greater the burden. Kings are but God's vicars. It is absurd to suppose that God makes the world over to kings without reserving his sovereign rights. Kings are the vassals of the King of kings, *per gladium, regie auctoritatis insigne, investiti, ut eo gladio legem divinam tueantur. Vasallus feudum a domino superiore accipit cum munere juris dicendi et onere militie conjunctum; rex regnum a Deo, ut judicet populum suum et adversus hostes tueatur*. As a vassal may forfeit his fief, so a king, if he neglects God and deserts to God's enemies, forfeits his kingdom.

But the people also has made its contract with God; it has engaged to be God's people. It is therefore lawful, nay it is obligatory upon it, to resist a renegade king. The contract was binding upon the whole people. God acted as creditors act when security is doubtful. They make several people securities, and from them the whole loan may be exacted. *Ecclesiam unico homuncioni committere lubricum erat*. This implies that the people are responsible agents. God would not make a contract with the slave who has no legal rights. The forfeiture of the erring king must be carried out by the people, who must prevent as well as punish, by admonition, by war, by stratagem. But the 'people' does not signify the masses. *An vero universam multitudinem, illam innumerorum capitum belluam, tumultuari et concurrere in eam rem, quasi agmine facto, oportebit?* No, by the whole people are meant those who have received magistracies from it, those who represent the universal gathering of the people,

the *comitia*, *quæ nil aliud sunt quam regni cujusque epitome*. Such are the nobility, and others chosen by the estates, of whom is formed the *concilium ordinarium*, or *extraordinarium parliamentum*. The function of these is to see that the church takes no harm. Such magistrates are, as individuals, inferior to the king, as a body they are his superior.

The relation between God, people, and king, consists in this, that God selects and appoints, while the people approves and institutes. God wished that kings should place to the credit of the people, under himself, all the power that they received, and that they should devote all their energies to the welfare of the people. But there is also a secular origin of government, and a secular sanction. The nature of government is made clear by stating the end of government. This is contained in the principle: *Imperii finis unicus populi utilitas*. Men are by nature free, impatient of servitude, prone to rule rather than to obey. It can only be for some great benefit that they renounce the law of their own nature to bear that of another. The inducement was the necessity of security, when the distinction between *meum* and *tuum* was introduced, when fellow-citizens began to quarrel for property, and neighbouring nations for territory; then the people had recourse to a ruler to protect the weaker from the stronger, the nation from its neighbours. The functions of government were then war and justice. Aristotle states that in heroic times the kings were *judices* and *duces*, and one of these senses will be found to appear in all terms applied to kings or high officials. In this contract with the people *justitia* holds the place that *pietas* held in the contract with God. There the condition of sovereignty was the glory of God; here it is the weal of the people. If the one contract be broken God is the avenger, if the other the people. No kingdom exists where this contract with the people is not in force. It may be implied or expressed, natural or legal. *Inter regem et populum mutua obligatio est, quæ sive civilis, sive naturalis tantum sit, sive tacita sive verbis concepta, nullo pacto tolli, nullo jure violari, nulla vi rescindi potest.*¹³

From the origin of monarchy its nature may be deduced. No man can be born a king, nor can be a king until he has received investiture from the people. No monarchy is really hereditary; if a dynasty deteriorates there is no bar to the selection of another. The object for which a thing is created is superior to the thing

¹³ *Du droit des Magistrats sur leurs subjects*, p. 770: *Qu'il n'y ait jamais eu nation qui sciemment et sans contrainte ou force se soit oubliée jusques à se soumettre à la volonté de quelque souverain sans ceste condition expresse ou tacitement entendue d'estre justement et equitalement gouvernée. Le Politique*, p. 98: *Il falloit qu'il y eust assemblées et troupes d'hommes avant la creation des magistrats, qui les ont crees avec pactes et obligations reciproques et correspondants. . . . Ainsi les droits des Roys ne se rendent pas proprement à leurs personnes, mais plusiost pour le regard de leurs charges et offices.*

created, and, therefore, the people to the king. He is but the servant of the state. He is the captain of the ship, the people the owner. All that he acquires by war or justice he acquires for the nation, as a slave for its master. Nor can he form any contract without the people's consent. Kings are not above the law; they are but *custodes, ministri, et conservatores legum*. Law is a divinely granted instinct by which human society may be best directed towards a happy end. It is better to obey mind than body. Nor are kings proprietors of the people's goods. It is not probable that men, who always cling to what is their own and often covet what is others, should choose a man to whom to transfer all that they possess. They are not even proprietors of the public patrimony. If kingship is a *functio* it has no concern with *proprietas*, if a *possessio* it is surely subject to the reservation of *proprietas* by the people. The *patrimonium fisci* is the dowry of the state, and none can alienate it. The domain was granted to the king for administration in time of peace, the *taille* for the emergencies of war. The king has not even usufructuary rights; it is for the law to prescribe the objects on which the revenue is to be expended. In short, *Regis nomen non hereditatem, non proprietatem, non usumfructum, sed functionem et procuracionem sonat*.

Such are the rights of the people. From carelessness they may be let to fall, but they cannot lapse. If there is no prescription against the *fiscus*, much less can there be prescription against the people, whose grant the *fiscus* is. Is it not recognised that there is no prescription against liberty, however long the servitude? If the nobles, the nation's representatives, have been oppressed, it does not prejudice the nation's rights. *Neque enim demunt anni quidem juri populi, sed addunt injuriæ regis*. If, on the other hand, the nobles have been in collusion with the king, they are liable to the same penalties, as trustees who cheat their wards. Much indeed depends on these representatives of the people. They have their obligations even as the king; they are the nation's officers, not his; they are not appointed by him, neither do they die with him. Unlike the officers of the household, they are not the domestics of a lord, but they guard the privileges of the people, they are the assessors, the partners, the co-trustees of the king; he is but their chairman. All nations have such officials. In France they were of old appointed in the national council, now in the parliament of Paris. France, too, has its peers, named after its provinces; they are *par excellence* the king's partners; to them he takes the oath, as to the whole nation. They are the king's superiors; they judge between him and his vassals. Hence the parliament of Paris, which is the *curia parium*, is judge between king and people. The king's receipts, unless signed by the secretary of the nation and sealed by its chairman, have no force.

Not only is there a contract, a law binding on the king, but a

sanction, a penalty attached to its breach. The king's engagement to rule justly was made *pure*; the people's engagement to obey was *sub conditione*. If the king fails to fulfil his part, he ceases to be a king, and becomes a tyrant. The people's resistance ceases to be rebellion; it becomes a duty. But here distinction must be made. A tyrant with whom no contract has been formed, an invader, a usurper, one who seeks to convert an elective into an hereditary monarchy, a woman who seeks to govern in a country subject to the Salic law—such are outside the law; they are at the mercy of the individual; it is a case for self-protection; law natural, national, or international, justifies individual resistance. But a contract once made, the individual is no judge of its breach or its observance. Resistance belongs to the representatives of the people, to the magistrates. All should resist; if not all, then some; if not some, then even one. In such a case majorities do not bind. Where the senate was, there was Rome, and where justice, there the senate. The state is where one magistrate is guarding his country against tyranny, calling to liberty a people enslaved, checking a woman's caprice, crushing flatterers who misuse the king's indolence for every evil end, keeping ambition within due bounds; such resistance is not only lawful, but is the bounden duty of every magistrate. The national officers must keep the tyrant in check. The local officers must ward him off from the districts entrusted to them. But the individual must not resist. The sword was given to him neither by God nor by people. He is but a ward, he may not act for himself, much less for the state. If he is oppressed, he must use, not hands nor feet, but only bended knees.¹³

This same hard and fast line between the obligations respectively incumbent on the magistrates and the individual is also applied to the case where the people is not acting for itself, but by virtue of its compact with God. Here, too, the obligation, as there the right, of resistance, is ascribed not only to the representatives of the nation as a whole, but to those of each province and municipality—that is, of each of the political units of which the nation is composed. As in the contract between king and people, the former had taken the oath that he would rule justly, not only to the body which represented the whole nation, but to each of its component parts, so in

¹³ *Du droit des Magistrats sur leurs subjects*, p. 744: *Ains il faut ou qu'il se retire ailleurs ou qu'ayant recours à Dieu il souffre ce joug*. The Huguenot writers, while advocating resistance to authority, were careful to clear themselves of any suspicion of anabaptist doctrines on this head. *Ibid.* p. 789: *Et quand je parle ainsi je prie que personne pour cela n'estime que je favorise aucunement à ces enrages anabaptistes ou à autres séditieux et mutins, lesquels au contraire je croy estre dignes de la haine de tout le reste des hommes et de très grieves peines pour leurs démerités*. The synod of La Ferté-sous-Jouarre (1564) had been accused of denying the legality of the magistracy, which called forth indignant denials (*Cal. of State Papers: Foreign*, 1564-5, pp. 119-20).

the contract between God and people, it is not only the whole nation, but every province for itself, that has pledged itself to protect the church. As, therefore, a local magistrate should prevent a viceroy conspiring against his king from the city or province which he rules, so should he resist a king conspiring against God. The city does not belong to the king; the *urbium potestas* may be his, but the *urbium dominium* is the citizens'. They are in the king's *imperium*, but not within his *patrimonium*. *Deus unus est proprietarius dominus*. But the private person has no such obligation of resistance. To him God has said, *Mitte gladium tuum in vaginam*, but to the magistracy, *Non geritis gladium frustra*. The magistrate has vowed to guard the temple of the Lord, the individual the temple of his body. He has only the sword of the spirit. If prayer will not suffice, his only recourse is to withdraw to another city. Thus those are mistaken who believe that now, as of yore, special agents are raised up by God for vengeance, but equally wrong are those who apply to the magistrates the limits imposed upon individuals, and who hold that since Christ came upon the earth no sword is to be drawn.

Such is the scope of the work which Lenglet du Fresnoy described as the most dangerous of political writings. Yet it cannot be claimed that the author of the 'Vindiciæ' stated any doctrines which were absolutely new. The feudal superiority of God over king, the theory of the contract between God and king, and between people and king, the loss of dominion from lack of grace, the right of resistance on breach of contract, were all part of the heritage of previous ages, the philosophical residuums of previous political conflicts. The curious conjunction of feudal principles with democratic conclusions had not been quite unknown. Nor would it be exactly true to say that the theory of contract, as stated in the 'Vindiciæ,' was a rediscovery on the part of the author of a doctrine lost or forgotten. Such theories, indeed, after a period of quiescence, had germinated again with great rapidity and in great abundance. But it would be impossible to ascribe them to any one individual. The seed had been self-sown, and the germination was due rather to the condition of the political atmosphere than to direct personal agency. The doctrines at all events seem to have been the common property of a group of anonymous authors, all writing within these few years. How far they were related to each other it is impossible to say, but they have much in common, and they may even have formed a kind of syndicate for the production of political pamphlets. It may be urged on behalf of this group of thinkers, if not on behalf of the author of the 'Vindiciæ,' that there was to some extent a re-discovery of theory. For they owed singularly little to the previous century. La Boétie's work was indeed published and utilised, but it was calculated rather to raise

men's passions than to convince their reasons; it belongs, like 'Le Tigre français,' rather to the rhetorical than to the philosophical side of the conflict. Bishop Poynet's short treatise on political power, written at Strasburg, may have been read, and one important pamphlet professed to have been founded on a manifesto of the people of Magdeburg in 1550, but the existence of this has, we believe, never been proved.

Among this group of writers it is extremely difficult to determine, in individual cases, whether one author directly borrowed from another or drew from a common source. The date of publication, even when it is known, is not sufficient proof. Perhaps the most curious case of direct borrowing occurs in the 'Réveille-Matin,' of which some ten pages, with insignificant verbal alterations, are an exact copy of a passage in the 'Contre Un' of la Boétie, and yet the latter is not known to have been published until some two years after the appearance of the 'Réveille-Matin.' This pamphlet is said to have been the work of several hands, and this may have been the case with others. The author of the 'Vindiciæ' clearly drew many of his illustrations from the 'Franco-Gallia.' The correspondence with the short political discussion on the power of the magistrate in the 'Réveille-Matin' is too close to be accidental, and it is so obviously an amplification of 'Le droit des Magistrats sur leurs subjects,' that it has been believed to be by the same hand. So again the form in which the questions are put show a curious resemblance to the title of 'Le Politique.'¹⁴

The function of the 'Vindiciæ,' however, is to sum up and to put into philosophical shape the results of these smaller pamphlets. The theory of contract which is constantly taken for granted in the latter is deliberately made the groundwork on which the 'Vindiciæ' rests. In one important respect, however,

¹⁴ *Jusques où lon doit supporter la tyrannie, si en une oppression extrême il est loisible aux sujets de prendre les armes pour défendre leur vie et liberté, quand, comment, par qui et par quel moyen cela se doit et peut faire. (Le Politique. Mem. de l'Estat de France sous Charles IX, MDLXXVI.)* Passages in the *Réveille-Matin*, e.g. pp. 76, 79, and *Du droit des Magistrats*, pp. 736, 717, are also closely parallel to each other. Compare also, on the origin of government, p. 739 of the latter with *Le Politique*, p. 98. The correspondence between *Du droit des Magistrats* and the *Vindiciæ* is well seen in the following passages: *Tels sont aujourd'hui les officiers de plusieurs royaumes chrestiens entre lesquels il est raisonnable de conter les ducs, marquis, comtes, viscomtes, barons, chastelains qui ont jadis esté estats et charges publiques, qui se commettoient par ordre legitime, et qui depuis, pour estre devenues dignités hereditaires, n'ont pourtant changé la nature de leur droit et auctorité, comme aussi il faut comprendre en ce nombre les officiers electifs des villes, tels que sont les maires, viguiers, consuls, capitouls, syndiques, eschevins et autres semblables. (Du droit des Magistrats, pp. 747-8.) Sunt et duces, marchiones, comites, vicecomites, barones, castellani, item in urbibus majores, vicarii, consules, sindici, scabini, et ceteri, quibus aliqua sigillatim aut regio aut urbs commendata est, ut populum tueantur quatenus eorum jurisdictione patet, etsi quædam ex illis dignitatibus hereditaria hoc tempore habentur. (Vindiciæ, p. 98.)*

'Le droit des Magistrats' has the advantage. It states clearly and refutes the objection which was raised to the right of resistance on the part of the people, and which was afterwards made the basis of the absolutism doctrine of the theory of contract by Hobbes. *Afin qu'on ne réplique point qu'il est bien vray que la première origine des magistrats a esté telle, mais que depuis les peuples se sont soumis entièrement à la puissance et volonté de ceux qu'ils ont acceptez pour souverains, et leur ont plainement et sans aucune exception resigné toute leur liberté. Je nie qu'il puisse apparoir une telle quittance, et dis au contraire que les nations, tant que le droit et équité a eu lieu, n'ont créé ni accepté leurs roys qu'à certaines conditions, lesquelles estant manifestement violées par eux, il s'ensuit que ceux qui ont eu puissance de leur bailler telle autorité n'ont eu moins de puissance de les en priver.* Nowhere in the 'Vindiciæ' is this objection so clearly stated, though it is necessarily raised by implication. It cannot be said, however, that any of the other pamphlets has any claim to the presentation of a complete philosophical system. Of his development of such a system the author of the 'Vindiciæ,' or at all events the writer of the preface, is consciously aware. He employs what he terms the geometrical method of proof. *Ad docendi rationem quod pertinet, ille, quo planius et certius rem ostendat, ex effectis et consequentibus causas et maximas illas propositiones sive regulas colligit, ob oculosque ponit, et cognoscendas exhibet, veluti gradibus quibusdam ad summa conscendens : ut geometrarum more, quos hac in re imitari videtur voluisse, ex puncto lineam ducat, ex linea superficiem, ex superficie corpus constituat.* The reader will, however, take some exception to this definition of the method of the 'Vindiciæ;' it would be more true to say that certain maxims or propositions are adopted entire on authority or *ex hypothesi*, and that on these the fabric of the state is built, while by them each question of the day is tested. Thus, while frequently aiming at the same conclusions as the 'Franco-Gallia,' and expressing them in language almost identical, the road which is followed is quite distinct. An interesting example of the difference of the modes of thought of the two authors is to be found in their doctrine of the origin of law. Hotman would believe that law is the result of the gradual growth of custom, that, in its codified form, it is in fact the grammar of custom. It formulates the rules by which men must in the future act from the practice on which they have acted in the past. The author of the 'Vindiciæ,' on the other hand, regards law as the result of a definite convention, as a political expedient to protect the people from the inconsistencies of the actual decisions given by its elected rulers. Law arises from a compact, just as does the monarchy itself. It being found that the monarch, being mortal, spoke not always with the same voice, the people created laws and set them above the monarch; they are the work not of custom, but

of pure reason, guided from above. Thus the theological doctrine of the origin of law is almost reached. In such a scheme there is no place for precedents and their reconciliation.

It is interesting also to compare the application of the two authors' principles to the facts of the constitution and the circumstances of the rebellion. The deductions of the '*Vindiciæ*' are at least as pliable as the inductions of the '*Franco-Gallia*.' Hotman puts pressure on his authorities to force them into the shape required for his conclusions, but this, once formed, is applied with rigour. Everything not in accordance with his theory of the constitution, as built upon the customs of the united races, is mercilessly discarded. The '*Vindiciæ*,' far more revolutionary in principle, is in points of detail more conservative in practice; it respects the peerage and the parliament of Paris. But it also bends its theory to fit in with the practice of the separatist school of Huguenot politicians. The sole authority which Hotman recognises is the people, assembled through its representatives in its three estates. The author of the '*Vindiciæ*' applies his theory of contract not only to the nation jointly, but severally to its component parts. This was the philosophical justification of the centrifugal tendency with which the Huguenots were always charged. The Huguenots were accused of wishing to break France up into a loose cantonal federation, on the model of Switzerland. In this accusation there may have been some shadow of justice; for in the Netherlands it was professedly the desire of the extreme anti-orange Calvinist party, as represented by the '*Vray Patriote*' of Beutterich. At the time when the '*Vindiciæ*' was written, this tendency to separation was the result of the necessities of the case. The early resistance of Rochelle and of Sancerre after the massacre of St. Bartholomew had each been isolated. Towns situated in the midst of a catholic rural population were often forced into the assumption of a practical independence. A little later the Huguenots and United Catholics of the South had organised a working autonomous provincial system. With Hotman the voice of the three estates is decisive, but the author of the '*Vindiciæ*' realises that the majority may be on the wrong side. The results of the estates of 1576 were either foreseen, or else the passage relating to the subject was written after the event. The unity of the nation is inferior to the liberty and the religion of its component parts, as it is to the ecclesiastical unity of the church at large. While the subject may resist, the foreigner may invade. Politically speaking, the general practical scope of the '*Franco-Gallia*' was constructive, for it only swept away that which it believed to interfere with the construction. On the other hand that of the '*Vindiciæ*' was destructive, because the principles on which it would recast the state were unreal and non-existent. Its form and its language were better adapted to revolution than to reform.

To modern readers, at all events, the 'Vindiciæ' would have been more effective if it had confined itself to the treatment of the secular side of the question. Most of the faults of workmanship in the book arise from the attempt to combine the theories on the divine and the secular origin of government. This may possibly have been the result of dual authorship, or it may have been a concession to the ecclesiastical modes of thought of the day, or the author may merely have been over-anxious to exhaust the current arguments on his subject. It may be observed that the treatment of authorities in question 3 differs somewhat from that of the two first sections. In the discussions on the origin of secular government the authorities adduced are in great measure secular, and the quotations are illustrations in the proper sense of the word. But the quotations in questions 1 and 2 are derived almost exclusively from scripture, and there is a decided tendency to argue from authority, to regard the illustrations not as subordinate to, but as co-ordinate with, the postulates with which the author starts. The discussion on secular government is complete in itself, and it is this which exercised so decided an influence hereafter. Granted the original contract, the conclusions were unimpeachable. But it is not so with the conclusions drawn from the contract between God, king, and people. Here the arguments used of old by the papacy against the civil power are employed, but at a great disadvantage. In both cases the sentence pronounced against the king for treason to his monarchy is to be executed by the people through its representatives. But the Huguenot writer lacks the court which is to give the sentence. Who is to decide when the church has been injured? Who is judge in cases of heresy? There is no attempt to determine any ecclesiastical body that is to set the secular body in motion. The sentence is apparently left to the officials whose function it is to execute it, even to the individual magistrate. The same power is to adjudicate both in cases of breach of contract between God and king, and between king and people. In the former case the system of the author's ultra-catholic successors is more complete, for they have a specially appointed court to watch over the conditions of this contract, and to adjudicate on the breach thereof in the form of heresy. But they lose their advantage by their tendency to make the pope the adjudicator not only in cases of heresy, but of tyranny, thus abandoning the logical distinction between the dual obligation of the monarch to God and people. It is curious also to compare the jealousy which both parties feel as to the interference of the ecclesiastical power with the new-found liberties of the people. The author of the 'Vindiciæ,' notwithstanding his strong theological interests, allots no place whatever in his political system to the Calvinistic ministry. Boucher, in his 'Apologie pour Jehan Chastel' ascribes to the pope the delivery of the sentence, but gives him no power of reversing it, at

all events as far as temporal penalties are concerned. The pope may absolve from sin, but not from its temporal consequences; he cannot restrain the people from the execution of the penalty when once imposed.¹⁵ By such arguments only could the adherents of the league justify their resistance to Henry IV after his absolution.

The subsequent history of the 'Franco-Gallia' and of the 'Vindiciæ' is an interesting illustration of the manner in which circumstances alter cases. Before many years had passed, the results of the labours of Hotman and the author of the 'Vindiciæ' had become the stock-in-trade of the preachers and publicists of the league. Elective monarchy and the power of the estates, and, indeed, in cases of urgency, of the people without the estates, became the pet policy of the ultra-catholics.¹⁶ Boucher's 'De justa Henrici III abdicatione' became the manual of leaguer theorists, and is practically a rearrangement of the arguments of the 'Vindiciæ.' The title of Pierre St. Julier's 'Discours par lequel il appert que le royaume de France est électif et non héréditaire' might have served as a second title for the 'Franco-Gallia.' By the curious irony of fate Englishmen attributed the 'Vindiciæ' to Parsons the Jesuit, and James I believed that it was written by an emissary of the papacy to bring discredit on the protestant cause.¹⁷ The book was burnt by the university of Cambridge. Hotman had to write a pamphlet in support of the strict order of succession, which is, however, not quite so complete a retraction of his principles as has been supposed. The author of the 'Vindiciæ' dared not reveal his name. It is surprising, perhaps, that the 'Franco-Gallia,' considering the exclusively national application of its principles, should have retained the popularity which it enjoyed. It is a tribute to the excellence of the author's method. More natural is it that the 'Vindiciæ,' owing to its bold deductive method and the universal applicability of its conclusions, should have maintained its reputation. For it must be remembered that it had little

¹⁵ *Joint qu'estant iceluy condamné non seulement par l'Eglise, mais aussi par les estats, si bien le Pape peut relascher la condamnation ecclesiastique, si ne pourroit il la civile.* (Part ii. ch. 8.)

¹⁶ For one of many examples see the *Apologie pour Jehan Chastel*, part ii. ch. 9: *La première, pour estre simplement abus, que de dire que la succession lie tellement les Royaumes ou les peuples, que si soit un fondement immuable et necessaire, attendu que si bien elle a esté admise, pour l'experience qu'il y a que les inconveniences en sont moindres, que de l'élection, si ne fut ce jamais pourtant pour prejudicier au droit de nature, sur lequel est l'élection, ni pour rénoier ou se lier les mains au cas que pour le vice et indignité des successeurs la succession fut nuisible et l'élection necessaire, comme celle qui est le fondement sur lequel la succession subsiste et aux conditions de laquelle, comprises au contract mutuel d'entre le seigneur et le vassal et d'entre les Roys et les peuples, dont a esté dit ci-dessus, la succession est liée, voire en telle sorte que quoy qu'elle semble hereditaire si est elle plustost élective.*

¹⁷ This is in an answer to Cardinal du Perron quoted by Bayle, vol. iv. in his dissertation upon Junius Brutus: *Quem nobis objecit, Junius Brutus, auctor est ignotus, et forte Romana ecclesie emissarius, ut per illum reformatæ religioni apud principes conflaret invidiam.*

if any effect on the struggle for which it was written. Among the Huguenots the principles which it advocated were already passing out of date at the time of its publication.¹⁸ Herr Lossen's supposition that it was published with a view to the support of the rebellion in the Netherlands is an illustration of its general applicability. And the book perhaps had a wider influence on the thought of the next generation than on its own. It found its adversaries in the revived monarchy of France and the pedantic absolutism of the Stuarts; and it found its disciples among the pedantic liberals of the Fronde and the eminently practical opponents of monarchy in England.

E. ARMSTRONG.

¹⁸ Six editions of the *Vindicie* appeared between 1579 and 1599, and six between 1600 and 1648. Two editions of a French translation belong to 1681 and 1615. An English translation was published in 1648 and reprinted in 1689.